

# REQUEST FOR QUALIFICATIONS

## FOOD & BEVERAGE CONCESSIONS MANAGEMENT SERVICES

The Des Moines Airport Authority (“DMAA”) requests the submission of statements of qualifications for Food & Beverage Concessions Management Services at the Des Moines International Airport (“DSM”). Proposals must be received before 2:00 pm CT on **March 8, 2024** and must be valid for 90 days from the RFQ due date. No qualifications will be accepted after that time unless such date or time is extended pursuant to an addendum issued by DMAA.

### **1. ANTICIPATED SCHEDULE OF EVENTS (Central Time)**

- |                                |   |
|--------------------------------|---|
| • February 12, 2024            | RFQ Release Date  |
| • February 27, 2024 at 1:00 pm | Pre-RFQ Meeting   |
| • February 27, 2024            | Pre-RFQ Site Visit  |
| • March 1, 2024 at 2:00 pm     | Questions Due   |
| • March 4, 2024                | Answers Posted through Addendum                             |
| • March 8, 2024 at 2:00 pm     | Qualification Response Due                                  |
| • March 13, 2024               | Respondents Notified Regarding Interviews                   |
| • March 21, 2024               | On-site Interviews / Negotiations                           |
| • April 9, 2024                | Anticipated Board Approval of Management Services Agreement |

DMAA reserves the right to modify or alter the schedule of events to such extent as may be beneficial to DMAA.

### **2. BACKGROUND AND SCOPE**

The Des Moines Airport Authority (“DMAA”), owner/operator of the Des Moines International Airport (“DSM”), invites interested food and beverage operators, developers, and restaurateurs to submit qualifications to manage the food and beverage operations at the new passenger terminal at DSM. The new passenger terminal is expected to open in late 2026.

DMAA will begin construction of the new terminal building in the Spring of 2024. Construction is anticipated to be complete in late Summer of 2026 with operational readiness and testing functions to be completed over the following three months. DMAA is seeking a qualified food and beverage operator to operate all airport food and beverage locations pursuant to a management services agreement. The selected operator will consult on the design and construction of the facilities in the new terminal but will not be required to make any investment in the facilities.

DMAA is seeking qualifications from individuals/firms who will be required to provide management services and the personnel necessary to efficiently operate DSM’s food and beverage facilities

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on a daily basis. Subject to provisions of the final management services agreement, the selected respondent shall be required, at a minimum, to provide the following services: personnel management, creation of food and beverage menus, pricing, cleaning and maintenance of the food and beverage facilities and equipment, purchasing and maintenance of food and beverage inventories, provision of on-site catering for DMAA, maintenance of all necessary licenses and permits to operate all the food and beverage facilities, cash handling and controls, and all accounting for the food and beverage facilities.

DMAA has operated food and beverage locations under a management services agreement since 2017. Under this agreement, operating expenses of the management company are reimbursed by DMAA. A management fee is paid to both the management company and DMAA as a percentage of gross revenue. Net operating income is then split between DMAA and the management company.

**This RFQ is not for a traditional Airport Food and Beverage concession agreement. Only firms interested in a management services agreement should respond. Terms of the management agreement will be negotiated and have not been predetermined. A list of mandatory contract terms is included in Section 19 herein.**

### **3. UNDERSTANDING THE AIRPORT ENVIRONMENT**

DSM welcomes over 3 million travelers annually, and that number continues to grow. This RFQ process is intended to identify the best of the best for our travelers to begin or end their journey in our region. DSM operates like a small city – we have our own police, fire, and facilities departments. The airport operates 24 hours per day, 7 days per week, 365 days per year. The following are elements that may differ from the typical operation of services located elsewhere:

**Security** – All employees working in any location will require a federal government background check to obtain a security badge. Employees working in any location behind the security checkpoint must be screened every day on their way to work.

**Parking** – DMAA provides a parking lot dedicated to employees only and a 24/7 shuttle service. There are no additional fees for the employees of the Management company. There is limited garage parking access for management staff for ease of access.

**Product Deliveries** – Products coming to the airport are required to be inspected and are delivered “behind the scenes” of the airport. The new passenger terminal building will include a loading dock where the management company will receive deliveries. Items received will require inspection prior to entry into the secured area of the terminal.

**Operating Hours** – DMAA will set the required operating hours for each location every month based on the airline flight schedules and passenger demand. The commitment to these hours is vital to guarantee our mutual customers enjoy the best experience possible. There is an expectation to operate between 4 a.m. and 10 p.m. most days. Financial penalties for failure to meet the minimum hours will be imposed.

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## **4. DSM BY THE NUMBERS**

DSM currently has non-stop air service to 34 destinations throughout the United States and will continue to serve those destinations once the new passenger terminal is completed. The existing A and C concourses will continue to remain operational once the new passenger terminal is open. Total passengers for the 2023 calendar year amounted to 3,097,006, which was 5.93% above the previous record passenger count for DSM in 2019. Total gross sales of Food and Beverage in 2023 was \$8,725,010 from the following facilities in the terminal:

<b>Unit Name</b>	<b>Location</b>	<b>Offering</b>
Berk and Chesters	Pre-Security	Bar and Quick Casual
Portermill	Post-Security	Full Service Restaurant and Bar
Mill Supply Company	Post-Security	Grab and Go Retail
Arugula & Rye	Post-Security	Quick Casual
Friedricks	Post-Security	Coffee Shop
A Bar	Post-Security	Coffee / Bar Holdroom Location
Coffee Bar	Post-Security	Coffee / Bar Holdroom Location

## **5. PRE-RFQ MEETING**

A pre-RFQ meeting to discuss the procurement process and the RFQ will be held on **February 27, 2024, at 1:00 p.m. CT**. Interested parties are strongly encouraged to attend. Attendees may appear in person or via Microsoft Teams. An RSVP is not required for this meeting; however, if you desire to participate via Microsoft Teams, please contact Amy Fredricks at [asedington@dsmairport.com](mailto:asedington@dsmairport.com) to obtain the necessary access information. If attending in person, the meeting will be held in the Cloud Room conference room on the second level of the airport terminal, 5800 Fleur Drive, Des Moines, Iowa.

## **6. PRE-RFQ SITE VISIT**

A pre-RFQ site visit will also be held on **February 27, 2024, immediately following the pre-RFQ meeting**. Interested parties are strongly encouraged to attend. If you plan to attend the pre-RFQ site visit, please RSVP by Friday, February 23, 2024 to Amy Fredricks at [asedington@dsmairport.com](mailto:asedington@dsmairport.com).

## **7. RFQ QUESTIONS**

Following the pre-RFQ meeting and site visit, DMAA will accept additional questions in writing through **March 1, 2024, at 2:00 pm**. All questions shall clearly identify the individual or entity submitting same, including the name, address, telephone number, FAX number and email address, if any, of such person or entity. All questions received will be posted with DMAA response as an addendum to this RFQ on the Des Moines Airport Authority website on **March 4, 2024**.

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Only DMAA's written responses shall be considered the official response binding upon DMAA. In addition to making a written response, DMAA may issue addenda amending the RFQ by changing, deleting, or adding terms, provisions, or requirements to the RFQ.

In no case will verbal communications override written responses or requirements of this RFQ.

Any questions concerning the RFQ must be directed to:

Amy Fredricks  
[asedgington@dsmairport.com](mailto:asedgington@dsmairport.com)

The contents of this RFQ, of a proposal submitted in response thereto, and of DMAA's official response to a question, objection, or request for clarification or interpretation regarding the RFQ, and of any exception to the RFQ submitted by the successful proposer and accepted by DMAA, shall become part of the contractual obligation and shall be deemed incorporated by reference into the ensuing contract.

## **8. NON-COLLUSION AFFIDAVIT REQUIRED**

Any agreement or collusion among respondents or prospective respondents in restraint of freedom of competition by agreement to propose a fixed price or otherwise will render the qualifications of such respondents void. Respondents will be required to execute and submit with their qualifications a Non-Collusion Affidavit in the form appended hereto as Attachment 1. Any disclosure by one respondent to another respondent of the content of a proposal in advance of the submission of qualifications will render the qualifications of both respondents void and may at the discretion of DMAA render the RFQ proceedings void.

## **9. CONFIDENTIALITY OF RECORDS**

Proposals shall remain confidential until after an award determination has been made.

Under Chapter 22 of the Iowa Code, "Examination of Public Records", all records of a governmental body are presumed to be public records, open to inspection by members of the public. Section 22.7 of the Iowa Code sets forth a number of exceptions to that general rule, establishing several categories of "confidential records". Under this provision, confidential records are to be kept confidential, "unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information". Among the public records which are considered confidential under this Iowa Code provision, are the following:

- (3) Trade secrets which are recognized and protected as such by law.
- (6) Reports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.

Under Chapter 22 of the Iowa Code, DMAA, as custodian of the proposal submitted in response to a Request for Qualifications, may, but is not required, to keep portions of such qualifications confidential under exceptions 3 and 6 (noted above). If a responding individual or company determines that a portion or portions of its proposal constitute a trade secret, or should otherwise be kept confidential to avoid giving advantage to competitors, **a confidentiality request may be submitted with the proposal** identifying which portion or portions of the proposal should be kept confidential and why. The burden will be on each responding individual or company to make such

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confidentiality request and to justify application of a confidentiality exception to its proposal. DMAA will not under any circumstance consider the entire proposal to be a confidential record.

If a request is thereafter made by a member of the public to examine a proposal including the portion or portions thereof for which a confidentiality request has been made, DMAA will so notify the responding individual or company and will keep confidential that portion of the proposal covered by the confidentiality request, pending action by the individual or company requesting confidentiality to defend its request. In that notification, the individual or company requesting confidentiality will be given not more than five (5) calendar days within which to file suit in Polk County District Court seeking the entry of a declaratory order and/or injunction to protect and keep confidential such portion of its proposal. Absent such action by an individual or company requesting confidentiality, and absent the entry of a court order declaring such portion or portions of the proposal confidential, the entire proposal will be released for public examination.

## **10. PROPOSER'S COMMUNICATIONS WITH AUTHORITY OFFICIALS AND EMPLOYEES RESTRICTED**

After issuance of an RFQ by DMAA, persons or entities who intend to respond to such RFQ by submission of a competitive proposal, and who desire to pose questions, objections, requests for clarification or interpretation regarding any term, provision, or requirement of the RFQ, shall not attempt to contact or communicate with, in writing, electronically, or orally, any DMAA official or employee other than the designated contact person. Persons or entities who knowingly or willfully violate this provision may be guilty of a crime, punishable by fine or imprisonment. In addition, DMAA may refuse to accept or may return the proposal of any person or entity determined to be in violation of this provision.

## **11. AIRPORT CONCESSION DISADVANTAGES BUSINESS ENTERPRISE (ACDBE) REQUIREMENTS**

It is the policy of DMAA to promote the objectives of the United States Department of Transportation with respect to the participation of Disadvantaged Business Enterprise (DBE)s and ACDBEs in DOT assisted contracts and airport concessions. This policy has been formulated to comply with 49 CFR Parts 23 and 26. The requirements of 49 CFR Part 23 apply to this contract. It is the policy of DMAA to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. DMAA encourages participation by all firms qualifying under this solicitation. ACDBE Requirements are outlined in Section 19 below.

## **12. INSTRUCTIONS FOR SUBMISSIONS**

Responses to this RFQ are due before 2:00 pm on March 8, 2024, and must be valid for 90 days from the RFQ due date. Responses shall be submitted to:

Des Moines Airport Authority, Room 207  
5800 Fleur Drive  
Des Moines, IA 50321.

Responses must include two (2) paper copies and an electronic version loaded onto a USB drive. All responsive materials must arrive in a sealed envelope or box.

During the evaluation, DMAA reserves the right to request additional written information to assist in the evaluation of the responses.

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Responses shall be signed by the respondent (if an individual), by an officer of the proposing firm, or by a designated agent empowered to bind the firm in a contract.

Upon receipt, the RFQ responses shall become the property of the Authority for disposition or usage by the Authority at its discretion.

## **13. MINIMUM QUALIFICATIONS**

1. A respondent must have a minimum of three (3) years prior experience in marketing, development, operation, and management of food and beverage locations.
2. A respondent must demonstrate the ability to finance and undertake the monetary commitment to support the working capital to operate the Food and Beverage services.

## **14. SELECTION CRITERIA**

Qualifications will be evaluated by a review committee established by DMAA to identify the respondents best potentially qualified to meet DMAA's needs. DMAA reserves the right to request interviews of any respondents.

The following selection criteria categories and weights will be applied:

A preliminary evaluation to determine qualified respondents will be based on responses to this RFQ plus interviews, if determined necessary by DMAA.

<b>Executive Summary</b>	<b>0 - 10 points</b>
<b>Food and Beverage Operations Experience</b>	<b>0 - 20 points</b>
<b>Financial Capacity and Organizational Structure</b>	<b>0 - 20 points</b>

Firms determined by the review committee to be one of the three most qualified will be invited to an Onsite Interview where all agreement terms, including Management Fee, will be negotiated. A term sheet will be completed to document the negotiated agreement, and signed by a person authorized to bind the proposing firm. Following negotiations with all firms, the DMAA will award the Management Services Agreement to the firm who represents the best value to DMAA.

## **15. RESPONSE CONTENT**

### **Executive Summary (1 page maximum) –**

This summary should include an introduction to your business, including the history of your journey, vision, and mission statement. Additionally, it must include an explanation of why you think management team is an excellent fit for DSM. Please highlight any Airport Disadvantage Business Enterprise experience or qualifications you may have.

### **Section 1 – Food and Beverage Operations Experience (2 page maximum) –**

This section should be used to introduce your organization and highlight the relevant experience you can bring to the DSM Food and Beverage operations.

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## **Section 2 – Financial Capacity and Organizational Structure (2 page maximum) –**

Please discuss your organization's financial capacity and the businesses you are currently involved in that derives that capacity. Company financial statements are not required with this response but will be requested if your organization is short-listed and interviewed.

## **Attachment 1 – Completed Non-collusion Affidavit**

### **16. APPEAL OF AUTHORITY STAFF RECOMMENDATION**

A respondent who is aggrieved by DMAA staff's determination and recommendation as to the selection of the best proposal may appeal such determination and recommendation by filing a written objection to DMAA within the appeal deadline set forth in the Notice of Intent to Award. Such objections may be filed in person, by mail, or e-mail but must be received within the appeal deadline. In its written objection, the appealing respondent shall set forth all of its objections to DMAA staff's recommendation and all arguments in support of its objections and shall attach all documentation supporting its objections upon which it intends to rely.

The Authority Board may, in its discretion, hear presentations by the appealing respondent and by competing respondents with respect to the appealing respondent's objections. If the Authority Board agrees to hear presentations, it may limit their length and all respondents will be given an equal opportunity to speak. The Authority Board's decision will be final.

### **17. AUTHORITY BOARD CONSIDERATION OF AUTHORITY STAFF RECOMMENDATION AS TO BEST QUALIFIED PROPOSAL**

When the recommendation comes before the Authority Board for consideration, the Board may request that the recommended respondent appear before the Board to give a presentation or to answer questions regarding its proposal. Competing respondents will not be allowed to speak at that time unless a prior request has been made and permission to speak granted, or unless an Authority Board member requests that the competing respondent be allowed to speak and the Board consents to the request.

### **18. REJECTION OF QUALIFICATIONS**

DMAA reserves the right to reject any or all qualifications in whole or in part received in response to the RFQ. DMAA will not pay for any information requested in the RFQ, nor is it liable for any cost incurred by a Firm in responding to the RFQ.

### **19. FORM OF CONTRACT**

DMAA will select qualified firms to negotiate a Management Services Agreement. If DMAA and the highest rated respondent are not able to agree on terms, DMAA may end negotiations and move to the next highest qualified respondent.

No contract awarded pursuant to this RFQ shall be assignable by the successful respondent without the written consent of DMAA.

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The contract to be issued is subject but not limited to the following federal provisions:

- Title VI of the Civil Rights Act of 1964
- Civil Rights Title VI Assurances
- Section 520 of the Airport and Airway Improvement Act of 1982
- DOT Regulation 49 CFR Part 18.36 and 18.42 - Access to Records and Reports
- DOT Regulation 49 CFR Part 20- Lobbying & Influencing Federal Employees
- DOT Regulation 49 CFR Part 26-Disadvantaged Business Enterprises Participation
- DOT Regulation 49 CRF Part 29- 2 CFR Part 1200 Department of Transportation
- Implementation of OMB Guidance on Non-procurement Suspension and Debarment
- DOT Regulation 49 CFR Part 30- Federal Trade Restriction Clause.
- Buy American Preferences - 49 USC §50101
- Civil Rights: General - 49 USC §47123
- Federal Fair Labor Standards Act (Minimum Wages) – 29 USC §201
- Occupational Safety and Health Act – 20 CFR Part 1910

The term of the contract is five (5) years and will begin on the date that DMAA initiates daily flight operations from the new terminal building, currently projected to be in the fall of 2026.

The Management Services Agreement shall include the following mandatory terms:

Insurance:	Commercial General Liability - \$2 Million.
	Auto Liability - \$1 Million.
	Property - Replacement Cost of Controlled Facilities.
	Iowa Workers Compensation.
Operating Hours:	Must be operational 7 days/week, including all holidays. Hours of operation may vary from approximately 4:00 am until the last scheduled departure.
Airport Badging	Badge fees / deposits apply for each employee background check.



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## Indemnification.

A. To the fullest extent permitted by law, Operator agrees to defend, pay on behalf of, indemnify, and hold harmless Authority, its elected and appointed officials, employees and volunteers and others working on behalf of Authority against any and all claims, demands, suits, or loss, including any and all outlay and expense connected therewith, and for any damages which may be asserted, claimed or recovered against or from Authority, its elected and appointed officials, employees, volunteers or others working on behalf of Authority, by reason of personal injury, including bodily injury or death, and property damages, including loss or use thereof, which arises out of or is in any way connected or associated with the work and/or services provided by Operator to Authority pursuant to the provisions of this Agreement. It is the intention of the parties that Authority, its elected and appointed officials, employees, volunteers or others working on behalf of Authority shall not be liable or in any way responsible for injury, damage, liability, loss or expense incurred by Operator, its officers, employees, subcontractors, and others affiliated with Operator due to accidents, mishaps, misconduct, negligence or injuries either in person or property resulting from the work and/or services performed by Operator pursuant to the provisions of this Agreement, except for and to the extent caused by the negligence of Authority.

B. Operator expressly assumes full responsibility for any and all damage or injuries which may result to any person or property by reason of or in connection with the work and/or services provided by Operator to Authority pursuant to this Agreement, and agrees to pay Authority for all damages caused to Authority's premises resulting from the activities of Operator, its officers, employees, subcontractors, and others affiliated with Operator.

C. Operator represents that its activities pursuant to the provisions of this Agreement will be performed and supervised by adequately trained and qualified personnel, and Operator will observe, and cause its officers, employees, subcontractors and others affiliated with Operator to observe all applicable safety rules.

Waiver of Subrogation Provision. To the extent permitted by law, Operator hereby releases Authority, its elected and appointed officials, its agents, employees and volunteers and other working on behalf of Authority from and against any and all liability or responsibility to Operator or anyone claiming through or under Operator by way of subrogation or otherwise, for any loss or damage to property caused by fire or any other casualty, unless such fire or casualty shall have been caused by the negligence or willful misconduct of Authority, its elected and appointed officials, its agents, employees and volunteers and other working on behalf of Authority. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of this Agreement. Operator's policies of insurance shall contain a clause or endorsement to the effect that such release shall not adversely affect or impair such policies or prejudice the right of Operator to recover thereunder.

## Termination.

A. In the event that one of the following occurs, Authority may at any time terminate this Agreement upon giving Operator 30 days' notice in writing:

1. The Food and Beverage Facilities are not operated in a professional manner and consistent with industry standards or in accordance with this Agreement, and Operator does not correct the unsatisfactory condition within ten (10) days of the receipt of written notice of the particulars of the default from Authority; or

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2. Operator fails to perform any provision or covenant of this Agreement, and Operator does not remedy the default within ten (10) days of the receipt of written notice of the particulars of the default from Authority; or

3. The Food and beverage Facilities are required for any purpose other than food and beverage services.

B. If for any reason beyond Authority's control, Authority deems the Food and Beverage Facilities, or a substantial portion thereof, to be inoperable, then Authority may terminate this Agreement by giving Operator 30 days' notice in writing.

Bankruptcy. If: (i) Operator shall be declared to be bankrupt or insolvent according to law, or (ii) a petition in bankruptcy or a petition for a receiver is filed against Operator and such petition, assignment or attachment is not discharged within 30 days after its effective date, then Authority may terminate this Agreement.

Governing Law, Forum and Disputes. This Agreement and all claims or disputes arising out of or relating to this Agreement or its subject matter are governed by the laws of the State of Iowa, without regard to its conflict of laws provisions, and any action, claim or proceeding arising out of or relating to this Agreement must be brought only in the Iowa District Court for Polk County, Iowa or the United States District Court for the Southern District of Iowa, Central Division. Each party hereby waives any objection, including any objection based upon improper venue or *forum non conveniens*, that it may have, now or in the future, to the bringing of any action, claim or proceeding in the Iowa District Court for Polk County, Iowa or the United States District Court for the Southern District of Iowa, Central Division.

WAIVER OF JURY TRIAL. EACH OF THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

Right to Amend. In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of Airport, Operator agrees to consent to such amendments, modifications, revisions, supplements or deletions or any of the terms, conditions, or requirements of this Agreement as may be required to obtain such funds; provided, however, that in no event will Operator be required, pursuant to this paragraph, to agree to a reduction in the Management Fee or to a change in the use, provided it is an authorized use, to which Operator has put the Food and Beverage Facilities.

War or National Emergency. During the time of war or national emergency, Authority shall have the right to lease the landing area of the Airport or any part thereof to the United States Government for military or naval use, and, if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the Government shall be suspended.

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## Subordination to Bond Resolution.

- A. This Agreement is made subject and subordinate to any Airport Bond Resolution enacted by Authority, whether enacted prior to or as of the time of execution of this Agreement or thereafter.
- B. In the event of conflicts between this Agreement and the Bond Resolution, the Bond Resolution shall govern.
- C. It is mutually understood and agreed that, so long as any bonds secured by a Bond Resolution are outstanding, the deposit and application of Airport revenues shall be governed by the Bond Resolution.

Exclusive Rights. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958, and as said act may be amended from time to time.

Subordination to Agreements. This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between the Authority and the United States of America or the state of Iowa relative to the operation, maintenance, development, or administration of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to Authority for Airport purposes, or to the expenditure of federal or state of Iowa funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, and as said act may be amended from time to time.

## Airport Concession Disadvantaged Business Enterprises ("ACDBE").

- A. Policy. It is the policy of the Authority to promote the objectives of the United States Department of Transportation ("DOT") with respect to the participation of DBEs and ACDBEs in DOT assisted contracts and airport concessions. This policy has been formulated to comply with 49 CFR Parts 23 and 26. The requirements of 49 CFR Part 23 apply to this contract. It is the policy of the Authority to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. The Authority encourages participation by all firms qualifying under this solicitation.
- B. ACDBE Goal. In accordance with Regulations of the DOT, 49 CFR Part 23, the Des Moines Airport Authority has adopted an Airport Concession Disadvantaged Business Enterprise ("ACDBE") Plan, under which qualified firms may have the opportunity to operate an airport business. An ACDBE goal has not been set for this Agreement, however Concessionaire is encouraged to seek ACDBE participants for opportunities available in conjunction with the performance of this Agreement (i.e., the purchase of goods and services).
- C. Assurance. This agreement is subject to the requirements of the DOT's regulations, 49 CFR Part 23. The 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. The Concessionaire shall carry out applicable requirements of 49 CFR Part 23 in the award and administration of DOT assisted contracts. Failure by Concessionaire to carry

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out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

- D. Inclusion of DBE Discrimination Provision in Sub-Agreements. Concessionaire agrees to include the statements in Article 10.3 in any subsequent agreements that it enters into and cause those businesses to similarly include the statements in further agreements.
- E. Compliance with DBE Requirements. In the event that an ACDBE goal, applicable to this Agreement, is set by the Federal Aviation Administration ("FAA") or the DOT during the term of the Agreement, Concessionaire shall make good faith efforts as defined by the applicable regulation, to meet the goal. Such efforts shall be documented and submitted to the Authority as required by the FAA or DOT regulations. Concessionaire shall submit, in the format prescribed by the Authority, a quarterly report of ACDBE participation, including the ACDBE participant's name, address, contact information, type and dollar amount of participation and percentage of participation. Non-compliance with this requirement may result in termination of this Agreement.
- F. Maximum Opportunity to Participate. It is the requirement of the DOT that Airport Concession Disadvantaged Business Enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of concession agreements at the Airport. Consequently, the ACDBE requirements of 49 CFR Part 23 are hereby included in this Agreement. Concessionaire agrees to comply with the requirements of any such regulations as applicable to this Agreement. Furthermore, Concessionaire agrees to submit information at the request of the Airport concerning the ACDBE(s) that may participate in this Agreement. This information will include the name and address of each ACDBE, a description of the work to be performed by each named ACDBE and the dollar value of the ACDBE's contracted participation. The Concessionaire will also provide information as requested by the Airport describing the purchase or lease of goods or services from ACDBE(s) including, but not limited to, the purchase or lease of automobiles, fuel, tires, maintenance and janitorial services and other services.
- G. Prompt Payment. The Prime Concessionaire agrees to pay each ACDBE & non-ACDBE under this contract for satisfactory performance of its contract/services within forty-five (45) days of the invoice date. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval from the Authority.

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**ATTACHMENT 1  
NON-COLLUSION AFFIDAVIT**

The Firm hereby certifies under penalty of perjury:

1. That this proposal is not affected by, contingent on, or dependent on any other proposal submitted for any improvement for the Des Moines Airport Authority; and
2. That no individual employed by the Firm was paid or will be paid by any person, corporation, firm, association, or other organization for soliciting the proposal, other than the payment of their normal compensation to persons regularly employed by the Firm whose services in connection with the making of this proposal were in the regular course of their duties for the Firm; and
3. That no part of the compensation to be received by the Firm was paid or will be paid to any person, corporation, firm, association, or other organization for soliciting the proposal, other than the payment of their normal compensation to persons regularly employed by the Firm whose services in connection with the making of this proposal were in the regular course of their duties for the Firm; and
4. That this proposal is genuine and not collusive or sham; that the Firm has not colluded, conspired, connived or agreed, directly or indirectly, with any other Firm or person, to put in a sham proposal or to refrain from making a proposal, and has not in any manner, directly or indirectly, sought, by agreement or collusion, or communication or conference, with any person, to fix the proposal price of Firm or any other Firm, or to otherwise restrain freedom of competition, and that all statements in this proposal are true; and
5. That the individual executing this proposal has the authority to execute this proposal on behalf of the Firm.

\_\_\_\_\_  
Firm

\_\_\_\_\_  
Signature

By \_\_\_\_\_  
Name (print/type)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code