

**CITY OF SANTA FE  
SANTA FE MUNICIPAL AIRPORT**

**"REQUEST FOR PROPOSALS"**

**RESTAURANT/GENERAL RETAIL/VENDING  
CONCESSION  
SANTA FE MUNICIPAL AIRPORT**

**RFP # 15/15 /P**

**PROPOSAL DUE:**

January 5, 2015  
**2:00 P.M.**  
**PURCHASING OFFICE  
CITY OF SANTA FE  
2651 SIRINGO ROAD  
BUILDING "H"  
SANTA FE, NEW MEXICO 87505**

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1. Instructions Relating to Local Preference Certification Form
2. Local Preference Certification Form
3. Resident Veterans Preference Form
4. Sample Contract
5. Minimum Wage Ordinance

**REQUEST FOR PROPOSALS**

**PROPOSAL NUMBER '15/15/P**

Proposals will be received by the City of Santa Fe and shall be delivered to the City of Santa Fe Purchasing Office, 2651 Siringo Road Building "H" Santa Fe, New Mexico 87505 until **2:00 P.M. local prevailing time, January 5, 2015**. Any proposal received after this deadline will not be considered. This proposal is for the purpose of procuring professional services for the following:

**RESTAURANT/GENERAL RETAIL/VENDING CONCESSION FOR THE SANTA FE MUNICIPAL AIRPORT**

The proponent's attention is directed to the fact that all applicable Federal Laws, State Laws, Municipal Ordinances, and the rules and regulations of all authorities having jurisdiction over said item shall apply to the proposal throughout, and they will be deemed to be included in the proposal document the same as though herein written out in full.

The City of Santa Fe is an Equal Opportunity Employer and all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation or national origin. The successful proponent will be required to conform to the Equal Opportunity Employment regulations.

Proposals may be held for sixty (60) days subject to action by the City. The City reserves the right to reject any of all proposals in part or in whole. Proposal packets are available by contacting: Shirley Rodriguez, City of Santa Fe, Purchasing Office, 2651 Siringo Road, Building "H" Santa Fe, New Mexico, 87505, (505) 955-5711.

  
\_\_\_\_\_  
Robert Rodarte, Purchasing Officer

Received by the Santa Fe New Mexican Newspaper on: 11/20/14  
To be published on: 11/26/14

Received by the Albuquerque Journal Newspaper on: 11/20/14  
To be published on: 11/26/14

Received by AAAE Website on: 11/20/14  
To be published on: 11/26/14

## PROPOSAL SCHEDULE

### RFP # '15/15/P

- |    |   |   |
|----|---|---|
| 1. | Advertisement   | November 26, 2014   |
| 2. | Issuance of RFP'S:                                    | November 26, 2014   |
| 3. | Receipt of proposals:                                 | January 5, 2015 at 2:00 p.m.<br>local prevailing time.<br>Purchasing Office 2651<br>Siringo Road Bldg., "H"<br>Santa Fe, New Mexico<br>87505 (505) 955-5711 |
| 4. | Evaluation of proposals:                              | January 13, 2015  |
| 5. | Interviews:   | January 23, 2015  |
| 6. | Recommendation of award<br>to Public Works Committee: | February, 2015  |
| 7. | Recommendation of award<br>to Finance Committee:      | February, 2015  |
| 8. | Recommendation of award<br>to City Council:           | February, 2015  |

**DATES OF CONSIDERATION BY FINANCE COMMITTEE AND CITY COUNCIL ARE TENTATIVE AND SUBJECT TO CHANGE WITHOUT NOTICE.**

## **INFORMATION FOR PROPONENTS**

### **1. RECEIPT OF PROPOSALS**

The City of Santa Fe (herein called "City"), invites firms to submit one original and four copies of the proposal. Proposals will be received by the Purchasing Office, until 2:00 p.m. local prevailing time, January 5, 2015.

The packets shall be submitted and addressed to the Purchasing Office, at 2651 Siringo Road Bldg. "H" Santa Fe, New Mexico 87505. No late proposals will be accepted whether hand delivered, mailed or special delivery. Do not rely on "overnight delivery" without including some lead-time. "Overnight delivery" will be determined to be non-responsive if delivered late, no matter whose fault it was. It is recommended that extra days be included in the anticipated delivery date to ensure delivery is timely. The Purchasing Office is closed 12:00 p.m. to 1:00 p.m. The outside of the envelope should clearly indicate the following information:

Proposal number: '15/15/P  
Title of the proposal: Restaurant/General Retail/Vending  
Concession

Name and address of the proponent:

Any proposal received after the time and date specified shall not be considered. No proposing firm may withdraw a proposal within 60 days after the actual date of the opening thereof.

### **2. PREPARATION OF PROPOSAL**

Vendors shall comply with all instructions and provide all the information requested. Failure to do so may disqualify your proposal. All information shall be given in ink or typewritten. Any corrections shall be initialed in ink by the person signing the proposal.

This request for proposal may be canceled or any and all proposals may be rejected in whole or in part, whenever the City of Santa Fe determines it is in the best interest of the city.

### **3. ADDENDA AND INTERPRETATIONS**

No oral interpretation of the meaning of any section of the proposal documents will be binding. Oral communications are permitted in order to make an assessment

of the need for an addendum. Any questions concerning the proposal must be addressed prior to the date set for receipt of proposal.

Every request for such interpretations should be in writing addressed to, Purchasing Officer, 2651 Siringo Road Bldg. "H" Santa Fe, New Mexico, 87505 and to be given consideration must be received at least (5) days prior to the date set for the receiving of proposals.

Any and all such interpretations and any supplemental instruction will be in the form of written addenda to the RFP, which if issued, will be delivered to all prospective firms not later than three days prior to the date fixed for the receipt of the proposals. Failure of any proposing firm to receive any such addenda or interpretations shall not relieve such firm from any obligation under their proposal as submitted. All addenda so issued shall become part of the contract documents.

The City reserves the right to not comply with these time frames if a critical addendum is required or if the proposal deadline needs to be extended due to a critical reason in the best interest of the City of Santa Fe.

#### **4. LAWS AND REGULATIONS**

The proposing firm's attention is directed to the fact that all applicable Federal Laws, State Laws, Municipal Ordinances, and the rules and regulations of all authorities having jurisdiction over said item shall apply to the contract throughout. They will be deemed to be included in the contract the same as though herein written out in full.

#### **5. METHOD OF AWARD**

The proposal is to be awarded based on qualified proposals as per the enclosed rating system and at the discretion and consideration of the governing body of the City of Santa Fe. The selection committee may interview the top three rated proponents; however, contracts may be awarded without such interviews. At its discretion the city reserves the right to alter the membership or size of the selection committee. The City reserves the right to change the number of firms interviewed.

#### **6. COMPLIANCE WITH CITY'S MINIMUM WAGE RATE ORDINANCE (LIVING WAGE ORDINANCE)**

A copy of the City of Santa Fe Ordinance No. 2003-8, passed by the Santa Fe City Council on February 26, 2003 is attached. The proponent or bidder will be required to submit the proposal or bid such that it complies with the ordinance to

the extent applicable. The recommended Contractor will be required to comply with the ordinance to the extent applicable, as well as any subsequent changes to the Ordinance throughout the term of this contract.

## **7. RESIDENT and LOCAL PREFERENCE**

### INTENT AND POLICY

The city recognizes that the intent of the state resident preference statute is to give New Mexico businesses and contractors an advantage over those businesses, manufacturers and contractors from outside the State of New Mexico. The underlying policy is to give a preference to those persons and companies who contribute to the economy of the State of New Mexico by maintaining businesses and other facilities within the state and giving employment to residents of the state (1969 OP. Att'y Gen. No. 69-42). The city also has adopted a policy to include a local preference to those persons and companies who contribute to the economy of the County of Santa Fe by maintaining businesses and other facilities within the county and giving employment to residents of the county.

### APPLICATION-IN-STATE AND OUT OF STATE BIDDERS

With acknowledgment of this intent and policy, the preference will only be applied when bids are received from in-state and county businesses, manufacturers and contractors that are within 5% of low bids received from out-of-state businesses, manufacturers and contractors (13-1-21 (A) -1-21 (F) and 13-4-2 (C) NMSA 1978). To be considered a resident for application of the preference, the in-state bidder must have included a valid state purchasing certification number with the submitted bid.

Thus it is recommended that in-state bidders obtain a state purchasing certification number and use it on all bids, in order to have the preference applied to their advantage, in the event an out-of-state bid is submitted. In submitting a bid, it should never be assumed that an out-of-state bid will not be submitted.

For information on obtaining a state purchasing certification number, the potential bidder should contact the State of New Mexico General Services Department-Purchasing Office (Joseph Montoya Building-1100 S. St. Francis Drive 87505, 827-0472). The process involves a short application and certification by the applicant of the information requested by the state resident preference statute. The certificate is generally issued immediately.

All resident preferences shall be verified through the State Purchasing Office. Applications for resident preference not confirmed by the State Purchasing Office will be rejected. The certification must be under the bidder's business name submitting the bid.

#### NON-APPLICATION-COMPETING IN-STATE BIDDERS

If the lowest responsive bid and the next responsive bids within 5% of the lowest bid, are all from the state of New Mexico, then the resident preference will not be applied and the state purchasing certification number will not be considered. To be considered an in-state bidder in this situation, the bidders must meet the definition criteria of Chapter 13-1-21 (A)(1) and Chapter 13-4-2 (A) NMSA 1978. After examining the information included in the bid submitted, the City Purchasing Officer may seek additional information of proof to verify that the business is a valid New Mexico business. If it is determined by the city Purchasing Officer that the information is not factual and the low responsive bid is actually an out-of-state bidder and not a New Mexico business, then the procedures in the previous section may be applied.

If the bidder has met the above criteria, the low responsive "resident" bid shall be multiplied by .95. If that amount is then lower than the low responsive bid of a "non-resident" bidder, the award will be based taking into consideration the resident preference of 5%.

#### APPLICATION FOR LOCAL PREFERENCE

For the purposes of this section, the terms resident business and resident manufacturer shall be defined as set out in Section 13-1-21 NMSA 1978; the term local as applied to a business or manufacturer shall mean:

The principal place of business of the enterprise is physically located within the Santa Fe County geographic boundaries. The business must have a "fixed office", as defined by this title, located within Santa Fe County. Principal place of business must have been established no less than six months preceding application for certification. Post office box numbers shall not suffice to establish an enterprise as a local business.

The PREFERENCE FACTOR for resident and local preferences applied to bids shall be .95 for resident and .90 for local. The preference for proposals shall be 1.05 for resident and 1.10 for local.

New Mexico Resident Veteran Business Preference: New Mexico law, Section 13-1-22 NMSA 1978, provides a preference in the award of a public works contract for

a “resident veteran business”. Certification by the NM Department of Taxation and Revenue for the resident veteran business requires the Offeror to provide evidence of annual revenue and other evidence of veteran status.

An Offeror who wants the veteran business preference to be applied to its proposal is required to submit with its proposal the certification from the NM Department of Taxation and Revenue and the sworn affidavit attached hereto as Appendix E.

If an Offeror submits with its proposal a copy of a valid and current veteran resident business certificate, 7%, 8%, or 10% of the total weight of all the evaluation factors used in the evaluation of proposal may be awarded.

The local preference or resident business preference is not cumulative with the resident veteran business preference.

Proposals for Goods and Services. When proposals for the purchase of goods or services pursuant to Section 23 are received, the evaluation score of the proposal receiving the highest score of all proposals from those proponents in the first category listed above shall be multiplied by the Preference Factor. If the resulting score of that proposal receiving the preference is higher than or equal to the highest score of all proposals received, the contract shall be recommended to that proponent receiving the preference. If no proposals are received from proponents in the first category, or if the proposal receiving the preference does not qualify for an award after multiplication by the Preference Factor, the same procedure shall be followed with respect to the next category of proposals listed to determine if a proponent qualifies for award.

Qualifications for Resident Preference. No resident business or manufacturer, as defined, shall be given any preference in the awarding of contracts for furnishing goods or services to the city, unless it shall have qualified with the State Purchasing Agent as a resident business or manufacturer and obtained a certification number as provided in Section 13-1-22 NMSA 1978. The certification number must be submitted with its bid for an offeror to qualify for this preference. The Central Purchasing Office shall determine if a resident preference is applicable to a particular offer on a case by case basis.

Qualifications for Local Preference. The Central Purchasing Office shall have available a form to be completed by all bidders/proponents who desire to apply for the local preference as a local business. The completed form with the information certified by the offeror must be submitted by the bidders/proponents with their bid or proposal to qualify for this preference.

Limitation. No offeror shall receive more than a 5% for resident and 10% for local preference pursuant to this section on any one offer submitted. A bidder may not claim cumulative preferences.

Application. This section shall not apply to any purchase of goods or services when the expenditure of federal and/or state funds designated for a specific purchase is involved and the award requirements of the funding prohibit resident and/or local preference(s). This shall be determined in writing by the department with the grant requirements attached to the Purchasing Office before the bid or request for proposals is issued.

**New Mexico Resident Preference Number (if applicable)**\_\_\_\_\_

**8. PROTESTS AND RESOLUTIONS PROCEDURES**

Any proponent, offeror, or contractor who is aggrieved in connection with a procurement may protest to the Purchasing Officer. The protest must be in writing and submitted within fifteen (15) days and requirements regarding protest and resolution of protests are available from the Purchasing Office upon request.

## **SPECIAL CONDITIONS**

**1. GENERAL**

When the City's Purchasing Officer issues a purchase order document in response to the vendor's bid, a binding contract is created.

**2. ASSIGNMENT**

Neither the order, nor any interest therein, nor claim under, shall be assigned or transferred by the vendor, except as expressly authorized in writing by the City Purchasing Officer's Office. No such consent shall relieve the vendor from its obligations and liabilities under this order.

**3. VARIATION IN SCOPE OF WORK**

No increase in the scope of work of services or equipment after award will be accepted, unless means were provided for within the contract documents. Decreases in the scope of work of services or equipment can be made upon request by the city or if such variation has been caused by documented conditions beyond the vendor's control, and then only to the extent, as specified elsewhere in the contract documents.

**4. DISCOUNTS**

Any applicable discounts should be included in computing the bid submitted. Every effort will be made to process payments within 30 days of satisfactory receipt of goods or services. The City Purchasing Officer shall be the final determination of satisfactory receipt of goods or services.

**5. TAXES**

The price shall include all taxes applicable. The city is exempt from gross receipts tax on tangible personal property. A tax exempt certificate will be issued upon written request.

**6. INVOICING**

(A) The vendor's invoice shall be submitted in duplicate and shall contain the following information: invoice number and date, description of the supplies or services, quantities, unit prices and extended totals. Separate invoices shall be submitted for each and every complete order.

(B) Invoice must be submitted to ACCOUNTS PAYABLE and NOT THE CITY PURCHASING AGENT.

**7. METHOD OF PAYMENT**

Every effort will be made to process payments within 30 days of receipt of a detailed invoice and proof of delivery and acceptance of the products hereby contracted or as otherwise specified in the compensation portion of the contract documents.

**8. DEFAULT**

The city reserves the right to cancel all or any part of this order without cost to the city if the vendor fails to meet the provisions for this order, and except as otherwise provided herein, to hold the vendor liable for any excess cost occasioned by the city due to the vendor's default. The vendor shall not be liable for any excess cost if failure to perform the order arises out of causes beyond the control and with the fault or negligence of the Vendor and these causes have been made known to the City of Santa Fe in written form within five working days of the vendor becoming aware of a cause which may create any delay; such causes include, but are not limited to, acts of God or the public enemy, acts of the State or of the Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above unless the city shall determine that the suppliers or services to be furnished by the sub-contractor are obtainable from other sources in sufficient time to permit the vendor to meet the required delivery schedule. The rights and remedies of the city are not limited to those provided for in this paragraph and are in addition to any other rights provided for by law.

**9. NON-DISCRIMINATION**

By signing this City of Santa Fe bid or proposal, the vendor agrees to comply with the Presidents Executive Order No. 11246 as amended.

**10. NON-COLLUSION**

In signing this bid or proposal, the vendor certifies they have not, either directly or indirectly, entered into action in restraint of full competition in connection with this bid or proposal submittal to the City of Santa Fe.

## **SCOPE OF SERVICES '15/15/P**

### **A. INTRODUCTION & BACKGROUND**

The Santa Fe Municipal Airport invites qualified and interested persons to submit proposals for the award of a contract authorizing the successful proposer to operate a restaurant/general retail/vending concession within the Terminal Building of the Airport.

#### *a. Location & Population*

The Santa Fe Municipal Airport is a commercial service airport located approximately 9 miles south of the city center of Santa Fe, New Mexico. The Airport is owned and operated by the City of Santa Fe, which is within the County of Santa Fe, New Mexico. The 2010 census showed the City of Santa Fe to have a population of 67,947. The County's population is estimated at 144,170. The Santa Fe economy is based primarily on tourism and government employment.

The Airport is situated in the southern side of the city limits, which is the fastest growing segment of town in both residential and business development.

Santa Fe is one of the country's premier tourist destinations according to several national surveys. Domestic and international visitors enjoy a diversity of culture, activities and climate throughout the year. The City plays host to several annual events that draw thousands of visitors per event, including the International Folk Art Market in September, Santa Fe Indian Market in August, and The Summer Spanish Market.

#### *b. Commercial Airline Service & General Aviation*

The Airport is currently served by two airlines, United Express and American Eagle, operating 45- or 50-seat regional jet aircraft. The airlines fly daily and seasonally non-stop to Denver International Airport (DEN), Los Angeles International Airport (LAX) and Dallas/Ft. Worth International Airport (DFW). Airline flight schedules fluctuate somewhat throughout the year, with the tourism high season occurring June through October. During high season, the Airport generally supports one daily round trip to LAX, two daily round trips to DEN and three daily round trips to DFW. Flights typically depart as early as 6:00 AM and arrive as late as 9:30 PM. During low season, the LAX daily has historically shifted to three times a week and the third DFW round trip has been dropped.

The past five years have seen a steady increase in passenger traffic, with 2013 closing out with passenger boardings of 68,360 and passenger deplanements of 69,567, for a total passenger number of 137,927. An estimated 15,800 family members or friends drop

off or meet passengers every year. This constitutes a 45% increase over the previous year and a 14 year high. Airline load factors for 2014 year-to-date are strong, at consistently 90% and above, and are expected to continue. The forecast for 2014 is approximately 142,000 in- and out-bound passengers, and an estimated 16,330 families/friends, through the terminal building. This data is furnished for informational purposes only and should not be construed as a guarantee of business to be generated.

Santa Fe Airport, although a relatively small airport, is a busy airport, with a robust and loyal local aviation community. 207 aircraft call Santa Fe home, which includes 21 jets, 23 multi-engine and 15 military craft. Our on-airport businesses provide a wide range of aeronautical services, from flight instruction, fuel, rental, charter, maintenance and storage. Other services that benefit the community at large include air-ambulance and military support in the event of a disaster. Approximately 140 jobs are supported at the airport by various businesses and organizations.

*c. Current Terminal Facilities and Plans for Expansion*

The airport has a commercial service terminal building of approximately 9,700 square feet on three levels. The first floor houses airport administrative offices, rental car and shuttles counters, airline and TSA offices, TSA security screening checkpoint, passenger boarding lounge, baggage claim, and a restaurant. The second and third floors house the air traffic control facility.

Over the past several years, the airport has experienced a rapid growth in passenger traffic, as noted above. As a result of this growth, and in order to improve the passenger experience, the airport applied for and received State Capital Outlay funding to design and construct an addition to the terminal building that will increase boarding lounge capacity from currently 50 to 150 persons, and relocate baggage claim from its current location. This expansion will improve efficiency of passenger throughput, as well as provide much needed restrooms and concession areas beyond the TSA screening checkpoint. However, due to the configuration of the existing terminal structure, it is anticipated that passenger access to the new addition will require the reduction in current restaurant space.

*d. Future Concession Opportunities*

The Airport reserves the right to hold out for bid any areas of the terminal building and/or other locations on the Airport for future concession opportunities. The selected Proposer of this RFP will be entitled to bid on any future concession opportunities, but will be granted no exclusive rights, nor any right of first refusal for any future concession opportunities. It is the Airport's long-term intent to provide a diversity of concession options for the Airport.

e. *Current Restaurant Leasehold & Leasing History*

Currently, the restaurant leasehold consists of a large dining room, a smaller “booth” dining area, counter, kitchen, outdoor storage yard and outdoor patio seating. The entirety of the current restaurant space is pre-screening. There are no food, beverage or retail concessions currently beyond the TSA screening checkpoint. The current restaurant space is the largest single leasehold space in the terminal and effectively anchors the northern side of the building. Below is the Exhibit A from the current lease. Also see photos below and on the following pages.

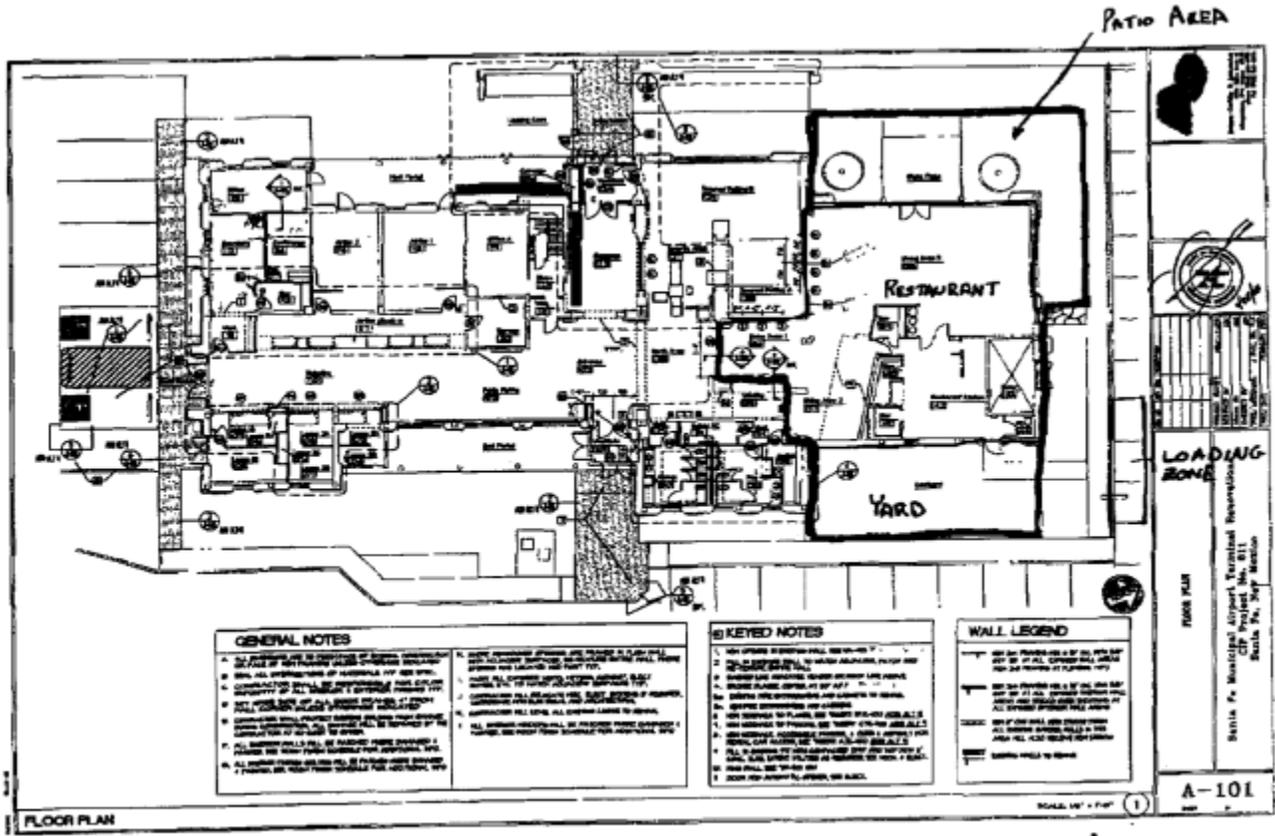
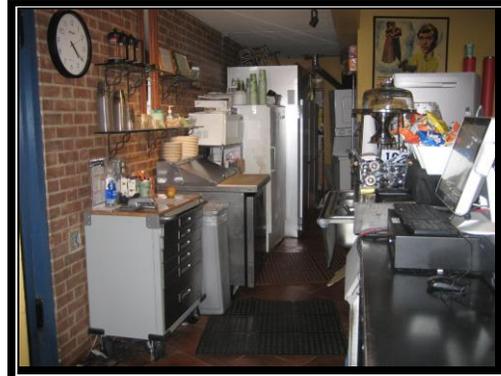


EXHIBIT A





Small "Booth" Dining Area at Entrance



Sales Counter Area



Outdoor Storage Area



Large Dining Area



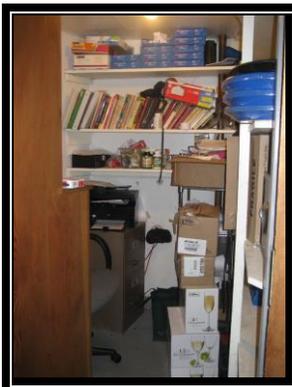
Kitchen Dishwashing Area



Walk-In Cooler (Airport-Owned)



Kitchen



Small Office

The current restaurant concessionaire has operated the restaurant and vending machine concessions through two consecutive leases, the initial beginning 1996. The current lease was renewed on September 29, 2010. Additionally, the current lease permits the concessionaire to provide in-flight catering to general aviation aircraft operating out of the airport. The airport does not require the terminal restaurant concessionaire to provide in-flight catering, but encourages it.

f. *Term*

The term of the lease will be negotiated at the time of award. Proposer shall include a proposed term in their proposal.

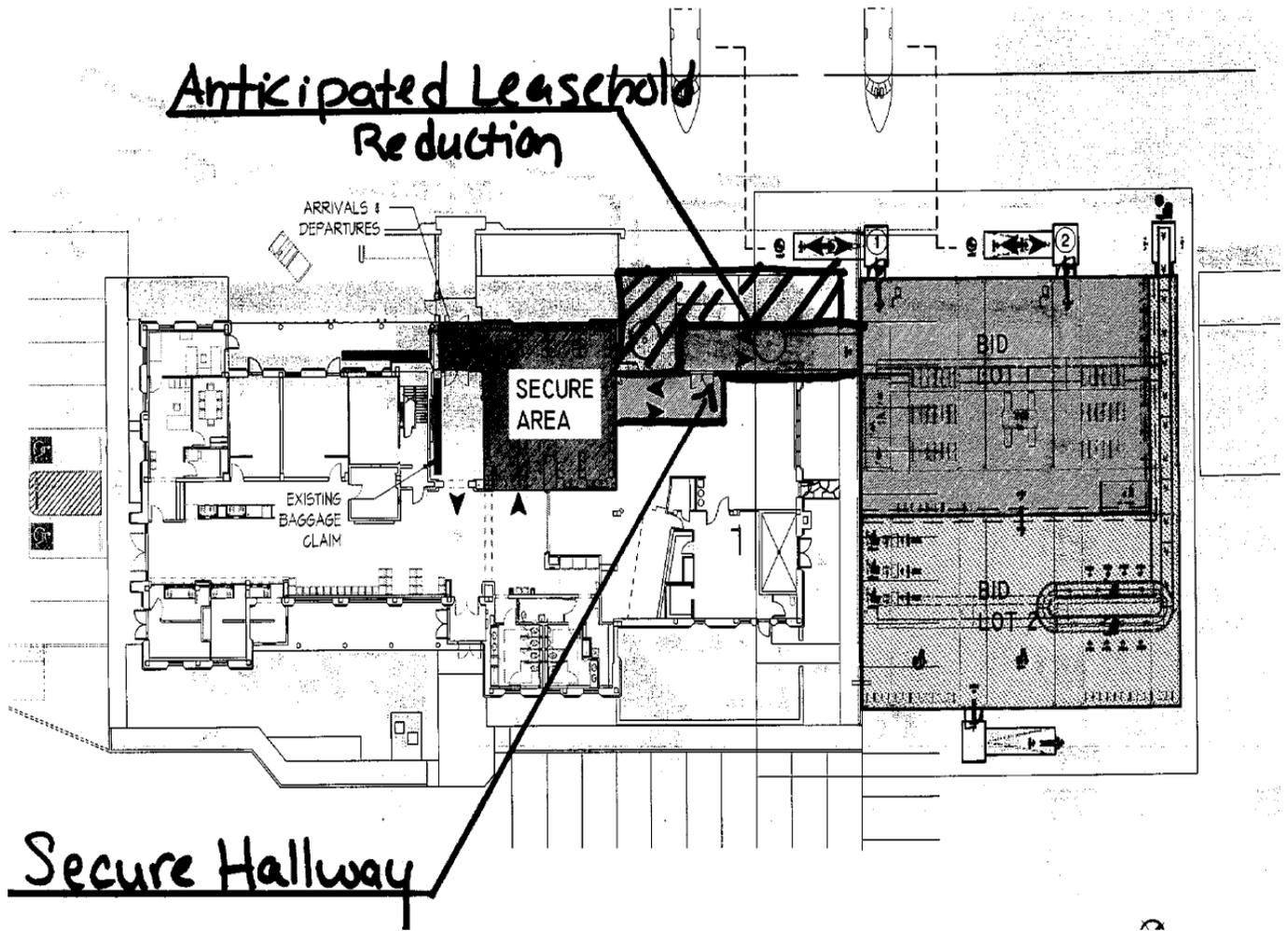
g. *Preferential and Exclusive Use of Leasehold*

Selected Proposer shall have Exclusive Use of those portions of the leasehold which can be best described as “back of house”. The exclusive use or back of house will constitute the kitchen, sales counters, offices, storage, food prep areas, and all other areas not accessible to the general public or customers. Selected Proposer shall have the right and sole responsibility to secure the Exclusive Use areas from access by the general public or customers both during and after Concession operating hours.

Selected Proposer shall have Preferential Use of those portions of the leasehold which can be best described as “front of house”. The preferential use or front of house will constitute dining, seating, browsing and general circulation areas accessible to the general public or customers. Preferential use areas must be made available for both paying and non-paying individuals. Circulation and seating space in the terminal is limited and it is not uncommon during irregular airline operations for the terminal seating to be at a shortage. Selected Proposer shall not, during the term of the lease, prohibit, limit or restrict access to or use of the preferential use areas. Selected Proposer shall not require, insist, suggest or in any way coerce terminal patrons into making purchases while terminal patrons are using the preferential use area.

h. *Anticipated Leasehold Reduction*

As noted above, the Airport is planning a terminal expansion which it anticipates will require a reduction in the current total leasehold. The schematic on the next page illustrates an anticipated building expansion to the north of the restaurant which would require the installation of a secure passenger hallway connecting the screening checkpoint to the expansion. This hallway would require a reduction in the restaurant leasehold and would eliminate patio seating altogether. The Airport does not feel that this leasehold reduction will have an adverse impact on the Selected Proposer’s business prospects.



i. *Historical Restaurant Gross Sales*

The table below shows restaurant and in-flight catering sales as reported by the current concessionaire. The airport makes no guarantees to the accuracy or completeness of these sales numbers, nor does it guarantee future sales.

	Gross Sales		
	2011	2012	2013
Restaurant Sales	\$171,928	\$165,233	\$241,159
In-Flight Catering Sales	\$88,564	\$36,765	\$114,442
Total Sales	\$260,492	\$201,998	\$355,601

The concessionaire's highest monthly gross restaurant sales of the three-year period 2011 to 2013 were June 2013 (\$27,498), July 2013 (\$27,692) and August 2013 (\$25,818). Average monthly restaurant sales are as follows:

Average Monthly Gross Sales - Restaurant			
	2011	2012	2013
	\$14,327.36	\$13,769.39	\$20,096.59

**B. MINIMUM QUALIFICATIONS**

Proposer shall have engaged in the restaurant or general retail business at least (5) years immediately preceding the submission of a proposal, with at least one (1) concession generating annual gross receipts of at least \$170,000 for two of the last five years immediately preceding submission of a proposal. Proposer shall demonstrate sufficient experience owning or managing a vending machine operation.

Proposer shall demonstrate financial responsibility and sufficient resources to finance, develop, and operate the restaurant, general retail and vending concessions hereunder proposed.

Proposer may elect to utilize partners and/or sub-lessees to meet the restaurant, general retail and vending concession requirements. Proposer must state clearly in the submittal any partners and/or sub-lessees and provide proof of qualification of all partners and/or sub-lessees. All partners and/or sub-lessees must be approved by the Airport.

**C. CONCESSION LEASE OBJECTIVES**

During the effective period of this proposed lease, the selected Proposer must have all the necessary licensing to serve food and beverages, including alcohol, in the restaurant facility. The selected Proposer must also be able to serve snacks, newspapers, magazines, novelty items, sundries, souvenirs and other items pertaining to the operation of a gift shop.

Proposer shall use their best efforts to propose attractive, customer-oriented operations that will support and advance the role of the airport in providing a convenient and comfortable arrival to and departure from the airport. The successful Proposer will be expected to meet or exceed the following goals and objectives throughout the term of the Concession Lease to be awarded.

- a. Offer a variety of food and beverage service that meets or exceeds the needs of the airport customers, providing quality, value for money, and

- menu choices that vary with changing trends and customer wants and needs.
- b. Provide restaurant and store designs that are attractive to the customers and enhance the terminal environment.
  - c. Provide exceptional service to the airport's customers and employees.
  - d. Provide a broad range of high-quality offerings that cater to the specific needs of the airport's customers, including a mix of local and national branded products.
  - e. Optimize concession revenue to the airport.
  - f. Maximize the use of the terminal space.
  - g. Price food, beverage, and retail products at no more than "street plus 10%" prices for equivalent value (quality and product size) to ensure that the airport users receive high quality products at fair prices and are not deterred from making purchases at the airport.
  - h. Ensure that the operating hours are targeted to passenger traffic schedules.
  - i. Provide high quality snacks and beverage vending machines that are conveniently available to passengers, visitors and employees.
  - j. Provide vending machines with fair prices.
  - k. Accept vouchers from airlines provided to passengers for food and beverage (excluding alcohol).
  - l. All menu items shall be for both eat-in and take-out with appropriate take-out packaging.
  - m. Multiple cash registers must be installed to accommodate peak sales periods and provide expeditious service. All cash registers must be fully operational during peak sales periods.
  - n. The point of sale system must be able to accept multiple types of payments such as cash, credit cards, debit cards and airline vouchers for each single payment.
  - o. A minimum of three (3) credit cards must be accepted.
  - p. Concession operator shall require their staff to provide warm, friendly, smiling, prompt and courteous service to all patrons.
  - q. Concession operator shall require their staff to wear uniforms clearly identifying them as concession staff. Uniforms shall be neat, clean and sized appropriately. All concession staff shall wear name tags or badges with at minimum their first name clearly displayed.
  - r. If a pre-made food product is offered, the product must be properly packaged and a dating system must be used to monitor the quality of the product.
  - s. Use of Governmental Liquor License – The selected Proposer shall be entitled to the use and operation of a Governmental Liquor License located at the Santa Fe Municipal Airport. Selected Proposer shall use the Governmental Liquor License for the purpose of serving alcoholic

beverages on the premises, in conjunction with selected Proposer's restaurant facility.

The following objectives of the Selected Proposer are not mandatory, but are extremely desirable and may be given greater consideration.

- a. Maximize the number of regionally themed concession offerings, including food & beverage concepts with menu items that showcase Santa Fe and Northern New Mexico.
- b. Enhance the overall image of the airport and Santa Fe.
- c. Strongly encourage the use of compostable and recyclable food service ware; and bulk cooking oil system.
- d. Promote the use of organically grown and local products. When a concession is using organically grown and locally produced products, the concessionaire should promote the use of the product by signage or other type of materials to inform the customer.
- e. Fountain equipment may be used for non-alcoholic carbonated beverages.
- f. Specific promotions/discounts for frequent customers and employees.
- g. Daily and employee specially priced menu offerings.
- h. The airport encourages use of digital menu boards, self-ordering kiosks, and mobile ordering devices to improve customer processing and satisfaction.
- i. With an increasing number of the general population diagnosed with allergies, the airport encourages Proposers to consider including menu items that are gluten, dairy, egg, soy and nut free.

#### **D. DESCRIPTION OF RESTAURANT CONCESSION**

##### *a. Facility and Menu Information*

The following are the minimum requirements that the Selected Proposer must provide. The Proposer should consider proposing facility concepts, investment levels, and product lines, including local and nationally branded products that exceed the minimum requirements.

The minimum menu requirements shall include:

- Freshly prepared and made-to-order sandwiches, salads, hot entrees, grilled items, snacks, baked goods such as bagels or muffins.
- Non-alcoholic beverages must include soft drinks, juices, milk, sports drinks, hot and cold coffee and tea (caffeinated and decaffeinated) and waters.

- Alcoholic beverages must include beer, wine and at least limited liquor (mixed) drinks (which must be consumed on leased premises).
- Items for Breakfast, Lunch and Dinner must be available. Menu items must include healthy offerings and child-friendly items. At least one (1) vegetarian selection must be offered for Breakfast, Lunch and Dinner.
- The menu must include, at minimum, three (3) selections specifically oriented to and priced for children.
- Proposer shall be capable of packaging any menu items ordered for carry out service. Careful consideration should be given to ensuring that a majority of the menu selections can be prepared in a short amount of time to accommodate the traveling passengers.

*b. Hours of Operation*

The minimum hours of operation are to be submitted by the Proposer. Proposed minimum hours of operation shall be completed on the Minimum Hours Proposal form.

Hours approved by the Airport Manager are to be clearly posted by the Company. Hours are to reasonably accommodate airline schedules, airport customers, passengers, employees and other concessionaires and tenants. The concession shall remain open to accommodate flight delays to serve the Terminal customers. Any changes in Minimum Hours of Operation must be submitted by the Company, and pre-approved in writing by the Airport Manager prior to change occurring. The successful Proposer shall operate the concession seven (7) days a week which shall include Proposer's obligation to open for business at least one (1) hour prior to the first scheduled flight departure each day and close no sooner than one half-hour before the last schedule flight departure.

## **E. DESCRIPTION OF GENERAL RETIAL CONCESSION**

### *a. Facility and Product Information*

The leasehold space anticipated by this RFP for the restaurant and general retail concession is a contiguous space. Therefore, the airport realizes it is likely that Proposers may intend to provide the retail items for display and sale co-located with the restaurant without separation by walls or other dividers, or through separate cash registers and/or sales counters. However, the airport will consider and encourages innovative Proposals that may seek to build-out separate spaces as units for retail and restaurant.

Additionally, the airport recognizes that trends in airport retail options have begun to include more and more opportunities for successful general and specialty retail through vending machines. The airport is not requiring, but will consider and encourages innovative proposals to meet or exceed the minimum retail requirements through the use of vending machines. Proposers who propose to utilize vending machines to meet the general retail requirements of this RFP should be clear in their submittals how their general retail vending will differ (product, location, etc) from the food and beverage vending concessions requirements of this RFP. However, Proposers who propose to utilize vending machines to meet the general retail requirements must ensure that the equipment specification and operational requirements of their general retail vending machines meet or exceed those detailed below in the section Description of Vending Concession.

The following are minimum requirements that the Selected Proposer must provide for general retail sales. The Proposer should consider proposing retail concepts, investment levels, and product lines, including locally and nationally branded products, which exceed these minimum requirements.

General retail shall include, at minimum:

- Newspapers and magazines,
- Sundries, health and beauty aids,
- Local souvenirs,
- Travel and business accessories and single serving packaged snacks and candy.
- Quart-sized, clear, plastic zip-top bags, sold individually.

Specialty retail items are not required by this RFP but the airport will consider and encourages the offering of specialty retail items. Specialty retail items could be men,

women and children's apparel, cosmetics, luggage, electronic devices, sunglasses or jewelry items.

b. *Hours of Operation*

The minimum hours of operation are to be submitted by the Company. Proposed minimum hours of operation shall be completed on the Minimum Hours Proposal Form. Hours approved by the Airport Manager are to be clearly posted by the Company. Hours are to reasonably accommodate airline schedules, airport customers, passengers, employees and other concessionaires and tenants. Retail shall remain open to accommodate flight delays to serve the Terminal customers. Any change in Minimum Hours of Operation must be submitted by Company, and pre-approved in writing by the Airport Manager. The successful Proposer shall operate the concession seven (7) days a week which shall include Proposer's obligation to be open for business as least one (1) hour prior to the first scheduled flight departure and close no sooner than one half-hour before the last scheduled flight departure.

F. **DESCRIPTION OF VENDING CONCESSION**

a. *Location and Product Information*

Vending operations are currently located in a common-use hallway separated by the restaurant by a dividing wall. The area currently houses two beverage machines and one snack machine. There are no historical sales data available for these machines. Proposers are not required to locate their vending machines in this area, but will not be permitted to locate their vending machines in areas of the airport terminal that are not part of the leased premises. Proposers are encouraged to provide innovative proposals for vending machine placement in their leasehold to allow for terminal users to have access to the vending machines during and outside the restaurant/general retail concessions hours of operation.



Vending Hallway (not part of leasehold)

The selected Proposer shall provide food and beverage vending machine units (VMU) that sell products at a minimum as follows:

- A variety of beverages and pre-packaged snack and meal products which include but are not limited to:
  - Traditional salty snacks such as potato chips, corn chips, pretzels;
  - Traditional sweet snacks such as candy bars, cookies;
  - Microwavable lunch items that do not require refrigerated storage;
  - Chewing gum;
  - Water;
  - Sports drinks;
  - Name brand regular and diet soda, as well as other carbonated beverages within their products line.

The Airport Manager has the right to refuse any specific product.

*b. Equipment Specifications*

All VMUs must be new or like new in appearance, in good operating condition and Energy Star rated. All VMUs must comply with the Americans with Disabilities Act (ADA) guidelines. The Airport Manager reserves the final right of approval or disapproval of all VMUs prior to installation. Further, the Airport retains the right to require the selected Proposer to replace any machine(s) that does not meet the Airport's standards in terms of appearance, function, etc.

All VMUs shall be equipped to accept currency, coins and credit cards. All VMUs shall be equipped with a metering system, such that it includes an internal electronic non-resettable cash sales meter.

The current location has existing electrical outlets. The selected Proposer may obtain without charge a supply of electricity in the current location only. If the selected Proposer elects to locate all or any VMUs in the restaurant/retail leasehold, electric supply and associated costs for those VMUs in the leasehold will be born entirely by the Proposer.

The current location does not have data, phone or internet connections to permit the requirement to accept credit cards. The selected Proposer will be solely responsible for installing and maintaining said service. The selected Proposer may opt for hard-wired or wireless internet access; however, the Proposer will not be allowed to utilize the Airport's free wireless internet for this.

VMU signage and/or visual displays must be pre-approved by the Airport Manager, and indicate the following:

- Overhead signage that easily alerts passengers in the terminal as to the location of vending machines.
- Simple instructions to guide customers through the purchasing process.
- 24-hour customer service assistance through a toll-free number posted on all VMUs.
- Identifying numbers and instructions indicating how refunds may be obtained.

c. *Operational Requirements*

The selected Proposer must install and maintain the equipment at its sole cost and expense, (except electricity if installing in the current location) including any construction related to installation and all parts and supplies.

The selected Proposer shall service and fill the VMUs at intervals, which guarantee the machines are full and the products are fresh. All food products will be removed from vending machines on the date that their freshness dating expires. All products will be considered past dated according to the date stamped on the manufacturer's package. The Airport reserves the right to request specific products to be dispensed in vending machines on its premises and shall have the final right of approval on all types of products.

The selected Proposer shall keep the VMUs in good working order and shall be serviced at intervals to guarantee the machines function properly, and kept in a new or like new condition.

Selected Proposer will, at its own expense, provide all cleaning, repair and maintenance service for the VMUs. Selected Proposer shall keep the machine, floor area immediately under and around the machine, and the wall behind the machine, in a clean and sanitary

condition. Selected Proposer shall keep each enclosure, every side, including the top, in a clean and sanitary condition, free of dust, dirt and grime.

Selected Proposer will employ a sufficient number of personnel necessary to ensure prompt, courteous and efficient service.

d. *Pricing*

Machine price of vended items shall be based upon prevailing market prices for the products provided. The Airport reserves the right to approve all product pricing.

e. *Revenue Sharing Payments to the Airport*

As compensation for the vending concession granted to it by the Airport, the selected Proposer shall pay to the Airport a percentage of gross receipts of all vending machine sales during the term of the Restaurant/General Retail/Vending Concession lease. Each responding Proposer will submit with its Proposal the percentage of gross receipt from the VMU sales that it is willing to pay the Airport as compensation.

G. **AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) ELIGIBILITY**

It is the policy of the airport that Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 23, shall have the opportunity to compete fairly for airport concessions. Furthermore, in accordance with 49 CFR Part 23, it is the airport's obligation to ensure the Concessionaires are not discriminated against in the award and administration for concessions at the airport.

H. **PROPOSAL EVALUATION**

All properly completed proposals will be reviewed by a selection committee. The following factors shall be considered by the selection committee when evaluating proposals:

- **Revenue to the airport** – annual minimum guarantees and percentage of revenue based on the projected sales. Revenues to the airport will be considered but will not necessarily be the sole determining factor.
- **Mandatory Qualifications** – whether or not the Proposal demonstrates that the Proposer possesses all the qualifications identified by this RFP as mandatory.
- **Experience** – Proposer's ability to provide a high quality concession in an airport or similar public terminal facility.
- **Financial Strength and Capability** – Proposer must provide, through financial statements or other documentation referenced in this RFP, evidence that it is

financially capable, in all respects, of performing the requirements of this RFP, and of financing, operating and managing a high quality concession in accordance with all aspects of this RFP (restaurant/retail/vending).

- **Marketing Strategy** – demonstrated ability of Proposer to market and promote programs, products and menus to obtain maximum patronage from the traveling public.
- **Innovation and Concepts** – Proposer’s ability to design the facility and implement sales displays which make creative use of available space and are aesthetically balanced with the airport décor.
- **Management Plan** –ability to effectively provide both local management to oversee operation of the concession on a day-to-day basis, and if applicable, evidence of the working relationship between the local manager and corporate operation.
- **Expected Gross Sales** – Proposer’s expected cash flow from this operation based on past performance at other airports or similar public facilities given industry standards.
- **ACDBE Participation** – Proposer’s program for the direct involvement including the percentage of Airport Concession Disadvantaged Business Enterprises (ACDBE) in the activities, management and operation of the concession.

The selection committee shall, based on the written proposals submitted, identify the Proposers who are fully qualified, and best suited to the airport’s requirements and objectives. The selection committee may ask any qualified Proposer(s) to make a presentation to the committee. If requested, a Proposer’s presentation should include, but not be limited to, management plans, marketing strategy, pricing program, merchandizing theme, and ACDBE eligibility.

## **I. PRICING POLICY**

The following “street plus 10% pricing” policy shall apply to the restaurant and general retail concessions at the Airport.

The selected Proposer shall sell all food and beverage items (excluding those sold in the VMUs) at no more than 10% of the average prices charged in comparable restaurants within the greater Santa Fe Area for like size and quality of products to those sold. All printed material shall be priced as listed on the inside or outside of the cover. For each menu item listed in the Proposal, Proposer shall designate three (3) restaurants in the greater Santa Fe Area that sell the item and are comparable in concept, size and quality to the restaurant concessions proposed for the Airport. The comparable outlets designated by the selected Proposer must be valid comparables and will be used as the basis for price comparisons during the term of the lease to determine compliance with the “street plus 10% pricing” policy. All restaurants to be used for price comparisons shall

receive prior written approval by the Airport Manager. If a proposer has existing similar restaurants in the greater Santa Fe Area, at least one such outlet must be designated as a comparable outlet by the proposer. If the concept is a branded concept with one or more locations in the area, then the price comparison shall be based on the prices charged in that location or the average prices charged among all locations (when there is more than one location).

During the term of the lease, the selected Proposer shall at least once calendar year provide documentation to the Airport comparing prices it charges at the Airport with the prices charged by the designated comparable outlets to establish selected Proposer's compliance with the "street plus 10% pricing" policy. The items compared shall be the fifteen (15) menu items having the highest dollar sales volume and another fifteen (15) menu items having the highest number sold.

In the event it is determined by the Airport that the selected Proposer is not in compliance with the "street plus 10% pricing" policy, the Airport shall give the selected Proposer written notice thereof.

If the selected Proposer does not make the appropriate adjustments to comply with the "street plus 10% pricing" policy within three (3) days of such notice of non-compliance, sanctions may be imposed or the selected Proposer shall be deemed in material breach of the lease and the lease may be subject to termination.

## J. RENT

**Rent shall be paid to the Airport as either a Minimum Annual Guarantee or a Percentage Rent, whichever is greater. The Minimum Annual Guarantee (MAG) that will be accepted is \$15,600 (\$1,300 monthly). The minimum Percentage Rent that will be accepted is 5.15%.**

The *Minimum Annual Guarantee* is defined as the minimum sum which the Proposer guarantees to pay the Airport each calendar year whether or not his/her Gross Sales should be greater or smaller than anticipated. The selected Proposer will pay to the Airport, on a monthly basis, the greater of:

- i. 1/12 (one-twelfth) of the MAG, or
- ii. The percentage of gross sales for each calendar month, **whichever is greater.**

*Percentage Rent.* Percentage Rent is a percentage of gross sales calculated for each calendar month during the term of this Restaurant/General Retail/Vending Concession Lease. "Gross Sales" means any and all receipts, rents, credits, payments in kind,

amounts collected or billed, invoiced or attempted to be collected, accounts receivable, (excluding complimentary goods or services provided or amounts rebated) or other sources of revenue, excluding taxes, arising directly or indirectly from business or activity conducted at the premises by Proposer or any sub lessee or other person using the premises during the term of or under Lease arising from this RFP.

#### **K. SECURITY**

The selected Propose shall comply with all airport security regulations prescribed by 49 CFR Part 1542, and agree to employ such measures as are necessary to prevent or deter the unauthorized access of persons or vehicles into the secure area of the Airport. The selected Proposer shall comply with Transportation Security Regulation Part 1542 (airport security) and Airport security policies as presently outlined in the Airport Security Plan, as such Plan may be amended from time to time. The selected Proposer shall pay any forfeitures or fine levied upon it by the Airport, or the Airport through enforcement of the Transportation Security Regulation Part 1542, or any other applicable federal, state, or local regulation, due to the acts or omissions of the selected Propose, their employees, agents, suppliers, invitees, or guests and for any attorney fees or related costs paid by the airport as a result of such violation.

#### **L. FACILITY/DESIGN/CONSTRUCTION/MAINTENANCE RESPONSIBILITES**

The initial capital investment amount shall be sufficient to provide all necessary furnishings, remodeling, and equipment in the leased premises to operate a first-class concession.

The selected Proposer shall be responsible for all care and maintenance of the leasehold including, but not limited to,

- Painting,
- Custodial and trash removal, including interior window washing,
- Clean and maintain grease traps,
- Clean and maintain hoods and exhaust fans,
- Replace any window panes broken as a result of Lessee's negligence,
- Re-lamp all light fixtures.

Airport-owned equipment in the restaurant is limited to a walk-in cooler and the exhaust hoods. Airport-owned equipment is provided for use by the selected Proposer in an "as is" "where is" state. Proposer shall provide, at its sole cost and expense, for all maintenance, care and cleaning of Airport-owned equipment. If Proposer elects to not use Airport-owned equipment and replace with Proposer-owned equipment, Proposer must make this clear in the submittal. If Proposer elects to not use Airport-owned

equipment, Proposer will be responsible, at its sole cost and expense, for removing Airport-owned equipment, to the Airport's satisfaction, and in a condition to allow the Airport to sell such equipment at the highest possible return.

The selected Proposer will be responsible for meeting the criteria of the Americans with Disabilities Act, all applicable State and local building codes.

a. *Utilities*

The current restaurant leasehold space is metered for separate gas and electric service feeding the kitchen and dining room area. Water and sewer service is not separately metered. Central heating for the leasehold is provided by the Airport throughout the Terminal. Three evaporative cooling units supply non-refrigerated cooling to the kitchen and dining room. These cooling units are owned and maintained by the Airport, but are served by the lessee's electric service.

The selected Proposer will be solely responsible for its own gas and electric service, as well as phone, data or television service. Water and sewer service will be provided by the Airport.

b. *Triennial Refurbishment*

For the selected Proposer, a triennial refurbishment schedule shall also be required. The minimum triennial refurbishment investment shall be equal to one-half of one percent (0.5%) of the prior year's gross revenues. In addition to the triennial refurbishment, the selected Proposer shall refurbish the leasehold promptly upon the observation of any damage or deterioration of the original materials/workmanship or as reasonably required by the Airport Manager.

c. *Construction & Remodeling Plans*

Proposers shall provide as part of their response to this RFP in depth construction and remodeling plans to support their capital investment. Plans should illustrate clearly the layout of the kitchen, dining and retail areas, and include any branding concepts, signage, décor, and overall general appearance. Proposers are encouraged to develop a concept that enhances the local feel of the Terminal building and furthers the Airport's image as a local asset.

**M. TRANSITION & CONTINUITY OF OPERATIONS PLAN**

Proposers shall provide a clear, reasonable and achievable plan for any necessary construction and remodeling. The plan should detail a transition and continuity of

operations plan to ensure that Airport patrons have at least limited food and beverage service during construction and remodeling. Proposers are encouraged to be innovative in their approach to provide consistent food and beverage service during the transition.

## SUBMITTAL REQUIREMENTS

### PROPOSAL FORMAT

To provide for ease and uniformity in the evaluation of proposals, the Proponent must submit a proposal with the following sections and content. Failure to comply with this prescribed format shall result in the Proponent being disqualified from selection.

- A. Executive Summary - an overview of the proposed service, outlining its benefits; a profile of the Proponent (including number of years in business, current size and capabilities, customer base, history, and future goals).
- B. Conformance to Scope of Services - An item-by-item response to each of the City's listed Scope of Services, including a checklist showing compliance or non-compliance with each item and, except for instances of exact compliance, a narrative explanation of how the Proponent does or does not meet the specifications.
- C. Customer Support - A policy statement and explanation of Proponent's approach to customer support i.e., the assignment of personnel, the extent and duration of services, and the degree of the Proponent's commitment to service support.
- D. Completed, signed Proposal Form
- E. Completed, signed Statement of Proponent Qualifications Form
- F. Completed, signed Non-Collusion Form
- G. Completed, signed Local Preference Form if applicable
- H. Background of proposing firm
- I. Resumes of management personnel who are expected to provide service.
- J. References:
  - a. At least three (3) current concession agreements with similar types of service including current contact names, email address, mailing address and phone numbers, as well as total contract price.
- K. Copy of New Mexico Taxation and Revenue gross receipts number

L. Proposed Menu and Pricing

Six (6) complete hard copies and one (1) complete electronic copy of the proposal must be submitted.

The proponent is welcome to submit any other information that may assist the City in making a selection of the equipment.

FAILURE to adequately address and submit the above requirements may constitute forfeiture of the proposal, as to be determined by the City Purchasing Agent.

NOTE: WRITTEN EXPLANATIONS WILL BE REQUIRED WHERE REQUESTED REGARDLESS OF COMPLIANCE TO SPECIFICATIONS.

**CITY OF SANTA FE  
MINIMUM ANNUAL GUARANTEE/PERCENTAGE RENT  
PROPOSAL FORM**

Proposer Name: \_\_\_\_\_

This Proposal is submitted to:

CITY OF SANTA FE  
PURCHASING OFFICER  
2651 SIRINGO ROAD, BLDG. H,  
SANTA FE, NEW MEXICO 87505

Rent shall be paid to the airport as either a Minimum Annual Guarantee or a Percentage Rent, whichever is greater. The Minimum Annual Guarantee (MAG) that will be accepted is \$15,600 (\$1,300 monthly). The minimum Percentage Rent that will be accepted is 5.15%.

Minimum Annual Guarantee:

The Minimum Annual Guarantee (MAG) shall not be less than \$15,600 (\$1,300 monthly). Proposals that offer less than \$15,600 MAG will not be considered.

Proposed MAG paid to the Airport shall be \$ \_\_\_\_\_  
In Words  
\$ \_\_\_\_\_  
In Numbers

Proposed Percentages Rent Paid to the Airport:

In no case shall the Proposed Percentage Rent be less than five and one-fifteenth (5.15) percent.

Proposed Percentage Rent to be paid to the Airport shall be: \_\_\_\_\_ %  
In Words  
\_\_\_\_\_ %  
In Numbers

**CITY OF SANTA FE  
HOURS OF OPERATION  
PROPOSAL FORM**

Proposer Name:

This Proposal is submitted to:

CITY OF SANTA FE  
PURCHASING OFFICER  
2651 SIRINGO ROAD, BLDG. H,  
SANTA FE, NEW MEXICO 87505

During the term of the Concession Lease, the undersigned Company hereby proposes to operate the concession during the following minimum hours of operation:

Concession	Minimum Hours of Operation	
	Open	Closed
Restaurant		
General Retail		

**CITY OF SANTA FE**  
**Airport Concession Disadvantaged Business Enterprise (ACDBE Utilization)**

The undersigned proposer has satisfied the requirements of the proposal specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The proposer is committed to a minimum of \_\_\_\_\_ % ACDBE utilization on this contract.

\_\_\_\_\_ The proposer (if unable to meet the ACDBE goal of \_\_\_\_\_%) is committed to a minimum of \_\_\_\_\_% ACDBE utilization on this contract and submitted documentation demonstrating good faith efforts.

Name of proposer's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_

**FORM 2: LETTER OF INTENT**

Name of proposer's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of ACDBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by ACDBE firm:

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The proposer is committed to utilizing the above-named ACDBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

**Affirmation**

The above-named ACDBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_

(Signature) (Title)

**If the proposer does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit Form 2 for each ACDBE subcontractor.)

**Evaluation and Interview Form  
Santa Fe Municipal Airport  
Restaurant/General Retail/Vending Concession**

Company Name \_\_\_\_\_

Evaluator/Interviewer Name: \_\_\_\_\_

Date: \_\_\_\_\_

Evaluation Criteria & Weighted Values

CRITERIA	WEIGHTED VALUE	EVALUATION POINTS	TOTAL
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**Revenue to the Airport & Expected Gross Sales** – annual minimum guarantees and percentage of revenue based on the projected sales. Revenues to the Airport will be considered but will not necessarily be the sole determining factor. Proposer’s expected cash flow from this operation based on past performance at other airports or similar public facilities given industry standards.

20%	x	_____	_____
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**Mandatory Qualifications & Experience** – whether or not the Proposal demonstrates that the Proposer possesses all the qualifications identified by this RFP as mandatory. Proposer’s ability to provide a high quality concession in an airport or similar public terminal facility.

20%	x	_____	_____
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**Financial Strength and Capability** – Proposer must provide, through financial statements or other documentation referenced in this RFP, evidence that it is financially capable, in all respects, of performing the requirements of this RFP, and of financing, operating and managing a high quality concession in accordance with all aspects of this RFP (restaurant/retail/vending).

20%	x	_____	_____
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**Marketing Strategy & Innovation and Concepts** – demonstrated ability of Proposer to market and promote programs, products and menus to obtain maximum patronage from the traveling public. Proposer’s ability to design the facility and implement sales displays

which make creative use of available space and are aesthetically balanced with the airport décor.

20%            x            \_\_\_\_\_

**Management Plan** –ability to effectively provide both local management to oversee operation of the concession on a day-to-day basis, and if applicable, evidence of the working relationship between the local manager and corporate operation.

15%            x            \_\_\_\_\_

**ACDBE Participation** – Proposer’s program for the direct involvement including the percentage of Airport Concession Disadvantaged Business Enterprises (ACDBE) in the activities, management and operation of the concession.

5%            x            \_\_\_\_\_

TOTAL            \_\_\_\_\_

## EVALUATION COMMITTEE MEMBERS

At its discretion, the City reserves the right to alter the membership and size of the committee.

Scores of the evaluation committee members will be totaled to determine the top rated firms.

Interviews are conducted for the top three rated firms, those scores totaled from the evaluation committee members from the interview evaluations will determine the final top rated firm, unless other tangible extenuating circumstances are documented. Members of the evaluation/interview committee are:

- Jon Bulthuis, Interim Airport Manager
- Robert Rodarte, Purchasing Director
- Two Members of the Santa Fe Municipal Airport Advisory Board to be named later.

Unless noted elsewhere in this RFP, the same evaluation form will be used to separate the interview scores.

## STATEMENT OF PROPONENT'S QUALIFICATIONS

Instructions: All questions must be answered, and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The Proponent may submit any additional information desired. If Proponent intends to use partners or sub-lessees to meet any requirement of this RFP, each proposed partner or sub-lessees must complete and notarize their own Statement of Proponent's Qualifications.

1. Name of Proponent/Partner/Sub-Lessee.
2. Permanent main office address.
3. When organized.
4. If a corporation, where incorporated.
5. How many years have you been engaged in restaurant, general retail and/or vending machines operations under your present firm or trade name?
6. Current concessions on hand (locations, types, annual gross receipts for the past 5 years or term of concession, whichever is less, current terms of concessions).
7. Have you ever defaulted on a contract or lease?
  - a. If so, where and why?
8. Background and experience of the principal members of your organization, including the officers.
9. Credit available: \$
10. Give bank reference:



NON-COLLUSION AFFIDAVIT OF PRIME BIDDER/PROPONENT

State of )  
 ) ss.  
County of )

being first duly sworn, deposes and says that:

- (1) He is the \_\_\_\_\_ of \_\_\_\_\_, the Bidder/Proponent that has submitted and attached bid/Proposal;
- (2) He is fully informed respecting the preparation and contents of the attached Bid/Proposal and of all pertinent circumstances respecting such Bid/Proposal;
- (3) Such Bid/Proposal is genuine and is not a collusive or sham Bid/Proposal;
- (4) Neither the said Bidder/Proponent nor any of its officers, partners, owners, agents, representative, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder/Proponent, firm or person to submit a collusive or sham Bid/Proposal in connection with the Contract for which the attached Bid/Proposal has been submitted or to refrain from bidding in connection with such Contract or has in any manner directly or indirectly, sought by agreement or collusion or communications or conference with any other Bidder/Proponent, firm or person to fix the price or prices in the attached Bid/Proposal or of any other Bidder/Proponent, or to fix any overhead, profit or cost element of the Bid/Proposal price or the Bid/Proposal price of any other Bidder/Proponent, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Santa Fe, or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached Bid/Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder/Proponent or any of its agents, representative, owners, employees, or parties in interest, including this affiant.

(SIGNED)

(TITLE)

Subscribed and sworn to before me this                      day of                      ,

Notary Public

My Commission Expires:

## INSTRUCTIONS RELATING TO LOCAL PREFERENCE CERTIFICATION FORM

1. **All information must be provided.** A 10% local preference may be available for this procurement. To qualify for this preference, an offeror **must** complete and submit **the local preference certification form with its offer**. If an offer is received without the form attached, completed, notarized, and signed or if the form is received without the required information, the preference will not be applied. **The local preference form or a corrected form will not be accepted after the deadline for receipt of bids or proposals.**
2. **Local Preference precedence over State Preference.** The Local Preference takes precedence over the State Resident Preference and only one such preference will be applied to any one bid or proposal. If it is determined that the local preference applies to one or more offerors in any solicitation, the State Resident Preference will not be applied to any offers.
3. **Physical location must be stated.** The principal place of business of the enterprise is physically located within the Santa Fe County geographic boundaries. The business must have a “fixed office”, as defined by this title, located within Santa Fe County. Principal place of business must have been established no less than six months preceding application for certification. Post office box numbers shall not suffice to establish an enterprise as a local business.
4. **Subcontractors do not qualify.** Only the business, or if joint venture, one of the parties of the joint venture, which will actually be performing the services or providing the goods solicited by this request and will be responsible under any resulting contract will qualify for this preference. A subcontractor may not qualify on behalf of a prime contractor.
5. **Definition.** The following definition applies to this preference.

Fixed Office: shall mean a fixed and established place where work is carried on of a clerical, administrative, professional or production nature directly pertaining to the business being certified. A temporary location or movable property, or one that is established to oversee a City of Santa Fe project does not qualify as an office.

**Additional Documentation.** If requested a business will be required to provide, within 10 working days of the request, documentation to substantiate the information provided on the form. Any business which must be registered under state law, must be able to show that it is a business entity in good standing if so requested.

**LOCAL PREFERENCE CERTIFICATION FORM**  
**BID/PROPOSAL NUMBER: '15/15/P**  
**IF APPLICABLE YOU MUST RETURN THIS FORM WITH YOUR BID OR PROPOSAL**

Business Name: \_\_\_\_\_

Business License Number: \_\_\_\_\_ (Attach copy of business license.)

Business Location (In Santa Fe County:)

Address: \_\_\_\_\_

City: \_\_\_\_\_

Zip Code: \_\_\_\_\_

County: \_\_\_\_\_

Business Type:

- Corporation – Indicate state of incorporation \_\_\_\_\_
- Partnership – Indicate “general” or “limited” \_\_\_\_\_
- Sole proprietorship \_\_\_\_\_

**CERTIFICATION:** I hereby certify under penalty of perjury that the information which I have provided on this form is true and correct, that I am authorized to sign on behalf of the business set out above and if requested by the city will provide, within 10 days of notice, the necessary documents to substantiate the information provided on this form.

By: \_\_\_\_\_ Authorized Representative: \_\_\_\_\_

Print Name

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Subscribed and sworn before me by \_\_\_\_\_ this \_\_\_\_\_, day of \_\_\_\_\_

My commission expires: \_\_\_\_\_

Notary Public

**RESIDENT VETERANS PREFERENCE CERTIFICATION**

\_\_\_\_\_ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement.

**Please check one box only:**

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I agree to submit a report or reports to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

In conjunction with this procurement and the requirements of this business application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, which awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

I understand that knowingly giving false or misleading information on this report constitutes a crime.

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

\_\_\_\_\_  
(Signature of Business Representative)\*

\_\_\_\_\_  
(Date)

\*Must be an authorized signatory of the Business.

The representation made by checking the above boxes constitutes a material representation by the business. If the statements are proven to be incorrect, this may result in denial of an award or un-award of the procurement.

SIGNED AND SEALED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:  
\_\_\_\_\_

# Living Wage Ordinance

*Ordinance Number §28-1-28-1.12DSFCC 1987*

***Purpose:***

The City of Santa Fe Living Wage Ordinance was adopted to establish minimum hourly wages.

***Who it affects:***

- All profit and nonprofit businesses required to have a business license or business registration with the City of Santa Fe.

***Compliance:***

- Affected businesses are required to pay employees an hourly wage of \$10.66 effective March 1, 2014.
- Beginning January 1, 2009, and each year thereafter, the minimum wage shall be adjusted upward by an amount corresponding to the previous year's increase, if any, in the Consumer Price Index for the Western Region for Urban Wage Earners and Clerical Workers.
- For workers who customarily receive more than \$100 per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited toward satisfaction of the minimum wage provided that, for tipped workers, all tips received by such workers are retained by the workers, except that the pooling of tips among workers shall be permitted.
- The value of health care benefits and child care shall be considered as an element of wages.
- Nonprofit organizations whose primary source of funds is from Medicaid waivers are *exempt*.

***Prohibitions against retaliation and circumvention:***

- It shall be unlawful for any business, employer or employer's agent or representative to take any action against an individual in retaliation for exercising or communicating rights under this ordinance. This includes retaliation against individuals who mistakenly but in good faith allege noncompliance with the ordinance.
- Taking adverse action against an individual within 60 days of the individual's assertion of or communication of information regarding rights raises a reputable presumption of retaliation for assertion of rights.
- It shall be unlawful for any business or employer to intentionally circumvent the requirements of this ordinance by contracting portions of its operations or leasing portions of its property.

***Enforcement and Remedies:***

- Administrative Enforcement—The city manager, or his/her designee, is authorized, as appropriate and as resources permit, to enforce this ordinance.
- Criminal Penalty—A person violating this ordinance shall be guilty of a misdemeanor and, upon conviction, for each offense may be subject to fines and imprisonment as set forth in Section 1-3 SFCC 1987. A person violating any of the requirements of this ordinance shall be guilty of a separate offense for each day or portion thereof and for each worker or person to whom any such violation occurred.
- Other Remedies—The city, any individual aggrieved by a violation of this ordinance, or any entity the members of which have been aggrieved by a violation of this ordinance, may bring a civil action in a court of competent jurisdiction to restrain, correct, abate or remedy any violation of this ordinance and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, reinstatement, the payment of any wages due and an additional amount as liquidated damages equal to twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs.

***Nonexclusive Remedies and Penalties—The remedies provided in this section are not exclusive, and nothing in this ordinance shall preclude any person from seeking any other remedies, penalties, or relief provided by law.***

***Posting and Publication:***

- Any business subject to the provisions of this ordinance shall as a condition to obtaining and holding a City of Santa Fe business license or registration, post and display in a prominent location next to its business license or registration on the business premises a notice, in English and Spanish, that the business is in compliance with the provisions of this ordinance and post the text of this notice. Failure to comply with this section shall be construed a violation of this ordinance and, in addition, shall be considered grounds for suspensions, revocation, or termination of the business license or registration.

***For more information, please contact: Constituent Services at 505-955-6949 Email: [constituentservices@santafenm.gov](mailto:constituentservices@santafenm.gov)***

**SANTA FE MUNICIPAL AIRPORT**  
**RESTAURANT/GENERAL RETAIL/VENDING CONCESSION**  
**LEASE AGREEMENT**

**THIS LEASE AGREEMENT** ("Lease"), is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the CITY OF SANTA FE, a New Mexico municipal corporation, ("Lessor") and [INSERT COMPANY NAME], ("Lessee") (from time-to-time collectively referenced as the "Parties").

WHEREAS, the Lessor owns and operates the Santa Fe Municipal Airport ("Airport"), which is managed by its airport manager ("Airport Manager"), and has determined that the provision of certain food, beverage and retail concession services at the Airport is appropriate and essential to the sound management of the Airport; and,

WHEREAS, in the promotion and accommodation of air commerce and air transportation, Lessor has determined that food, beverage, and retail facilities (the "Concession Facilities" which are more particularly described and depicted in "**Exhibit A**" to this Lease) should be provided for the benefit of air travelers and the public; and,

WHEREAS, the Lessor initiated request for proposals ("RFP") for the provision of food, beverage, and retail concession service and Lessee submitted a successful proposal to operate the related Concession Facilities at the Airport; and,

WHEREAS, the Parties now desire to enter into this Lease for the Concession Facilities and set forth the terms and conditions for providing food, beverage, and retail service thereon.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the Parties hereto agree as follows:

**1. LEASE**

a) Lessor hereby leases the Concession Facilities to Lessee in "as-is where-is" condition, subject to the terms, conditions, and obligations set forth in this Lease. Lessor makes no representations or warranties regarding the fitness of the Concession Facilities let hereunder for any particular purpose nor shall Lessor in any way be required to modify the Concession Facilities, presently or in the future, for Lessee's use. Any and all use of the Concession Facilities is at Lessee's sole risk.

**b) Preferential and Exclusive Use of Concession Facilities**

i) Lessee shall have exclusive use of the portion of the leasehold depicted in "**Exhibit B**" (the "Back of House"). The Back of House generally consists of the kitchen, sales counters, offices, storage, and food prep areas. Lessee is responsible for securing the Back of House areas from access by the general public both during and after operating hours.

## Sample Airport Concession Lease

- ii) Lessee shall have preferential use of those portions of the leasehold depicted in "Exhibit C" (the "Front of House"). The Front of House generally consists of dining, seating, browsing, and general circulation areas accessible to the general public or customers. The Front of House must be made available for both paying and non-paying individuals. Circulation and seating space in the terminal is limited and terminal-area seating shortages are not uncommon. Lessee shall not unreasonably prohibit, limit, or restrict access to the Front of House. Lessee shall not require, insist, or suggest that terminal patrons purchase Lessee's wares in order to occupy the Front of House.
- c) Lessee understands and agrees that the Airport is planning a terminal expansion to install a secure passenger hallway, which shall reduce the floor area of the Concession Facilities. Lessee shall not be entitled to a reduction in rent as a result of the reduced size of the Concession facilities, as more fully discussed in § 4.

## 2. USE OF THE PREMISES

### a) General Premises Terms

During the effective period of this Lease, Lessee shall have all the necessary licensing to serve food and beverages, including alcohol, in the restaurant facility. Lessee shall sell snacks, newspapers, magazines, novelty items, sundries, souvenirs and other items pertaining to the operation of a gift shop.

Lessee shall provide customer-oriented operations that will support and advance the role of the Airport in providing a convenient and comfortable arrival to and departure from the Airport. More particularly and as more fully required by this Lease, Lessee shall:

- i) Offer a variety of food and beverage service that meets or exceeds the needs of the airport customers.
- ii) Provide restaurant and store designs that are attractive to the customers and enhance the terminal environment.
- iii) Provide exceptional service to the airport's customers and employees.
- iv) Provide a broad range of offerings that cater to the specific needs of the airport's customers, including a mix of local and national branded products.
- v) Optimize concession revenue to the airport.
- vi) Maximize the use of the terminal space.
- vii) Price food, beverage, and retail products at no more than "street plus 10%" (as defined in this lease) prices for equivalent value (quality and product size).
- viii) Ensure that the operating hours are targeted to passenger traffic schedules.
- ix) Provide high quality and fairly priced snacks and beverage vending machines that are conveniently available to passengers, visitors and employees.
- x) Accept vouchers from airlines provided to passengers for food and beverages (excluding alcohol).
- xi) All menu items shall be for both eat-in and take-out with appropriate take-out

## Sample Airport Concession Lease

- packaging.
- xii) Maintain multiple fully-operational cash registers to accommodate peak sales periods and provide expeditious service.
  - xiii) The point of sale system must be able to accept multiple types of payments such as cash, credit cards (minimum of three (3) major payment companies), debit cards and airline vouchers for each single payment.
  - xiv) Lessee shall require their staff to provide warm, friendly, smiling, prompt and courteous service to all patrons.
  - xv) Lessee shall require their staff to wear uniforms clearly identifying them as Lessee staff. Uniforms shall be neat, clean and sized appropriately. All Lessee staff shall wear name tags or badges with at minimum their first name clearly displayed.
  - xvi) If a pre-made food product is offered, the product must be properly packaged and a dating system must be used to monitor the quality of the product.
  - xvii) Use of Governmental Liquor License – Lessee shall be entitled to the use and operation of a Governmental Liquor License located at the Santa Fe Municipal Airport. Lessee shall use the Governmental Liquor License for the purpose of serving alcoholic beverages on the premises, in conjunction with Lessee's restaurant facility.

### **b) Restaurant Concession Terms**

#### *i) Facility and Menu Information*

(1) Lessor shall provide menu offerings that shall include at a minimum:

- (a) Freshly prepared and made-to-order sandwiches, salads, hot entrees, grilled items, snacks, baked goods such as bagels or muffins.
- (b) Non-alcoholic beverages must include soft drinks, juices, milk, sports drinks, hot and cold coffee and tea (caffeinated and decaffeinated) and waters.
- (c) Alcoholic beverages must include beer, wine and at least limited liquor (mixed) drinks (which must be consumed on leased premises).
- (d) Items for Breakfast, Lunch and Dinner must be available. Menu items must include healthy offerings and child-friendly items. At least one (1) vegetarian selection must be offered for Breakfast, Lunch and Dinner.
- (e) The menu must include, at minimum, three (3) selections specifically oriented to and priced for children.
- (f) Lessee shall be capable of packaging any menu items ordered for carry out service. Careful consideration should be given to ensuring that a majority of the menu selections can be prepared in a short amount of time to accommodate the traveling passengers.

#### *ii) Hours of Operation*

(1) Lessee shall operate restaurant 7 days per week, 365 days per year, including all holidays. Minimum restaurant hours of operation shall be [insert hours]. Nothing contained herein shall prohibit Lessee from operating beyond the minimum hours of

## Sample Airport Concession Lease

operation.

- (2) Hours approved by the Airport Manager are to be clearly posted by the Lessee. Hours are to reasonably accommodate airline schedules, airport customers, passengers, employees and other concessionaires and tenants. The concession shall remain open to accommodate flight delays to serve the Terminal customers. Any changes in Minimum Hours of Operation must be submitted by the Lessee, and pre-approved in writing by the Airport Manager prior to change occurring. The Lessee shall operate the concession seven (7) days a week which shall include Lessee's obligation to open for business at least one (1) hour prior to the first scheduled flight departure each day and close no sooner than one half-hour before the last schedule flight departure.

### c) Retail Concession Terms

#### i) Facility and Product Information

Lessee shall provide for general retail sales that shall include at a minimum:

- (1) Newspapers and magazines,
- (2) Sundries, health and beauty aids,
- (3) Local souvenirs,
- (4) Travel and business accessories and coffee serving packaged snacks and candy.
- (5) Quart-sized, clear, plastic zip-top bags, sold individually.

#### ii) Hours of Operation

- (1) Lessee shall operate general retail concession 7 days per week, 365 days per year, including all holidays. Minimum restaurant hours of operation shall be [insert hours]. Nothing contained herein shall prohibit Lessee from operating beyond the minimum hours of operation.
- (2) Hours approved by the Airport Manager are to be clearly posted by the Lessee. Hours are to reasonably accommodate airline schedules, airport customers, passengers, employees and other concessionaires and tenants. The concession shall remain open to accommodate flight delays to serve the Terminal customers. Any changes in Minimum Hours of Operation must be submitted by the Lessee, and pre-approved in writing by the Airport Manager prior to change occurring. The Lessee shall operate the concession seven (7) days a week which shall include Lessee's obligation to open for business at least one (1) hour prior to the first scheduled flight departure each day and close no sooner than one half-hour before the last schedule flight departure.

### d) Vending Concession Terms

- i) Lessee shall provide food and beverage vending machine units (VMU) that sell products

## Sample Airport Concession Lease

at a minimum as follows:

- (1) A variety of beverages and pre-packaged snack and meal products which include but are not limited to:
  - (a) Traditional salty snacks such as potato chips, corn chips, pretzels;
  - (b) Traditional sweet snacks such as candy bars, cookies;
  - (c) Microwavable lunch items that do not require refrigerated storage;
  - (d) Chewing gum;
  - (e) Water;
  - (f) Sports drinks;
  - (g) Name brand regular and diet soda, as well as other carbonated beverages within their products line.

The Airport Manager has the right to refuse any specific product.

### ii) Vending Equipment Specifications

- (1) All VMUs must be new or like new in appearance, in good operating condition and Energy Star rated. All VMUs must comply with the Americans with Disabilities Act (ADA) guidelines. The Airport Manager reserves the final right of approval or disapproval of all VMUs prior to installation. Further, the Airport retains the right to require Lessee to replace any machine(s) that does not meet the Airport's standards in terms of appearance, function, etc.
- (2) All VMUs shall be equipped to accept currency, coins and credit cards. All VMUs shall be equipped with a metering system, such that it includes an internal electronic non-resettable cash sale meter.
- (3) Lessee shall be solely responsible for installing and maintaining data, wireless and/or telephone service to support credit and debit sales in all VMU's. Lessee shall not be allowed to utilize the Airport's free wireless internet for this.
- (4) VMU signage and visual displays must be pre-approved by the Airport Manager, and indicate the following:
  - (a) Overhead signage that easily alerts passengers in the terminal as to the location of vending machines.
  - (b) Simple instructions to guide customers through the purchasing process.
  - (c) 24-hour customer service assistance through a toll-free number posted on all VMUs.
  - (d) Identifying numbers and instructions indicating how refunds may be obtained.

### iii) Operational Requirements

- (1) Lessee shall install and maintain the equipment at its sole cost and expense, [except electricity if installing in the current location] including any construction related to installation and all parts and supplies.
- (2) Lessee shall service and fill the VMUs at intervals, which guarantee the machines are full and the products are fresh. All food products will be removed from vending

## Sample Airport Concession Lease

machines on the date that their freshness dating expires. All products will be considered past dated according to the date stamped on the manufacturer's package. The Airport reserves the right to request specific products to be dispensed in vending machines on its premises and shall have the final right of approval on all types of products.

- (3) Lessee shall keep the VMUs in good working order and shall be serviced at intervals to guarantee the machines function properly, and kept in a new or like new condition.
- (4) Lessee shall, at its own expense, provide all cleaning, repair and maintenance service for the VMUs. Lessee shall keep the machine, floor area immediately under and around the machine, and the wall behind the machine, in a clean and sanitary condition. Lessee shall keep each enclosure, every side including the top, in a clean and sanitary condition, free of dust, dirt and grime.
- (5) Lessee will employ a sufficient number of personnel necessary to ensure prompt, courteous and efficient service.

### e) Pricing Policy

The following "street plus 10% pricing" policy shall apply to the restaurant and general retail concessions at the Airport.

- i) Lessee shall sell all food and beverage items (excluding those sold in the VMUs) at no more than 10% of the average prices charged in comparable restaurants within the greater Santa Fe Area for like size and quality of products to those sold. All printed material shall be posted as listed on the inside or outside of the cover. For each menu item Lessee shall designate three (3) restaurants in the greater Santa Fe Area that sell the item and are comparable in concept, size and quality to the restaurant concessions proposed for the Airport. The comparable outlets designated by the Lessee must be valid comparables and will be used as the basis for price comparisons during the term of the lease to determine compliance with the "street plus 10% pricing" policy. All restaurants to be used for price comparisons shall receive prior written approval by the Airport Manager. If Lessee has existing similar restaurants in the greater Santa Fe Area, at least one such outlet must be designated as a comparable outlet by the Lessee. If the concept is a branded concept with one or more locations in the area, then the price comparison shall be based on the prices charged in that location or the average prices charged among all locations (when there is more than one location).
- ii) During the term of the lease, Lessee shall at least once per calendar year provide documentation to the Airport comparing prices it charges at the Airport with the prices charged by the designated comparable outlets to establish Lessee's compliance with the "street plus 10% pricing" policy. The items compared shall be the fifteen (15) menu items having the highest dollar sales volume and another fifteen (15) menu items having the highest number sold.
- iii) In the event it is determined by the Airport that Lessee is not in compliance with the

## Sample Airport Concession Lease

“street plus 10% pricing” policy, the Airport shall give Lessee written notice thereof.

- iv) If Lessee does not make the appropriate adjustments to comply with the “street plus 10% pricing” policy within three (3) days of such notice of non-compliance, Lessee shall be deemed in material breach of the lease and the lease may be subject to termination.
- v) Machine (VMU) price of vended items shall be based upon prevailing market prices for the products provided. The Airport reserves the right to approve all product pricing.

### 3. TERM AND TERMINATION.

Term. This Lease Agreement shall be for a [insert] term beginning on [insert start date] and terminating [insert end date]. Such period, as the same may be sooner terminated or extended both as specifically provided in this Lease Agreement is referred to in this Lease Agreement as the “Term.”

### 4. HOLDOVER.

In the absence of a new Lease Agreement entered into before the expiration of the Term under this Lease Agreement, Lessee shall be allowed to hold over for a period not to exceed (ninety) 90 days from the expiration date of the Term under this Lease Agreement at the sole discretion of the Airport Manager. Lessee may request permission to hold over (ninety) 90 days prior to expiration of the Term and Airport Manager shall advise Lessee in writing whether Lessee shall be permitted to hold over within (ten) 10 calendar days of receipt of such request from Lessee. If the Airport Manager chooses not to permit hold over, Lessee shall vacate the premises upon expiration of the Term. If the Lessee fails to timely vacate the premises, Lessee agrees to pay liquidated damages in the amount of \$500 per day of hold over. Holding over by the Lessee after the expiration of the initial Term under this Lease Agreement shall not operate to extend or renew this Lease Agreement. Any such holding over shall be construed as a tenancy from month to month at the rents reserved in this Lease Agreement under the terms herein.

### 5. RENT.

- a) Rent shall be paid to the Airport as either a Minimum Annual Guarantee or a Percentage Rent, whichever is greater. The Minimum Annual Guarantee (MAG) shall be [insert annual \$ (insert monthly\$)]. The minimum Percentage Rent shall be [insert]%.
  - i) Minimum Annual Guarantee is defined as the minimum sum which the Lessee guarantees to pay the Airport each calendar year whether or not his/her Gross Sales should be greater or smaller than anticipated. Lessee shall pay to the Airport, on a monthly basis, the greater of:
    - (a) 1/12 (one-twelfth) of the MAG, or
    - (b) The percentage of gross sales for that calendar month, whichever is greater.

## Sample Airport Concession Lease

ii) Percentage Rent: Percentage Rent is a percentage of gross sales calculated for each calendar month during the term of this Lease.

(1) "Gross Sales" means any and all receipts, rents, credits, payments in kind, amounts collected or billed, invoiced or attempted to be collected, accounts receivable, (excluding complimentary goods or services provided or amounts rebated) or other sources of revenue, excluding taxes, arising directly or indirectly from business or activity conducted at the premises by Lessee or any Sub-Lessee or other person using the premises during the term of or under this Lease.

b) Liquor License Use. Lessee shall pay to the Lessor an amount equal to the total cost of the Government Liquor License provided by the City and listed in § 2(a) xvii of this Lease Agreement. Payment is due within five calendar days of the date of notice to Lessee that the license has been obtained or renewed, and received by the City.

c) Rent Due Date. The Rent shall be paid each month in arrears to the Airport by Lessee not later than the twentieth (20<sup>th</sup>) day of each month and shall be subject to late fees of 1.5% per month, 18% annually, if not received by the twenty-fifth (25<sup>th</sup>) day of each month. The penalty provisions of this section shall commence on the fifth (5<sup>th</sup>) day of delinquency by Lessee and accrue daily.

### 6. RECORDS AND AUDIT.

a) All records, accounts, books, delivery receipts and data on business activities performed under this Lease Agreement and maintained by the Lessee shall be subject to inspection and audit by the Lessor at Lessor's expense at all reasonable times. However, if, beginning on or after the effective date of this Lease Agreement, an audit reveals a discrepancy of more than five (5%) percent of the gross receipts reported and the gross receipts as determined by the audit of any 12 months period, and if Lessor thereafter requires an additional audit and such audit reveals a discrepancy of more than 5% of the gross receipts reported since the time of the last audit, the full cost of such additional audit shall be borne by the Lessee. Records shall be maintained for a period of not less than three (3) complete lease years.

b) The records and statements of business done by the Lessee along with any other information obtained or inspected pursuant to this provision shall be considered as absolutely confidential and not subject to use or disclosure by the Lessor for any purpose other than the ascertainment of rents, fees and charges under this Agreement. Lessor may use information and data provided by the Lessee to compile gross receipts reports for airport activity reports provided the identity of the Lessee is not disclosed.

### 7. INSURANCE.

The Lessee shall, at its own cost and expense, procure and maintain in full force and effect during the term of this Lease Agreement, the following insurance:

## Sample Airport Concession Lease

- a) Worker's Compensation and Employer's Liability. The Lessee shall comply with and provide insurance commensurate with the provisions of the New Mexico Worker's Compensation Act, the Subsequent Injury Act, and the Occupational Disease Disablement Law. Such insurance shall include coverage permitted under Section 52-1-10, NMSA 1978, for safety devices. The Lessee shall require any subcontractor to provide such coverage, or qualify as a self-insured, for all the latter's employees. The Lessor, its officers or employees shall not be responsible for any claims or actions caused by the Lessee's failure to comply with the provisions of this subparagraph. It is expressly understood that employees of the Lessee are not Lessor's employees for any purpose.
- b) Comprehensive General Liability. The Lessee shall procure and maintain a comprehensive general liability insurance policy, for bodily injury, including death, and property damage in such amounts that are not less than the maximum liability of public agencies as set forth in the New Mexico Tort Claims Act, N.M. Stat. Ann. 41-4-1, et seq. (1978) now constituted or hereafter amended. Said policies of insurance must include coverage for Premises, operations and the Lessee's liability to the Lessor hereunder. The Lessor shall be named as an additional insured on the general liability and property coverage insurance policies. The parties acknowledge that the certificate of insurance for General Liability coverage will be in the amount of One Million Dollars (\$1,000,000).
- c) Binders. A binder or certificate of insurance for all insurance policies required by this Lease Agreement shall be provided to Lessor at the time of the execution of this Lease Agreement. Certificates of insurance shall be delivered to the Airport Manager. Lessee shall not cancel or alter in any detrimental way any insurance policy required under this Lease Agreement without the prior written consent of Lessor.
- d) Policy Cancellations. Policies shall provide that 30 days written notice shall be given to the Airport Manager before a policy is canceled, materially changed or not renewed, except, however, Lessor acknowledges that notification of cancellation of Lessee's Workers' Compensation/Employer's Liability coverage may only be given 7 days in advance. A certificate or policy which states that failure to give such notice imposes no obligation on the insurance company is unacceptable to this Lease agreement. Cancellation or other termination of any insurance policy issued in compliance with this section shall automatically terminate this Lease Agreement, unless another policy has been filed and approved pursuant to this section and shall be in effect within 45 days of the date of written notice to Lessor of such default.
- e) Increase in Coverage. Lessor may require an increase in coverage in the event the maximum amount in the New Mexico Torts Claim Act are raised by the New Mexico State Legislature or by judicial mandate.

## 8. INDEMNIFICATION.

Lessee agrees to defend, indemnify and hold harmless Lessor from loss from each and every claim

## Sample Airport Concession Lease

and demand of whatever nature, made on behalf of or by any person or persons, for any wrongful, careless or negligent act or omission of Lessee or Lessee's employees, members and guest, and from all losses and damages by reason of such acts or omissions.

### 9. CANCELLATION BY LESSOR.

Lessor may cancel this Lease Agreement by giving Lessee written notice and opportunity to cure, within 30 days of the occurrence of the default, upon or after the happening of any of the following events:

a) Cancellation for Non-Payment.

If the Lessee shall default in the payment obligations of above, and the default shall continue for 30 days after the effective date of written notice thereof to the Lessee, given by the Lessor in accordance with the notice provisions, infra, then the Lessor shall have the option to declare the Term ended, without forfeiture, waiver or release of the Lessor's rights to any sum of money due, and to recover and enjoy possession of the Leased Premises, whether with or without process of law. In the event of cancellation or non-payment, Lessor may, at its option, attach a landlord's lien to any improvements on the Premises, and such improvements may not be removed from the Premises without Lessor's prior approval.

b) Cancellation for Default other than payment.

i) If the Lessee shall default in the performance of any terms, covenants, agreements or conditions of this Lease other than in the performance or payment obligations discussed above and the default shall continue for 30 days after written notice thereof to the Lessee, given by the Lessor in accordance with the notice thereof to the Lessee, given by the Lessor in accordance with the notice provisions, infra, then the Lessor shall have the option to declare the Term ended, without forfeiture, waiver or release of the Lessor's rights to any sum of money due, and to recover and enjoy possession of the Leased Premises, whether with or without process of law. However, if any default or breach may not reasonably and capably be cured within 30 days after written notice thereof, and if Lessee diligently attempts to cure the default or breach, Lessee may petition Lessor for additional time to cure the default, which petition will not be unreasonably denied. Lessee shall pay Lessor for all costs incurred by Lessor as a result of Lessee's default; and such payment shall be made promptly upon Lessee's receipt of written demand of Lessor.

ii) No waiver of default by the Lessor of any of the terms, covenants, agreements or conditions hereof to be performed, kept and observed by the Lessee shall be construed to be an act of waiver of any subsequent default of any of the terms, covenants, agreements and conditions herein contained to be performed, kept and observed by the Lessee. The acceptance of rental by the Lessor for any period or periods after a default of any of the terms, covenants, agreements and conditions herein contained to be performed, kept and observed by the Lessee, shall not be deemed a waiver of any right on the part of the

## Sample Airport Concession Lease

Lessor to cancel this Lease and Agreement for failure by the Lessee to so perform, keep or observe any of the terms, covenants, agreements or conditions of this Lease Agreement.

### c) Other Cancellation.

- i) The Lessor may cancel this Lease Agreement only by giving the Lessee 30 days advance written notice and opportunity to cure, whether with or without process of Law, upon or after the happening of any one of the following events:
  - (1) If Lessee ceases or fails to provide said service , Lessor may declare this Lease to be terminated and re-enter the premises or any part thereof, with or without the process of law, to expel, remove and put out Lessee or any other persons occupying the property, using such force as may be reasonably necessary in doing so. Lessee shall pay all costs, including reasonable attorney's fees and expenses and court costs that may arise in enforcing the covenants, conditions and terms of this Lease Agreement.
  - (2) The filing by the Lessee of a voluntary petition in bankruptcy, or the institution of proceedings in bankruptcy against the Lessee and the adjudication of the Lessee as a bankrupt pursuant to such proceedings.
  - (3) The taking of a court of jurisdiction of Lessee and its assets pursuant to proceedings brought under the provision of any Federal reorganization act.
  - (4) The appointment of a receiver of the Lessee's assets.
  - (5) The occurrence of damage or destruction to the airport terminal by fire, or any other casualty and the failure of the Lessor to repair the damage.
  - (6) The cancellation or other termination of any insurance policy issued in compliance with this Lease Agreement shall automatically terminate this Lease agreement, unless another policy has been filed and approved pursuant to this section and shall be in effect within 45 days of the date of written notice to Lessee of such default.
  - (7) The breach of any of the nondiscrimination covenants, Lessor shall have the right to terminate this Lease Agreement and to reenter and repossess said leased premises thereon, and hold the same as if said Lease Agreement had never been made or issued.

### **10. CANCELLATION BY THE LESSEE.**

The Lessee may cancel this Lease and terminate all or any of its obligations hereunder at any time that the Lessee is not in default in the payment of any rents or fees to the Lessor pursuant to this Lease Agreement by giving the Lessor (ninety) 90 days advance written notice of its intentions to

## Sample Airport Concession Lease

discontinue its business activities at the Airport.

### 11. RIGHTS OF LESSOR.

Lessor reserves the right to:

- a) Operate the airport in accordance with the terms of the Grant Assurances it signed to receive FAA grants and in the best interest of the public and without interference or hindrance to maintain, improve, or further develop the airline services, landing area or public use facilities of the airport as it sees fit, regardless of any protest of the Lessee, and to lease additional space to other concessions in the airport terminal areas not rented exclusively by Lessee as described herein regardless of any objection of the Lessee. The Lessor may relocate the Lessee if the physical development of the airport or the terminal requires relocation of the Lessee provided Lessor provides written notice to Lessee and Lessor bears such the costs associated with such relocation.
- b) Enter upon the Premises at any reasonable time for the purpose of making any inspection for the proper enforcement of any of the covenants or conditions of this Lease Agreement and any federal, state, county or city laws, rules and regulations, now or hereafter in effect.

### 12. RIGHTS OF LESSEE.

The Lessee shall have the right to use the Airport Terminal Building for the following specific purposes:

- a) The uses of the Premises set forth in 12 hereof.
- b) Installation and operation of identifying signs, logos, and advertising on the leased premises may be done only with the express written consent of the Airport Manager, such consent not to be unreasonably withheld.
- c) Access, ingress and egress with respect to the Premises and the nonexclusive preferential areas for Lessee, its employees, customers, vehicles and equipment used in the operation of its business.

### 13. SECURITY.

Lessee shall comply with all airport security regulations prescribed by 49 CFR Part 1542, and agree to employ such measures as are necessary to prevent or deter the unauthorized access of persons or vehicles into the secure area of the Airport. Lessee shall comply with Transportation Security Regulation Part 1542 (airport security) and Airport security policies as presently outlined in the Airport Security Plan, as such Plan may be amended from time to time. Lessee shall pay any forfeitures or fine levied upon it by the Airport, or the Airport through enforcement of the Transportation Security Regulation Part 1542, or any other applicable federal, state, or local regulation, due to the acts or omissions of Lessee, their employees, agents, suppliers, invitees, or

## Sample Airport Concession Lease

guests and for any attorney fees or related costs paid by the airport as a result of such violation.

### 14. MAINTENANCE & CUSTODIAL.

- a) Lessee's initial capital investment at the commencement of this Lease shall be sufficient to provide all necessary furnishings, remodeling, and equipment in the leased premises to operate a first-class concession.
- b) Lessee shall be responsible for all care and maintenance of the Premises including, but not limited to,
  - i) Painting (interior only),
  - ii) Custodial and trash removal, including interior window washing,
  - iii) Clean and maintain grease traps,
  - iv) Clean and maintain hoods and exhaust fans,
  - v) Replace any window panes broken as a result of Lessee's negligence,
  - vi) Re-lamp all light fixtures.
- c) Airport-owned equipment in the restaurant is limited to a walk-in cooler and the exhaust hoods. Airport-owned equipment is provided for use by Lessee in an "as is" "where is" state. Lessee shall provide, at its sole cost and expense, for all maintenance, care and cleaning of Airport-owned equipment. If Lessee elects to not use Airport-owned equipment and replace with Lessee-owned equipment, Lessee shall be responsible, at its sole cost and expense, for removing Airport-owned equipment to the Airport's satisfaction, and in a condition to allow the Airport to sell such equipment at the highest possible return.
- d) Lessee will be responsible for meeting the criteria of the Americans with Disabilities Act, all applicable State and local building codes.
- e) Lessor Requirements.

Lessor shall be responsible for repairs, at Lessor's sole discretion, to the airport infrastructure (electrical, heating/cooling, natural gas and plumbing systems) except when damage and repairs result due to negligence by Lessee, its employee's or its contractor's negligent or intentional acts.

### 15. TRIENNIAL REFURBISHMENT

Lessee shall be responsible to provide a triennial refurbishment of the Premises. The minimum triennial refurbishment investment shall be equal to one-half of one percent (0.5%) of the prior year's gross revenues. In addition to the triennial refurbishment, Lessee shall refurbish the leasehold promptly upon the observation of any damage or deterioration of the original materials/workmanship or as reasonably required by the Airport Manager.

### 16. UTILITIES

## Sample Airport Concession Lease

All utilities serving the Premises including but not limited to telephone, water, electricity, and gas shall be provided by the Lessee. Adequate heating, cooling and sewer service as determined by the Airport Manager will be provided by Lessor at no cost to Lessee except that sewer service will also be governed by the provisions of Article 14 of this Lease Agreement. Supplemental electric heating is not permitted unless approved in writing by the Airport Manager. The Lessor and Lessee shall split the cost of the utilities that serve the preferential, nonexclusive use areas of the dining room, lounge and sales area

### 17. TRANSFER OF INTEREST.

Lessee may not at any time during the term of this Lease, sell, lease, assign, transfer or permit to be acquired, this Lease Agreement or any interest herein, nor shall Lessee sublease any portion of its leasehold interest without the written consent of the Lessor's Governing Body, which consent shall not be unreasonably withheld. This provision is not intended to prevent, or subject to approval by the Lessor's Governing Body, any corporate transaction (including any merger or other divestiture) Lessee may undertake, provided that the surviving entity following such transaction maintains a contractual arrangement to provide the same or similar services and uses listed in §2 of this Lease Agreement for a duration at least equal to the remaining balance of the Term of this Lease Agreement and failure to maintain a contractual arrangement to provide same or similar services shall constitute a breach of this Lease Agreement.

### 18. OBSERVATION OF LAWS, RULES AND REGULATIONS.

Lessee agrees to observe and during the Term of this lease, all FAA grant assurances, state and federal laws, rules and regulations, local ordinances, policies and procedures and other minimum standards, promulgated and enforced by Lessor, and by any other proper authority having jurisdiction over the conduct of operations at the Airport, including the federal government, the state, the county and the city now or hereafter in effect.

### 19. ALTERATIONS AND IMPROVEMENTS.

- a) Lessee shall not make or suffer or permit to be made any alteration, addition or improvements whatsoever in or about the Premises or the Airport without first obtaining the written consent of Lessor. If Lessor gives such consent, all alterations or improvements shall be done solely at Lessee's expense and in accordance and in compliance with all applicable municipal, state and federal ordinances, laws, rules and regulations. Alterations or improvements shall be compatible with the general decor of the Airport terminal building.
- b) Lessee shall allow no liens of mechanics, materialmen, laborer, architects, artisans, contractors, subcontractors, or any other lien of any kind whatsoever to be created against or imposed upon the said Premises, the Airport or any part thereof. Lessee shall, if required by Lessor, provide a labor and materialman's bond to cover all work and material and labor

## Sample Airport Concession Lease

arising out of such alterations, additions or improvements.

- c) Any and all alterations, additions or improvements, except shelving and movable furniture, made at Lessee's sole expense after having first obtained the written consent of Lessor, in accordance with the provisions contained in this section, whether attached to the walls, floors, premises or not, shall immediately merge and become a permanent part of the Lessor's realty and any and all interests of Lessee therein shall immediately vest in Lessor and all such alterations, additions and improvements shall remain on the Premises and shall not be removed by Lessee at the termination of this Lease Agreement. The shelving and movable furniture, or both, which Lessee is privileged to remove, must be removed by Lessee at Lessee's sole expense on or before the termination of this Lease Agreement.

### 20. DESTRUCTION OF PREMISES.

If at any time during the Term of this Lease Agreement, the Premises shall be totally or partially destroyed by fire, earthquake, flood, or other calamity, then Lessor shall have the option to rebuild or repair the same, providing such rebuilding or repairing shall be commenced within a period of 30 days after receipt of notice in writing to Lessor by Lessee that such calamity has occurred. In such case a just and proportionate part of the rental payment per month shall be abated until such demised property shall have been rebuilt and repaired. In the event, however, Lessor within 30 days following receipt of notice in writing to Lessor of such damage or destruction elects not to rebuild or repair said property, Lessor shall so notify Lessee and thereupon this Lease Agreement shall terminate and become null and void.

### 21. FAIR AND NONDISCRIMINATORY SERVICES.

Lessee, in the conduct of its authorized business activities agrees to furnish service in compliance with all applicable laws, rules and regulations with respect to the Agreement, the performance of its obligations hereunder, and the services to be provided hereunder. Lessee shall, at its expense, obtain and maintain the governmental authorizations, licenses, approvals, registrations and filings that may be required of it under applicable law, rules and regulations to perform this Agreement.. Lessee agrees to operate its business in an ethical and professional manner and shall keep the premises in a safe, clean, orderly and inviting condition at all times, Lessee shall not permit its employees or agents to solicit customers on public property.

### 22. TITLE VI. CIVIL RIGHTS ASSURANCES.

- a) The Lessor for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:
  - i) No person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

## Sample Airport Concession Lease

- ii) In the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination.
- iii) The Lessee shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation and as said regulation may be amended.
- b) The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the service or benefits of any program or activity covered by this subject. The Lessee assures that it will require that any subcontractor provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their subcontractor, as required by CFR Part 152 Subpart E, to the same effect.

### 23. ENVIRONMENTAL PROTECTION.

- a) Lessee shall not commit, or suffer to be committed, any waste upon the Premises, or any nuisance or other act or thing which may disturb the quiet enjoyment of the Airport or surrounding property. Lessee shall provide, as necessary, a separate drainage, collection, and/or separation system to ensure that no untreated liquid waste from any type of operation, including vehicle cleaning, and oil change operations, will enter the Airport storm drainage or sanitary system.
- b) Lessee shall, at all times, comply with all applicable laws, rules and regulations of the federal, state and local governmental agencies. Lessee shall not permit any activity which directly or indirectly produces objectionable or unlawful amounts or levels of air pollution, noise, glare, heat emission, electronic or radio interference with navigational and communications facilities for the operation of the Airport and for Airport use by aircraft, trash or refuse accumulation, vibration, prop-wash, or jet blast, or which is hazardous or dangerous by reason or risk of explosion, fire or harmful emission. Any waste oil storage tanks shall be in approved containers and in accordance with all environmental and fire protection regulations.
- c) Hazardous substances are any substance, material, or waste, (including any petroleum products, solvents, thinners, herbicides and soil sterilants and aircraft deicing fluids) which is or become designated, classified or regulated as being "toxic," "hazardous," a "pollutant," or similar designation under any federal state or local law, regulation or ordinance.
- d) Lessee agrees to defend, indemnify and hold Lessor harmless from and against all liabilities,

## Sample Airport Concession Lease

claims, actions, foreseeable and unforeseeable consequential damages, costs and expenses (including sums paid in settlement of claims and all consultant, expert and legal fees and expenses of Lessor's counsel) or loss directly or indirectly arising out of or resulting from the presence of any hazardous substance as a result of Lessee's or any sub-tenant's activities, whether before, during or after construction, in or around any part of the property or the soil, groundwater or soil vapor on or under the property, including those incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work, or any resulting damages or injuries to the person or property of any parties or to any natural resources. Upon demand by Lessor, Lessee shall defend any investigation, action or proceeding alleging the presence of any hazardous substance in any such location which affects the property or which is brought against the Lessor, whether alone or together with Lessee or any other person, all at Lessee's own cost and to be approved by Lessor in the exercise of its reasonable judgment. In the alternative, Lessor may elect to conduct its own defense at the expense of the Lessee. Lessee shall comply and cause all of its employees to comply with all laws, regulations, and ordinances governing or applicable to hazardous substances as well as the recommendations of any qualified environmental engineer or other expert which apply or pertain to the premises. Lessee acknowledges that hazardous substances may permanently and materially impair the value and use of real property. Lessee shall promptly notify Lessor if it knows, suspects or believes, there may be any hazardous substance in or around the property or in the soil, groundwater, or on or under the leased property, or that Lessee or the property may be subject to any threatened or pending investigation by any governmental agency under any law, regulation, or ordinance pertaining to any hazardous substance.

### 24. NON-EXCLUSIVE RIGHTS.

- a) Lessee shall have the non-exclusive right and privilege of engaging in and conducting its restaurant/general retail/vendor concession on the Premises of the Airport under the terms and conditions set forth herein, provided, however, that this Lease Agreement shall not be construed in any manner to grant Lessee or those claiming under Lessee in this Lease Agreement the exclusive right to the use of the dining room, lounge, sales area, common areas and facilities of said airport other than the specifically described Premises.
- b) Lessor shall have the right to lease other portions of the Airport or Airport terminal building to other Lessees, including but not limited to other restaurant, other merchandise, sundry, gift, book, newspaper or magazine vendor or similar services. Lessee understands and agrees that nothing in this Lease Agreement shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958, as amended.

### 25. TAXES AND LICENSES.

- a) The Lessee shall promptly pay any and all taxes, personal property tax, leasehold tax, gross receipts tax, transaction privilege tax or other exaction assessed or assessable and pay all license fees and permit fees applicable to the Lessee's operation, and acquire and keep

## Sample Airport Concession Lease

current, all licenses, municipal, state or federal as the result of the Lessee's operations at the Airport pursuant to this Lease Agreement, and shall not allow any of said taxes, excises or licenses to become delinquent.

- b) The Lessee shall not permit any mechanics' or materialman's or any other lien to be placed or foreclosed upon the Leased Premises or improvements thereto. The Lessee shall have the ability to contest payment demand by a contractor. Should the Lessee withhold payments to a contractor, the Lessee shall be required, at the Lessor's option, to deposit with the Lessor or a court of competent jurisdiction, an amount equal to the amount in dispute.

### 26. SUBORDINATE PROVISIONS.

This Lease Agreement shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States or the State of New Mexico 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 or state funds for the development of the airport.

### 27. AMENDMENT IN WRITING.

No amendment between the Lessor and Lessee relative to the leasehold interest herein shall be valid and enforceable unless in writing and executed by both the Lessor and Lessee.

### 28. CHOICE OF LAW.

Lessee shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the Lessor. In any action, suit or legal dispute arising from this Agreement, the Lessee agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

### 29. APPROVALS, CONSENTS AND NOTICES.

Notices required to be given to the Lessor shall be hand-delivered, sent via overnight courier service or sent by certified mail, postage prepaid, addressed to:

Airport Manager  
Santa Fe Municipal Airport  
P.O. Box 909  
Santa Fe New Mexico, 87504-0909

Any approvals, consents and/or notices to be given to the Lessee shall be hand-delivered, sent via overnight courier service or sent by certified mail to:

Sample Airport Concession Lease

[COMPANY NAME]  
[COMPANY CONTACT NAME & TITLE]  
[COMPANY STREET ADDRESS]  
[COMPANY CITY, STATE, ZIP]  
[COMPANY CONTACT PHONE]  
[COMPANY CONTACT EMAIL]  
[COMPANY CONTACT FAX]

or to such other respective addresses as shown by the date of the notice if delivered by hand or by the date of receipt as shown by the U.S. Postal Service Certified Mail Return Receipt, if mailed.

**30. PARAGRAPH HEADINGS.**

The paragraph and subparagraph headings contained in this Lease are inserted for reference and convenience and are not intended to define or limit the scope of any provision of this Lease.

**31. INVALID PROVISIONS.**

In the event any covenant, condition or provision contained in this Lease is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, conditions or provisions shall not affect the enforceability of the balance of this Lease Agreement; provided that the invalidity of such covenant, condition or provision does not materially prejudice either the Lessor or the Lessee in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Lease.

SAMPLE

Sample Airport Concession Lease

**In Witness Whereof**, the parties hereto have caused this Lease Agreement to be executed as of the day and year first above written.

CITY OF SANTA FE:

By: \_\_\_\_\_  
Javier Gonzales, Mayor

ATTEST:

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

APPROVED AS TO FORM:

*Kelley Brennan*  
\_\_\_\_\_  
Kelley Brennan, City Attorney

APPROVED:

\_\_\_\_\_  
Finance Director

[COMPANY NAME].

By: \_\_\_\_\_  
Name and Title



Sample Airport Concession Lease

**ACKNOWLEDGMENT OF [COMPANY] SIGNATURE**

STATE OF NEW MEXICO )

)ss.

COUNTY OF SANTA FE )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2014  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

**SAMPLE**



FLOOR PLAN

Back of House

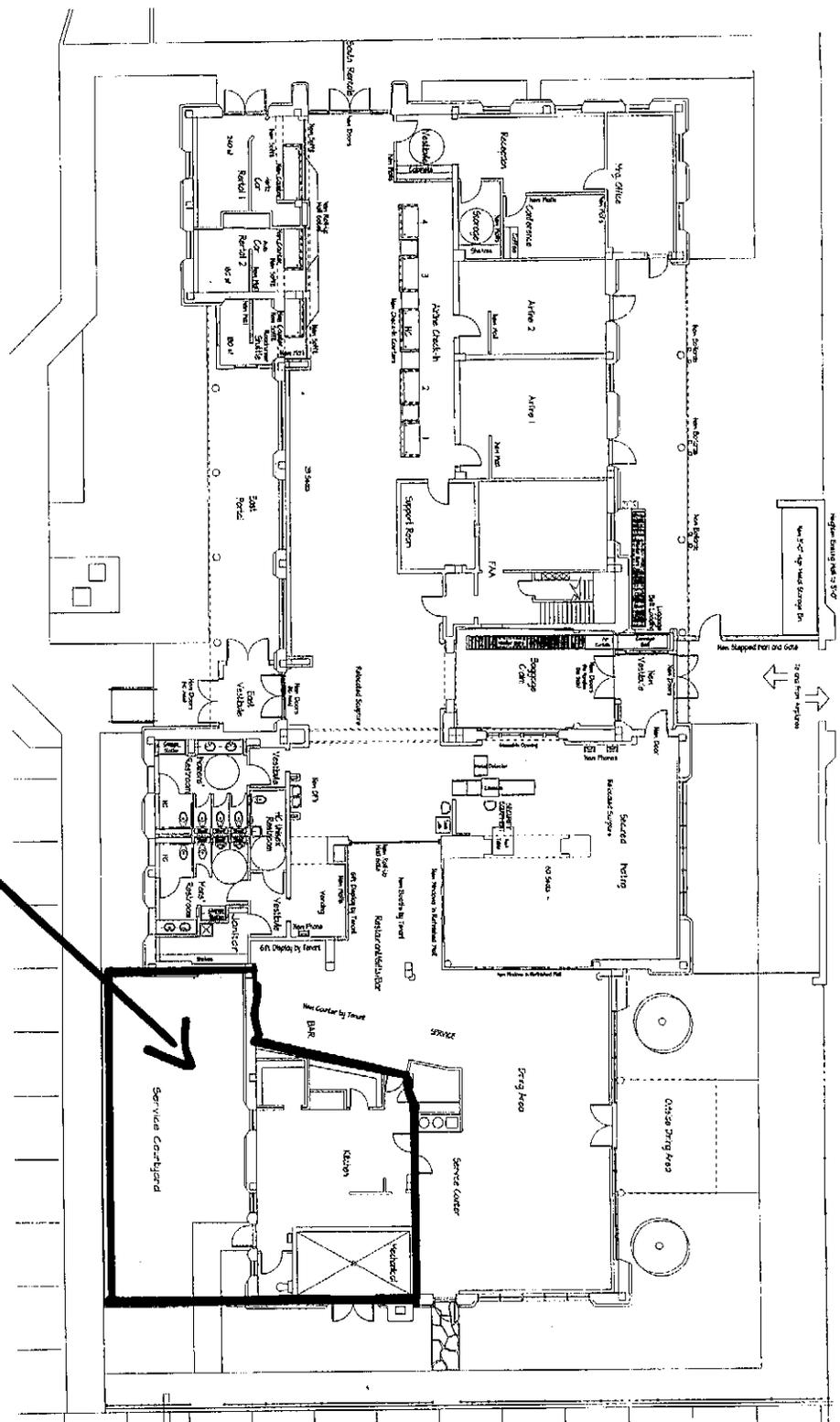


Exhibit B

SCALE: 1/8" = 1'-0" 1

FLOOR PLAN

DESIGN DEVELOPMENT DRAWINGS

NOT FOR CONSTRUCTION

Santa Fe Airport Terminal Renovations  
Santa Fe, New Mexico

A-2



FLOOR PLAN

Front of House

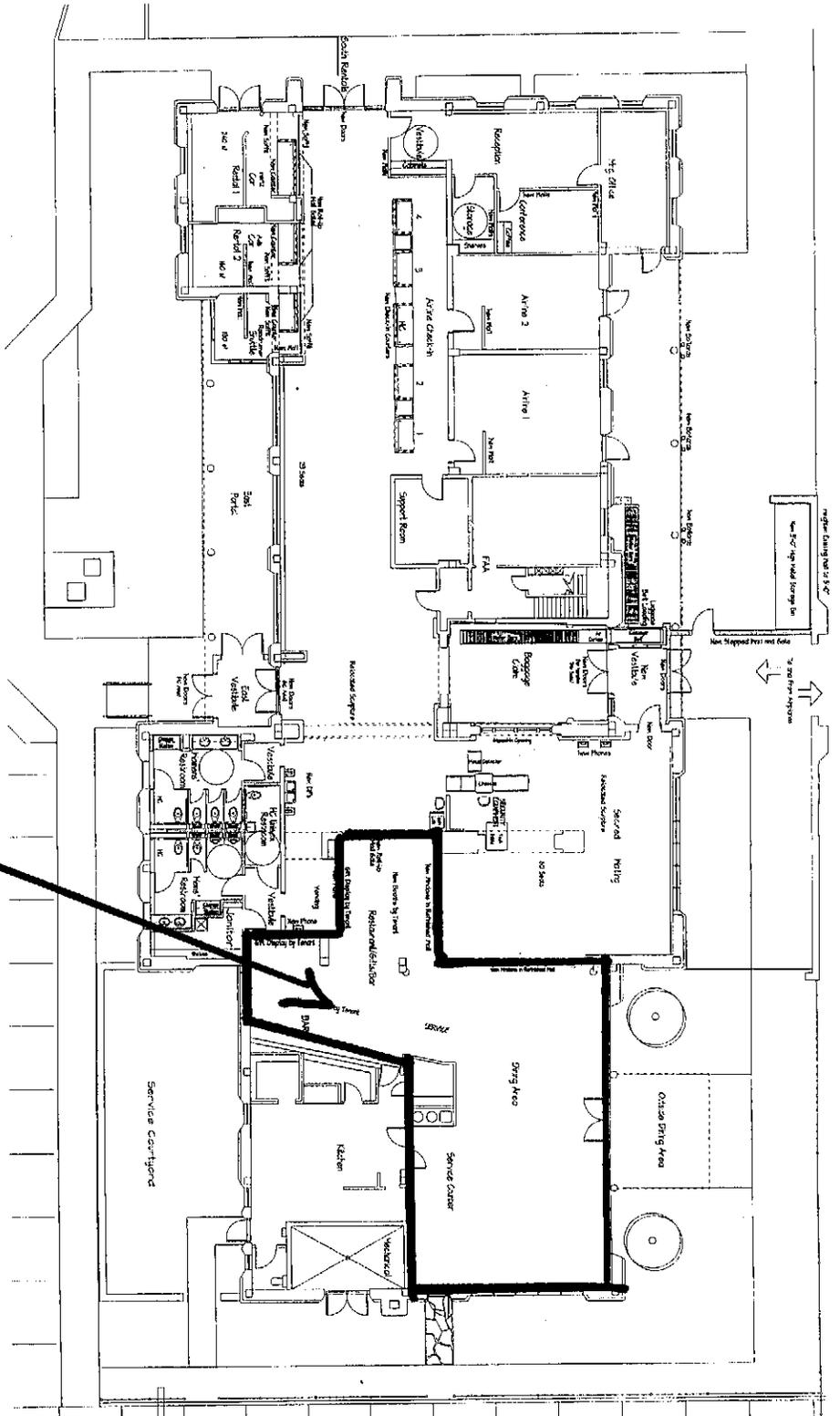


Exhibit C

SCALE: 1/8" = 1'-0"

1

FLOOR PLAN

Santa Fe Airport Terminal Renovations  
Santa Fe, New Mexico

DESIGN DEVELOPMENT DRAWINGS

NOT FOR CONSTRUCTION



Molzan-Corbin & Associates  
2701 Silver Road SE  
Albuquerque, New Mexico 87106  
Phone (505) 255-3700  
Fax (505) 241-0972

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