

Board of County Commissioners

Maria Sachs, Mayor
Maria G. Marino, Vice Mayor
Gregg K. Weiss
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Marci Woodward
Sara Baxter
Mack Bernard



County Administrator

Verdenia C. Baker

Department of Airports

www.pbia.org

REQUEST FOR PROPOSAL

RFP NO. PB 24-13

Palm Beach County Board of County Commissioners
and
Palm Beach County Department of Airports
are seeking proposals for:

**AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT**

Date issued/available for distribution: June 17, 2024

Proposers **must** submit one (1) unbound original and three (3) hard copies, PLUS one (1) electronic copy in a PDF format on a CD or flash drive, of the complete proposal to be received in the offices of the Department of Airports no later than **2:00 p.m. local time, Friday, July 12, 2024**. See **Section 1.8 of this RFP for mailing instructions**.

Mandatory Pre-Proposal Conference: At 10:00 a.m. local time, Monday, June 24, 2024 (See Section 1.5 of this solicitation)

**ENVELOPE MUST BE IDENTIFIED WITH THE
DEADLINE DATE FOR SUBMISSION OF PROPOSALS AND THE RFP NUMBER.**

CAUTION

Amendments to this Request for Proposal will be posted on the Palm Beach County Purchasing Department's Vendor Self Service (VSS) system which can be accessed at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>. As they are issued, all amendments to solicitations will be posted under the applicable solicitation on the VSS system. It is Proposer's sole responsibility to routinely check the VSS system for any amendments that may have been issued prior to the deadline for receipt of bids.

Palm Beach County shall not be responsible for the completeness of any RFP document, amendment, exhibit or attachment that was not downloaded from the VSS system or obtained directly from the Department of Airports. A link to the VSS system is posted on the Palm Beach County Department of Airports website: <http://www.pbia.org> under "Airport Business," "Airport Bids & RFPs."

IN ACCORDANCE WITH THE PROVISIONS OF AMERICANS WITH DISABILITIES ACT, THIS DOCUMENT MAY BE REQUESTED IN AN ALTERNATE FORMAT.

DE ACUERDO CON LAS DISPOSICIONES DE LA LEY DE ESTADOUNIDENSES CON DISCAPACIDADES, ESTE DOCUMENTO PUEDE SER SOLICITADO EN UN FORMATO ALTERNATIVO.

TITLE VI SOLICITATION NOTICE

Palm Beach County, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all Bidders/Proposers that it will affirmatively ensure that for any contract entered into pursuant to this solicitation that all businesses including disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids/proposals in response to this solicitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability in consideration for an award.

Public participation is solicited without regard to race, sex, color, religion, creed, ancestry, national origin, disability, familial status, sexual orientation, age, marital status, gender identity or expression or genetic information. Persons who require accommodations under the Americans with Disabilities Act or who require translation services (free of charge) should contact (561) 471-7403 at least seven (7) days in advance of the meeting/conference to request an accommodation or translation services. Hearing impaired individuals are requested to telephone the Florida Relay System at #711.

AVISO DE CONVOCATORIA TITULO VI

El Condado de Palm Beach, de acuerdo con las disposiciones del Título VI de la Ley de Derechos Civiles de 1964 (78 Stat. 252, 42 USC §§ 2000d a 2000d-4) y los Reglamentos, por la presente notifica a todos los licitantes/proponentes que garantizará afirmativamente que para cualquier contrato celebrado en conformidad con esta licitación, todas las empresas, incluyendo las empresas comerciales desfavorecidas y las empresas comerciales desfavorecidas con concesiones aeroportuarias, tendrán la oportunidad plena y justa de presentar ofertas/propuestas en respuesta a esta licitación y ninguna empresa será discriminada por raza, color, origen nacional (incluyendo el dominio limitado del inglés), credo, sexo (incluyendo la orientación sexual y la identidad de género), edad o discapacidad en consideración para la otorgación del contrato.

Se solicita la participación pública sin distinción de raza, sexo, color, religión, credo, origen nacional, discapacidad, situación familiar, orientación sexual, edad, estado civil, identidad o expresión de género o información genética. Las personas que requieran acomodaciones bajo las Leyes Estadounidenses con Discapacidades o que requieran servicios de traducción (gratis) deben comunicarse al (561) 471-7403 al menos siete (7) días antes de la reunión/conferencia para solicitar acomodaciones o servicios de traducción. Las personas con discapacidad auditiva deben llamar al Sistema de Retransmisión de Florida (Relay System) al #711.

SECTION 1 GENERAL INFORMATION

1.1 ISSUING OFFICE

This Request for Proposals (“RFP”) is issued by Palm Beach County, a political subdivision of the State of Florida (“County”), by and through its Department of Airports (“Department”). The Department is the SOLE point of contact concerning this RFP. All communications regarding this RFP must be done through the Department (See Section 1.9, Contact Person).

1.2 OPPORTUNITY OFFERED

This RFP offers the opportunity to install, operate and maintain Automated Teller Machines and Cash-to-Card Kiosks (collectively referred to as “ATMs”), within the Palm Beach International Airport (“PBI”) commercial passenger terminal and concourses. There are currently five (5) Automated Teller Machines and one (1) Cash-to-Card Kiosk located within the terminal building in the locations identified in Attachment “1” to this RFP. The selected proposer will be required to provide one (1) ATM at each of the following five (5) locations:

- Main Terminal (Level Two)
- Departures/Ticketing (Level Three)
- Concourse B
- Concourse C
- Arrivals/Baggage Claim (Level One)

The Department desires that proposers incorporate Cash-to-Card Kiosk(s), either integrated with Automated Teller Machine(s) or as separate units, which may be placed alongside Automated Teller Machines or in separate locations, primarily on the Ticketing Level of the Main Terminal. Proposers may propose to install ATMs at additional locations. The final locations of all ATMs shall be subject to the approval of the Department. During the course of the Agreement the Department may request Concessionaire to relocate ATMs due to construction at the Airports Main Terminal and/or Concourses; advanced written notification shall be provided to Concessionaire from the Department.

The selected proposer will be responsible for all costs associated with the installation, operation and maintenance of the ATMs, including, but not limited to, the cost of any required electrical, telecommunication or data connections.

The initial term of the Concession Agreement will be three (3) years, commencing on October 1, 2024, and expiring on September 30, 2027. The County will have the option, in its sole discretion, to renew the Concession Agreement for one (1) additional two (2) year period.

1.3 INTRODUCTION

The Airport is owned by the County and operated by the Department. Located along the southeast coast of Florida, Palm Beach County is the largest county east of the Mississippi River.

The Airport is classified as a medium hub airport, enplaning over 7.5 million passengers annually. The Airport is located approximately 2.5 miles from downtown West Palm Beach and 3.5 miles west of Palm Beach. The Airport has three active runways; the longest runway is 10,008 feet. Facilities at the Airport are capable of supporting a full range of commercial and general aviation aircraft. The Airport serves a mix of personal, leisure, and business-related travel.

Several domestic and international airlines currently serve the Airport with scheduled commercial flights arriving and departing daily. Commercial air carriers that offer service from the Airport include American, Delta, Frontier, JetBlue, Southwest, United, Spirit, Air Canada, BahamasAir, Avelo, Allegiant, Sun Country, Silver and Breeze.

The McCampbell Terminal Building is a three-level commercial passenger terminal, which opened in 1988. The Terminal Building encompasses approximately 561,000 square feet, has two (2) second level concourses, accommodating 28 aircraft parking gates and a ground level commuter concourse. Airline clubrooms, the concession mall as well as landside and airside restaurants and shops are located on the second level. Airline ticketing is located on the third level of the Terminal Building, and baggage claim and ground transportation areas are located on the ground level.

On Ticketing Level of the Main Terminal, one (1) Cash-to-Card Kiosks installed for customer use. The majority of Airlines no longer accept cash at the ticket counter or on the aircraft. Cash-to-Card Kiosks, for a transaction fee, enable customer to convert cash to a credit card.

1.4 AIRPORT PASSENGER DATA

Statistical data for Airport passengers can be found on the Airport website at: <http://www.pbia.org/business/reports/>. The following is a summary of total passengers for fiscal years 2021 - 2023 (October 1 - September 30):

Fiscal Year (October 1 - September 30)	Total Passengers (Enplaned & Deplaned)
2023	7,516,988
2022	6,525,546
2021	4,264,037

It is the responsibility of each proposer to carefully examine this RFP and to judge for itself all the circumstances and conditions which may affect its proposal. Any data furnished by the County or the Department is for informational purposes only and is not warranted. Proposers use any such information at their own risk. Failure on the part of any proposer to examine, inspect and be completely knowledgeable of the terms and conditions of the Concession Agreement, the Airport, its future plans and operational conditions, or any other relevant documents or areas, shall not relieve the selected proposer from fully complying with this RFP.

1.5 **MANDATORY PRE-PROPOSAL CONFERENCE**

All proposers are **required** to attend a **Mandatory Pre-Proposal Conference** which will be held on **Monday, June 24, 2024, commencing at 10:00 a.m. local time**. Proposers may attend either in-person **or** virtually. The meeting will be held in-person at the Department of Airports, Administrative Offices, Main Conference Room, 846 Palm Beach International Airport, West Palm Beach, Florida 33406-1470. In-person attendees should be aware the Administrative Offices of the Department of Airports are **NOT** located in the McCampbell Terminal Building, and the offices cannot be located by GPS routing. Driving directions to the Department of Airports are attached as Attachment “6A”.

Alternatively, proposers may attend virtually via Webex by following the instructions below and in Attachment “6B”.

Proposers attending virtually have several ways to join the Pre-Proposal Conference:

Copy and paste the link below into your web browser:

<https://pbc-qov.webex.com/pbc-qov/j.php?MTID=m83a075d1afd0497360a33ee5ca6c444f>

Meeting number	Password	Host key
2310 732 1492	JNeQcMVe782	489893

Participants can join by telephone by dialing +1-904-900-2303 or 1-844-621-3956. Enter the **Webex Meeting Number (Access Code): 2310 732 1492, once prompted**.

If additional information is required please notify the Contact Person listed in Section 1.9 of this RFP.

The purpose of the Mandatory Pre-Proposal Conference is to discuss the objectives and requirements of the RFP, to answer any questions potential proposers may have about the RFP, and to answer any general questions about the solicitation process. At the Mandatory Pre-Proposal Conference, the County’s representatives will attempt to answer questions relative to this Request for Proposals. Any questions or comments arising subsequent to the Mandatory Pre-Proposal Conference must be presented, in writing, prior to the date and time stated in the Timetable (See Section 1.7) of this RFP. **A PROPOSER’S FAILURE TO ATTEND THIS CONFERENCE SHALL RESULT IN DISQUALIFICATION OF ITS PROPOSAL.**

All Proposers who attend in-person shall be required to sign an attendance sheet which will be collected prior to the end of the meeting. All Proposers who attend virtually shall make their presence known when prompted to do so before the end of the meeting. Proposers not listed on the attendance sheet(s) shall be considered as not in attendance for purposes of the Mandatory Pre-Proposal Conference. Only the prime proposer shall be required to have attended the Mandatory Pre-Proposal Conference. ACDBE-certified companies utilized in the capacity of subcontractors or service providers (i.e., not as the prime proposer) are not required to have attended the Mandatory Pre-Proposal Conference, provided that a representative of the prime proposer is in attendance. Attendance by a representative of proposer's team at the Mandatory Pre-Proposal Conference will also satisfy the requirement for attendance at the Mandatory Pre-Proposal Conference.

Proposers are not required to attend a site inspection of the ATM locations within the Airport Terminal, but may attend an optional site inspection. Proposers may schedule individual site inspections through the Contact Person listed in Section 1.9 of this RFP. Site inspections of pre-security areas of the terminal may be conducted by proposers at any time, without a tour.

Prospective proposers shall not be permitted to disrupt the activities or operations of any Airport tenants or users when conducting any site visits. **In accordance with the provisions of the ADA, auxiliary aids or services will be provided upon request with at least three (3) days' notice.**

1.6 QUALIFICATION OF RESPONDENTS

All proposers to this RFP shall have demonstrated experience in supplying such services and shall meet all criteria/requirements identified in this RFP.

1.7 TIMETABLE

The anticipated schedule and deadline for this RFP and approval of the Concession Agreement are as follows:

Activity	Date, Time and Location
RFP documents available for download on the Palm Beach County Vendor Self Services (VSS) website	On or about: June 17, 2024, at: https://pbcvssp.pbc.gov/vssprd/Advantage4 A link to the VSS system is posted on the Airport website: http://www.pbia.org under "Airport Business", "Airport Bids & RFPs"
Mandatory Pre-Proposal Conference (may In-Person or Virtually)	At 10:00 a.m. local time, on Monday, June 24, 2024, in the Main Conference Room, Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406-1407. Driving directions are included in Attachment "6A". Virtual attendees should refer to the Webex login information in Attachment "6B".

Deadline for Submission of Written Comments/Questions	At 10:00 a.m. local time, on Friday, June 28, 2024, at the Reception Desk, Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406-1407
Deadline for Submission of Proposals One (1) unbound original and three (3) hard copies, PLUS one (1) electronic copy	At 2:00 p.m. local time, Friday, July 12, 2024, at the Reception Desk, Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406-1407
Selection Committee Meeting and Oral Presentations <i>(if necessary)</i>	To be determined <i>(if necessary)</i>
Award Date	September 17, 2024 <i>(Anticipated)</i>
Concession Agreement Commencement Date	October 1, 2024

Note: The Department reserves the right to alter the dates and/or times set forth above at the Department's sole and absolute discretion.

1.8 PROPOSAL SUBMISSION

All proposals must be submitted on 8½ x 11-inch paper.

One (1) unbound original and three (3) hard copies, PLUS one (1) electronic copy in a PDF format on a CD or flash drive, of the complete proposal must be received by the Department no later than **Friday, July 12, 2024, at 2:00 p.m. local time.** The original and all copies must be submitted in a sealed envelope or container. The proposer's complete return address must be included on the outer envelope or wrapper enclosing any materials submitted in response to this RFP. The outer envelope or wrapper should be addressed as follows:

Proposer Name
Address
Phone No.

Palm Beach County
Board of County Commissioners
Palm Beach County Department of Airports
846 Palm Beach International Airport
West Palm Beach, FL 33406-1470

RFP No. PB 24-13

Title: Automated Teller Machines Concession Agreement
Due Date: July 12, 2024, 2:00 p.m. local time.

Hand-carried proposals may be delivered to the above address ONLY between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding holidays observed by the County.

Proposers are responsible for informing any commercial delivery services, if used, of all delivery requirements and for insuring that the required address information appears on the outer wrapper or envelope used by such service.

The Proposal Response Form (Appendix "A") must be signed by an officer of the company who is legally authorized to enter into a contractual relationship in the name of the proposer ("Authorized Person"), and proposers must affix their company's corporate seal to the document. In the absence of a corporate seal, proposals must be notarized by a Notary Public.

The submission of a signed proposal by a proposer will be considered by the County as constituting a legal offer by the proposer to perform the required services at the proposed price identified therein. No proposals will be accepted after the deadline for submission of proposals or at any location other than the location designated in this RFP.

No proposals will be accepted after the deadline for submission of proposals or at any location other than the locations designated in this RFP.

1.9 CONTACT PERSON

The individuals designated as a "Contact Person" for this RFP are:

Shawna Larose, Director of Airport Properties
Department of Airports
846 Palm Beach International Airport
West Palm Beach, FL 33406-1470
Telephone: (561) 471-7472
Fax No.: (561) 471-7427
E-mail: slarose@pbia.org

or

Ray Walter, Deputy Director Airports Real Estate & Concessions
Department of Airports
846 Palm Beach International Airport
West Palm Beach, FL 33406-1470
Telephone: (561) 471-7429
Fax No.: (561) 471-7427
E-mail: ray.walter@pbia.org

Notwithstanding any provision of this RFP to the contrary, including, but not limited to Section 1.10, Cone of Silence below, proposers are advised that from the date of release of this RFP until award of the Concession Agreement, NO contact with Department staff (other than the Contact Person) is permitted, except as authorized by the Contact Person or as otherwise authorized or contemplated by this RFP as a part of the solicitation process (e.g., submission of questions, contract negotiations with the designated representative of the Department, pre-proposal conference(s), site inspections, etc.). NO contact is permitted by a proposer or anyone representing a proposer with designated Selection

Committee members concerning this RFP from the date of release of this RFP until the award of the Concession Agreement, except at the public Selection Committee meeting(s).

1.10 CONE OF SILENCE

Proposers are advised that the “Palm Beach County Lobbyist Registration Ordinance” prohibits a proposer or anyone representing the proposer from communicating with any County Commissioner, County Commissioner’s staff, or any County Employee authorized to act on behalf of the Palm Beach County Board of County Commissioners (“Board”) to award this Concession Agreement regarding its proposal, i.e., a “Cone of Silence”.

The “Cone of Silence” is in effect from the date/time of the deadline for submission of the proposal, and terminates at the time that the Board, or a County Department authorized to act on their behalf, awards or approves a Concession Agreement, rejects all proposals, or otherwise takes action which ends the solicitation process.

Proposers may, however, contact any County Commissioner, County Commissioner’s Staff, or any County Employee authorized to act on behalf of the Board to award this Concession Agreement via written communication, i.e., fax, e-mail, or U.S. Mail.

Violations of the “Cone of Silence” are punishable by a fine of \$250.00 per violation.

Neither the Department nor the Selection Committee is authorized to act on behalf of the Board to award or approve a Concession Agreement; therefore, contact by proposers is governed by the provisions of Section 1.9, Contact Person.

1.11 ADDITIONAL INFORMATION/AMENDMENT(S)

Any questions, comments (i.e., additional information or clarifications) must be made, in writing via email or U.S. Mail, no later than 11:00 a.m. local time, Friday, June 28, 2024, to the address listed in this RFP Timetable (See Section 1.7) or email address listed for the Contact Person (See Section 1.9) above. The request must contain Proposer’s name, address, phone number and email address.

Changes to this RFP, when deemed necessary by the County, will be completed only by written Amendment(s) issued prior to the deadline for submission of proposals. Proposers should not rely on any representations, statements or explanation other than those made in this RFP or in any Amendment to this RFP. Where there appears to be a conflict between this RFP and any Amendment issued, the last Amendment issued shall prevail.

Amendments to this RFP will be posted on the Palm Beach County Vendor Self Services Website: <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService> as they are issued. Proposers should register or activate an account on the Palm Beach County Vendor Self Services Website listed above. It is the sole responsibility of Proposers to routinely check this website for any Amendments that may have been issued prior to the deadline for submission of proposals. Palm Beach County shall not be responsible for the completeness of any RFP package not downloaded from this website.

It is Proposer's sole responsibility to assure receipt of all Amendments. Proposer should verify with the Contact Person (See Section 1.9) that Proposer has received all amendments to this RFP prior to submission of its proposal.

1.12 DISCLAIMER

All documents and information, whether written, oral or otherwise, provided by the County relating to this RFP are being provided solely as an accommodation and for informational purposes only, and the County is not making any representations or warranties of any kind as to the truth, accuracy, or completeness of such documents or information, or as to the sources thereof. The County shall have no liability whatsoever relating to such documents and information and all parties receiving the same shall not be entitled to rely on such documents and information, but shall have a duty to independently verify the accuracy of the information contained therein. Failure on the part of any proposer to examine, inspect and be completely knowledgeable of the terms and conditions of the Agreement, the Airport, its future plans and operational conditions, or any other relevant documents or matters, shall not relieve the selected proposer from fully complying with this RFP.

SECTION 2 GENERAL TERMS AND CONDITIONS

2.1 ADHERENCE TO REQUIREMENTS

Proposers guarantee their commitment, compliance, and adherence to all requirements of this RFP by submission of their proposals.

2.2 MODIFIED PROPOSALS

Proposers may submit a modified proposal to replace all or any portion of a previously-submitted proposal until the deadline for submission of proposals specified in the RFP Timetable (See Section 1.7). The County will only consider the latest proposal submitted.

2.3 WITHDRAWAL OF PROPOSALS

A proposal may be withdrawn only by written notification. Letters of withdrawal received after the deadline for submission of proposals specified in the RFP Timetable (See Section 1.7) will not be accepted unless the Concession Agreement has been awarded to another proposer or no award has been made within ninety (90) days after the deadline for submission of proposals.

Unless withdrawn as provided in this subsection, a proposal shall be irrevocable until the time that a Concession Agreement is awarded.

2.4 LATE PROPOSALS, LATE MODIFIED PROPOSALS

Proposals and/or modifications to proposals received after the deadline for submission of proposals specified in the RFP Timetable (See Section 1.7) shall not be considered.

2.5 RFP POSTPONEMENT/CANCELLATION

Notwithstanding any provision of this RFP to the contrary, the County, in its sole and absolute discretion, shall have the right to reject any and all, or parts of any and all, proposals; commence a new solicitation process; postpone or cancel this RFP process; and/or waive any non-material irregularities in this RFP or the Proposals received as a result of this RFP. In addition, the Board may reject any proposal prior to award.

2.6 COSTS INCURRED BY PROPOSERS

All expenses incurred with the preparation and submission of proposals to the County, or any work performed in connection therewith, shall be borne by the proposer.

2.7 PROPRIETARY/CONFIDENTIAL INFORMATION

Proposers are hereby notified that all information submitted as part of, or in support of, proposals will be available for public inspection after opening of proposals, in compliance with Chapters 119 and 286, Florida Statutes, popularly known as the "Public Records Law" and the "Government in the Sunshine Law" respectively.

2.8 NEGOTIATIONS

The County may award the Agreement on the basis of initial proposals received, without discussions. Therefore, each submitted proposal should contain Proposer's best price and technical offer.

2.9 RIGHT TO PROTEST

For purposes of this RFP, the term "Purchasing Code" shall mean Chapter 2, Article III, Division 2, Part A, of the Palm Beach County Code. Section 2-55 of the Purchasing Code is hereby incorporated into this RFP by reference ("Protest Procedures"). Although this solicitation is exempt from the Purchasing Code, the Department has elected to utilize the Protest Procedures set forth in the Purchasing Code for this RFP. By responding to this RFP, all proposers agree that the Protest Procedures set forth in the Purchasing Code are applicable to this RFP and shall comply with said procedures.

Any proposer may protest any recommendations for award of the Concession Agreement in accordance with Protest Procedures by submitting a written protest to the Director of Purchasing within five (5) business days after posting the Notice of Recommended Award. Protests must be submitted in writing, addressed to the Director of Purchasing at the Palm Beach County Purchasing Department, 50 South Military Trail, Suite 110, West Palm Beach, FL 33415 and delivered via hand delivery, mail or fax to (561) 242-6705.

2.10 PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL

Pursuant to Palm Beach County Code, Section 2-421 - 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to review past, present and proposed County contracts, transactions, accounts, and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the

activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

2.11 RULES; REGULATIONS; LICENSING REQUIREMENTS

The proposer shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including, but not limited to, those applicable to conflict of interest and collusion. Proposers are presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered, including, but not limited to, Executive Order No. 11246 entitled “Equal Employment Opportunity” as amended by Executive Order No. 11375, and as supplemented by the Department of Labor Regulations (41 CFR, Part 60).

2.12 EXCEPTIONS TO CONCESSION AGREEMENT

The successful proposer shall be required to execute an Automated Teller Machine Concession Agreement substantially in the form attached as Attachment “3” (the “Agreement”), subject only to exceptions approved by County. All proposed exceptions to the Agreement taken must be specific, and Proposer must indicate clearly what alternative is being offered to allow the County a meaningful opportunity to evaluate the proposal. Each exception shall be individually set forth with reference to the Agreement provision involved, the nature of the exception and an explanation of the exception, including proposed substitutions and/or modifications in language. The only provisions of the Agreement that the County will consider negotiating after the Selection Committee has made its recommended award are those specifically identified as exceptions in the selected Proposer’s proposal. Notwithstanding any provision of this RFP to the contrary, Proposers shall not be permitted to propose exceptions to the minimum requirements as set forth in Section 3 of this RFP. The County is under no obligation whatsoever to accept any proposed exceptions or alternatives to the Agreement.

2.13 SELECTION PROCESS

2.13.1 Evaluation of Proposals

- a. **Determination of Responsiveness.** All proposals timely received will be opened internally by the Department. A list of Proposers that have submitted proposals in response to this RFP will be recorded. Each proposal will be evaluated by the Department for responsiveness and responsibility in accordance with Section 2-54 of the Purchasing Code. A responsive proposal is one which has been signed, has been submitted by the specified submission time and conforms to the requirements of this RFP. Failure to provide the information required to be submitted with the proposal (as stated in Section 3) is considered sufficient cause to deem a proposal non-responsive. While poor formatting, poor documentation and/or incomplete or unclear

information may not be cause to reject a proposal without evaluation, such substandard submissions may adversely impact the evaluation of your proposal, especially information relating to establishing financial/business stability. Proposers who fail to comply with all of the required and/or desired elements of this RFP, do so at their own risk.

- b. Selection Committee Meeting/Oral Presentations (if necessary). The Selection Committee shall meet to evaluate all responsive, responsible proposals. Each Proposer shall be prepared to make an oral presentation to the Selection Committee and will be allowed a maximum of fifteen (15) minutes to make its presentation. Oral presentations shall be limited to clarifying and further detailing the content of the written proposal submitted and to providing answers to the Selection Committee's questions. Oral presentations may be in person or virtual at the Department's option. The Selection Committee will not consider new or alternative proposals made during oral presentations; therefore, each written proposal submitted should contain Proposer's best offer. In the event only one (1) responsive, responsible proposal is received, there will be no Selection Committee, and the Department, in its sole and absolute discretion, may elect to negotiate with the only Proposer or cancel this RFP process.
- c. Raw Scoring/Individual Selection Committee Member Ranking. The Selection Committee will evaluate and score each proposal by reviewing the proposal against the selection criteria set forth in Attachment "2," Selection Criteria/Scoring Instructions. Selection Committee members may not assign equal total scores to proposals (i.e., each proposal must be assigned a varying number of total points). Each Selection Committee member shall rank the proposals based upon the total score assigned to each proposal by such member. The proposal with the highest total score will be ranked first (1st) by each member, the proposal with the next highest score will be ranked second (2nd) by each member and so on until all proposals have been ranked.
- d. Final Scoring and Ranking. After each Selection Committee member has ranked all of the proposals, the individual Selection Committee members' rankings for each proposal shall be totaled to establish an overall total score for each proposal. The proposal with the lowest total score will be ranked first (1st), the proposal with the next lowest total score will be ranked second (2nd) and so on until all proposals have been ranked.

In the event of a tie, the proposal that received the most first (1st) place rankings from the individual Selection Committee members will receive the higher rank. In the event a tie remains, the proposal with the highest raw score based upon the total number of points assigned by all Selection Committee members will receive the higher rank.

- e. Final Ranking by Selection Committee. After the Selection Committee has established a final ranking for all proposals, the Selection Committee will review the rankings and make its recommendation for award of the Agreement to Proposer whose proposal was ranked first (1st) by the Selection Committee.
- f. Rights Reserved. Notwithstanding any provision of this RFP to the contrary, the County, in its sole and absolute discretion, shall have the right to reject any and all, or parts of any and all, proposals; commence a new solicitation process; postpone or cancel this RFP process; and/or waive any non-material irregularities in this RFP or the proposals received as a result of this RFP. In addition, the Board may reject any proposal prior to award.

2.13.2 Award Recommendation. The Department will post the award recommendation ("Notice of Intent to Award") at the Department for a period of five (5) business days for review by interested parties. The selected Proposer will be notified of the recommendation for award by mail.

To obtain a current posting of Notices of Intent to Award, please visit the Department's website at: <http://www.pbja.org/business/bids/>.

2.13.3 Negotiation of Proposed Exceptions. After the posting of the Notice of Intent to Award, the County may elect to enter into negotiations with the selected Proposer. If, for any reason, the Agreement cannot be awarded to the selected Proposer or the County determines, in its sole and absolute discretion, that it is unable to negotiate an Agreement with the selected Proposer, the County may elect to cancel the award recommendation and commence negotiations with the next highest ranked Proposer. This process may continue until an Agreement has been executed or all Proposers have been rejected. Proposers shall not have any rights against the County, its officers, employees or agents arising from negotiations.

2.13.4 Execution of Agreement. The selected Proposer shall deliver a fully-executed Agreement, and any other documents required by the Agreement, to the County in the form negotiated by the County and the selected Proposer within ten (10) days of the County's written request, unless this time frame is extended at the sole discretion of the County. In the event the selected Proposer fails to deliver the Agreement and associated documents as required by this RFP within the prescribed timeframe, the County may, in its sole and absolute discretion, elect to cancel the award recommendation and commence negotiations with the next highest ranked Proposer, issue a new solicitation or elect to cancel the procurement process in its entirety. Should the selected Proposer fail to execute and deliver the Agreement to the County in accordance with the requirements of this RFP, the County may cancel the award recommendation and, if such failure occurs as a result of Proposer's bad faith or its failure to comply with the representations in its proposal, Proposer's proposal guarantee shall be forfeited as liquidated damages and the proposal shall be deemed rejected.

2.14 AWARD

The Agreement will be presented to the Palm Beach County Board of County Commissioners (the “Board”) for consideration upon completion of the selection and negotiation process. The Agreement shall not be effective until it is approved by the Board and signed by the parties thereto.

2.15 SELECTION CRITERIA

See Attachment “4”, Selection Criteria and Scoring Instructions.

2.16 CONTRACT PROVISIONS (“CONCESSION AGREEMENT”) (ATTACHMENT “3”)

- 2.16.1 Contract. The selected Proposer will be required to execute a contract substantially in the form of the attached Automated Teller Machine Concession Agreement (“Agreement”) (Attachment “3”), subject only to negotiated exceptions submitted in accordance with Section 2.12.
- 2.16.2 Authorization to Sign. The authorized representative signature required on all offers and the Agreement must be made by an officer of the company (if applicable). In addition to executing the Agreement, the selected Proposer will be required to complete a notarized statement indicating that the person having executed the Agreement is authorized to legally bind the proposing entity. Additionally, if a selected Proposer is a partnership, all general partners must sign the Agreement and the notarized statement. If the selected Proposer is a joint venture, all members of the joint venture must sign the Agreement and the notarized statement.
- 2.16.3 Relocation. Concessionaire acknowledges that during the Term, County may request relocation of ATMs due to construction at the Airport. The Department may, at its sole option and discretion, provide Concessionaire with an alternative location for ATMs in the Terminal/Concourses. The Department will provide Concessionaire with prior written notice of any such displacement or relocation.

2.17 DISCLOSURE OF OWNERSHIP INTEREST

Pursuant to a directive by the Board of County Commissioners, the Disclosure of Ownership Interest Affidavit (“DOIA”) (Attachment “5”) must be completed on behalf of any individual or business entity that seeks to do business with the County when applicable. Disclosure does not apply to nonprofit corporations, government agencies or to an individual’s or entity’s interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Upon request from the Department, the selected Proposer shall submit a completed DOIA within a reasonable time, as requested. If the selected Proposer fails to submit a completed DOIA in a timely manner, the County, at its sole discretion, may elect to cancel the recommended award.

2.18 INSURANCE REQUIREMENTS

It shall be the responsibility of the selected Proposer to provide evidence of the minimum amounts of insurance coverage specified in Article 12 of the Agreement (Attachment "3"), to Palm Beach County.

The selected Proposer shall, on a primary basis and at its sole expense, maintain in full force and effect, at all times during the Term of the Agreement, insurance coverages and limits (including endorsements) as described therein (see Attachment "3", Article 12). Failure to maintain the required insurance shall be considered a material default of the Agreement. The requirements contained therein, as well as the County's review or acceptance of insurance maintained by the selected Proposer, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the selected Proposer under the Agreement.

2.19 SECURITY DEPOSIT

Pursuant to Section 5.12 of the Concession Agreement, the Concessionaire will be required to post and maintain a Security Deposit ("Security Deposit") with County in the amount of one half (1/2) of the Minimum Annual Guarantee for the first Contract Year.

2.20 COMMENCEMENT OF WORK

This RFP does not, by itself, obligate the County. The County's obligation will commence when the Agreement is approved by the Board of County Commissioners. The County will not be responsible for any work done by Proposer, even work done in good faith, if it occurs prior to the approval by the Board of County Commissioners.

2.21 COMMERCIAL NON-DISCRIMINATION CERTIFICATION

As a condition of submitting a proposal to the County, Proposer agrees to comply with the County's Commercial Non-discrimination Policy as described in Resolution 2017-1770 as amended. In accordance with Palm Beach County Code Section 2-80.24, Proposer hereby certifies and agrees that the following information is correct: In preparing its response to this solicitation, Proposer has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in the County's Commercial Nondiscrimination Policy as set forth in Resolution 2017-1770 as amended, to wit: discrimination in the solicitation, selection or commercial treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in the County's relevant marketplace of Palm Beach County. Without limiting the foregoing, "discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination." Without limiting any other provision of the solicitation, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the County to reject the proposal submitted by

Proposer for this solicitation, and to terminate any contract awarded based on the response.

In accordance with Palm Beach County Code Section 2-80.24, this certification and agreement must be completed and submitted with the proposal for all solicitations. Proposers shall indicate their agreement to the foregoing by signing the Proposal Response Form.

2.22 CRIMINAL HISTORY RECORDS CHECK

All individuals working on the Airport must pass a Criminal History Records Check (CHRC). Each individual requesting unescorted access authority onto the PBI Security Identification Display Area (SIDA), Sterile Area and the Air Operations Area (AOA), will be required to submit to a fingerprint-based Criminal History Records Check that does not disclose that the individual has a disqualifying criminal offense, as listed in 49 CFR 1542.209. When determining if an individual will be granted unescorted access to the AOA, the Department of Airports Security Office will apply the policies and procedures set forth in 1542.209. An individual has a disqualifying criminal offense if the individual has been convicted, or found not guilty by reason of insanity, of any of the disqualifying crimes listed in 1542.209 in any jurisdiction during the ten (10) years before the date of the individual's application for unescorted access authority. Fingerprinting at PBI is conducted electronically by the Airport Security Office, and submitted to the FBI after being reviewed by the designated authorized clearinghouse.

Proposers are advised to contact the PBI Badging and Security Office at 561-471-7481 for information on fees and charges for items such as: criminal history check and fingerprinting; annual badge fee; lost badge replacement; non-returned badges fee. Although the Department will not charge the selected Proposer for criminal history check and fingerprinting and annual badge fees, the fees for lost badge replacement and non-returned badges are not waived or otherwise reimbursable under the Agreement, and the selected Proposer shall be responsible for these fees. All badges must be returned to the Department of Airports, Badging and Security Office upon termination of services or removal of any employees due to security violations. The Transportation Security Administration will take legal enforcement against persons (employees/employer) making any fraudulent or intentional false statements or entry on any security program, record application, report, access, or identification media, or any other document that is kept, made or used to show compliance. This applies to all "persons" meaning an individual, firm, partnership, corporation, company, association, joint-stock association or governmental entity.

2.23 VENDOR SELF SERVICE ("VSS") REGISTRATION

In order to do business with Palm Beach County, Proposers are required to create a Vendor Registration Account or activate an existing Vendor Registration Account through the Purchasing Department's Vendor Self Service ("VSS") system at <https://pbcvssp.pbc.gov/vssprd/Advantage4>. The selected Proposer must also ensure that all subcontractors are registered in VSS. All subcontractor agreements must include a contractual provision requiring that the subcontractor register in VSS.

SECTION 3 PROPOSAL REQUIREMENTS

3.1 PROPOSAL FORMAT AND CONTENT

3.1.1 Format. Proposals should be typed, double spaced and submitted on 8½" x 11" size paper, using a single method of fastening (e.g., stapled, binder, etc.). Proposers should use tabbed dividers between each section, and include page numbers. Proposals should include only brief and concise narrative. The enclosure of elaborate or unnecessary verbiage or promotional material is discouraged.

3.1.2 Table of Contents. Proposals should contain a Table of Contents. The Table of Contents outlines in sequential order, all of the areas of the proposal and it allows for clarity and ease of review of the proposal.

3.1.3 Letter of Transmittal. Proposals should contain a Letter of Transmittal addressed to Shawna Larose, Director of Airport Properties, and should, at a minimum, contain the following:

- a. The RFP number (i.e. RFP No. PB 24-13).
- b. Identification of proposer, including name address and telephone number.
- c. The name, title, address, telephone number and e-mail address of contact person during the period of proposal evaluation.
- d. The printed name and title and the signature of a person authorized to bind proposer to the terms of the proposal.

3.1.4 Technical Proposal. Proposals must contain all of the documents listed below, each fully completed, signed and notarized, as required. Failure of a proposer to provide the required information is considered sufficient cause to deem the proposal non-responsive.

All items should be submitted as a part of the proposal prior to the deadline for submission of proposals (See Section 1.7); however, if the item(s) marked by an asterisk (*) are omitted, the proposer must submit such item(s) upon request from the Department within a time frame specified by the Department (normally within two (2) business days of request) or the proposal shall be deemed non-responsive. All other items must be submitted with the proposal or it shall be deemed non-responsive.

The Department reserves the right to request additional information to be used for evaluating responses received from any or all proposers, including, but not limited to, additional references or financial information. Further, the Department retains the right to disqualify from further consideration any

proposer who fails to demonstrate sufficient ability to perform under the Concession Agreement.

Notwithstanding these submittal requirements, the Department reserves the right, at its sole discretion, to waive any minor irregularity relating to the proposal. Upon request, it shall be the responsibility of the proposer to address the determined minor irregularity within a time frame specified by the Department (normally within two (2) business days of request). Failure of a proposer to provide the required information within the specified time frame is considered sufficient cause to deem the proposal non-responsive.

A set of tabs to identify each section of the proposal should be inserted to facilitate quick reference. Each section of the proposal should be clearly labeled using the paragraph headings set forth below.

Each page of the proposal response should be numbered.

Proposers should not include a copy of the RFP in their proposal response.

3.2 EXPERIENCE, QUALIFICATIONS AND FINANCIAL INFORMATION

Each proposer shall submit an Executive Summary detailing its experience, qualifications, and background in the management and operation of an ATM concession, which shall include, at a minimum, the following information:

- *3.2.1 Description of Business Organization. Proposer shall include a description of the business organization of the proposing company (i.e., corporation, LLC, partnership, joint venture or sole proprietorship) along with the following information, depending on the organizational structure:

If a corporation, attach the Articles of Incorporation
If an LLC, attach the Articles of Organization
If a partnership, attach a copy of the Partnership Agreement
If a joint venture, list date of organization, attach a copy of the joint venture agreement, indicate if the joint venture has done business in Florida and where. Include a description of the business organization of each of the joint venture partners, including the organizational documents for each of the joint venture partners (i.e., corporations, attach the Articles of Incorporation for each joint venture partner, etc.)
If a sole proprietorship, list all business names under which such proprietor has done business during the last five (5) years, address(es), how long in business, and whether registered or authorized to do business in Florida

- *3.2.2 History of Company. Proposer shall include a brief history of the company. Proposer should note any changes in company name and ownership structure and any other names under which the company has been doing business. Proposer should note whether or not the company is currently

registered to do business in the State of Florida. The selected proposer must be registered to do business in the State of Florida prior to the effective date of the Concession Agreement. In the event proposer is a joint venture, proposer should provide a history of each entity forming a part of the joint venture. Proposer should indicate whether or not it intends to enter into the Concession Agreement in the name of proposer or to create a single purpose entity for the purpose of the Concession Agreement. In the event proposer is a joint venture, proposer shall provide a history of each entity forming a part of the joint venture.

- 3.2.3 Experience. Proposer shall include the company's recent, relevant experience in the management, installation, maintenance, and service of ATMs at airports, transportation facilities, or shopping centers. All proposers must have experience, within the last five (5) years, of managing or operating ATMs at a location comparable to PBI.

3.3 PROJECT APPROACH

Proposers shall provide a proposed project approach for the equipment type, functionality, and installation of the ATMs, which should include relevant information and sufficient detail regarding the following components:

- a. A plan identifying the proposed location of all ATMs to be installed at the Airport.
- b. Description of all ATM types and equipment to be utilized, including style, dimensions, technology/data and utility requirements, which shall include a list of all proposed transaction types, or functions that will be featured on each ATM and a list of credit/debit cards that will be accepted at ATMs and the names of proposed ATM network affiliations.
- c. Renderings, drawings, or photographs of the proposed type of ATMs to be installed, to include ATMs specific type for proposed locations.
- d. A detailed description of the proposed delivery and installation schedule for the proposed ATMs. Information should be provided regarding how the ATMs will be phased into new as well as existing locations. The selected proposer will be required to coordinate the installation work with the current Concessionaire. The Department may require work to occur during non-peak hours so as not to interfere with passengers and regular Airport operations.
- e. Proposer may propose innovations not specifically addressed in this RFP, which enhance the service or benefits to the Airport, and which do not detract from or modify the minimum requirements of this RFP.

3.4 **SERVICE AND MAINTENANCE PLAN**

Proposers shall provide a proposed plan for the service and maintenance of the ATMs, which should include relevant information regarding the following components:

*3.4.1 Organizational Chart. Proposers must provide an organizational chart illustrating the reporting relationships between corporate and on-site management and staff.

3.4.2 Maintenance Plan. A description of the day-to-day operation and maintenance of the ATMs, including replenishment of ATMs, such as security checks of ATMs for skimmer devices, alternatives for customers when ATMs malfunction (where to find another ATM and who to call if ATM makes an error), time frames for repair of malfunctioning ATMs, etc.

3.5 **CASH-TO-CARD KIOSK**

Proposers are encouraged to propose a Cash-to-Card Kiosk. Proposers should provide a proposed plan for the equipment type, functionality, and installation of the Cash-to-Card Kiosk, which should include relevant information and sufficient detail regarding the following components:

- a. Description of the Cash-to-Card Kiosk, such as whether it will be integrated in an Automated Teller Machine or a separate machine/unit, as well as related equipment to be utilized, including style, dimensions, technology/data and utility requirements, which shall include a list of all proposed transaction types, or functions that will be featured.
- b. Renderings, drawings, or photographs of the proposed type of Cash-to-Card Kiosk to be installed.
- c. A detailed description of the proposed delivery and installation schedule for the proposed Cash-to-Card Kiosk. The selected proposer will be required to coordinate the installation work with the current Concessionaire. The Department may require work to occur during non-peak hours so as not to interfere with passengers and regular Airport operations.

3.6 **PROPOSAL RESPONSE FORM**. The proposer **must** submit the attached Proposal Response Form (Appendix "A") with its proposal. The Proposal Response Form must not be modified in any way.

- a. Privilege Fee. Proposer shall propose the Privilege Fee payable to County, which shall not be less than fifteen percent (15%) of total annual Transaction Fees for use of Automated Teller Machines. The term "Transaction Fees" is defined as all surcharges and fees charged to ATM customers for transactions conducted on ATMs located at the Airport pursuant to the Concession Agreement, including, but not limited to, fees assessed for cash withdrawal and

cash advance transactions, balance inquiries, or deposits. Proposer shall also identify any transactions that will be exempt from the assessment of fees, including, but not limited to the fees to bank's existing customers or cash to card machines.

- b. Airport Concession Disadvantaged Business Enterprises (ACDBE). If ACDBE participation is proposed, Proposer shall indicate the total percentage of ACDBE participation proposed on the Proposal Response Form. Although ACDBE participation is not required, Palm Beach County does strongly encourage ACDBE participation and has established an aspirational participation goal equal to ten percent (10%) of the concessionaire's purchase of goods and services for use in provision of services under the Agreement. (See also Section 3.7.3 below regarding requirements for submission of ACDBE Schedules).
- c. ATM Transaction Fee. The selected proposer shall charge an initial surcharge of not more than Four Dollars and 00/100 Cents (\$4.00) per transaction for use of the ATMs. Adjustment of the Transaction Fee amount shall be subject to prior written approval of the Department, in the Department's sole and absolute discretion.

3.7 AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISES (ACDBE) SCHEDULES

IF ACDBE PARTICIPATION IS PROPOSED, THE FOLLOWING SHALL APPLY:

- 3.7.1 Policy. The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, apply to the Agreement. It is the policy of Palm Beach County to practice nondiscrimination based on race, color, sex or national origin in the award or performance of the contract. All firms qualifying under this RFP are encouraged to submit proposals. Award of the contract will be conditioned upon satisfying the requirements of this RFP. These requirements apply to all firms and suppliers, including those who qualify as an Airport Concession Disadvantaged Business Enterprise (ACDBE).
- 3.7.2 ACDBE Goal. Palm Beach County strongly encourages ACDBE participation in this opportunity and has established an aspirational ACDBE participation goal equal to ten percent (10%) of the concessionaire's purchase of goods and services for use in provision of services under the Agreement. ACDBE participation will be determined by the Department of Airports in accordance with 49 CFR Part 23. The ACDBE aspirational goal is not a mandatory goal. While ACDBE participation is strongly encouraged, it is not required.

3.7.3 ACDBE Documentation. If ACDBE participation is proposed, Proposers shall indicate the ACDBE participation commitment on the Proposal Response Form (Appendix “A”) and submit the following ACDBE Schedules, completed and signed as required, as provided below:

- *a. Schedule 1 – List of Proposed ACDBE Firms. Prior to the award of the Agreement, Proposers shall provide Schedule 1, List of Proposed ACDBE Firms. This list shall contain the names of all ACDBE firms, including prime and subcontractors, suppliers and manufacturers, intended to be used in performance of the Agreement. The County reserves the right to confirm the certification status of all ACDBE’s proposed to participate in the contract. This form is attached as Appendix “B” to this RFP. Additional sheets may be used as needed.
- *b. Schedule 2 – Letter(s) of Intent to Perform as an ACDBE Firm. Prior to the award of the Agreement, Proposers shall submit a Schedule 2 for each ACDBE firm listed on Schedule 1. Schedule 2 must be completed and signed by the proposed ACDBE firm. ACDBE firms shall specify the type of work to be performed and the percentage of ACDBE participation. This form is attached as Appendix “C” to this RFP. Additional sheets may be used as needed.

3.7.4 ACDBE Certification. Only those firms certified by the Unified Certification Program for the State of Florida as an AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE shall be counted toward the established ACDBE goal. Certification by any other program shall not count toward satisfaction of the ACDBE goal. Certification as a DBE alone shall not count toward satisfaction of the ACDBE goal. IT MAY TAKE OVER 90 DAYS TO BECOME CERTIFIED AS AN ACDBE BY THE UNIFIED CERTIFICATION PROGRAM. It is the responsibility of Proposers to confirm the certification status of any proposed ACDBE. Information regarding ACDBE certification status may be found through the Florida Department of Transportation Equal Opportunity Office website at: <http://www3b.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/>, or by contacting the Contact Person.

3.8 PROPOSAL GUARANTEE

Proposers **must** submit as a part of their proposal, a Proposal Guarantee in the amount of **Five Hundred Dollars (\$500.00)**. The Proposal Guarantee must be in the form of a bond issued by a surety or sureties satisfactory to the County, or other acceptable form of Proposal Guarantee, limited to a cashier's check drawn on any state or national bank and made payable to the “Palm Beach County Board of County Commissioners”. **Failure to submit the required Proposal Guarantee will result in disqualification of the proposal.** The Proposal Guarantee will be held by the County to secure the obligations which proposer agrees to assume under this RFP. The Proposal Guarantees of non-selected proposers will be returned immediately following execution of the Lease Agreement by the Board of County Commissioners. The Proposal Guarantee of the

selected proposer will not be returned until after execution of the Lease Agreement and after the Security Deposit (Surety Bond or Clean Irrevocable Letter of Credit) and certificate(s) of insurance, as required pursuant to the Lease Agreement, are received by the County.

3.9 DRUG FREE WORKPLACE CERTIFICATION

Proposer shall complete the attached Drug Free Workplace Certification (Appendix “D”), and submit it with its proposal.

3.10 PROPOSAL SUBMITTAL CHECKLIST

A “Proposal Submittal Checklist” is attached as Appendix “E”. This checklist is provided solely as a reference for Proposers and is not intended to be relied upon as the only information and documentation necessary to submit a responsive proposal to this RFP. The checklist does not, in any way, substitute or replace the requirements of this RFP. In the event of a conflict between the checklist and this RFP, the terms, conditions and requirements of this RFP shall control. The Proposal Submittal Checklist is not required to be submitted with the Proposal Response.

SECTION 4 DESCRIPTION OF CONCESSION AGREEMENT

4.1 DESCRIPTION OF ATMs CONCESSION

- 4.1.1 ATM Locations. At a minimum, the selected proposer will be required to provide one (1) ATM at each of the five (5) locations identified in Attachment “1”, which include the Main Terminal (Level 2); Departures/Main Terminal Ticketing (Level 3); Concourse B; Concourse C; and Arrivals/Baggage Claim (Level 1).

The selected proposer shall be responsible for all costs incurred to permit, deliver, install and/or remove ATMs, including, but not limited to, installation of any necessary electrical, data or telecommunication connections. The selected proposer shall be required to obtain written approval from the Department prior to installing, removing and/or replacing any fixtures or equipment in accordance with Article 7 of the Concession Agreement. Airports are dynamic environments; accordingly, it may be necessary to relocate ATMs from time-to-time, on either a temporary or a permanent basis. All costs associated with the relocation of ATMs shall be at the selected proposer’s sole cost and expense. Work associated with the installation, removal or replacement may be required to be scheduled during the evening and early morning hours, or as deemed appropriate by the Department.

- 4.1.2 Cash-to-Card Kiosk(s). A Cash-to-Card Kiosk is a machine that allows users to convert physical cash into digital currency or load funds onto a prepaid card. Airlines and certain other operators no longer accept cash for payment; therefore, Cash-to-Card Kiosks fulfill an important role in enabling cash

customers, and those without a credit card, to pay for such things as checked-baggage fees, upgrades, and other charges particularly in the ticket counter area. Currently there is one (1) Cash-to-Card Kiosk located on the Ticketing Level of the Main Terminal. The Department desires that proposers incorporate Cash-to-Card Kiosk(s), either integrated with automated teller machine(s) or as separate units, which may be placed alongside Automated Teller Machines or in separate locations, primarily on the Ticketing Level of the Main Terminal. Concession Fees shall not be due on Cash-to-Card Transactions.

- 4.1.3 Additional Locations. Proposers may propose locations for ATMs in addition to the locations depicted in Attachment “1”. If a proposer proposes additional locations for its concession operations, the proposer shall provide all the information required by this RFP for each proposed concession location, including, but not limited to, the type of ATMs proposed to be installed.
- 4.1.4 Storage. To the extent available, the selected proposer may be able to lease storage and office space at the Terminal building, at the then current rental rate, through a separate agreement.
- 4.1.5 Display Specifications. All ATMs and associated equipment and fixtures shall be clean, neat, safe, new or “like new” with the latest technology and capabilities and in good working order at all times. Proposers shall provide specifications for any proposed ATMs, which should be consistent with the goals and objectives of this RFP, including ensuring that ATMs are complementary to the Airport Terminal and capable of withstanding moderate levels of vandalism, abuse, moderate temperatures, humidity, dust and sunlight levels. The following shall be considered minimum specifications to be met by the selected proposer:
- No exposed conduits or wiring; connections must be “hard wired”;
 - Compliance with ADA regulations;
 - EMV (Europay, Mastercard, Visa) capable;
 - ATMs must be free-standing;
 - Capable with fitting in proposed areas;
 - Concessionaire’s business name and address;
 - Financial institution supplying ATM services;
 - Information regarding transaction fees and to whom the fees apply;
 - Posted 24-hour service number with procedures of reporting problems; and
 - Must operate twenty-four (24) hours a day, seven (7) days of week, to include holidays.

All signage identifying the location of ATMs must be recognizable and shall be approved by the Department prior to installation.

No stickers, advertising or other information may be affixed or otherwise placed on any ATM equipment, including fixtures, without the prior written approval of the Department.

- 4.1.6 Losses. The County will not be held responsible in any way for any losses or expenses incurred resulting from lost funds, theft, vandalism, or from the repair or replacement of defective or damaged equipment, fixtures or appurtenances. Security of currency, as well as associated supplies, shall be at the sole responsibility of the selected proposer. Any losses or expenses incurred by the selected proposer will not result in a reduction in the concession fees payable to the County.
- 4.1.7 Compliance with Laws. Concessionaire will be responsible for insuring all proposed ATM equipment, fixtures, cabling, wiring, rates and services remain in full compliance with all applicable local, state and federal laws and regulations.
- 4.1.8 Installation. The Department, in its sole discretion, maintains final approval authority on all equipment, including, but not limited to, delivery, installation schedules, and layouts, prior to the commencement of any work. The selected proposer will be solely responsible for a turnkey installation and all costs associated with the installation of any new ATMs and equipment. The delivery and installation of new ATMs equipment and the removal of any discarded materials is to be completed in an expeditious manner so as to minimize passenger inconvenience and to not interrupt the duties of County personnel.
- 4.1.9 Schedule. The selected proposer will be required to have access to post-security locations in the Terminal Building; therefore, the selected proposer will be required to adhere to the Department's security program, including, but not limited to, obtaining PBI identification media for all of its employees by contacting the Security ID Office directly at 561-471-7481 (See Section 2.22 of this RFP).

The selected proposer shall meet with the Department to establish a schedule for the installation of the ATMs following the execution of the Concession Agreement by County.

The selected proposer will be required to submit for Department approval, a complete implementation plan, including an installation schedule that indicates the anticipated start and completion dates for installation of each ATM.

- 4.1.10 Historical Transaction ATM Data. Historical transaction data for each ATM location for the preceding three (3) fiscal years is shown in Attachment "2" to this RFP. The transaction figures are for informational purposes only. The current Cash-to-Card Kiosk on the Ticketing/Departure level is managed through an Airline service provider and transaction data is not available.

SECTION 5 ATTACHMENTS

LIST OF ATTACHMENTS:

ATTACHMENT 1 – LOCATION MAP OF AUTOMATED TELLER MACHINES
ATTACHMENT 2 – HISTORICAL ATM TRANSACTION DATA
ATTACHMENT 3 – AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
ATTACHMENT 4 – SELECTION CRITERIA AND SCORING INSTRUCTIONS
ATTACHMENT 5 – DISCLOSURE OF OWNERSHIP INTEREST AFFIDAVIT
ATTACHMENT 6 – DRIVING DIRECTIONS TO THE DEPARTMENT OF AIRPORTS

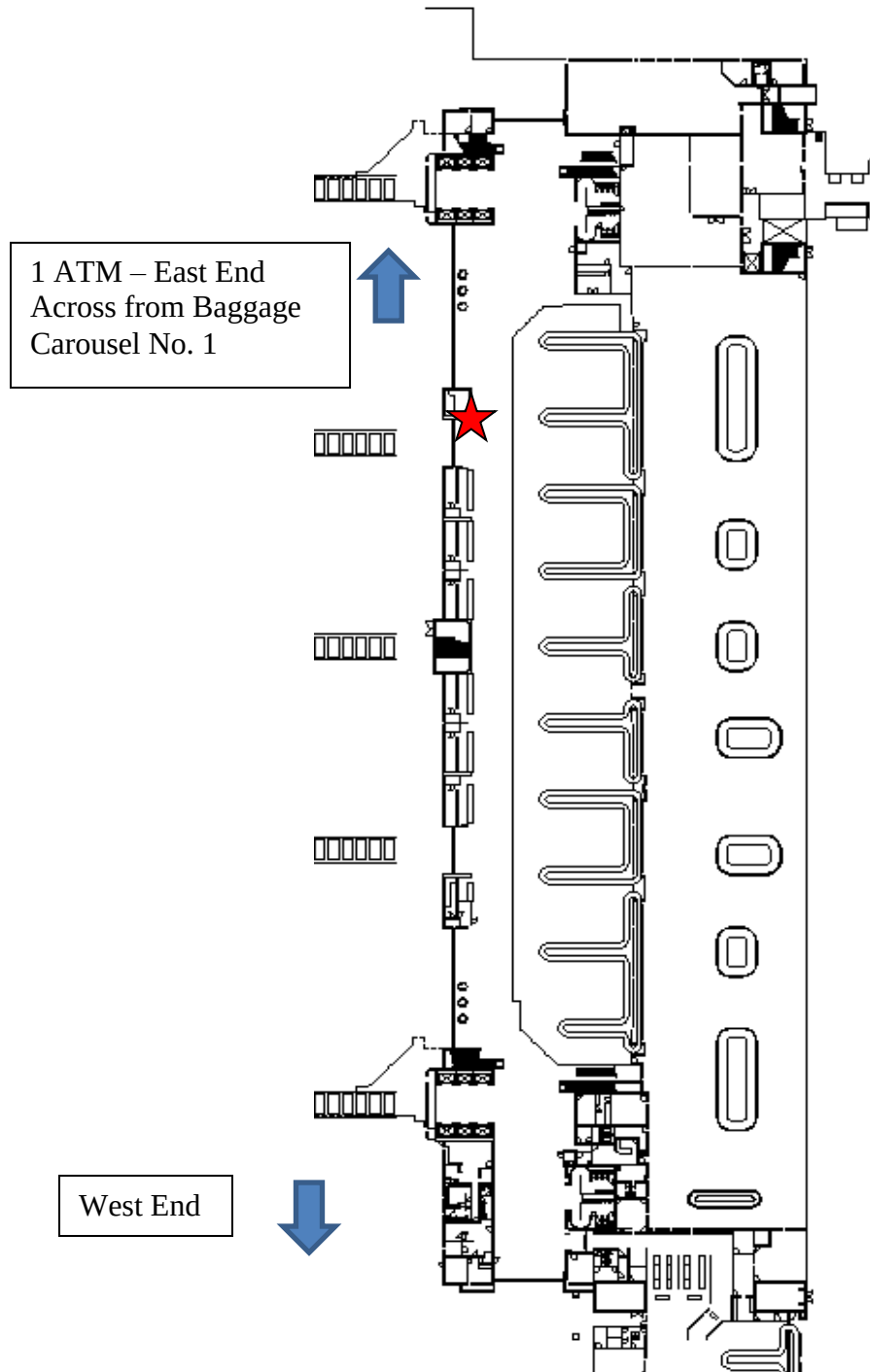
ATTACHMENT “1”
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
RFP NO. PB 24-13

LOCATION MAP OF AUTOMATED TELLER MACHINES

ATTACHMENT "1"
AUTOMATED TELLER MACHINES CONCESSION AGREEMENT
PALM BEACH INTERNATIONAL AIRPORT
(RFP NO. 24-13)

ATM LOCATION MAP

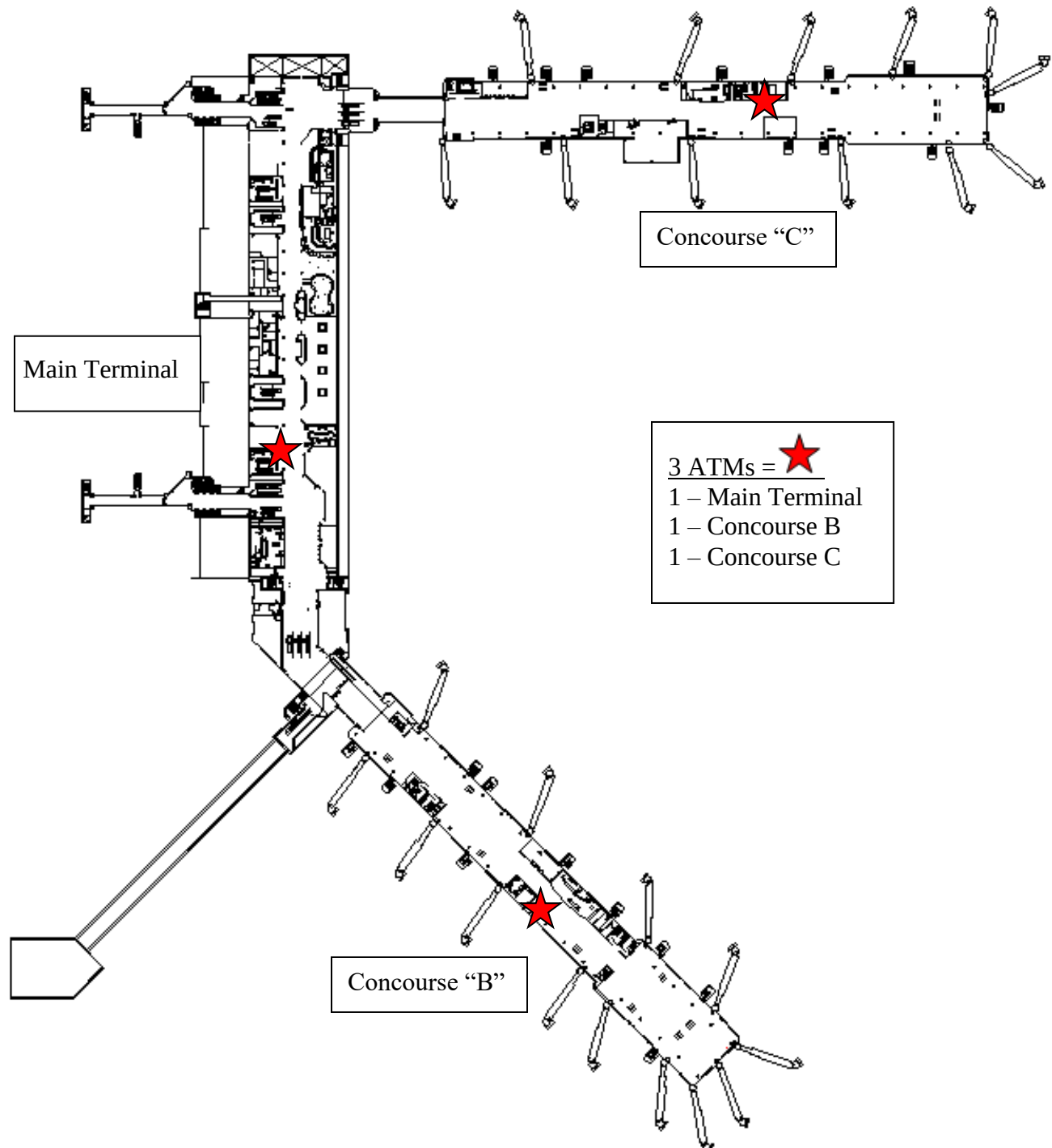
Level 1 – Baggage Claim



ATTACHMENT "1"
AUTOMATED TELLER MACHINES CONCESSION AGREEMENT
PALM BEACH INTERNATIONAL AIRPORT
(RFP NO. 24-13)

ATM LOCATION MAP

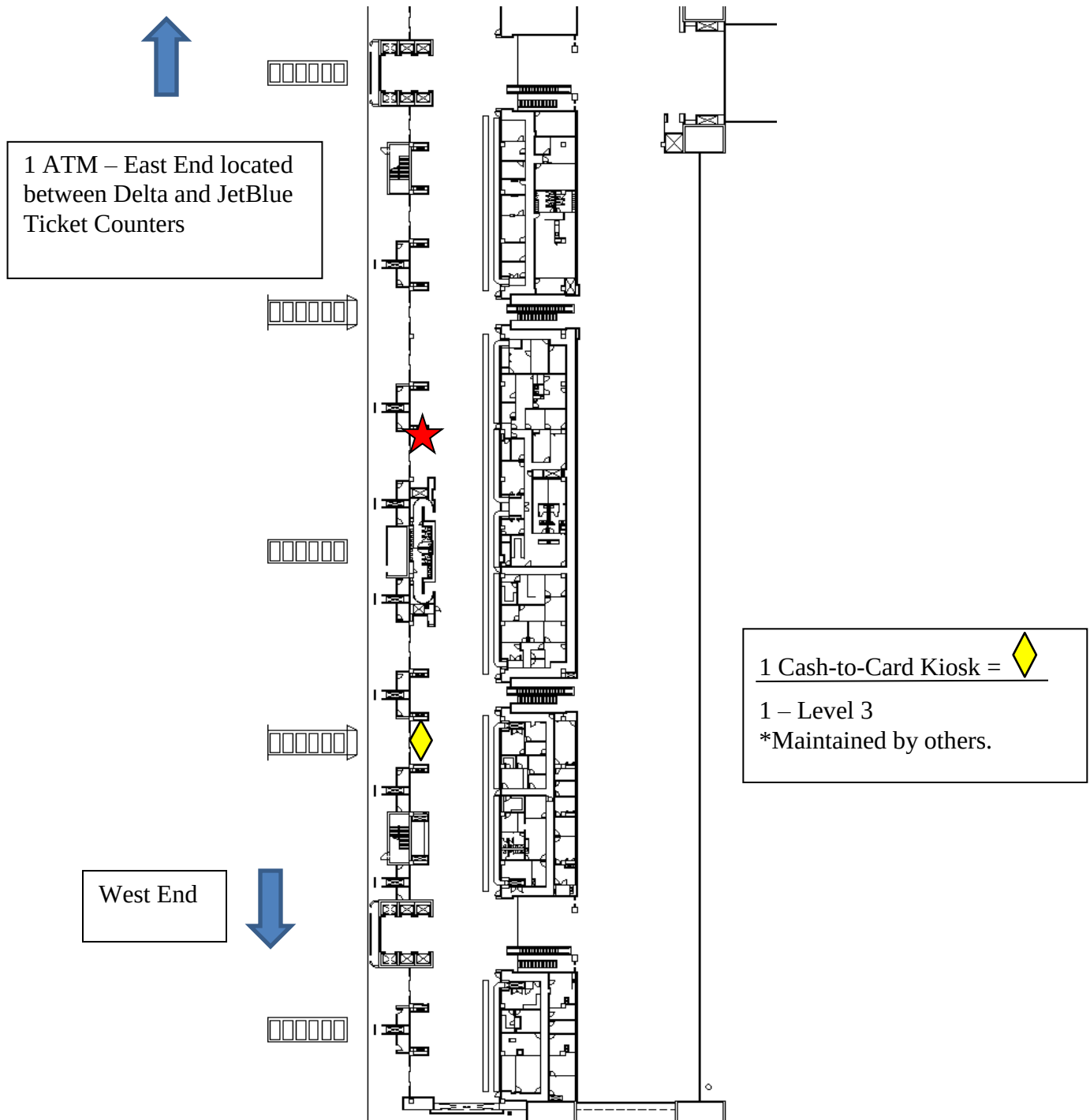
Level 2 – Main Terminal and Concourses



ATTACHMENT "1"
AUTOMATED TELLER MACHINES CONCESSION AGREEMENT
PALM BEACH INTERNATIONAL AIRPORT
(RFP NO. 24-13)

ATM LOCATION MAP

Level 3 – Ticketing



ATTACHMENT “2”
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
RFP NO. PB 24-13

HISTORICAL ATM TRANSACTION DATA

ATTACHMENT “2”
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
PALM BEACH INTERNATIONAL AIRPORT
(RFP NO. PB 24-13)

TOTAL ATM TRANSACTIONS BY LOCATION (Unaudited)

FY21 <i>(October 1, 2020 - September 30, 2021)</i>					
Arrivals/ Baggage Claim Level 1	Main Level 2	Departures/Ticketing Level 3	Concourse B	Concourse C	Total ATMs Transactions
1,673	1,585	1,181	1,999	2,381	8,819

FY22 <i>(October 1, 2021 - September 30, 2022)</i>					
Arrivals/ Baggage Claim Level 1	Main Level 2	Departures/Ticketing Level 3	Concourse B	Concourse C	Total ATMs Transactions
2,239	1,934	1,583	2,528	3,893	12,177

FY23 <i>(October 1, 2022 - September 30, 2023)</i>					
Arrivals/ Baggage Claim Level 1	Main Level 2	Departures/Ticketing Level 3	Concourse B	Concourse C	Total ATMs Transactions
2,311	2,814	1,801	2,452	3,999	13,377

ATTACHMENT “3”
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
RFP NO. PB 24-13

AUTOMATED TELLER MACHINE CONCESSION AGREEMENT

AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
PALM BEACH INTERNATIONAL AIRPORT

**Palm Beach County,
a political subdivision of the State of Florida,

and**

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EXHIBIT “A” - ATM LOCATION MAP

EXHIBIT “B” - FEDERAL NON DISCRIMINATION REQUIREMENTS

EXHIBIT “C” - NONGOVERNMENTAL ENTITY HUMAN TRAFFICKING AFFIDAVIT

AUTOMATED TELLER MACHINE CONCESSION AGREEMENT

This Automated Teller Machine Concession Agreement (this "Agreement") is made and entered into _____ by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and _____, _____ organized under the laws of the State of Florida, having its office and principal place of business at _____ ("Concessionaire").

WITNESSETH:

WHEREAS, County, by and through its Department of Airports, owns the Palm Beach International Airport ("Airport" or "PBI"), located in Palm Beach County, Florida; and

WHEREAS, Concessionaire submitted a response to County's Request for Proposals No. PB 24-13, issued on _____; and

WHEREAS, Concessionaire was selected as the most responsive, responsible proposer to provide ATM services at the Airport; and

WHEREAS, Concessionaire has indicated a willingness and demonstrated the ability to properly finance, operate, and manage an ATM Concession in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

ARTICLE 1 - RECITALS

The foregoing recitals are true and correct and are hereby incorporated herein by reference.

ARTICLE 2 - DEFINITIONS

- 2.01 "ADA" has the meaning set forth in the Federal Non-Discrimination Requirements.
- 2.02 "Additional Services" has the meaning set forth in Section 4.04.
- 2.03 "Adjusted Prorated MAG" has the meaning set forth in Section 5.04.

- 2.04 "Agreement" means this Automated Teller Machine Concession Agreement and all exhibits hereto. Words such as "herein", "hereafter", "hereof", "hereto", hereby" and "hereunder" when used with reference to this Agreement, refer to this Agreement as a whole, unless the context otherwise requires.
- 2.05 "Airport" or "PBI" has the meaning set forth in the Recitals to this Agreement.
- 2.06 "Airport Concession Disadvantaged Business Enterprise" or "ACDBE" means an Airport Concession Disadvantaged Business Enterprise as defined in Title 49, Part 23 of the Code of Regulations, as now or hereafter amended or any successor regulation.
- 2.07 "Annual Privilege Fee" means _____ percent (_____ %) of the total annual Transaction Fees for use of Automated Teller Machines.
- 2.08 "Assignment" has the meaning provided in Article 16.
- 2.09 "ATM" means the machines, including Automated Teller Machines, Cash-To-Card Kiosks and Additional Services installed, operated or provided pursuant to this Concession Agreement.
- 2.10 "ATM Location Map" means Exhibit "A", attached hereto and incorporated herein, or the most current ATM Location Map approved by the Department in writing pursuant to Section 4.01 of this Agreement for the location of ATMs at the Airport, whichever is then in effect.
- 2.11 "ATM Locations" means those locations designated for the installation of an ATM at the Airport.
- 2.12 "Automated Teller Machine" means a machine that dispenses cash from a bank or credit account without a teller or attendant, and may include the capabilities of a Cash-to-Card Kiosk.
- 2.13 "Bond Resolution" means the Palm Beach County Airport System Revenue Bond Resolution dated April 3, 1984 (R-84-427), as amended and supplemented, which is hereby incorporated herein by reference and made a part hereof.
- 2.14 "Business Day" means any day other than a Saturday, Sunday or County holiday. Use of the word "day" as opposed to Business Day means a calendar day.
- 2.15 "Cash-to-Card Kiosk" means an ATM that is capable of providing Cash-to-Card Transactions. A Cash-to-Card Kiosk may be included within an automated teller machine, or in a separate machine.
- 2.16 "Cash-to-Card Transaction" means the use of a Cash-to-Card Kiosk to convert physical cash into digital currency or load funds onto a prepaid card.
- 2.17 "Commencement Date" has the meaning provided in Section 3.02.

- 2.18 "Concession" means the ATM Concession operated by Concessionaire pursuant to this Agreement.
- 2.19 "Concession Fee" has the meaning provided in Section 5.01.
- 2.20 "Contract Year" means the twelve (12) month period, beginning on October 1, 2024, and ending on September 30, 2025, and each twelve (12) month period thereafter, until the termination or earlier expiration of this Agreement.
- 2.21 "County" has the meaning provided in the preamble.
- 2.22 "Day" means a calendar day of twenty four (24) hours measured from midnight to the next midnight.
- 2.23 "Department" means the Palm Beach County Department of Airports.
- 2.24 "Director" means the Director or Acting Director of the Palm Beach County Department of Airports.
- 2.25 "Effective Date" has the meaning provided in Section 3.01.
- 2.26 "FAA" means the Federal Aviation Administration.
- 2.27 "Initial Term" has the meaning provided in Section 3.02.
- 2.28 "Minimum Annual Guarantee" has the meaning provided in Section 5.02(A).
- 2.29 "Monthly Transaction Report" has the meaning in Section 5.09.
- 2.30 "Monthly Privilege Fee" means _____ percent (_____%) of the total monthly Transaction Fees for use of Automated Teller Machines.
- 2.31 "Ordinance" has the meaning provided in Section 11.02.
- 2.32 "PBI" means the Palm Beach International Airport.
- 2.33 "Privilege Fee" means _____ percent (_____%) of Transaction Fees for use of Automated Teller Machines.
- 2.34 "Proposal" means the proposal submitted by Concessionaire in response to the RFP.
- 2.35 "Public Areas" has the meaning provided in Section 4.02(A).
- 2.36 "Renewal Term" has the meaning provided in Section 3.03.
- 2.37 "Reporting Requirements" has the meaning provided in Section 15.05.

- 2.38 “Request for Proposals” or “RFP” means RFP No. PB 24-13 for Automated Teller Machine Concession Agreement issued on _____.
- 2.39 “Security Deposit” has the meaning provided in Section 5.13.
- 2.40 “Term” means the Initial Term and any Renewal Term.
- 2.41 “Service Standards” has the meaning provided in Section 15.05.
- 2.42 “Terminal” means the commercial passenger terminal building located at PBI.
- 2.43 “Transaction Fees” means all surcharges and fees charged to customers for transactions conducted on ATMs located at the Airport pursuant to the Concession Agreement, including, but not limited to, fees assessed for cash withdrawal and cash advance transactions, balance inquires, or deposits, and Cash-to-Card Transactions.
- 2.44 “TSA” means the Transportation Security Administration.

ARTICLE 3 - EFFECTIVE DATE AND TERM

- 3.01 Effective Date. This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and shall become effective when signed by all parties and approved by the Palm Beach County Board of County Commissioners (“Effective Date”).
- 3.02 Term. The term of this Agreement shall be for a period of three (3) years, commencing on October 1, 2024 (“Commencement Date”), and terminating on September 30, 2027 (“Initial Term”), unless sooner terminated as provided for herein.
- 3.03 Renewal Term. Upon the expiration of the Initial Term, County shall have the option to renew this Agreement for an additional term of two (2) years (“Renewal Term”). The Renewal Term shall be upon the same terms and conditions as set forth herein, except there shall be no further renewal options. In the event County desires to renew this Agreement, County shall provide written notice to Concessionaire of its desire to renew this Agreement at least sixty (60) days prior to the expiration of the then current term and the parties shall enter into a written agreement to renew this Agreement. The Director shall have the authority to sign such amendment on behalf of County. County shall have the absolute right, in its sole discretion, to elect not to renew this Agreement. In the event County elects not to renew this Agreement at the end of the Initial Term, this Agreement shall terminate at the end of the Initial Term and Concessionaire shall have no further rights hereunder.

ARTICLE 4 - PRIVILEGES AND PREMISES

- 4.01 Description of Specific Privileges, Uses and Rights. Subject to the terms and conditions of this Agreement, Concessionaire shall have the nonexclusive right and obligation to provide ATM services to the public at the Airport. Concessionaire shall install ATMs in the locations identified on the attached Exhibit "A", at Concessionaire's sole cost and expense, within fifteen (15) days of the Commencement Date, unless otherwise approved by the Department in writing. The parties acknowledge that it may be necessary for Concessionaire to relocate or remove ATMs from the locations identified on the ATM Location Map from time-to-time, as provided in Section 7.07. Concessionaire may also install ATMs at additional locations upon written approval of the Department. Prior to installing, adding, removing, relocating or otherwise altering any ATMs at the Airport, Concessionaire shall provide the Department with an updated ATM Location Map which shall take effect upon written approval by the Department. Concessionaire shall not install ATMs at any Airport location that has not been approved in writing by the Department.
- 4.02 Description of General Privileges, Uses and Rights. In addition to the specific privileges granted pursuant to Section 4.01, County hereby grants to Concessionaire:
- A. the nonexclusive use of the Public Areas within the Terminal for Concessionaire, its employees, contractors, patrons, invitees, suppliers of service, agents and authorized sublessees, if any, in connection with its operations hereunder. For purposes of this Agreement, "Public Areas" means the public corridors, restrooms and other areas within the Terminal that the general public has the right to access. Public Areas shall at all times be subject to the exclusive control and management of County. County shall have the full right and authority to make all rules and regulations as County may in its sole discretion deem proper, pertaining to the proper operation and maintenance of the Public Areas; and
 - B. the nonexclusive right of ingress to, and egress from, the Terminal over and across public roadways and walkways serving the Airport for Concessionaire, its employees, contractors, patrons, invitees, suppliers of service, agents and authorized sublessees, if any, in connection with its operations hereunder.

Nothing herein contained shall be construed to grant to Concessionaire, its employees, contractors, patrons, invitees, suppliers of service, agents or authorized sublessees, if any, the right to use or occupy any space or area at the Airport improved or unimproved that is leased or assigned to a third party, or, except as expressly set forth in Section 4.02(A) and (B) above, County has not designated for Concessionaire's use pursuant to this Agreement. The general privileges, uses and rights granted in this Section shall be subject to the terms, conditions and covenants set forth herein.

- 4.03 Condition of ATM Locations. County makes no representations or warranties whatsoever as to the condition of the ATM Locations or the Airport, including, but not limited to, any equipment, utilities or fixtures currently installed at the ATM Locations, whether such equipment, utilities or fixtures are in compliance with applicable laws or the fitness of any such equipment or fixtures fitness for a particular purpose. The ATM Locations, and any improvements thereto, are being provided for Concessionaire's use in their "AS IS CONDITION" and "WITH ALL FAULTS." Concessionaire shall not be entitled to any adjustment of any fees or charges payable hereunder on account of the condition of any improvements or any failure of any improvements to be in working order or because of any necessity of Concessionaire to repair or take corrective actions with respect to any improvements.
- 4.04 Additional Services. Concessionaire shall not provide any services not specifically authorized herein ("Additional Services") or provide services at locations not specifically designated for such services by County, without the prior written consent of County, which may be granted or withheld in County's sole and absolute discretion for any reason or no reason at all. Such consent shall be in the form of an amendment to this Agreement which shall: (1) designate the premises from which the Additional Services shall be provided, if any; (2) whether Concessionaire shall be required to make an additional capital expenditure; and (3) any additional fees that will be payable to County for the right and privilege to provide such Additional Services. County may require Concessionaire to cease providing the Additional Services at any time during the Term of this Agreement. Concessionaire shall cease such Additional Services upon thirty (30) days prior written notice from County.

ARTICLE 5 - CONCESSION FEE

- 5.01 Concession Fee. Concessionaire shall pay to County concession fees equal to the greater of the Minimum Annual Guarantee or the Annual Privilege Fee ("Concession Fee"). The Concession Fee shall be payable on a monthly basis as provided for herein and shall be reconciled on an annual basis in accordance with the provisions of Section 5.11 below.
- 5.02 Minimum Annual Guarantee.

- A. The Minimum Annual Guarantee for each Contract Year shall be as follows:

Time Period	Minimum Annual Guarantee
First Contract Year	<i>(per Proposal Response Form)</i>
Second Contract Year and each Contract Year thereafter	Eighty five percent (85%) of the Annual Privilege Fee for the preceding Contract Year, but in no event less than <i>(amount of First Contract Year Minimum Annual Guarantee)</i> Dollars (\$XX,000.00).

B. Commencing on the Commencement Date and on the first (1st) day of each and every month thereafter, Concessionaire shall pay to the County one-twelfth (1/12) of the Minimum Annual Guarantee for the applicable Contract Year, without demand, deduction, holdback or setoff.

5.03 Monthly Privilege Fee. In the event the Monthly Privilege Fee is greater than (1/12) of the Minimum Annual Guarantee, Concessionaire shall pay the difference to the County. Such payment shall be delivered with the Monthly Transaction Report required by Section 5.09 on or before the twentieth (20th) day of each and every month, without demand, deduction or setoff, throughout the Term of this Agreement.

5.04 Reduction of Minimum Annual Guarantee. In the event the total number of passengers on scheduled commercial airline flights utilizing the Terminal during any calendar month is less than seventy-five percent (75%) of the number of passengers in the same month of calendar year 2019, the Prorated MAG for such month(s) shall be reduced by the same percentage as the decrease in the number of passengers in the same month(s) of calendar year 2019, rounded to the nearest whole percent ("Adjusted Prorated MAG"). For purposes of calculating such adjustment under this Section, the following values shall be used as passenger volumes for calendar year 2019:

Calendar Year 2019	Total Passengers
January	638,686
February	648,686
March	786,538
April	710,970
May	539,480
June	470,370
July	488,368
August	465,875
September	368,986
October	468,846
November	582,868
December	730,246

For example, if the Prorated MAG for May 2025 is \$1,200.00, and the number of deplaning passengers is 334,478 (62% of the May 2019 value of 539,480), the Prorated MAG amount for May 2024 would be reduced to \$744.00 (62% of \$1,200.00). Concessionaire acknowledges and agrees that Concessionaire shall remain liable for payment of the Annual Privilege Fee notwithstanding County's adjustment of any portion of the Minimum Annual Guarantee. County may, at County's option, issue a conditional adjustment of the Minimum Annual Guarantee, as provided in this Section, when circumstances indicate that such adjustment is more likely than not to occur; provided, however, such conditional adjustment shall be subject to reversal by County in the event the threshold of

decline in total passengers does not actually occur, and any difference shall be paid to County within thirty (30) days of the date of County's notification.

- 5.05 Unpaid Fees. In the event Concessionaire fails to make payment of any fees or charges when due and payable in accordance with the terms of this Agreement, Concessionaire shall pay interest at the rate of one and one half percent (1.5%) per month on late payments from the date due until the date payment is received by the Department. The Department, in its sole and absolute discretion, may elect to waive the aforementioned late fees in appropriate circumstances, as determined by the Department. Notwithstanding the foregoing, County shall not be prevented from terminating this Agreement for default in payment due to County pursuant to this Agreement or from exercising any other remedies contained herein or implied by law.
- 5.06 Form of Payment. All payments due under this Agreement shall be paid in lawful money of the United States of America, without offset or deduction or prior notice or demand. No payment by Concessionaire or receipt by the County of a lesser amount than the payment due shall be deemed to be other than on account of the payment due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed to establish an accord and satisfaction, and the County may accept such check or payment without prejudice to the County's right to recover the balance of said amount due or pursue any other remedy available under this Agreement.
- 5.07 Sales and Use Tax. Concessionaire shall pay monthly to County any sales, use or other tax, or any imposition in lieu thereof (excluding State and/or Federal Income Tax) now or hereinafter imposed upon the fees, use or occupancy of the Airport imposed by the United States of America, the State of Florida, or Palm Beach County, notwithstanding the fact that the statute, rule, ordinance or enactment imposing the same may endeavor to impose the tax on County.
- 5.08 Place of Payments. All payments required to be made by Concessionaire under this Agreement shall be made payable to "Palm Beach County," and shall be paid to the Finance Division, Department of Airports, 846 Palm Beach International Airport, West Palm Beach, Florida 33406-1470, or to such other office or address as may be substituted therefor.
- 5.09 Monthly Transaction Report. Within twenty (20) days after the close of each month throughout the Term of this Agreement, Concessionaire shall submit to the Department, in a form and detail satisfactory to the Department, a monthly report that: (1) details the total number of transactions for the preceding calendar month; (2) details the number of transactions by ATM; (3) details the Transaction Fees for the preceding month by transaction category; (4) details the total Transaction Fees by each ATM location; (5) identifies the Privilege Fee for the preceding calendar month; (6) identifies the amount payable to County for the preceding calendar month; (7) identifies any revenues from Additional Services (if any); and (8) separately identifies any exclusions from Transaction Fees ("Monthly Transaction Report"). The Department may require the monthly report to be submitted electronically.

5.10 Accounting Records. Concessionaire shall keep, throughout the Term of this Agreement, all books of accounts and records customarily used in this type of operation, and as from time to time may be required by the Department, in accordance with Generally Accepted Accounting Principals prescribed by the American Institute of Certified Public Accountants or any successor agency thereto. Such books of accounts and records shall be retained and be available for five (5) years from the end of each Contract Year, including three (3) years following the expiration or termination of this Agreement. County shall have the right to audit and examine during normal business hours all such books of accounts and records relating to Concessionaire's operations hereunder. If the books of accounts and records are kept at locations other than the Airport, Concessionaire shall, at its sole cost and expense, arrange for them to be brought to a location convenient to the auditors for County in order for County to conduct the audits and inspections as set forth in this Article. Failure to maintain books of accounts and records as required under this Section shall be deemed to be a material breach of this Agreement. The obligations arising under this Section shall survive the expiration or earlier termination of this Agreement.

5.11 Audit Requirements. Within ninety (90) days of the end of each Contract Year, Concessionaire shall provide to the Department an audit report on all payments required hereunder in accordance with the requirements of this Section. The audit report shall cover the preceding Contract Year. The audit report shall be prepared by an independent Certified Public Accountant, not a regular employee of Concessionaire, in accordance with Generally Accepted Auditing Standards prescribed by the American Institute of Certified Public Accountants or any successor agency thereto. The audit report shall be in a form acceptable to the Department. The audit report shall include the following:

- A. Schedule of Transaction Fees by ATM and month.
- B. Schedule of Transaction Fees by transaction category, if more than one (1) type of Transaction Fee is charged.
- C. Schedule of payments made to County, by month.
- D. Calculation of the total Concession Fees payable to County for the preceding Contract Year.
- E. The audit report shall include an opinion on the schedule of Transaction Fees by ATM and by month, the schedule of Transaction Fees by transaction category, the schedule of payments made to County, and the calculation of the total Concession Fees payable to County for the preceding Contract Year.

Failure to deliver an audit report containing a qualified opinion, an adverse opinion, or a disclaimer of opinion, as defined by the American Institute of Certified Public Accountants or any successor agency thereto, shall be deemed to be a material breach of this Agreement. If the audit report indicates that the Concession Fee (together with any sales taxes thereon) due and owing for any Contract Year is

greater than the amount paid by Concessionaire to County during such Contract Year, Concessionaire shall pay the difference to County with the audit report. If the Concession Fee actually paid by Concessionaire to County during any Contract Year exceeds the Concession Fee due and owing for such Contract Year, the Department shall credit the overpayment in the following order: (1) against any past due amounts owed to County by Concessionaire, including interest and late fees; (2) against future Concession Fee which will become due during the succeeding Contract Year; and (3) against any other sums payable by Concessionaire to County. Notwithstanding the foregoing, in the event of an overpayment by Concessionaire during the last Contract Year, the Department shall credit the overpayment against any remaining amounts owed to County, including interest and late fees, and refund to Concessionaire any overpayment amount in excess of the credit.

- 5.12 Audit by County. Notwithstanding any provision in this Agreement to the contrary, County or its representative(s) may at any time perform audits of all or selected operations performed by Concessionaire under the terms of this Agreement. In order to facilitate the audit performed by County, Concessionaire shall make suitable arrangements with the Certified Public Accountant, who is responsible for preparing the audit report on behalf of Concessionaire pursuant to Section 5.11 above, to make available to County's representative(s) any and all working papers relevant to the audit performed by the Certified Public Accountant. County or its representative(s) shall make available to Concessionaire a copy of the audit report prepared by or on behalf of County. Concessionaire shall have thirty (30) days from receipt of the audit report from County or its representative(s) to provide a written response to the Department regarding the audit report. Concessionaire agrees that failure of Concessionaire to submit a written response to the audit report in accordance with the requirements of this Section shall constitute acceptance of the audit report as issued.
- 5.13 Security for Payment. Prior to the Effective Date, Concessionaire shall post a security deposit ("Security Deposit") with County in the amount of one half (1/2) of the Minimum Annual Guarantee for the first Contract Year. If the amount currently posted is less than forty percent (40%) of the then-current Minimum Annual Guarantee, the Department may increase the amount of the required Security Deposit upon thirty (30) days written notice to Concessionaire, to an amount equal to fifty percent (50%) of the Minimum Annual Guarantee. The Security Deposit shall serve as security for the payment of all sums due to County and shall also secure the performance of all obligations of Concessionaire hereunder. The Security Deposit shall be either in the form of a clean, Irrevocable Letter of Credit ("Letter of Credit") or a Surety Bond ("Bond") in form and substance satisfactory to County. In the event of any failure by Concessionaire to pay any fees, sums or charges to County when due or upon any other failure to perform any of its obligations or other default under this Agreement, then, in addition to any other rights and remedies available to County at law or in equity, County shall be entitled to draw on the Security Deposit and apply same to all amounts owed. Upon notice of any such draw, Concessionaire shall immediately replace the Security Deposit with a new Letter of Credit or Bond in the full amount of the Security Deposit required hereunder. The Security Deposit shall be kept in full force and effect

throughout the Term of this Agreement and for a period of six (6) months after the termination of this Agreement. Not less than thirty (30) calendar days prior to any expiration date of a Letter of Credit or Bond, Concessionaire shall submit evidence in form satisfactory to County that such security instrument has been renewed. Failure to renew a Letter of Credit or Bond as required by this Section shall: (1) entitle County to draw down the full amount of such Security Deposit, and (2) constitute a default of this Agreement entitling County to all available remedies. The Security Deposit shall not be returned to Concessionaire until all obligations under this Agreement are performed and satisfied. Prior to consent from County to any assignment of this Agreement by Concessionaire, Concessionaire's assignee shall be required to provide a Security Deposit to County in accordance with the terms and conditions of this Section. The obligations arising under this Section shall survive the expiration or earlier termination of this Agreement.

- 5.14 Inspector General. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Concessionaire, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

ARTICLE 6 - EQUIPMENT & SERVICE REQUIREMENTS

6.01 Minimum Equipment and Service Specifications:

- A. Concessionaire shall ensure that each ATM supports cash withdrawals and may support additional banking services, including, but not limited to, account balance inquiries, transfers and deposits. All transactions shall use United States currency and use Twenty Dollar (\$20.00) bills as a primary denomination for withdrawals. Concessionaire may offer other denominations as well (i.e. Ten Dollar (\$10.00) bills).
- B. Concessionaire shall ensure that each Cash-to-Card Kiosk supports dispensing cards such as MasterCard or Visa. All transactions shall accept United States currency in denominations of at least One Dollar (\$1.00) up to Fifty Dollar (\$50.00) bills. Acceptance of coins is not required.
- C. ATMs shall meet all ADA regulations, including approach height and reach requirements.
- D. ATMs shall be fully tested and operational prior to implementation.

- E. Concessionaire shall routinely service each machine, so that they remain in a properly stocked, cleaned and serviceable condition. ATMs shall be available for use twenty-four (24) hours a day, seven (7) days a week.
- F. ATMs shall have the capability of accepting transactions utilizing various credit, debit and ATM cards. ATMs shall access a minimum of two (2) national networks (i.e. Cirrus, Plus, etc.) as well as accept major credit cards, including MasterCard and Visa.
- G. ATMs shall provide transaction receipts if desired by the ATM user.
- H. ATMs shall meet EMV (Europay, MasterCard, Visa) technology compliance standards.
- I. ATMs shall prominently display all written directions necessary to instruct customers in the operation of the ATM; provide a list of Transaction Fees, transaction surcharges, or any other fees charged; and to whom the Transaction Fees and/or charges apply.
- J. ATMs shall have the capability of being programmed and providing instructions in English and Spanish languages.
- K. ATMs should be kept free of stickers and decals, unless approved in advance by the Department.
- L. Concessionaire acknowledges and agrees that County shall not be responsible in any way for any losses or expenses incurred by Concessionaire resulting from lost funds, theft or vandalism, or from the repair or replacement of damaged or defective ATM equipment, fixtures or appurtenances. Security of currency, ATM equipment and associated supplies shall be at the sole responsibility of the Concessionaire.
- M. Concessionaire shall furnish at least one (1) professionally made "*Temporarily Out of Service*" sign, which shall include the Concessionaire's contact information. The sign will be held in the Department's offices and installed in the event an ATM is out of service.

6.02 Rates and Charges.

- A. The initial Transaction Fee amount shall be not more than _____.
- B. Any increase to Transaction Fees charged by Concessionaire during the Term of this Agreement shall be subject to prior written approval of the Department. Transaction Fees may not exceed: (1) charges assessed by Concessionaire's ATM units located within Palm Beach County; (2) any maximum charge set by any regulatory agency having jurisdiction; or (3) the average transaction fees charged by financial institutions providing ATM services at other comparable Florida airports. It shall be the responsibility

of Concessionaire to document fees at other locations to the reasonable satisfaction of County.

6.03 Customer Service Requirements.

- A. Concessionaire shall assure that the Concession is at all times under the supervision and direction of an active, qualified, competent manager who is at all times under the direction and control of Concessionaire. Concessionaire's manager shall be responsible for coordinating orders for installation, removal, and repair of ATMs, addressing issues related to payments to the County; reporting; and any and all other operational aspects of the Concession. Concessionaire shall provide to the Department, and keep current, the contact information for its manager, including name, address, telephone number, and email address.
- B. Equipment repair and customer services shall be available twenty-four (24) hours a day, three hundred sixty five (365) days a year at no cost to County.
- C. Concessionaire's customer service center shall handle complaints, credit adjustments and refunds, and provide assistance in an expedient and professional manner. The customer service telephone number(s) shall be: (1) toll-free; and (2) prominently posted on all ATMs.
- D. Concessionaire shall maintain a log of complaints and shall notify the Department of any complaints received. At the request of the Department, Concessionaire shall meet with Department staff to review any complaints or concerns and to promptly correct any deficiencies.

ARTICLE 7 - INSTALLATION AND RELOCATION OF EQUIPMENT

- 7.01 Installation of ATMs. Concessionaire shall install ATMs at locations approved by County in accordance with Section 4.01. At the end of the term of the current Concession Agreement, the current service provider will remove its ATMs from the Airport. Concessionaire shall communicate with, work with, and cooperate with the current provider in the transition from its operation of the concession to the operation of such concession by Concessionaire. County shall not be liable to Concessionaire for the current provider's failure to timely remove its ATMs from the Airport.
- 7.02 Installation of Improvements or Equipment. All improvements to be installed or any alterations to existing equipment or improvements at the Airport by Concessionaire shall be subject to the prior written approval of the Department. Prior to the construction of improvements or installation of equipment, including associated electric, communication, or data, Concessionaire shall submit associated plans and specifications and construction schedules to the Department for review and approval. Any and all construction or installation shall be: (1) at the sole risk of Concessionaire; (2) in accordance with all applicable Federal, State and local codes, laws, the construction standards established by the Department, and the approved plans and specifications; and (3) shall be subject to inspection

by the County. At the discretion of the Department, any improvements that are constructed or equipment that has been installed by the Concessionaire that are in violation of this Article shall be removed or reconstructed in accordance with the requirements of this Article at Concessionaire's sole cost and expense.

- 7.03 Title to Improvements. Except as otherwise provided for herein, all fixtures and improvements that are constructed or placed at the Airport, excluding ATMs, furnishings, equipment and trade fixtures, shall become the absolute property of County upon the expiration or earlier termination of this Agreement and County shall have every right, title, and interest therein, free and clear of any liens, mortgages or encumbrances. Upon the request of County, Concessionaire shall provide County with a bill of sale or other evidence of the transfer of ownership of improvements pursuant to this Section together with evidence satisfactory to County that the improvements are free from liens, mortgages and other encumbrances. Notwithstanding the foregoing, County may require the removal of any or all improvements installed by Concessionaire on the Airport upon the expiration or earlier termination of this Agreement.
- 7.04 No Liens. Concessionaire covenants and agrees that nothing contained in this Agreement shall be construed as consent by County to subject the estate of County to liability under the Construction Lien Law of the State of Florida, it being expressly understood that County's estate shall not be subject to such liability. Concessionaire shall notify any and all Persons performing work for Concessionaire at the Airport or providing materials relating to any improvements made by Concessionaire to the Airport of this provision of this Agreement. If so requested by County, Concessionaire shall file a notice satisfactory to County in the Public Records of Palm Beach County, Florida, stating that County's interest shall not be subject to liens for improvements made by Concessionaire. In the event that a construction lien is filed against the Airport or other County property in connection with any work performed by or on behalf of Concessionaire, Concessionaire shall satisfy such claim, or transfer same to security, within thirty (30) days from the date of filing. In the event that Concessionaire fails to satisfy or transfer such claim within the thirty (30) day period, County may do so and thereafter charge Concessionaire, and Concessionaire shall promptly pay to County upon demand all costs incurred by County in connection with the satisfaction or transfer of such claim, including attorney's fees. Further, Concessionaire agrees to indemnify, defend, and save County harmless from and against any damage or loss incurred by County as a result of any such construction lien. The obligations set forth in this Section shall survive the expiration or earlier termination of this Agreement.
- 7.05 Construction Bonds. Concessionaire shall ensure that all improvements are constructed to completion in accordance with the approved plans and specifications and that all persons or entities performing work or providing materials relating to such improvements including, but not limited to, all contractors, subcontractors, sub-subcontractors, laborers, materialmen, suppliers and professional, are paid in full for such services and materials. Prior to the commencement of any improvements at the Airport, the estimated cost of which exceeds Twenty Five Thousand Dollars (\$25,000), Concessionaire shall cause to

be made, executed and delivered to County, at Concessionaire's sole cost and expense, a bond in a form and substance reasonably satisfactory to County, and issued by a company reasonably acceptable to County, guaranteeing compliance by Concessionaire of its obligations arising under this Article. County shall be named as a dual obligee on the bond(s).

- 7.06 Contractor Requirements. Concessionaire shall require contractors to furnish for the benefit of County a public construction bond as required under Section 255.05, Florida Statutes, in a form approved by County. Concessionaire shall require its contractors to name County as a dual obligee on the bond(s). Concessionaire shall also require contractors to furnish satisfactory evidence of statutory Worker's Compensation insurance, comprehensive general liability insurance, comprehensive auto insurance, and physical damage insurance on a Builder's Risk form with the interest of County endorsed thereon, in such amounts and in such manner as County's Risk Management Department may reasonably require. County's Risk Management Department may require additional insurance for any alterations or improvements approved hereunder, in such amounts as County's Risk Management Department reasonably determines to be necessary.
- 7.07 Relocation of Equipment. Concessionaire acknowledges that airports are a dynamic environment; therefore, it may be necessary to relocate ATMs due to certain demands. Relocation of any ATMs, at the discretion of County, shall be completed by Concessionaire within thirty (30) days of receipt of written notice to relocate. Concessionaire will be required to coordinate all construction, installation and relocation with the Department. Concessionaire shall be required to observe Airport Rules and Regulations and attend pre-construction meetings as required by the Department. All costs associated with relocation of ATMs shall be at Concessionaire's sole cost and expense.

ARTICLE 8 - MAINTENANCE AND REPAIR OF EQUIPMENT

- 8.01 Maintenance and Repair. Concessionaire shall be responsible for maintenance and repair of all ATM equipment, at Concessionaire's sole cost and expense, including, but not limited to, electrical, data and telecommunication connections.
- 8.02 Equipment Repair.
- A. Concessionaire shall provide repair services for ATMs and equipment on a twenty-four (24) hour basis at no charge to County. All maintenance and repair services shall be completed within the same day (twenty-four (24) hours) as the need for such service was reported to Concessionaire. If a service representative of Concessionaire is not at the Airport when the need for repair service is reported, the response time for such repairs shall be within twenty-four (24) hours. Replacement of equipment shall be at the expense of Concessionaire.

- B. The repair or replacement of any defective or damaged equipment, fixtures, or appurtenances shall be completed by Concessionaire as soon as reasonably possible and, if applicable, in accordance with the directions of the Department.

8.03 Maintenance. All ATMs shall be maintained by Concessionaire in a clean and hygienic manner.

ARTICLE 9 - SIGNS, DISPLAYS AND ADVERTISING

9.01 Displays. The following information and telephone numbers shall be all toll-free and shall be prominently displayed on all ATMs:

- A. repair and customer service telephone numbers;
- B. Concessionaire's business name and address;
- C. the financial institution supplying ATM services; and
- D. a list of all Transaction Fees and information regarding to whom the fees apply.

9.02 Signs. All signage identifying the location of ATMs, must be recognizable for that purpose, and shall be approved by the Department prior to installation. Concessionaire shall be responsible to provide and maintain all signs, including those the Department has instructed Concessionaire to obtain.

9.03 Advertising. Concessionaire shall not install or place any advertising materials on the ATMs or at the Airport without the Department's prior written approval. This advertising prohibition shall include, but shall not be limited to, stickers, electronic advertising or other information that may be affixed or otherwise placed on any ATMs.

ARTICLE 10 - UTILITIES

County will pay for electricity used or consumed by the ATMs installed by Concessionaire in the Airport Terminal. Concessionaire will be responsible for all costs of installation of any necessary electrical connections and for the cost of electricity used or consumed by the selected Concessionaire at any other Airport. Notwithstanding the foregoing, County may elect to prorate electric utility charges to Terminal tenants in the future, including Concessionaire, in a manner reasonably determined by the Department. In such event, Concessionaire shall be responsible for payment of all such charges within thirty (30) days of the date of the Department's invoice.

ARTICLE 11 - AIRPORT SECURITY PROGRAM

- 11.01 Airport Security. Concessionaire shall observe all security regulations and other requirements of any agency of the Federal government, including, but not limited to, the FAA and TSA, applicable to Concessionaire, as such regulations or requirements have been or may be amended, including without limitation, Title 14, Part 139 of the Code of Federal Regulations and Title 49, Part 1542 of the Code of Federal Regulations. Concessionaire agrees to comply with the Airport Security Program and the Air Operations Area (AOA) Vehicle Access Program, and amendments thereto, and to comply with such other rules and regulations as may be reasonably prescribed by County, and to take such steps as may be necessary or directed by County to insure that sublessees, employees, invitees and guests observe these requirements. Concessionaire shall conduct background checks of its employees to the extent required by any Federal, State or local law or as required by the Department or County. The Department shall have the right to require the removal or replacement of any employee of Concessionaire at the Airport that the Department has reasonably determined may present a risk to public safety or the security of the Airport. If as a result of the acts or omissions of Concessionaire, its sublessees, employees, invitees or guests, County incurs any fines and/or penalties imposed by the FAA or TSA; any expense in enforcing the regulations of the FAA or TSA or the rules or regulations of County; or any expense in enforcing the Airport Security Program, then Concessionaire agrees to pay to County all such costs and expenses, including all costs of administrative proceeding, court costs, and attorney fees and all costs incurred by County in enforcing this provision. Concessionaire further agrees to rectify any security deficiency or other deficiency as may be determined by County, the FAA or TSA. In the event Concessionaire fails to remedy any such deficiency, County may do so at the cost and expense of Concessionaire. Concessionaire acknowledges and agrees that County may take whatever action is necessary to rectify any security deficiency or any other deficiency identified by County, the FAA or TSA.
- 11.02 Criminal History Records Check Ordinance. Concessionaire shall comply with the provisions of Chapter 2, Article IX, Palm Beach County Code, as now or hereafter amended, the Criminal History Records Check Ordinance ("Ordinance"), if Concessionaire's employees or subcontractors are required by this Agreement to enter a "critical facility" as identified in County Resolution R-2003-1274, as now or hereafter amended. Concessionaire acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Concessionaire shall be solely responsible for the financial, schedule, and staffing implications associated in complying with the Ordinance.

ARTICLE 12 - INSURANCE

Concessionaire shall, at its sole expense, maintain in full force and effect at all times during the Term of this Agreement, the insurance limits, coverages and endorsements required herein. Neither the requirements contained in this Article nor County's review or acceptance of insurance shall in any manner limit or qualify the liabilities and obligations assumed by Concessionaire under this Agreement.

- 12.01 Commercial General Liability. Concessionaire shall maintain Commercial General Liability insurance with limits of liability of not less than (\$1,000,000) Each Occurrence including coverage for, but not limited to, Premises/Operations, Products/Completed Operations, Contractual Liability, Personal/Advertising Injury and Cross Liability. Coverage shall be provided on a primary basis.
- 12.02 Business Auto Liability. Concessionaire shall maintain Business Automobile Liability insurance with limits of liability of not less than (\$1,000,000) for owned, non-owned and hired automobiles. In the event Concessionaire has no owned automobiles, Concessionaire shall only be required to maintain Hired & Non-Owned Auto Liability insurance. This amended coverage may be satisfied by way of endorsement to the Commercial General Liability insurance or separate Business Auto Liability insurance. Coverage shall be provided on a primary basis.
- 12.03 Workers' Compensation & Employer's Liability. Concessionaire shall maintain Workers' Compensation & Employer's Liability insurance in accordance with applicable law. This coverage shall be provided on a primary basis. In the event Concessionaire subcontracts any portion of the work or services required or permitted by this Agreement to another party, Concessionaire shall be responsible for ensuring the subcontractor maintains Workers' Compensation & Employer's Liability insurance, or Concessionaire shall provide coverage under its own Workers' Compensation & Employer's Liability policy on behalf of the subcontractor.
- 12.04 Additional Insured Endorsement. Concessionaire shall endorse County as an Additional Insured on each liability insurance policy required to be maintained by Concessionaire, except for Worker's Compensation and Business Auto Liability insurance policies. Concessionaire shall endorse County with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability policy. Other policies, when required, shall provide a standard Additional Insured endorsement offered by the insurer. The Additional Insured endorsements shall provide coverage on a primary basis. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents". The Certificate Holder address shall read: *Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406 (properties@pbia.org)*. County may modify the required Additional Insured endorsement and/or Certificate Holder address from time-to-time on prior written notice to Concessionaire.
- 12.05 Certificate of Insurance. Concessionaire shall provide County or County's designated contractor with a certificate of insurance evidencing limits, coverages and endorsements required herein. The certificate of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. In the event coverage cancels or non-renews during the Term of this Agreement, Concessionaire shall furnish a new certificate of insurance evidencing replacement coverage thirty (30) days prior to the expiration of such insurance.

- 12.06 Waiver of Subrogation. Concessionaire agrees by way of entering this Agreement in writing to a Waiver of Subrogation for each required policy providing coverage during the Term of this Agreement. When required by the insurer or should a policy condition not allow a pre-loss agreement to waive subrogation without an endorsement, Concessionaire shall notify its insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition prohibiting such an endorsement, or voiding coverage should Concessionaire enter into such an agreement on a pre-loss basis.
- 12.07 Deductibles, Coinsurance, & Self-Insured Retention. Concessionaire shall be fully and solely responsible for any deductible, coinsurance penalty or self-insured retention, including any losses, damages or expenses not covered due to an exhaustion of limits or failure to comply with a policy.
- 12.08 Right to Review or Reject Insurance. County's Risk Management Department may review, modify, reject or accept any required policies of insurance, including, but not limited to, limits, coverages or endorsements, required by this Article from time to time throughout the Term of this Agreement. County may also reject any insurer or self-insurance plan providing coverage because of poor financial condition or failure to operate legally. In such event, County shall provide Concessionaire a written notice of rejection, and Concessionaire shall comply within thirty (30) days of receipt of the notice.
- 12.09 No Representation of Coverage Adequacy. Concessionaire acknowledges the limits, coverages and endorsements required by this Article are intended to minimize liability for County. Concessionaire agrees that it will not rely upon the requirements of this Article when assessing the extent or determining appropriate types or limits of insurance coverage to protect Concessionaire against any loss exposures, whether as a result of this Agreement or otherwise.

ARTICLE 13 - RELATIONSHIP OF THE PARTIES

Concessionaire, or any successor in interest to this Agreement, is and shall be deemed to be an independent contractor and operator and shall be solely responsible to all parties for its respective acts or omissions, and County shall in no way be responsible therefor.

ARTICLE 14 - INDEMNIFICATION

Concessionaire shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officers and each of them, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages (including attorney fees at trial and appellate levels) and causes of action of every kind and character against, or in which County is named or joined, arising out of this Agreement, including, without limitation those arising by reason of any damage to property or the environment, or bodily injury (including death) incurred or sustained by any party hereto, or of any party acquiring any interest hereunder, and any third or other party whomsoever, or any governmental agency, arising out of or incident to or in connection with Concessionaire's acts, omissions or operations hereunder, or the performance, non-performance or

purported performance of Concessionaire or any breach of the terms of this Agreement; provided, however, Concessionaire shall not be responsible to County for damages resulting out of bodily injury (including death) or damages to property which are judicially determined to be solely attributable to the negligence of County its respective agents, servants, employees and officers. Concessionaire further agrees to hold harmless and indemnify County for any fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from or in any way arising out of or due to Concessionaire's activities or operations or use of the Airport whether or not Concessionaire was negligent or even knowledgeable of any events precipitating a claim or judgment arising as a result of any situation involving the activities. This indemnification shall be extended to include all deliverers, suppliers, furnishers of material, or anyone acting for, on behalf of or at the request of Concessionaire. Concessionaire recognizes the broad nature of this indemnification and hold-harmless provision, and acknowledges that County would not enter into this Agreement without the inclusion of such clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by County in support of this indemnification in accordance with laws of the State of Florida. The obligations arising under this Article shall survive the expiration or earlier termination of this Agreement.

ARTICLE 15 - EXPIRATION OF AGREEMENT, DEFAULT, AND REMEDIES

15.01 Expiration. This Agreement shall automatically terminate and expire at the end of the Initial Term, unless renewed in accordance with Section 3.03. In the event this Agreement is renewed by County in accordance with Section 3.03, this Agreement shall automatically terminate and expire at the end of the Renewal Term.

15.02 Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by Concessionaire:

- A. The failure by Concessionaire to pay the Concession Fee in accordance with the requirements of Article 5 or make any other payment required to be made by Concessionaire hereunder, as and when due, where such failure continues for a period of three (3) days after written notice thereof from County to Concessionaire.
- B. The failure by Concessionaire to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by Concessionaire, other than those described in paragraph (A) above, where such failure shall continue for a period of thirty (30) days after written notice from County to Concessionaire; provided, however, that if the nature of Concessionaire's default is such that more than thirty (30) days are reasonably required for its cure, then Concessionaire shall not be deemed to be in default if Concessionaire commenced such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion.
- C. To the extent permitted by law, (1) the making by Concessionaire or any guarantor hereof of any general assignment, or general arrangement for the benefit of creditors; (2) the filing by or against Concessionaire of a petition to have Concessionaire adjudged a bankrupt or a petition for reorganization

or arrangement under any law relating to bankruptcy [unless, in the case of a petition filed against Concessionaire, the same is dismissed within sixty (60) days]; (3) the appointment of a trustee or receiver to take possession of substantially all of Concessionaire's assets located at the Airport or of Concessionaire's interest in this Agreement, where possession is not restored to Concessionaire within thirty (30) days; or (4) the attachment, execution or other judicial seizure of substantially all of Concessionaire's assets located at the Airport or of Concessionaire's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

- D. The discovery by County that any information given to County by Concessionaire relating to the RFP or this Agreement was materially false.

15.03 Remedies. In the event of any such material default or breach by Concessionaire, County may, with or without notice or demand, pursue any available right or remedy at law or equity including the right, at its option, to immediately terminate this Agreement, by giving written notice to that effect. Such termination shall be without prejudice to County to any remedy for arrearages or payments due hereunder or breach of covenant or damages for the balance of the Concession Fee and other sums due hereunder, payable through the full Term of this Agreement, or any other damages or remedies whatsoever. Upon termination of this Agreement, County shall have the right to engage another Concessionaire to provide the services required hereunder for such period or periods at such fees and upon other terms and conditions as County may, in good faith, deem advisable.

15.04 Termination by Concessionaire. Concessionaire may terminate this Agreement, if Concessionaire is not in default of this Agreement (including, but not limited to, its payments to County hereunder), by giving County sixty (60) days advance written notice to be served as hereinafter provided, upon or after the happening of any one of the following events:

- A. Issuance by any court of competent jurisdiction of an injunction in any way preventing the use of the Airport for Airport purposes and the remaining in force of such injunction for a period of at least ninety (90) consecutive days.
- B. The default by County in the performance of any covenant or agreement herein required to be performed by County and the failure of County to remedy such default for a period of sixty (60) consecutive days after receipt from Concessionaire of written notice to remedy same provided, however, that if the nature of County's obligations is such that more than sixty (60) days are required for performance then County shall not be in default if County commences performance within such sixty (60) day period and thereafter diligently prosecutes the same to completion. Notwithstanding the foregoing, a notice of cancellation shall not be of any force or effect if County has remedied the default prior to receipt of Concessionaire's notice of cancellation.
- C. The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control, or use of the Airport and facilities,

or any substantial part or parts thereof, in such a manner as to substantially restrict the operation of Concessionaire, for a period of at least ninety (90) consecutive days.

15.05 Liquidated Damages. The parties acknowledge and agree that: (a) failure of Concessionaire and its employees to comply with the service, operational and security standards and requirements set forth in this Agreement (hereinafter collectively referred to as "Service Standards") may result in a loss of goodwill, patronage and negatively impact the County's reputation; and (b) failure to timely provide accurate reports and audits in accordance with the terms and conditions of this Agreement or to properly compile or maintain the records required to complete such reports and audits in accordance with the terms and conditions of this Agreement (hereinafter collectively referred to as "Reporting Requirements") may result in a significant loss and reputational damage to the County and Airport in the event issues are not timely identified and rectified. In the event Concessionaire fails provide a service as required by the Service Standards, and such failure is within the reasonable control of Concessionaire, as determined by County in its reasonable discretion, County may assess liquidated damages in the amount of Fifty Dollars (\$50.00) per occurrence. In the event such failure reoccurs within a twenty-four (24) hour period, County may assess liquidated damages in the amount of One Hundred Dollars (\$100.00) per occurrence, not to exceed Two Hundred Dollars (\$200.00) per day, in the event such failure is of a nature that it has resulted in continuing and repeated impacts to more than five (5) airport passengers or constitutes a violation of any security requirements. In the event Concessionaire fails to timely require with the Reporting Requirements as provided in this Agreement, County may assess liquidated damages in the amount of Fifty Dollars (\$50.00) per day until such required report or audit is delivered to County, unless Concessionaire has requested, and County has approved, an extension to such deadline for delivery in writing. The parties agree that the liquidated damage amounts are a reasonable estimate of the damages to the Airport's goodwill and reputation that would be incurred by County, and Concessionaire agrees to pay to County liquidated damages in accordance with this Section upon demand by County. The amount is not intended to be a penalty, but a reasonable measure of damages incurred by County. County, in its sole discretion, may elect to deduct liquidated damages from amounts due to Operator under this Agreement, or County may elect to invoice Concessionaire for such liquidated damages, and Concessionaire shall pay County within thirty (30) days of the date of County's invoice. Failure to timely pay liquidated damages as required by this Section shall be considered a material default of this Agreement. The availability of liquidated damages shall not preclude County from exercising other remedies, such as termination of this Agreement, due to default. Nothing in this Section shall be constructed as preventing County from recovering any direct costs incurred by County due to Concessionaire's default or non-performance.

ARTICLE 16 - ASSIGNMENT AND TRANSFER

Concessionaire shall not, in any manner, assign, transfer or otherwise convey an interest in this Agreement or any portion thereof ("Assignment"), without the prior written consent of the County, which consent may be granted or withheld by the County in its sole

discretion. Any such attempted Assignment without County approval shall be null and void. In the event the County consents in writing to an Assignment, Concessionaire shall have the right to the extent permitted by the County's consent to such Assignment. Any permitted Assignment shall be subject to the same conditions, obligations and terms as set forth herein and Concessionaire shall be fully responsible for the observance by its assignees of the terms and covenants contained in this Agreement. Notwithstanding any provision of this Agreement to the contrary, in the event of an approved Assignment, Concessionaire shall remain primarily liable to County for fulfilling all obligations, terms, and conditions of this Agreement, throughout the Term of this Agreement. County may freely assign this Agreement at any time without the consent of Concessionaire, and upon assumption by such assignee of County's obligations hereunder, County shall be released from all liability and obligation arising hereunder after such Assignment.

ARTICLE 17 - LAWS, REGULATIONS, PERMITS AND TAXES

17.01 General.

- A. Concessionaire agrees that throughout the Term of this Agreement, Concessionaire shall at all times be and shall remain in full and complete compliance with all applicable Federal, State and local laws, statutes, regulations, rules, rulings, orders, ordinances and directives of any kind or nature without limitation, as now or hereafter amended, including, but not limited to FAA Advisory Circulars and Airport Rules and Regulations.
- B. Concessionaire agrees that it shall require its appropriate managers, supervisors, and employees to attend such training and instructional programs as the Department may, from time to time require, in connection with the Airport Rules and Regulations and policies and procedures related to certification of the Airport under Title 14, Part 139 of the Code of Federal Regulations, as now or hereafter amended.

17.02 **Permits and Licenses Generally.** Concessionaire shall, at its sole cost and expense, be strictly liable and responsible for obtaining, paying for, and maintaining current, and fully complying with, any and all permits, licenses and other governmental authorizations, however designated, as may be required at any time throughout the Term of this Agreement by any Federal, State or local governmental entity or any court of law having jurisdiction over Concessionaire or Concessionaire's operations and activities, for any activity of Concessionaire's conducted on the Airport and for any and all operations conducted by Concessionaire including ensuring that all legal requirements, permits, and licenses necessary for or resulting, directly or indirectly, from Concessionaire's operations and activities on the Airport have been obtained and are in full legal compliance. Upon the written request of the Department, Concessionaire shall provide to Department certified copies of any and all permits and licenses which Department may request.

17.03 **Air and Safety Regulation.** Concessionaire shall conduct its operations and activities under this Agreement in a safe manner, shall comply with all safety regulations of the Department and with safety standards imposed by applicable

Federal, State and local laws and regulations and shall require the observance thereof by all employees, contractors, business invitees and all other persons transacting business with or for Concessionaire resulting from, or in any way related to, the conduct of Concessionaire's business on the Airport. Concessionaire hereby agrees that neither Concessionaire, nor employee or contractor or any person working for or on behalf of Concessionaire, shall require any personnel engaged in the performance of Concessionaire's operations to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health or safety, as determined by standards adopted pursuant to the Occupational Safety and Health Act of 1970, as same may be amended from time to time, as well as all State and local laws, regulations, and orders relative to occupational safety and health.

- 17.04 Payment of Taxes. Concessionaire shall pay any and all taxes and other costs lawfully assessed against its operations under this Agreement. Concessionaire shall have the right to contest the amount or validity of any tax or assessment payable by it by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying, or extending Concessionaire's covenants to pay any such tax or assessment, unless the legal proceedings shall operate to prevent the collection of the tax or assessment. Upon termination of such legal proceedings, Concessionaire shall pay the amount of any such tax or assessment, or part thereof, as finally determined in such proceedings, the payment of which may have been deferred during the prosecution thereof, together with any costs, fees, interest, penalties, or other liabilities in connection therewith.

ARTICLE 18 - DISCLAIMER OF LIABILITY

COUNTY HEREBY DISCLAIMS, AND CONCESSIONAIRE HEREBY RELEASES COUNTY, FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), FOR ANY LOSS, DAMAGE, OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY CONCESSIONAIRE, ITS EMPLOYEES, AGENTS, OR INVITEES DURING THE TERM OF THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE, OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF CONCESSIONAIRE OR CONCESSIONAIRE'S BUSINESS INVITEES THAT MIGHT BE LOCATED OR STORED ON THE AIRPORT, UNLESS SUCH LOSS, DAMAGE, OR INJURY IS CAUSED SOLELY BY COUNTY'S SOLE NEGLIGENCE. THE PARTIES EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS. CONCESSIONAIRE ACKNOWLEDGES AND AGREES THAT COUNTY SHALL HAVE NO LIABILITY WHATSOEVER AND CONCESSIONAIRE COVENANTS AND AGREES TO HOLD HARMLESS COUNTY FROM ANY AND ALL LIABILITY RELATING TO ANY INFORMATION PROVIDED BY COUNTY RELATING TO THIS AGREEMENT. FURTHERMORE, CONCESSIONAIRE ACKNOWLEDGES AND AGREES THAT ITS USE OF ANY SUCH INFORMATION, WHETHER PREPARED OR PROVIDED BY COUNTY OR OTHERWISE, IN DETERMINING WHETHER TO ENTER INTO THIS AGREEMENT, WAS AT ITS SOLE RISK.

ARTICLE 19 - NOTICES

All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or overnight mail, telecopied or faxed (provided in each case a receipt is obtained), or alternatively shall be sent by United States Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services or overnight mail, or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5PM on a Business Day and on the next Business Day if transmitted after 5PM or on a non-Business Day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

County:

Palm Beach County Department of Airports
Attn: Airport Director
846 Palm Beach International Airport
West Palm Beach, FL 33406-1470

With copy to:

Palm Beach County Attorneys' Office
Attn: Airport Attorney
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401

Concessionaire:

Either party may change the address to which notices under this Agreement shall be given, upon three (3) days prior written notice to the other party.

ARTICLE 20 - GOVERNMENTAL RESTRICTIONS

20.01 Federal Right to Reclaim. In the event a United States governmental agency shall demand and take over the entire facilities of the Airport or Terminal for public purposes for a period in excess of ninety (90) days, either party may terminate this Agreement by providing written notice of such termination to the other party and the parties shall thereupon be released and fully discharged from any and all liability hereunder arising after such termination or as a result thereof. This Section shall not act or be construed as a waiver of any rights Concessionaire may have against the United States as a result of such taking.

- 20.02 Federal Review. Concessionaire acknowledges this Agreement may be subject to review or inspection by the FAA to determine satisfactory compliance with Federal law or grant assurances and agrees that this Agreement shall be in full force and effect and binding upon both parties pending such review or inspection by the FAA, if applicable; provided, however, that upon such review or inspection all parties hereto agree to modify any of the terms of this Agreement which shall be determined by the FAA to be in violation of existing laws, regulations, grant assurances or other requirements.
- 20.03 County Tax Assessment Right. None of the terms, covenants and conditions of this Agreement shall in any way be construed as a release or waiver on the part of County, as a political subdivision of the State of Florida, or any of the public officials of County of Palm Beach, of the right to assess, levy, and collect any ad valorem, non ad valorem, license, personal, intangible, occupation, or other tax which shall be lawfully imposed on the business or property of Concessionaire.
- 20.04 Right of Flight. County reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Airport together with the right to cause in said airspace such noise as may be inherent in the operations of aircraft now known or hereafter used, for navigation of or flight in the said airspace for landing on, taking off from, or operating on the Airport.
- 20.05 Operation of Airports. Concessionaire expressly agrees for itself, its subleases, successors and assigns, to prevent any use of the Airport which would interfere with or adversely affect the operation, maintenance or development of the Airport, or otherwise constitute an Airport hazard.
- 20.06 Release. Concessionaire acknowledges that noise and vibration are inherent to the operation of Airport and hereby releases County from any and all liability relating to the same.

ARTICLE 21 - NON-DISCRIMINATION

- 21.01 Non-Discrimination in County Contracts. Palm Beach County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the CONTRACTOR warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.
- 21.02 Federal Non-Discrimination Covenants. Concessionaire represents and warrants to County that Concessionaire shall comply with all applicable Federal Nondiscrimination Requirements set forth in Exhibit "B".

INSERT IF ACDBE PARTICIPATION IS PROPOSED:

21.03 Airport Concession Disadvantaged Business Enterprises ("ACDBE"). This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. It is the policy of County that ACDBEs shall have the maximum practicable opportunity to participate in the performance of contracts. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. Concessionaire agrees to include the aforementioned statement in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

21.04 Airport Concession Disadvantaged Business Enterprise Participation Goal.

- (A) Concessionaire agrees that ACDBE participation in this Agreement shall be equal to, or greater than _____ percent (___%) of the purchase of goods and services throughout the Term of this Agreement and any extension thereof, or Concessionaire shall clearly demonstrate to the Department its good faith efforts to do so in a manner acceptable to the Department.
- (B) "Good faith efforts" are those efforts that could reasonably be expected to result in ACDBE participation. Concessionaire shall actively seek to obtain ACDBE participation in this Agreement and shall document those efforts. Efforts that are merely "pro forma" are not considered good faith efforts in meeting the ACDBE goal. In determining whether or not a Concessionaire has made such good faith efforts, the Department will refer to the description of good faith efforts as provided in 49 CFR Parts 23 and 26.
- (C) For the purpose of verifying Concessionaire's good faith efforts, Concessionaire shall keep and maintain such books of account and records as necessary to document compliance with 49 CFR Part 23, as now or hereafter amended or any successor regulation, and this Section. County and its representatives shall have the right to inspect and audit such books of account and records upon reasonable notice to Concessionaire at a location convenient for County and its representatives.
- (D) Concessionaire shall provide written quarterly reports on or before the thirtieth (30th) day of each reporting month (January, April, July and October of each Contract Year) to the Department, in a form and detail satisfactory to the Department, as to the participation of ACDBE's in this Agreement. The quarterly reports shall detail ACDBE participation for each quarter, as well as the cumulative "to date" participation for the entire Contract Year. Quarterly reports shall be certified by an officer of Concessionaire as being true and accurate. If requested by the Department, the quarterly reports shall include certification of receipt payment from the ACDBE firms participating in this Agreement, in a form and detail satisfactory to the Department. In the event the ACDBE participation level drops below the established ACDBE participation goal, Concessionaire shall take immediate

corrective measures to ensure that the ACDBE participation is increased to the established ACDBE participation goal. Concessionaire shall document its good faith efforts to achieve the ACDBE participation goal and provide written reports to the Department documenting such good faith efforts. The Department may require the reports required hereunder to be submitted electronically. The Department may extend the deadline for submission of a quarterly report for reasons beyond the reasonable control of Concessionaire or other good cause as reasonably determined by the Department; provided, however, any such extension shall not exceed a total of sixty (60) days.

(E) Concessionaire shall use good faith efforts to replace any ACDBE that is terminated or has otherwise failed to complete its agreement or subcontract with another ACDBE. Concessionaire shall notify the Department of any ACDBE's inability or unwillingness to perform and shall provide reasonable documentation. Concessionaire shall obtain prior approval from the Department of the substitution an ACDBE.

(F) Concessionaire shall provide the Department with copies of all subcontracts and agreements with ACDBE firms providing goods or services under this Agreement upon request.

ARTICLE 22 - MISCELLANEOUS

22.01 County Not Liable. County shall not be responsible or liable to Concessionaire for any claims for compensation or any losses, damages or injury sustained by Concessionaire resulting from (1) cessation for any reason of air carrier operations at the Airport or (2) diversion of passenger traffic to any other facility. County shall not be responsible or liable to Concessionaire for any claims for compensation or any losses, damages or injury whatsoever sustained by Concessionaire including, but not limited to, those resulting from failure of any water supply, heat, air conditioning or electrical current or from an act of God, state of war, terrorism, civilian commotion or riot or any cause beyond the control of County. All personal property placed on or moved on to the Airport shall be at the sole risk of Concessionaire. County shall not be liable for any damage or loss of any personal property placed or moved on to the Airport.

22.02 Losses and Expenses. Concessionaire acknowledges and agrees that County shall not be held responsible in any way for any losses or expenses incurred resulting from lost funds, theft, vandalism, or from the repair or replacement of defective or damaged ATMs, equipment, fixtures or appurtenances. Security of currency as well as associated supplies shall be at the sole responsibility of Concessionaire. Such losses and expenses will not affect the fees to be paid by Concessionaire to County. However, the amount of such losses and expenses shall be included in Concessionaire's Monthly Transaction Report.

22.03 Waivers. The failure of County to insist on a strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that County may have for any subsequent breach, default,

or non-performance, and County's right to insist on strict performance of this Agreement shall not be affected by any previous waiver or course of dealing.

- 22.04 Subordination to Bond Resolution. This Agreement and all rights granted to Concessionaire hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by County in the Bond Resolution, and County and Concessionaire agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representatives shall exercise any and all rights of County hereunder to the extent such possession, enjoyment and exercise are necessary to insure compliance by Concessionaire and County with the terms and provisions of this Agreement and Bond Resolution.
- 22.05 Subordination to Federal and State Agreements. This Agreement shall be subject and subordinate to all the terms and conditions of any instrument and documents under which County acquired the land or improvements thereon and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Concessionaire understands and agrees that this Agreement shall be subordinate to the provisions of any existing or future agreement between County, the United States of America, the State of Florida or any of their agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.
- 22.06 County's Governmental Authority. Nothing in this Agreement shall be construed to waive or limit County's governmental authority as a political subdivision of the State of Florida to regulate Concessionaire or its operations. The County's obligations under this Agreement are made in a proprietary capacity rather than in a governmental capacity and such agreements shall not be construed as limiting, prohibiting or eliminating the obligation of the parties to comply with all applicable rules, regulations, ordinances, statutes and laws, nor alter or impair the County's governmental functions, including, without limitation, the County's right to lawfully exercise its regulatory authority over the development of the Concessionaire's operations, nor as enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of the County's governmental authority.
- 22.07 Rights Reserved to County. All rights not specifically granted Concessionaire by this Agreement are reserved to County.
- 22.08 Invalidity of Clauses. The invalidity of any portion, article, paragraph, provision clause, or any portion thereof of this Agreement shall have no effect upon the validity of any other part or portion hereof.
- 22.09 Venue. To the extent allowed by law, the venue for any action arising from this Agreement shall be in Palm Beach County, Florida.
- 22.10 Governing Law. This Agreement shall be governed by and in accordance with the laws of the State of Florida.

- 22.11 Remedies Cumulative. The rights and remedies of the parties with respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive and shall be in addition to all other rights and remedies of the parties.
- 22.12 Paragraph Headings. The headings of the various articles and sections of this Agreement, and its Table of Contents, are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.
- 22.13 Binding Effect. The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors, assigns and sublessees, if any. This provision shall not constitute a waiver of any conditions against assignment or subletting.
- 22.14 Performance. The parties expressly agree that time is of the essence in this Agreement and the failure by Concessionaire to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of County without liability, in addition to any other rights or remedies, relieve County of any obligation to accept such performance.
- 22.15 Public Entity Crimes. As provided in Section 287.132-133, Florida Statutes by entering into this Agreement or performing any work in furtherance hereof, Concessionaire certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the Effective Date. This notice is required by Section 287-133(3)(a), Florida Statutes.
- 22.16 Conflict. In the event of any conflict and for purposes of resolving any disputes which may arise regarding this Agreement, the RFP, or Concessionaire's Proposal, the order-of-precedence shall be (1) this Agreement; (2) the RFP; and (3) Concessionaire's Proposal.
- 22.17 Consent or Action. In the event this Agreement is silent as to the standard for any consent, approval, determination, or similar discretionary action, the standard shall be at the sole, absolute and unfettered discretion of the County or Department, rather than any implied standard of good faith, fairness or reasonableness. Wherever this Agreement requires the County or Department's consent or approval or permits the County or Department to act, such consent, approval or action may be given or performed by the Airport Director. If Concessionaire requests the County or Department's consent or approval pursuant to any provision of the Agreement and County or Department fails or refuses to give such consent, Concessionaire shall not be entitled to any damages as a result of such failure or refusal, whether or not unreasonable.
- 22.18 Excusable Delay. Any party in performing under this Agreement shall use reasonable efforts to remedy the cause or causes of an excusable delay. Excusable delays are those delays due to force majeure, acts of God, fire, flood, earthquake,

explosion, riot, sabotage, windstorm, or labor dispute, and shall toll the time to perform under this Agreement.

- 22.19 Incorporation by References. All terms, conditions, specifications of the RFP, Concessionaire's Proposal and all exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Agreement by reference.
- 22.20 Entirety of Agreement. The parties agree that this Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.
- 22.21 No Recording. Neither this Agreement, nor any memorandum or short form hereof, shall be recorded in the Public Records of Palm Beach County, Florida.
- 22.22 Construction. Neither party shall be considered the author of this Agreement. The terms of this Agreement shall not be strictly construed against one party as opposed to the other based upon who drafted it.
- 22.23 Inspections. The authorized employees and representatives of the County and any applicable federal, state, and local governmental entity having jurisdiction hereof shall have the right to inspect the ATMs at all reasonable times for the purposes of compliance with the provision of this Agreement and/or applicable laws.
- 22.24 No Third Party Beneficiaries. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement including but not limited to any citizen or employees of County and/or Concessionaire.
- 22.25 Radon. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from County's public health unit.
- 22.26 Human Trafficking Affidavit. Concessionaire warrants and represents that it does not use coercion for labor or services as defined in Section 787.06, Florida Statutes. Concessionaire has executed Exhibit "C", Nongovernmental Entity Human Trafficking Affidavit, which is attached hereto and incorporated herein by reference.
- 22.27 Scrutinized Companies. As provided in Section 287.135, Florida Statutes, by entering into this Agreement or performing any work in furtherance hereof, Concessionaire certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to Section 215.4725, Florida Statutes. When contract value is greater than \$1 million, as provided in Section 287.135, Florida Statutes, by entering into this

Agreement or performing any work in furtherance hereof, Concessionaire certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes or is engaged in business operations in Cuba or Syria. If the County determines, using credible information available to the public, that a false certification has been submitted by Concessionaire, this Agreement may be terminated and a civil penalty equal to the greater of \$2 Million Dollars or twice the amount of this Agreement shall be imposed, pursuant to Section 287.135, Florida Statutes. The aforementioned certification must also be submitted at the time of any Agreement renewal, if applicable.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first written above.

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

**Signed, sealed and delivered in the
presence of two witnesses for
Concessionaire:**

Signature

Print Name

Signature

Print Name

COUNTY:
**PALM BEACH COUNTY, a political
subdivision of the State of Florida**

By: _____
Maria Sachs, Mayor

**APPROVED AS TO TERMS
AND CONDITIONS**

By: _____
Director, Department of Airports

CONCESSIONAIRE:

By: _____
Signature

Print Name

Title

(Seal)

EXHIBIT "A"
ATM LOCATION MAP

EXHIBIT “B”
FEDERAL NONDISCRIMINATION REQUIREMENTS

EXHIBIT “B”

NONDISCRIMINATION PROVISIONS

WHEN USED HEREIN, THE TERM “CONTRACTOR” MEANS TENANT-LESSEE-CONCESSIONAIRE-OPERATOR-PERMITTEE OR OTHER PARTY TO AN AGREEMENT WITH PALM BEACH COUNTY.

COUNTY NONDISCRIMINATION PROVISIONS

Palm Beach County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the CONTRACTOR warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

FEDERAL NONDISCRIMINATION REQUIREMENTS

A. Title VI Clauses for Compliance with Nondiscrimination Requirements.

During the performance of this Agreement, CONTRACTOR, for itself, its assignees, and successors in interest, agrees as follows:

1. Compliance with Regulations: CONTRACTOR will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities (“Nondiscrimination Acts and Authorities” as set forth in paragraph B below), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. Nondiscrimination: CONTRACTOR, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. CONTRACTOR will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by CONTRACTOR of CONTRACTOR’s obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. Information and Reports: CONTRACTOR will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, CONTRACTOR will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor’s noncompliance with the non-discrimination provisions of this Agreement, County will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to CONTRACTOR under this Agreement until CONTRACTOR complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: CONTRACTOR will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. CONTRACTOR will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if CONTRACTOR becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, CONTRACTOR may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, CONTRACTOR may request the United States to enter into the litigation to protect the interests of the United States.

B. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, CONTRACTOR, for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities, as may be amended, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq.).

C. Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

1. CONTRACTOR for itself and its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that CONTRACTOR will use the CONTRACTOR Premises and any License Area in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Acts And Authorities.
2. In the event of breach of any of the above nondiscrimination covenants, County will have the right to terminate this Agreement and to enter or re-enter and repossess the CONTRACTOR Premises and any License Area and the facilities thereon, and hold the same as if this Agreement had never been made or issued.

D. Title VI Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program.

CONTRACTOR for itself and its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the CONTRACTOR will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. In the event of breach of any of the above nondiscrimination covenants, County will have the right to terminate this Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if this Agreement had never been made or issued.

E. Airport Concession Disadvantaged Business Enterprises (“ACDBE”).

This Agreement may be subject to the requirements of the U.S. Department of Transportation’s regulations, 49 CFR Part 23. It is the policy of County that ACDBEs shall have the maximum practicable opportunity to participate in the performance of contracts. CONTRACTOR agrees that it will not discriminate against any business owner because of the owner’s race, color, national origin or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. CONTRACTOR agrees to include the aforementioned statement in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

F. General Civil Rights Provision.

CONTRACTOR agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If CONTRACTOR transfers its obligation to another, the transferee is obligated in the same manner as CONTRACTOR. This provision obligates CONTRACTOR for the period during which the property is owned, used or possessed by CONTRACTOR and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

EXHIBIT "C"

**NONGOVERNMENTAL ENTITY HUMAN
TRAFFICKING AFFIDAVIT (§ 787.06(13), Fla. Stat.)
THIS AFFIDAVIT MUST BE SIGNED AND NOTARIZED**

I, the undersigned, am an officer or representative of _____
Concessionaire and attest that Concessionaire does not use coercion for labor or services
as defined in section 787.06, Florida Statutes.

Under penalty of perjury, I hereby declare and affirm that the above stated facts are true
and correct.

(signature of officer or representative)

(printed name of officer or representative)

State of Florida, County of Palm Beach

Sworn to and subscribed before me by means of ☐ physical presence or ☐ online
notarization this, _____ day of _____, by _____.

Personally known ☐ OR produced identification ☐.

Type of identification produced _____.

NOTARY PUBLIC
My Commission Expires:
State of Florida at large

(Notary Seal)

**ATTACHMENT “4”
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
RFP NO. PB 24-13**

SELECTION CRITERIA AND SCORING INSTRUCTIONS

TO BE ISSUED BY AMENDMENT TO THIS RFP

ATTACHMENT "5"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
RFP NO. PB 24-13

DISCLOSURE OF OWNERSHIP INTEREST AFFIDAVIT

ATTACHMENT "5"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT AT THE
PALM BEACH INTERNATIONAL AIRPORT
(RFP NO. PB 24-13)

Disclosure of Ownership Interests

**TO: PALM BEACH COUNTY CHIEF OFFICER,
OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE**

STATE OF _____
COUNTY OF _____

BEFORE ME, the undersigned authority, this day personally appeared _____, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant appears herein as:
[] an individual **or**
[] the _____ of _____.
[position—e.g., sole proprietor, president, partner, etc.] [name & type of entity—e.g., ABC Corp., XYZ Ltd. Partnership, etc.].
The Affiant or the entity the Affiant represents herein seeks to do business with Palm Beach County through its Board of County Commissioners.

2. Affiant's address is: _____

_____.

3. Attached hereto as Exhibit "A" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater interest in the Affiant's corporation, partnership, or other principal. Disclosure does not apply to nonprofit corporations, government agencies, or to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County and the Board of County Commissioners. Affiant further acknowledges that he or she is authorized to execute this document on behalf of the entity identified in paragraph one, if any.

5. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

6. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct and complete.

FURTHER AFFIANT SAYETH NAUGHT.

_____, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 20____, by _____, [] who is personally known to me or [] who has produced _____ as identification and who did take an oath.

Notary Public

(Print Notary Name)
State of _____ at Large
My Commission Expires: _____

ATTACHMENT "6A"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
RFP NO. PB 24-13

DRIVING DIRECTIONS TO THE DEPARTMENT OF AIRPORTS

ATTACHMENT "6A"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
RFP NO. PB 24-13

DRIVING DIRECTIONS TO THE DEPARTMENT OF AIRPORTS



**ATTACHMENT “6B”
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
RFP NO. PB 24-13**

**Webex login information for proposers attending the Monday,
June 24, 2024, Mandatory Pre-Proposal Conference virtually.**

Join information

Meeting link:

<https://pbc-gov.webex.com/pbc-gov/j.php?MTID=m83a075d1afd0497360a33ee5ca6c444f>

Meeting number:

2310 732 1492

Password:

JNeQcMVe782

Host key:

489893

Join by video system

Dial [23107321492@pbc-gov.webex.com](https://pbc-gov.webex.com/join/23107321492)

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

+1-904-900-2303 United States Toll (Jacksonville)

1-844-621-3956 United States Toll Free

Access code: 2310 732 1492

SECTION 6 APPENDICES

LIST OF APPENDICES:

- APPENDIX A – PROPOSAL RESPONSE FORM
- APPENDIX B – SCHEDULE 1 – LIST OF PROPOSED ACDBE FIRMS
- APPENDIX C – SCHEDULE 2 – LETTER(S) OF INTENT TO PERFORM AS AN
ACDBE FIRM
- APPENDIX D – DRUG-FREE WORKPLACE CERTIFICATION
- APPENDIX E – PROPOSAL SUBMITTAL CHECKLIST

APPENDIX "A"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
RFP NO. PB 24-13

PROPOSAL RESPONSE FORM

APPENDIX "A"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
PALM BEACH INTERNATIONAL AIPORT
(RFP NO. PB 24-13)

PROPOSAL RESPONSE FORM

Section 1 (A)
Proposed Annual ATM Privilege Fee (%)

The Annual ATM Privilege Fee shall not be less than fifteen percent (15%) of the total annual Transaction Fees for Automated Teller Machine transactions (as defined in Attachment "3", Concession Agreement). Indicate the percentage (%) of total annual Transaction Fees for Automated Teller Machine transactions that Proposer proposes to pay to County pursuant to the Concession Agreement in the blank below.

**There shall be no fee due on Cash-to-Card Transactions.*

**Proposer commits to pay to County _____ % of
annual Automated Teller Machine Transaction Fees**

Section 1(B)
Proposed Transaction Fee Amount (\$)

The initial Transaction Fee charged to customers shall not be more than four dollars (\$4.00) per transaction. Indicate the proposed Transaction Fee that Proposer proposes to charged its customers. Transaction Fee(s) may be charged for cash withdrawal, cash advance transactions, balance inquiries and for any other transactions that may be performed by a customer utilizing proposer's ATMs, including Cash-to-Card Transactions, subject to approved exemptions.

Proposed Transaction Fee amount \$ _____ per transaction.

Section 1(C)
Proposed Transaction Fee Exemptions

Identify all transactions that are proposed to be exempt from Transaction Fees, if any:

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PROPOSAL RESPONSE FORM

Section 2

Proposed Airport Concession Business Disadvantage Enterprise (ACDBE) Participation

ACDBE Goal. ACDBE participation is not required; however, Palm Beach County does encourage ACDBE participation and has established an aspirational participation goal equal to ten percent (10%) of the concessionaire’s purchase of goods and services for use in provision of services under the Agreement. ACDBE participation will be determined by the Department of Airports in accordance with 49 CFR Part 23.

Does Proposer commit ACDBE participation: YES ____ NO ____

If “YES”: Proposer commits to a minimum of _____ % ACDBE participation

ACDBE Documentation. If ACDBE participation is proposed, Proposers shall submit ACDBE Schedule 1 and ACDBE Schedule 2, completed and signed as required, as provided in Section 3.7.3 of the RFP. If ACDBE participation is not proposed, ACDBE schedules are not required.

Note: All amounts should be stated in number format, with percentages listed to the second decimal point (for example, 40% of annual Transaction Fees, or 5.75% ACDBE participation). Percentages not listed to the second decimal point will be assumed to be a whole number.

Section 3

Cash-to-Card Kiosks

Cash-to-Card Kiosk(s). A Cash-to-Card Kiosk is a machine that allows users to convert physical cash into digital currency or load funds onto a prepaid card. Airlines and certain other operators no longer accept cash for payment; therefore, Cash-to-Card Kiosks fulfill an important role in enabling cash customers, and those without a credit card, to pay for such things as checked-baggage fees, upgrades, and other charges particularly in the ticket counter area. The Department desires that proposers incorporate Cash-to-Card Kiosk(s), either integrated with automated teller machine(s) or as separate units, which may be placed alongside Automated Teller Machines or in separate locations, primarily on the Ticketing Level of the Main Terminal. Concession Fees shall not be due on Cash-to-Card Transactions.

Cash-to-Card Kiosk(s) are not required, but are encouraged.

Does Proposer propose to install Cash-to-Card Kiosk(s): YES ____ NO ____

If “YES”: Proposer commits to a minimum of _____ Cash-to-Card Kiosk(s)

APPENDIX "A"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
PALM BEACH INTERNATIONAL AIPORT
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PROPOSAL RESPONSE FORM

By signing this Proposal Response Form, the proposer warrants and represents to County that the following statements are true and correct:

- a. This proposal is current, accurate and complete, and is presented to the County for the performance of the Concession Agreement in accordance with the requirements stated in the RFP.
- b. This proposal is submitted without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same service and is, in all respects, fair and without collusion or fraud.
- c. Proposer has the financial ability to fully perform the terms and conditions as specified in the RFP and Concession Agreement.
- d. Proposer has received and reviewed all Amendments to the RFP.
- e. Proposer understands that County will only negotiate those exceptions to the Agreement that are identified in accordance with Section 2.12 of the RFP and that the County has no obligation whatsoever to accept any proposed exceptions.
- f. Proposer understands that proposer may **not** propose any exceptions to the minimum RFP requirements (see Section 3 of RFP) and failure to satisfy the minimum requirements will result in the proposal being deemed non-responsive.
- g. Proposer understands that failure to submit this Proposal Response Form will be cause for immediate rejection of its entire proposal.
- h. The information in Section 2.21, Commercial Non-Discrimination, is true and correct to the best of the Proposer's knowledge.

****The signature page that follows must be completed by an Authorized Person (see Section 1.8 of RFP)****
Type or print proposer's contact information below:

NAME: _____

TITLE: _____

COMPANY NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE NO.: _____ **FAX NO.:** _____ **E-MAIL ADDRESS:** _____

APPENDIX "A"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
PALM BEACH INTERNATIONAL AIRPORT
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PROPOSAL RESPONSE FORM

SIGNATURE: _____

*****You must affix a corporate seal or have the signature on this Proposal Response Form notarized.*****

(Corp. Seal)

Or

BEFORE me the undersigned authority on this ____ day of _____, 20__ by _____ means _____ of
☐ physical presence or ☐ online notarization _____, who is personally known to me or
who has produced _____ as identification and who did not take an oath.

STATE OF _____

(Signature of Notary)

COUNTY OF _____

(Notary's Printed Name)

My Commission Expires: _____

APPENDIX "B"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
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ACDBE SCHEDULE 1

APPENDIX "B"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT - RFP NO. PB 24-13

SCHEDULE 1
LIST OF PROPOSED ACDBE FIRMS

Name of Proposer: _____ Phone No.: _____ Fax No: _____

Contact Person: _____ E-mail Address: _____

Address: _____

Estimated Gross Revenue for the First Contract Year by Proposer (ACDBE plus non-ACDBE Purchases): \$ _____

Name, Address & Phone No. of ACDBE Firm ⁽²⁾	Description of Type of Work	Classification (Check applicable box)	Percentage of ACDBE Participation by Race/Gender ⁽¹⁾				
			Black	Hispanic	Women	Other (Please Specify)	
		☐ Prime Contractor ☐ Subcontractor ☐ Supplier ☐ Manufacturer ☐ Joint Venture	_____ %	_____ %	_____ %	_____ %	
		☐ Prime Contractor ☐ Subcontractor ☐ Supplier ☐ Manufacturer ☐ Joint Venture	_____ %	_____ %	_____ %	_____ %	
		☐ Prime Contractor ☐ Subcontractor ☐ Supplier ☐ Manufacturer ☐ Joint Venture	_____ %	_____ %	_____ %	_____ %	
Total Percentage of ACDBE Participation⁽³⁾			_____ %	+ _____ %	+ _____ %	+ _____ %	= _____ %

Notes:

1. The percentages listed on this form for each ACDBE Firm must be supported by the percentage included on Schedule 2, "Letter of Intent to Perform as an Airports Concession Disadvantaged Business Enterprise", in order to be counted toward attainment of the ACDBE goal.
2. It is the obligation of proposer to confirm that firms identified on this form must be certified as an ACDBE by the State of Florida's Unified Certification Program. Firms not certified by the State of Florida's Unified Certified Program as an ACDBE will not be counted toward attainment of the goal.
3. ACDBE participation is measured as a percentage of gross revenues.

By signing this form the undersigned Proposer is committing to utilize the above-referenced ACDBE Firms pursuant to the Agreement. Substitutions of ACDBE Firms during the term of the Lease shall be subject to prior written approval of the Department of Airports.

By: _____
 Signature

Print Name/Title of Person Executing on Behalf of the Proposer _____ Date: _____

*Additional sheets may be used if necessary.

APPENDIX "C"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
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ACDBE SCHEDULE 2

APPENDIX "C"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT - RFP NO. PB 24-13

SCHEDULE 2
LETTER OF INTENT TO PERFORM AS AN AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE*

Name of Proposer: _____

Name of ACDBE Firm: _____

The undersigned is certified as an Airport Concession Disadvantaged Business Enterprise by Palm Beach County or the State of Florida's Unified Certification Program. Check one or more classifications as applicable:

- | | | | |
|---|--|---------------------------------------|--|
| ☐ Black | ☐ Hispanic | ☐ Women | ☐ Other (Please Specify) _____ |
| ☐ Prime Contractor | ☐ Subcontractor | ☐ Manufacturer | ☐ Supplier ☐ Joint Venture |

The undersigned ACDBE firm is prepared to perform the following described work in connection with the above-referenced contract (specify in detail the particular work and/or parts thereof to be performed):

The estimated value of the work is _____% of Proposer's the total dollar value of all anticipated purchases of goods and services.

The undersigned will enter into a formal agreement for work with you conditioned upon your execution of a contract with Palm Beach County.

If the undersigned intends to subcontract any portion of the work described above to another subcontractor, please complete the following:

_____	_____%	☐ ACDBE Certified
(Name of Subcontractor)	(Percentage of work subcontracted)	☐ Non-ACDBE
_____	_____%	☐ ACDBE Certified
(Name of Subcontractor)	(Percentage of work subcontracted)	☐ Non-ACDBE

The undersigned affirms that it has the resources necessary to perform the work described above without subcontracting the work to another subcontractor, except as noted above. The undersigned ACDBE firm understands that the provision of this form to the Proposer does not prevent the subcontractor from providing quotations to other proposers.

Printed Name of ACDBE Firm

By: _____
Signature

Date: _____

***This form must be submitted for each ACDBE firm listed on Schedule 1, "List of Proposed ACDBE Firms".**

APPENDIX “D”
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
RFP NO. PB 24-13

DRUG-FREE WORKPLACE CERTIFICATION

APPENDIX "D"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT - RFP NO. PB 24-13

DRUG FREE WORKPLACE CERTIFICATION

The undersigned proposer hereby certifies that it will provide a drug-free workplace program by:

- (1) Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the offeror's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establishing a continuing drug-free awareness program to inform its employees about:
 - (i) The dangers of drug abuse in the workplace;
 - (ii) The offeror's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Giving all employees engaged in performance of the contract a copy of the statement required by subparagraph (1);
- (4) Notifying all employees, in writing, of the statement required by subparagraph (1), that as a condition of employment on a covered contract, the employee shall:
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer in writing of the employee's conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or of any state, for a violation occurring in the workplace NO later than five (5) days after such conviction.
- (5) Notifying Palm Beach County government in writing within ten (10) calendar days after receiving notice under subdivision (4) (ii) above, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within thirty (30) calendar days after receiving notice under subparagraph (4) of a conviction, taking one of the following actions with respect to an employee who is convicted of a drug abuse violation occurring in the workplace:

APPENDIX "D"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
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- (i) Taking appropriate personnel action against such employee, up to and including termination; or
 - (ii) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency; and
- (7) Making a good faith effort to maintain a drug-free workplace program through implementation of subparagraphs (1) through (6).

(Proposer Signature)

(Print Proposer Name)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 20____, by _____ as _____
(Name of person who's signature is being notarized) (Title)

of _____ known to me to be the person described herein, or
(Name of Company)

who produced _____ as identification, and who did/did not take an oath.
(Type of Identification)

NOTARY PUBLIC:

(Signature)

(Print Name)

My commission expires: _____

APPENDIX "E"
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
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PROPOSAL SUBMITTAL CHECKLIST

APPENDIX “E”
AUTOMATED TELLER MACHINE CONCESSION AGREEMENT
AT THE PALM BEACH INTERNATIONAL AIRPORT
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PROPOSAL SUBMITTAL CHECKLIST

Proposal Documents and Information

- ___ **Letter of Transmittal**
- ___ **Table of Contents**
- ___ **Experience, Qualifications and Financial Information (See Section 3.2)**
 - ___ Description of Business Organization
 - ___ History of Company
 - ___ Prior Ground Transportation Experience
 - ___ Experience of Proposer/Senior Management
 - ___ Ability to Obtain Insurance

- ___ **Project Approach (See Section 3.3)**
 - ___ Proposed Location
 - ___ Description of ATM types and equipment
 - ___ Renderings, drawing, photographs of proposed types of ATMs
 - ___ Description of delivery and installation of ATMs
 - ___ Innovations

Required Appendices & Proposal Guarantee

- ___ Proposal Response Form (Appendix “A”) - Signed & Sealed or Notarized
- ___ Schedule 1 – List of Proposed ACDBE Firms (Appendix “B”)
- ___ Schedule 2 – Letter(s) of Intent to Perform as ACDBE (Appendix “C”)
- ___ Drug Free Workplace Certification (Appendix “D”)
- ___ Documents Executed in Accordance with the Requirements of the RFP

Proposers are not required to complete or return this checklist. Proposers are advised to verify that all forms are completed correctly, including PDF document forms, and that all required forms are properly executed, sealed and/or notarized where applicable. This checklist is provided solely as a reference for proposers and is not intended to be relied upon as the only information and documentation necessary to submit a responsive proposal to this RFP. This checklist does not, in any way, substitute or replace the requirements of the RFP. In the event of a conflict between this checklist and the RFP, the terms, conditions and requirements of the RFP shall control.