

AN ORDINANCE 2010-10-21-0919

**AUTHORIZING AN EXCLUSIVE ATM LICENSE AGREEMENT WITH ACCESS TO MONEY, INC. TO PROVIDE, INSTALL AND MAINTAIN PERMANENT, TEMPORARY AND MOBILE ATMS AT THE ALAMODOME FOR AN INITIAL TERM OF THREE YEARS THROUGH SEPTEMBER 30, 2013, WITH ONE FIVE-YEAR RENEWAL OPTION.**

\* \* \* \* \*

**WHEREAS**, in anticipation of the expiration of the current Alamodome ATM License Agreement with Security Service Federal Credit Union, the Convention, Sports, and Entertainment Facilities Department (“CSEF”), in coordination with the Purchasing and General Services Department, issued an Request for Proposals (“RFP”) for Alamodome ATM Concession on July 23, 2010; and

**WHEREAS**, the term of the license agreement (“Agreement”) proposed by the RFP is aligned with the City-wide ATM agreement, which expires on September 30, 2013 and has one five-year renewal option, in order for the Alamodome ATMs to potentially be included in a City-wide agreement in the future; and

**WHEREAS**, the RFP was advertised in the Daily Commercial Recorder and notifications were sent to approximately 18 financial institutions that operate in San Antonio resulting in two responsive proposals from Access to Money, Inc. and Choice ATM Enterprises, Inc., both of which are ATM companies, not financial institutions; and

**WHEREAS**, a committee of CSEF staff evaluated the two proposals and Access to Money, Inc. received the highest score and staff recommends entering an Agreement with the company; and

**WHEREAS**, the proposed Agreement provides for a transaction fee of \$2.50 on all withdrawal transactions, which is consistent with ATM transaction fees in the San Antonio area, and transfers, balance inquiries and cancelled transactions will not be assessed transaction fees; and

**WHEREAS**, under the proposed Agreement, the City will receive \$1.50 or 60%, whichever is greater, of each transaction fee and the Agreement is expected to generate approximately \$19,767 annually; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The terms and conditions of a license agreement with Access to Money, Inc. for ATM services at the Alamodome for a three-year term ending September 30, 2013, with a five-year renewal option, are authorized and approved.

**SECTION 2.** The City Manager or her designee is authorized to sign the Agreement. A copy of the Agreement, previously executed by Access to Money, Inc., is attached to this Ordinance as Exhibit I.

**SECTION 3.** Funds generated by this Ordinance will be deposited into Fund 29016000, Internal Order 245000000030 and General Ledger 4401131.

**SECTION 4.** The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (“CFO”), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager’s designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

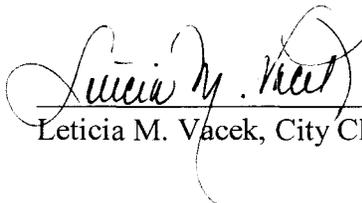
**SECTION 5.** This Ordinance shall be effective immediately upon the passage of eight (8) affirmative votes. If it is not passed by 8 affirmative votes, this Ordinance shall be effective on and after the tenth day after passage.

**PASSED AND APPROVED** this 21<sup>st</sup> day of October, 2010.

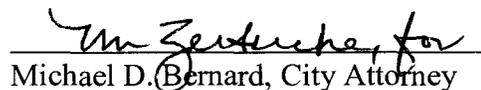


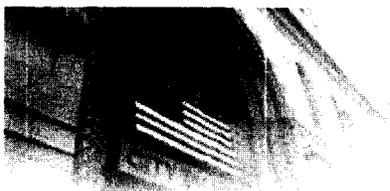
**M A Y O R**  
Julián Castro

**ATTEST:**

  
\_\_\_\_\_  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Michael D. Bernard, City Attorney



Request for  
**COUNCIL**  
**ACTION**

City of San Antonio



## Agenda Voting Results - 24

<b>Name:</b>	7, 8, 11, 12, 13, 14, 15, 20A, 20B, 22, 23, 24, 25, 26, 31						
<b>Date:</b>	10/21/2010						
<b>Time:</b>	09:43:06 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing an exclusive ATM License Agreement with Access to Money, Inc. to provide, install and maintain permanent, temporary and mobile ATMs at the Alamodome for an initial term of three years through September 30, 2013, with one five-year renewal option. [Pat DiGiovanni, Deputy City Manager; Michael Sawaya, Director, Convention, Sports, and Entertainment Facilities]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				x
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x			x	
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	District 10		x				

**AUTOMATED TELLER MACHINE LICENSE AGREEMENT**

**by and between the**

**CITY OF SAN ANTONIO, TEXAS**

**and**

**ACCESS TO MONEY, INC.**

**AUTHORIZED BY ORDINANCE NO. 2010-10-21-\_\_\_\_\_**

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STATE OF TEXAS           §  
  §       **AUTOMATED TELLER MACHINE LICENSE AGREEMENT**  
COUNTY OF BEXAR       §

This License Agreement ("Agreement") is entered into by and between the City of San Antonio, a Texas municipal corporation ("City"), acting by and through its City Manager, or her designee, pursuant to Ordinance No. 2010-10-21-\_\_\_\_\_ passed and approved on October 21, 2010 as Licensor, and Access to Money, Inc. ("Licensee"), by and through its President and CEO, both of which may be referred to herein collectively as the "Parties"; WITNESS:

**Recitals**

WHEREAS, the City currently owns and operates the Alamodome, a 65,000 seat multi-purpose domed stadium, located in San Antonio, Bexar County, Texas; and

WHEREAS, the City has determined that ATMs at the Alamodome are essential for patron enjoyment and financial success of events in providing cash for sales of tickets, parking, food and beverage, and novelties; and

WHEREAS, City issued a Request for Proposals ("RFP") for Alamodome ATM Concession in July 2010 and Licensee submitted a proposal; and

WHEREAS, Licensee is in the business of providing, operating and maintaining ATMs; and

WHEREAS, the City deems it advantageous to the operation of the Alamodome to grant to Licensee certain rights, privileges, and uses therein, as necessary to install, maintain and service ATMs; and

NOW THEREFORE, the Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

**Article I Definitions**

As used in this Agreement, the following terms shall have meanings as set out below:

- 1.1 "Agreement" means this Automated Teller Machine License Agreement.
- 1.2 "Alamodome" means Alamodome, as it now exists or as it may change from time to time.
- 1.3 "Alternate Transactions" means ATM transactions which generate revenues, other than transaction fees or surcharges, including, but not limited to, any advertising revenues, generated through the ATM equipment, other than that advertising Licensee's business and services.
- 1.4 "ATM" means Automated Teller Machine.
- 1.5 "Director" means the director of the City's Convention, Sports and Entertainment Facilities Department, or his/her duly authorized representative, who is designated by City to exercise functions with respect to the rights and obligations of City under this Agreement.
- 1.6 "City" is defined in the preamble of this Agreement and includes its successors and

assigns.

1.7 "City Council" is the City of San Antonio City Council.

1.8 "Licensed Premises" means the Alamodome, 100 Montana St., a City-owned property, which is located in San Antonio, Bexar County, Texas.

1.9 "Licensee" is defined in the preamble of this Agreement and includes its successors.

1.10 "Mobile ATM" means a portable ATM, installed in or upon a vehicle or trailer, deployed by Licensee outside the Licensed Premises on a temporary basis for events.

1.11 "Permanent ATM" means an ATM which is placed and installed in a Location for the duration of the Term of this Agreement.

1.12 "Temporary ATM" means a portable ATM deployed by Licensee inside the Licensed Premises on a temporary basis for events.

1.13 "Transaction" means a cash withdrawal, cash advance, funds transfer, or balance inquiry, but does not include any declined transaction.

## **Article II Grant/Location**

2.1 Licensee. Licensee affirms that it is the company that shall primarily administer the ATMs, including their placement and service. Licensee further warrants that ATMs shall be installed and serviced through an arrangement with an administering financial institution, or through an independent agreement with a third-party ATM company.

2.2 Grant of License. For and in consideration of the fees, covenants and promises herein contained to be kept, performed and observed by Licensee, City does hereby grant to Licensee and Licensee does hereby accept from City a license to install and operate ATMs at the Licensed Premises as follows:

2.2.1 The exclusive right to install and operate at least eight (8) Permanent ATMs at Locations inside the Licensed Premises and

2.2.2 The exclusive right to temporarily install and operate at least one (1) Mobile ATM at Locations outside the Licensed Premises and at least four (4) Temporary ATMs at Locations inside the Licensed Premises, as requested by the City for events.

2.2.3 Licensee acknowledges and agrees that in the event it has exclusive rights under either or both Subsections 2.2.1 and 2.2.2 and subsequently ceases, or is no longer willing or able, to provide ATM services under either or both of these Subsections during the Initial Term or Renewal Term, the exclusive rights of Licensee with respect to the applicable ATM services shall automatically convert to a non-exclusive basis for the remainder of the term and City shall have the right, without breach of this Agreement, to provide said ATM services in another manner, including obtaining the ATM services from another financial institution or business.

2.3 Placement. The ATMs shall be placed at the Licensed Premises as follows (“Locations”), with the exact Locations to be approved by both the Director and Licensee:

2.3.1 Permanent ATMs

2.3.1.1 ATM # 1 – North Field Level near escalators

2.3.1.2 ATM # 2 – West Plaza Level near Section 134

2.3.1.3 ATM # 3 – East Plaza Level near Section 112

2.3.1.4 ATM # 4 – Northwest Plaza Level near Section 143

2.3.1.5 ATM # 5 – Northeast Plaza Level near Section 103

2.3.1.6 ATM # 6 – Northeast Club Level near Section 205

2.3.1.7 ATM # 7 – Northwest Club Level near Section 240

2.3.1.8 ATM # 8 – North Upper Level near Section 301

2.3.2 Mobile and Temporary ATMs

2.3.2.1 On the exterior and interior of the Licensed Premised with exact Locations to be determined by the City prior to each event where such services are necessary, as determined solely by City, but with input from Licensee.

2.4 City’s Superior Interest. Licensee acknowledges that the license granted under this Agreement is limited in nature, being a personal license only, and that City does not purport to convey any real property interest in the property over, under or upon the Locations on which Licensee’s ATMs and improvements are located. City reserves the right to enter the Locations at any time for the minimum time necessary to prevent an accrual of any rights in any person other than such rights established prior to and pursuant to the license granted under this Agreement and also for the purpose of asserting City’s superior fee interest and the exercise of City’s superior rights. In addition, City reserves the right to enter the Locations, including the secured portion of the Locations, at any time for any purpose, including but not limited to, asserting such interest and rights, inspecting the Locations or verifying that fire, safety, and sanitation regulations and other provisions contained herein are being adhered to by Licensee; however, City’s representative must be accompanied by authorized Licensee’s personnel, except for emergencies. If City notifies Licensee of a pending inspection and Licensee fails to respond within twenty-four (24) hours or, after notice, fails to provide authorized Licensee’s personnel to accompany City within twenty-four (24) hours after notice, except for weekends or holidays, whereupon seventy-two (72) hours apply after notice, then City may inspect without authorized Licensee’s personnel. Nothing contained herein shall give the City any rights or access to the cash vaults located in each ATM.

2.5 Right of Entry. Upon evidence of Licensee having obtained the insurance required herein and subject to Licensee’s agreement to be bound in writing by the Indemnity provisions hereof, City grants to Licensee a right of ingress and egress to the Locations for the sole purpose of installing the ATMs and constructing the ATM equipment and improvements referenced in Article II Grant/Location, and operating and maintaining said ATMs.

2.6 Repositioning. Repositioning shall mean any relocation of a Permanent ATM within the

Licensed Premises.

2.6.1 Action Taken/Requested By City. The Parties understand and agree that, upon ninety (90) days prior written notice to Licensee, City may require the repositioning of the Licensee's Permanent ATMs at any time and for any reason during the Initial Term or Renewal Term of this Agreement, both as defined hereafter, at Licensee's sole cost and expense, provided, however, that Licensee shall have the right to terminate this Agreement either to all ATMs or as to specific ATMs subject to the repositioning request, effective at the end of said ninety (90) days, with written notice to City within sixty (60) days after the mailing date of City's notice, should any one or more of the proposed repositioned site(s) not be acceptable to Licensee and further provided that such repositioning shall not be requested more than 2 times during the Initial Term or any Renewal Term hereof.

2.6.2 Action Taken/Requested By Licensee. Further, Licensee may request a repositioning of the Permanent ATMs, upon ninety (90) days prior written notice to City, at any time during the Initial Term or Renewal Term. Any repositioning of a Permanent ATM requested by Licensee during either term of this Agreement shall require the prior written approval by Director. Any repositioning requested by Licensee shall be at Licensee's sole cost and expense. City shall consider:

2.6.2.1 if repositioning is approved, will it be in the best interests of both Parties and the public?

2.6.2.2 what will be the economic impact on the Parties, if repositioning is approved?

2.6.2.3 what is the economic feasibility justifying such repositioning; i.e. has Licensee factually demonstrated to City, within Licensee's ability, that substantial loss in transactional volume will occur if repositioning is not approved? and

2.6.2.4 other factors provided by Licensee, which warranted such request.

2.6.3 Regardless of which party makes the request, Licensee shall be responsible for the cost of repositioning a Permanent ATM within the Licensed Premises and any related expenses, as noted above, plus repairing any damage caused by such repositioning.

### **Article III Term/Renewal**

3.1 Term. Unless sooner terminated in accordance with the provisions of this Agreement, the Initial Term of this Agreement shall begin on November 1, 2010, ("Commencement Date"), and shall end on September 30, 2013 ("Expiration Date"), unless sooner terminated according to the provisions hereof.

3.2 Renewal. City may renew and extend the term of this Agreement for one (1) consecutive five (5) year term ("Renewal Term"), subject to approval by the passage of a future City ordinance and also subject to the right reserved by City to modify all terms and conditions herein upon renewal, including the License Fee, provided that if the City does elect to modify the terms and conditions herein upon such renewal, then such renewal shall only become effective if accepted by Licensee.

## **Article IV Minimum Equipment, Service and Operational Requirements**

### **4.1 ATM Equipment and Services.**

#### **4.1.1 All ATMs.**

4.1.1.1 All ATMs shall be freestanding, self-contained units.

4.1.1.2 All ATMs shall be aesthetically appealing, functional, durable and resistant to damage, vandalism and graffiti. ATMs and proposed enclosures shall be subject to the approval of the Director prior to installation.

4.1.1.3 All ATMs shall have color LCD screens at a minimum.

4.1.1.4 All ATMs must have a card swipe or dip card interface as opposed to a card insert.

4.1.1.5 All ATMs shall utilize a standard 110 volt (120 VAC, 15 amp) electrical outlet if not equipped with self-generating power (only Mobile ATMs may have self-generated power). If not equipped with self-generating power, Licensee agrees that electric connections shall be provided and distributed through the City's electric system. City will provide, at no charge, all necessary electric connections, as well as electric service.

4.1.1.6 All ATMs shall preferably be equipped with wireless data communication systems to conduct all ATM operations, or alternately utilize a standard telephone line. Licensee acknowledges and agrees that dial-up connectivity is not allowed. If ATMs are not wireless, Licensee agrees that telephone connections shall be provided and distributed through the City's telephone system. City will provide, at no charge, all necessary telephone connections, as well as local and toll-free service. Licensee is responsible for all long-distance charges incurred by its ATMs and City shall invoice Licensee monthly for all such charges at rates established by the City. Licensee shall remit payment for long-distance charges within ten (10) days of receipt of City's invoice.

4.1.1.7 All ATMs shall be programmed in both English and Spanish, and process all transactions and provide all information, including instructions, fees and directions, in both English and Spanish.

4.1.1.8 All ATMs shall be capable of processing transactions utilizing various credit, debit and ATM cards and shall access the following networks: Cirrus, PULSE and PLUS, as well as VISA, MasterCard, Discover and American Express debit card networks.

4.1.1.9 All ATMs shall process cash withdrawals/advances from checking and savings accounts and credit cards, transfers from/to checking/savings accounts (member transactions only), balance inquiries from checking/savings accounts, and other transactions permitted by governing network regulations. ATMs shall not process deposits. Processing of all other transactions shall require advance approval in writing by the Director.

4.1.1.10 All ATMs shall conduct all transactions in United States Currency and use twenty-dollar (\$20) bills as a primary denomination for withdrawals.

4.1.1.11 All ATMs shall be capable of providing cash withdrawals and advances up to three-hundred dollars (\$300.00) per transaction.

4.1.1.12 All ATMs shall print a receipt for each transaction. Licensee shall be responsible for all consumable costs associated with ATM operations, including but not limited to, paper, ink/toner, etc.

4.1.1.13 All ATMs shall provide a list of all ATM transaction fees, including to whom the fees and charges apply.

4.1.1.14 All ATMs shall display all written instructions necessary to operate the ATMs.

4.1.1.15 All ATMs shall bear in a plainly visible location the Licensee's name, unique ATM identification, ATM location, and toll-free phone number for customers to call for inquiries, maintenance issues, customer service issues, and complaints. The toll-free number must be staffed twenty-four (24) hours per day, seven (7) days a week.

4.1.1.16 All ATMs shall be equipped with an anti-theft/vandalism alarm system that is capable of notifying Licensee should an ATM be burgled.

4.1.1.17 All ATMs shall have system management capabilities for predicting, assisting and reporting maintenance, and alert when cash replenishments are needed. Licensee must be aware of events and verify that ATMs are adequately operational and stocked immediately prior to and throughout the duration of events.

4.1.1.18 All ATMs shall be equipped with a functional electronic journal capable of storing various types of operational information.

4.1.1.19 All ATMs shall comply with all Americans with Disabilities Act (ADA) regulations, including but not limited to those regulations specific to ATMs.

4.1.2 Permanent ATMs.

4.1.2.1 Permanent ATM equipment shall be new or manufactured within the last three (3) years. Refurbished Permanent ATM equipment that is older than three (3) years shall not be considered nor accepted.

4.1.2.2 Permanent ATM floor dimensions shall not exceed thirty-six inches (36") by thirty-six inches (36") square.

4.1.2.3 Permanent ATMs shall be accessible only from the front of the machines for customer service, as well as for maintenance and repair.

4.1.2.4 Permanent ATMs shall display a map illustrating the locations of all

Permanent ATMs in the event a Permanent ATM is malfunctioning or being serviced. The maps shall be affixed to the ATMs, not the screens.

4.1.3 Temporary ATMs.

4.1.3.1 Temporary ATMs shall be portable.

4.1.3.2 Temporary ATM floor dimensions shall not exceed thirty-six inches (36") by thirty-six inches (36") square.

4.1.3.3 Temporary ATMs shall be accessible only from the front of the machines for customer service, as well as for maintenance and repair.

4.1.4 Mobile ATMs.

4.1.4.1 Mobile ATMs shall be portable and mounted on either a trailer or vehicle chassis with a Gross Vehicle Weight (GVW) not to exceed 28,000 lbs. per axle, including any tow vehicle.

4.1.4.2 Mobile ATMs should have a total height, including trailer and tow vehicle, not to exceed 8 ft. 9 in., in order to gain access to the Licensed Premises; otherwise, the Mobile ATMs will have to gain access to the Licensed Premises through VIA Metropolitan Transit, at Licensee's sole cost and expense, and which access shall be coordinated with the City.

4.1.4.3 Mobile ATMs shall have self-generated electrical power, or alternately utilize a standard 110 volt (120 VAC, 15 amp) electrical outlet.

4.1.4.4 Mobile ATMs shall be equipped with a security camera system that is capable of being recorded or remotely-monitored.

4.2 Licensee's ATM Liason. Licensee shall designate and maintain a qualified and experienced representative to manage Licensee's ATMs and who will serve as liaison between Licensee and City with full authority to make all necessary decisions for Licensee as may be required under the terms of this Agreement, including the management of the ATMs and compliance with the Agreement. On or before the effective date of this Agreement, Licensee shall have provided to City contact information for Licensee's liason to include name, title, business address, direct telephone number, mobile telephone number, and email address.

4.3 Licensee's ATM Operations Center. Licensee shall establish and maintain an ATM operations center with 24 hour phone support capabilities and shall provide City contact information, including phone number and email address(es). The ATM operations center shall have Licensee's full authority to respond to and rectify any and all issues related to the operation of the ATMs, including repair and cash replenishment. Licensee shall update this information throughout the term of the Agreement, not later than two (2) business days from the date of any change.

4.4 Licensee's Customer Service. Licensee shall establish and maintain a toll-free customer service phone number available twenty-four hours a day, seven days a week, for inquires, maintenance issues, customer services issues, and complaints.

4.5 Security. Licensee is solely responsible for security of currency and all associated

supplies. If Licensee requires the use of manned security for any of its ATMs, Licensee shall utilize off-duty San Antonio Police Department police officers coordinated directly by Licensee through the San Antonio Police Department's Off-Duty Employment Unit. Licensee is solely responsible for the cost and expense of security. Licensee acknowledges and agrees that no other security other than the required off-duty police officers specified above shall be utilized at any time.

## **Article V Fees and Payment Terms**

### 5.1 Transaction Fees.

- 5.1.1 ATM transaction or surcharge fees assessed for ATMs provided under this Agreement may not exceed charges assessed at Licensee's ATMs that are currently located within the corporate limits of the City of San Antonio, its Extra-Territorial Jurisdiction (ETJ), and Bexar County.
- 5.1.2 Licensee shall charge no less than \$2.50 for any type of withdrawal transaction ("Transaction Fee").
- 5.1.3 Customers shall be given an opportunity to cancel the transaction upon being notified of the ATM transaction fees. Customers who cancel the transactions shall not be charged any fees.

5.2 License Fees. Licensee shall pay to City a License Fee of \$1.50, or 60%, whichever is greater, of all Transaction Fees on Permanent ATMs and a License Fee of \$1.25, or 50%, whichever is greater, of all Transaction Fees on Mobile and Temporary ATMs, and fifty percent (50%) of all gross revenue collected from Alternate Transactions, generated by each ATM for each month of the term of this Agreement and all renewals hereof.

5.3 Change in Transaction Fee. Transaction Fees may be changed by Licensee request upon Director approval. Upon such change, to the extent the Transaction Fee is raised to \$3.00, City's License Fee will be \$1.95, or sixty-five percent (65%), whichever is greater, of the Transaction Fee on all Permanent ATMs and \$1.50, or 50%, whichever is greater, of all Transaction Fees on Mobile and Temporary ATMs. To the extent the Transaction Fee is raised to \$2.75, City's License Fee will be \$1.70, or sixty-two percent (62%), whichever is greater, of the Transaction Fee on all Permanent ATMs and \$1.38, or fifty percent (50%), whichever is greater, of all Transaction Fees on Mobile and Temporary ATMs.

5.4 Payment in Arrears. Licensee shall pay City the License Fee, if any, due to City for the immediately preceding month, on the twentieth (20<sup>th</sup>) day of each month throughout the term of this Agreement and all renewals hereof, beginning with the second month following the effective date of this Agreement.

5.5 Reports and Payments. All payments shall be made payable to the City of San Antonio. With each monthly remittance of the License Fee, Licensee shall provide monthly transaction reports, which shall include statistical terminal data, delineating services used for each ATM during the previous month. Reports shall be in a form and content approved by City. The monthly report shall include, at a minimum, a summary of ATM activity that shows the total transactions processed per ATM, cash dispensed, all Transaction Fees charged for transactions, and the License Fees payable to City. License Fees and reports shall be sent to the following, unless otherwise notified in writing by City.

City of San Antonio

Convention, Sports and Entertainment Facilities Department  
Attn: Fiscal Division  
P.O. Box 1809  
San Antonio, Texas 78296-1809

5.6 Delinquency. Without waiving any other right of action available to City in the event of default in the timely payment of the License Fees due by Licensee to City pursuant to this Agreement, Licensee agrees to pay to City interest thereon at the rate of ten percent (10%) per annum from the date such item was due and payable until paid, unless such rate is declared usurious under applicable Texas law, whereupon Licensee agrees to pay the highest rate of interest allowed by such law. Such interest shall not accrue with respect to disputed items being contested in good faith by Licensee.

5.7 Responsibility for Taxes, Fees, or License Charges. The License Fees paid to City shall not include any taxes, fees or other license charges that may be levied, assessed or charged by any governmental entity. Licensee agrees to pay such taxes, fees or other license charges directly to the appropriate taxing authority.

5.8 Holdover. If Licensee remains on any Location after the end of the term or any renewal thereof, without the approval of City, then Licensee shall continue to pay to City the License Fee stated herein for every full or partial month of such holdover.

5.9 No fees or expenses of Licensee shall be charged by Licensee nor be payable by City.

5.10 Independent CPA. If so requested by City, Licensee shall employ an independent Certified Public Accountant, which may be the same auditor that performs ordinary and customary auditing functions for Licensee, who shall furnish an annual written audit to the City stating that in his or her opinion the License Fees paid by Licensee to City during the preceding year pursuant to this Agreement were made in accordance with the applicable terms of this Agreement. The Audit shall be completed and delivered to City within one-hundred twenty (120) days after the last day of the preceding calendar year.

5.11 Prior Review. Prior to commencement of operations hereunder, City may require that an independent Certified Public Accountant, whose fees are paid for by Licensee, review the revenue control system(s) to be utilized by Licensee, in conformance with Paragraphs 19 through 21, Section 640, American Institute of Certified Accounts Statement of Auditing Standards. At the end of each twelve (12) months of operation during the term of this Agreement, City may require that said independent Certified Public Accountant and/or City conduct all necessary tests for compliance with the revenue control system. Copies of all reports from the independent Certified Public Accountant shall be provided to City by Licensee. City may also require Licensee to provide copies of internal control reports used by Licensee.

#### **Article VI Use of Locations/Construction**

6.1 Use. Licensee shall install and operate the ATMs described in Article II Grant/Location. The license granted herein is exclusively for the installation and operation of ATMs, and shall include the right, subject to the prior written consent of Director and at the sole cost and expense of Licensee, to extend within the adjoining City-owned properties, electric lines and appropriate telecommunications equipment, cameras and alarm systems, all in compliance with industry standards necessary for the operation of Permanent ATMs.

6.2 Cost. Licensee, at its sole cost and expense, shall be responsible for all construction,

installation, maintenance, operation and future repair and replacement of improvements, including, but not limited to, the ATMs and related equipment, all electrical, mechanical and telephone connections thereto, and the encasement for such equipment (hereafter collectively "improvements") to be made to or on the Locations and adjacent City-owned properties necessary for such work. Further, Licensee, at its cost and expense, shall:

- 6.2.1 secure all necessary permits;
- 6.2.2 comply with all federal and state laws, City ordinances, building codes, and rules and regulations, and;
- 6.2.3 secure the approval of all City departments, boards and commissions, including, but not limited to, the Historic and Design Review Commission, prior to the start of any construction or installation throughout the Initial Term and Renewal Term.
- 6.2.4 Licensee shall be responsible for all construction and installation of future improvements and any other costs related to this Agreement. City shall have no financial obligations whatsoever regarding this Agreement.

6.3 Utilities.

- 6.3.1 Licensee shall, at its sole cost and expense, pay all costs associated with telephone and data line service for the ATMs from outside the facility to the facility's DMARC located in the Main Telephone Room.
- 6.3.2 Licensee shall pay for all other utility service(s), including data and long-distance service and excepting electric service, necessary for the operation of all ATMs. Additionally, Licensee shall arrange to be directly invoiced for costs associated with use of utility services and shall make timely payment thereafter.
- 6.3.3 City shall pay customary charges for electricity used in the operation of the ATMs under this Agreement.
- 6.3.4 To the extent the following does not currently exist at any ATM Location, City shall extend electric, data or other utility service(s) from existing termination points or installations to ATM Locations.
- 6.3.5 If Licensee desires separate electric circuits or dedicated electric outlets for ATMs where none currently exists, Licensee shall bear all expenses associated with the installation of such circuits or outlets. Licensee may provide outlet lockboxes for the outlets.
- 6.3.6 Plans for the installation or extension of wire, cables, equipment and the like associated with utility, electric and data service are subject to approval by the City prior to the commencement of work thereon.
- 6.3.7 City is not responsible or liable to Licensee for the failure, discontinuation or cancellation of ATM communications.

6.4 Cuts. Any cuts in paved areas, walls or other improvements made by Licensee during the

installation of the ATMs or during its removal, shall be made in a good and workmanlike manner so as to match as nearly as practicable the surrounding area and any damage to any City-owned properties, including the Locations, shall be repaired or restored immediately at Licensee's sole cost and expense upon notice from City of such damage.

6.5 City's Disclaimer. City shall not be liable for any damages caused to the Locations by reason of (1) any construction performed previously by Licensee's predecessors or in the future by Licensee, (2) any maintenance of the ATMs at the Locations, or (3) any operation or activities in, on or about the Locations, save and except as explicitly stated herein.

6.6 Detour/Barricades. If a detour route or a barricade is required to protect the interest of City or the public, or for Licensee's construction, installation, improvements, alterations, additions, repairs, maintenance, remodeling, rehabilitation, retrofitting, renovations, restorations, adjustments, relocation, reconstruction or similar work of a construction-oriented nature (hereafter "improvements constructed") in, on or about the Locations, then Licensee shall, in accordance with plans developed, furnished and approved by City, construct the detour, make arrangements for such barricades, and provide for street traffic and pedestrian movements, all at Licensee's sole cost and expense.

6.7 No Liens. Licensee covenants that Licensee, and Licensee's contractors and subcontractors, if any, shall not bind, or attempt to bind, City for payment of the money in connection with any improvements constructed, or equipment installed, as defined above in, on or about the Locations, whether authorized or unauthorized hereunder. Licensee hereby agrees to promptly pay all persons supplying labor, services and materials in the performance of any and all current or future improvements constructed. In connection therewith, Licensee shall not suffer or permit any mechanic's lien or other liens to be filed against City's fee interest in the Locations nor against Licensee's license rights nor any buildings or improvements constructed or equipment installed on the Locations by reason of the work, labor, services, or materials supplied or claimed to have been supplied to Licensee. If any such mechanics' liens or materialmen's liens shall be recorded against the Locations, or any improvements thereon, Licensee shall cause the same to be removed.

6.8 Construction Signs. In the event construction signs become necessary, Licensee shall obtain approval of such signs by all applicable City departments, boards and commissions, including, but not limited to, the Historic Design & Review Commission. Licensee shall install all signs, including location, direction and warning signs, as required by applicable City ordinances, State and Federal laws.

6.9 ADA Compliance. Licensee, at its sole cost and expense, shall be responsible for compliance with the requirements of the Americans with Disabilities Act (ADA) as to ATM equipment and accessibility thereto.

6.10 Safety/Security Lighting. City hereby delegates to Licensee and Licensee hereby accepts all responsibility, liability, and costs related to security and lighting as provided for in Texas Finance Code, Chapter 59, Subchapter D, §59.301 through §59.310 ("Safety Statute for ATMs"), as it may be hereafter amended, with regard to any responsibility, liability, or cost City might have as an owner or operator under such law as to safety and lighting. Licensee shall comply with all safety and security measures described in said Safety Statute for ATMs, including, but not limited to, compliance with the lighting and notice requirements described therein. Licensee shall similarly comply with all State and Federal laws with regard to safety and security at Locations. Licensee shall be solely responsible for the security of its ATMs, including currency contained therein, and all associated supplies.

6.11 Other Safety Requirements. Licensee shall comply with all applicable safety requirements and laws and regulations promulgated by any regulatory bodies which regulate Licensee or

its activities, in connection with each ATM.

### **Article VII Operation, Maintenance and Repairs**

7.1 Responsibility. Except as otherwise provided herein, Licensee shall assume the entire responsibility, cost and expense, for all operation, repair and maintenance of all improvements constructed by Licensee, including free-standing enclosures, at the Locations, which operation, repair or maintenance directly relates to the placement of said ATMs in, on or at the Locations, whether such operation, repair or maintenance be ordinary or extraordinary, structural or otherwise. Additionally, without limiting the foregoing, Licensee shall, at its sole cost and expense:

- 7.1.1 Maintain at all times Licensee's fixtures, improvements, ATMs, and related equipment, and all other personal properties of Licensee located on the Locations in a good state of repair and preservation, excepting ordinary wear and tear and obsolescence in spite of repair, as determined by City.
- 7.1.2 Replace or substitute any fixtures and ATMs, and related equipment of Licensee which have become inadequate, obsolete, worn out, unsuitable or undesirable with replacement or substitute fixtures and equipment all of which fixtures and equipment must be free of all liens and encumbrances.
- 7.1.3 Keep at all times, in a clean and orderly condition and appearance and free of debris, each respective ATM at each Location, Licensee's fixtures, improvements, equipment and all other personal property of Licensee which are located on any part of the Locations.
- 7.1.4 Provide and maintain all obstruction lights, security lights, and similar devices, fire protection and safety equipment and all other equipment of every kind and nature required by laws, rules, orders, ordinances, resolutions or regulations of any competent authority, including City and Director to the extent the foregoing is required as a result of the placement of the ATM's and would not ordinarily be required at the Locations due to their normal operations.
- 7.1.5 Observe all insurance and other requirements and regulations on each respective Location concerning the use and condition thereof for the purpose of reducing fire hazards and insurance rates.
- 7.1.6 Repair any damage caused by Licensee to paving or other surfaces of each respective ATM at each Location in connection with the scope of this Agreement, including replacing broken or cracked plate glass and painting and repainting Licensee's improvements upon each such Location.
- 7.1.7 Be responsible for the operation, maintenance and repair of all utility service solely for the use and operation of each respective ATM at each Location, including, but not limited to, electric and telephone conduits and lines.
- 7.1.8 Provide and use suitable covered metal receptacles for all garbage, trash, and other refuse produced by Licensee or Licensee's activities consistent with adjacent City-owned properties receptacles; assure that boxes, cartons, barrels, or similar items are not piled in an unsightly, unsafe manner, on or about each ATM at each Location; and provide a complete and proper arrangement satisfactory to

the Director for the adequate sanitary handling and disposal of all trash, garbage and refuse caused as a result of the operation of its business.

- 7.1.9 Review the City's event schedule regularly and ensure ATM readiness and replenishment no earlier than twenty-four (24) hours and no later than four (4) hours prior the start of every event.
- 7.1.10 Provide maintenance and repair of ATMs, and replenishment of funds, by qualified technicians. Maintenance and repair, or replenishment of funds, shall occur as necessary on a twenty-four (24) hour basis, seven (7) days per week,. Licensee shall respond to calls for service on-site within four (4) hours. If Licensee does not provide on-site response within four (4) hours of City's notification, then in addition to any other remedies City may have, City may post an "Out of Order" sign on the ATMs requiring service.
- 7.1.11 Operate and maintain the availability of the ATM system in a manner that will ensure ninety-five percent (95%) uptime or a minimum of twenty-two.eight (22.8) hours during each twenty-four (24) hour period, seven (7) days per week. Licensee shall be assessed a fee of fifty dollars (\$50.00) as Liquidated Damages for each twenty-four (24) hour cumulative period during which the Alamodome is open to the public for an event and where an ATM is unavailable in a calendar month provided such unavailability is not due to the actions of the City or any party within the control of the City. The Parties hereto agree that the actual cost resulting to City because of the unavailability of any ATM cannot be accurately determined and hereby agree that fifty dollars (\$50.00) per day per ATM represents the measure of any damages resulting from such unavailability and such charge should not be considered penalty or interests. Such charge is in addition to, and not in lieu of, any other payment owed to the City under the Agreement. Notwithstanding the foregoing, three (3) occurrences of a failure to meet these uptime requirements within a period of three-hundred sixty-five (365) days shall constitute a separate event of default, in addition to those set forth elsewhere herein.
- 7.1.12 Replace any inoperable or malfunctioning ATMs, which cannot be promptly and satisfactorily repaired on-site, within twenty-four (24) hours of City's notification.

7.2 Ingress and Egress. Subject to any limitations stated elsewhere herein, Licensee shall be granted the right of ingress, to and egress from, the Locations during normal business hours for, the purposes stated above. Special arrangements will be made for Licensee's ingress and egress during other times.

7.3 Adequacy. The adequacy of the performance of the above set forth maintenance and repair by Licensee shall be reasonably determined by Director, whose judgment shall be conclusive. Should Licensee refuse or neglect to undertake any operation, maintenance or repair set forth in this Section, or if City is required to perform any operation, maintenance or repair necessitated by the negligent acts or omissions of Licensee, its employees, agents, assignees, or sublicensees, then City shall have the right, but not the obligation, to perform such maintenance or repair, but not operation, on behalf of, and for, Licensee. The costs of such maintenance or repair, plus the cost of any associated overhead reasonably determined by City, shall be reimbursed by Licensee to City no later than ten (10) days following receipt by Licensee of written demand from City for same.

## **Article VIII Personal Property of Licensee**

8.1 ATMs Constitute Personal Property. The ATM equipment used by Licensee, and each part thereof is and for all purposes shall remain Licensee's personal property and shall not become or be considered real property or a part of the Locations, regardless of whether or by what means it is or may become attached or affixed to the Locations. All improvements constructed upon the Locations shall be approved in advance in writing by City, and shall become the property of City at no cost to City, upon termination of this Agreement, but only if such improvements constructed are accepted by City upon such termination. Otherwise, Licensee shall remove such improvements constructed, and shall repair any damage to the exterior of the respective City-owned or leased property caused by such removal, at Licensee's sole cost and expense. City will advise Licensee of its acceptance or rejection of the improvements at least thirty (30) days prior to any termination date. The space in which each ATM was located shall be returned to the same condition as it was prior to its placement on the Location, normal wear and tear accepted. Licensee may place on the Locations any statement Licensee deems necessary or desirable to disclose and protect its interest in the personal property, subject only to Director's right of rejection as to design or safety.

8.2 Removal. Upon termination of this Agreement, Licensee will immediately secure all of its personal property located at the Locations to prevent theft, damage, etc. Within ten (10) days after termination, Licensee shall remove said personal property from the Locations and return to City the space in which the ATM was located in the same condition as prior to its placement at each respective Location, at the sole cost and expense of Licensee, except for construction or improvements made upon the Locations by Licensee and accepted by City. City shall not be liable for the theft, damage or other conditions or destruction of the personal property or construction or improvements at any time during the term of this Agreement or upon termination and thereafter.

8.3 Abandonment. If improvements constructed, fixtures, equipment, signs, lighting or personal property remain on the Locations for a period of ten (10) days after termination, then such items shall be deemed abandoned by Licensee and may be sold by City at a public or private sale without any liability to Licensee whatsoever, for payment, damage, or otherwise.

## **Article IX Licenses/Certifications and Taxes**

9.1 Licensee warrants and certifies that Licensee and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

9.2 Licensee shall pay, on or before their respective due dates, to the appropriate collecting authority, all federal, state and local taxes and fees, which are now or may hereafter be levied upon each ATM at the Locations, or upon Licensee, or upon the business conducted on the Locations, or upon Licensee's properties used in connection therewith, and shall maintain, in current status, all federal, state and local licenses and permits required for the operation of the business conducted by Licensee.

## **Article X Advertising**

10.1 Advertising Rights Granted.

10.1.1 City hereby grants Licensee certain Advertising copy display rights, as more specifically defined below, and shall allow Licensee's Advertisement(s)

("Advertisements") to be displayed during events which occur in the Licensed Premises where Advertisements are visible to spectators, excepting however:

10.1.1.1 events where the lighting is darkened and lit Advertisements would detract from the quality or nature of the event;

10.1.1.2 events in which Advertisements are not allowed, or where City reasonably determines that display of Advertisements is not in keeping with the tenor or spirit of the event;

10.1.1.3 events sponsored in whole or in part by a sponsor which is a competitor of Licensee, or who otherwise objects to the display of Advertisements and without whose sponsorship the event would not occur;

10.1.1.4 events in which the temporary covering or removal of Advertisements is a requirement for hosting the event.

In these instances, City shall have the right, at its sole expense, to temporarily turn off, cover or remove Advertisements, as applicable.

10.2 Advertising on ATMs. Licensee may operate the ATMs in the Locations from time to time and at any time using their trademark, logo or service mark as permitted by applicable laws or regulations. Licensee, at its sole cost and expense, may install and maintain illuminated electric and other signs advertising the business and services available from Licensee upon each ATM at the Locations, subject to the prior approval of Director and other advertising requirements as specified herein.

10.3 Revenue Generating Advertising. Any other advertising, co-branding or signage, whether on-screen or hardcopy displayed on or about an ATM or on transaction receipts, shall require the advance written approval of Director, which shall not be unreasonably withheld, delayed or conditioned. Licensee shall pay fifty percent (50%) of the gross proceeds of any revenue generated for Licensee by such advertising to City as part of the Alternate Transactions defined herein. Specifically, Licensee shall sell the following advertisements:

10.3.1 Bank Branding. Licensee shall work with local banks and financial institutions who want to place their brand on the ATM and allow their customers a surcharge free transaction. In return, these banks and financial institutions will pay a branding fee and an amount per transaction for their customers.

10.3.2 Video Toppers. A full motion video topper will be added to each permanent ATM and Licensee will sell such advertising space to brand owners, subject to the provisions of the Advertising Guidelines attached hereto and incorporated herein as Exhibit A. The City may use the video toppers for City purposes and to run promotional videos of upcoming City events.

10.4 Advertising copy production. Licensee shall, at its sole cost and expense, be responsible for the creation, production and installation of all Advertisements.

10.5 Compliance. All Advertisement shall be governed by all applicable City ordinances, rules, regulations and policies, including Exhibit A.

10.6 Review. City shall have the right to approve all Advertisement prior to placement in

order to assure that it comports with Exhibit A and complies with City ordinances, rules, regulations and policies.

10.7 Maintenance. Licensee shall, at its own expense, maintain Advertisements in good working order, repair and condition and shall employ its best efforts to assure that all necessary maintenance, repair or replacement is performed as soon as practicable.

10.8 Temporary Coverage/Removal. City shall have the right to temporarily cover or remove Advertisements when doing so is a requirement for hosting an event, or doing so is in the best interest of the City, at the sole discretion of the City.

### **Article XI Intellectual Property**

11.1 Copyrighted Usage. Licensee agrees to obtain all necessary licenses and take all other necessary steps to insure that all use of copyrighted materials in the Alamodome during the term of the Licensee's Agreement complies with United States and any other applicable copyright law.

11.2 Indemnification. Licensee agrees to indemnify and defend at its own expense City of San Antonio, their officials, agents and employees from any and all liability arising from copyright infringement and/or consequential damages that others may suffer as a result of the use by Licensee or its designee of copyrighted materials in the Alamodome during the term of this Agreement.

11.3 Licensee's Intellectual Property. It is the understanding of the Parties hereto that *LICENSEE* shall own all copyrights in the materials created for its promotional use.

### **Article XII Fire and Other Damage**

12.1 Damage. In the event that the improvements constructed on any Location by Licensee or the ATM equipment shall be partially damaged by fire or other casualty and deemed unfit for use or occupancy, as determined solely by Director, then the same shall be repaired, rebuilt or replaced, as the context requires, by Licensee at Licensee's expense without unreasonable delay. Furthermore, if such ATM or Location is damaged by fire or other casualty to such an extent as to render it not feasible, as determined solely by Director, to repair or rebuild the improvements constructed on the specific Location, then, at the option of City, and upon thirty (30) days' written notice to Licensee, this Agreement shall cease as to said specific ATM or Location.

12.2 For those situations described in Section 12.1, requiring Licensee to repair, rebuild or replace, Licensee shall proceed with reasonable diligence and, at its sole cost and expense, rebuild, repair and/or replace and restore its improvements, signs, fixtures, furnishings, equipment, ATMs and other items provided or installed by Licensee in or about the specific ATM or Location in a manner and to a condition at least equal to that which existed prior to the damage or destruction, provided the area in which the ATM is to be located has been sufficiently repaired to accommodate the ATM. If the Location is not restored within thirty (30) days or the ATM replaced with newly manufactured equipment within ninety (90) days after the date of damage, unless such time is extended by City in writing, at the sole discretion of Director, Licensee shall pay to City an Anticipated Lost Revenue Fee. The Anticipated Lost Revenue Fee shall be in an amount equal to the average of the License Fees paid to City for the three (3) prior months for that specific Location, unless this Agreement has been in effect for less than three (3) months, in which case the Anticipated Lost Revenue Fee shall be calculated by City in a reasonable manner based on the Transaction Fees collected from the effective date of this Agreement. The Anticipated Lost Revenue Fee shall be paid to City starting on the thirty-first (31<sup>st</sup>) day, or ninety-first (91<sup>st</sup>) day, as applicable, unless extended by Director in writing in Director's sole discretion.

Alternatively, if such repair schedule is not met, City has the right to terminate this Agreement as to the specific Location where the damage occurred with ten (10) days' prior written notice to Licensee, notwithstanding other termination rights herein. Further, Licensee agrees to pay the Anticipated Lost Revenue Fee to City for said ten (10) days as calculated based on a pro-rata portion.

12.3 Responsibility for Damage to City-Owned or Leased Properties. If any other City-owned or leased real or personal property is damaged as a result of fire or other casualty and as a consequence of, or directly related to, Licensee's ATM operations and installations on any of the Locations, then Licensee agrees to immediately repair and replace, at its sole cost and expense, such damaged properties, completing such repair or replacement within ninety (90) days after the date of damage, unless an extension is granted by Director. Alternatively, at City's option, Licensee shall reimburse City for City's cost of repair or replacement.

### **Article XIII Records Retention and Audit**

#### 13.1 Records Retention.

13.1.1 Licensee shall maintain, in accordance with generally accepted accounting principles, full, complete and accurate records and accounts of fees and all sums of money paid or payable for or on account of or arising out of the business and all business transactions conducted at each ATM for each Location covered by this Agreement or for the account of Licensee, for each day of the Initial Term and Renewal Term hereof. Such records and accounts and all supporting records shall be kept in a format mutually agreed upon by Licensee and City, provided to City on a monthly basis, and preserved by Licensee for four (4) years ("retention period") from the date of termination of the Agreement at the local offices of Licensee, and made available to City and City's duly authorized agents and representatives for examination during Licensee's regular business hours. City reserves the right to audit Licensee's books and records at any time upon demand.

13.1.2 If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Licensee shall retain the records until the resolution of such litigation or other such questions. Licensee acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Licensee to return said documents to City prior to or at the conclusion of said retention.

13.2 Audit Rights. In addition to the requirements of Section 5.10, City reserves the right to audit Licensee's books and records of receipts related directly to transaction volume of the ATMs contemplated by this Agreement at any time but no more than two (2) times during the Initial Term hereof or during any Renewal Term, for the purpose of certifying the information reported under Sections 5.2 and 10.3. If, as a result of such audit, it is established that Licensee has understated the foreign transaction volume, upon which the License Fee is based, generated by three percent (3%) or more of the amount reported to City during the previous reporting period under this Agreement, then the entire expense of said audit shall be borne by Licensee and the limitation regarding the number of audits in any one term shall no longer be in effect. Any additional fees due as a result of the understatement shall forthwith be paid by Licensee to City with interest thereon at ten percent (10%) per annum from (or the highest rate allowed by Texas law) the date such additional fees become due.

13.3 Public Information. Licensee acknowledges that such records are subject to the Texas Public Information Act. Licensee shall notify City, immediately, in the event Licensee receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Licensee understands and agrees that City will process and handle all such requests.

**Article XIV Insurance Requirements**

14.1 Prior to the commencement of any work under this Agreement, Licensee shall furnish copies of all required endorsements and a completed Certificate(s) of Insurance to the City's Convention, Sports and Entertainment Facilities Department, which shall be clearly labeled "Alamodome ATM License Agreement" in the Description of Operations block of the Certificate. The certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The certificate(s) or form must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Convention, Sports and Entertainment Facilities Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

14.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereupon City may incur increased risk.

14.3 Licensee's financial integrity is of interest to the City; therefore, subject to Licensee's right to maintain reasonable deductibles in such amounts as are approved by the City, Licensee shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Licensee's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

<u>TYPE</u>	<u>AMOUNT</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$500,000/\$500,000/\$500,000
3. Broad Form Commercial General (Public) Liability Insurance to include coverage for the following:	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence, \$2,000,000 general aggregate, or its equivalent in umbrella or excess liability coverage
a. Premises and Operations	
b. Independent Contractors	
c. Personal Injury Liability	
d. Contractual Liability	
e. Products/Completed Operations	

- |                                  |   |
|----------------------------------|---|
| 4. Business Automobile Liability |   |
| a. Owned/leased vehicles         | Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent |
| b. Non-Owned vehicles            |   |
| c. Hired vehicles                |   |

14.4 As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties hereto or the underwriter of any such policies). Licensee shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within ten (10) days of the requested change. Licensee shall pay any costs incurred resulting from said changes. In the event the City raises the contractual insurance limits in a manner that materially impacts Licensee's ability to perform under this Agreement, Licensee may terminate this Agreement with sixty (60) days written notice to the City.

City of San Antonio  
Convention, Sports and Entertainment Facilities Department  
Attn: Fiscal Division  
P.O. Box 1809  
San Antonio, Texas 78296-1809

14.5 Licensee agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- 14.5.1 Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- 14.5.2 Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- 14.5.3 Workers' compensation, employers' liability, auto liability, and general liability policies will provide a waiver of subrogation in favor of the City.
- 14.5.4 Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

14.6 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Licensee shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Licensee's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

14.7 In addition to any other remedies the City may have upon Licensee's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Licensee to stop work hereunder, and/or withhold any payment(s) which become due to Licensee hereunder until Licensee demonstrates compliance with the requirements hereof.

14.8 Nothing herein contained shall be construed as limiting in any way the extent to which Licensee may be held responsible for payments of damages to persons or property resulting from Licensee's or its subcontractors' performance of the work covered under this Agreement.

14.9 It is agreed that Licensee's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

14.10 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided.

14.11 Licensee and any Subcontractors are responsible for all damage to their own equipment and/or property.

14.12 Any and all employees, representatives, sublicensees, contractors, subcontractors, agents or volunteers of Licensee while engaged in the performance of the work under this Agreement or by Licensee shall be considered employees, representatives, sublicensees, contractors, subcontractors, agents, or volunteers of Licensee only, and not of the City. Any and all claims that may result from any obligation for which Licensee may be held liable under any Workers' Compensation, Unemployment Compensation or Disability Benefits law or under any similar such law on behalf of said employees, representatives, subconcessionaires, contractors, subcontractors, agents, or volunteers shall be Licensee's sole obligation and responsibility.

14.13 In addition to any other remedies the City may have upon Licensee's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Licensee to stop work hereunder, and/or withhold any payment(s) which become due to Licensee hereunder until Licensee demonstrates compliance with the requirements hereof.

#### Article XV Indemnity

15.1 Licensee covenants and agrees to **FULLY INDEMNIFY, DEFEND and HOLD HARMLESS**, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Licensee's activities under this Agreement, including any acts or omissions of Licensee, any agent, officer, director, representative, employee, consultant or subcontractor of Licensee, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT LICENSEE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR**

**THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

15.2 The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Licensee shall advise the City in writing within 24 hours of any claim or demand against the City or Licensee known to Licensee related to or arising out of Licensee's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Licensee's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Licensee of any of its obligations under this paragraph.

15.3 Defense Counsel – City shall have the right to select or to approve defense counsel to be retained by Licensee in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Licensee shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Licensee fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Licensee shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

15.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Licensee, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Licensee or any subcontractor under worker's compensation or other employee benefit acts.

**Article XVI Assignment and Subcontracting**

16.1 This Agreement is a personal License and shall not be assigned or sublicensed by Licensee, other than to its parent entity, or to any corporation with which Licensee may merge or consolidate, or which may succeed to controlling interest in the business of Licensee or to a first, without the prior written consent of Director. Licensee agrees to notify City in writing in advance of any permissible assignment or sublicense, even though City consent is not required.

16.2 Licensee shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of Licensee. Licensee, its employees or its subcontractors shall perform all necessary work.

16.3 It is City's understanding and this Agreement is made in reliance thereon that Licensee intends to use the following subcontractors in the performance of this Agreement: Tranax (ATM supplier), Pendum (armored car, and first and second line service). Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by Director in writing, prior to the provision of any services by said subcontractor. If the subcontractor that Licensee wishes to change is also part of Licensee's SBEDA Plan, such change requires the advance written approval of both Director and City's SBEDA Program Manager.

16.4 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its

terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Licensee. City shall in no event be obligated to any third party, including any subcontractor of Licensee, for performance of services or payment of fees. Any references in this Agreement to a subcontractor, indicate only such an entity as has been approved by Director, and where required, City's SBEDA Program Manager.

16.5 Except as otherwise stated herein, Licensee may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the prior written consent of Director. As a condition of such consent, if granted, Licensee shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Licensee, assignee, transferee or subcontractor.

16.6 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Licensee assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement without consent where required, City may, at its option, cancel this Agreement and all rights, titles and interest of Licensee shall thereupon cease and terminate, in accordance with Article XVII Termination, notwithstanding any other remedy available to City under this Agreement. Director shall have the authority to effect such termination. The violation of this provision by Licensee shall in no event release Licensee from any obligation under the terms of this Agreement, nor shall it relieve or release Licensee from the payment of any damages to City, which City sustains as a result of such violation.

#### **Article XVII Termination**

17.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article III Term, or earlier termination pursuant to any of the provisions hereof.

17.2 Termination Without Cause. This Agreement may be terminated by City upon thirty (30) calendar days' written notice, which notice shall be provided in accordance with Article XXIII Notices.

17.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article XXIII Notices, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

- 17.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XVI Assignment and Subcontracting;
- 17.3.2 Licensee's failure to pay any Fees or other payments as provided for in this Agreement (a "monetary default") and such failure continues for a period of ten (10) days after receipt by Licensee of written notice thereof;
- 17.3.3 Licensee's neglect or failure to perform or observe any of the non-monetary terms, provisions, conditions or covenants herein contained (a "non-monetary default"), and such neglect or failure continues for a period of ten (10) days after receipt by Licensee of written notice of such non-monetary default;
- 17.3.4 Licensee becomes insolvent, makes a general assignment for the benefit of its creditors, files a voluntary petition in bankruptcy, or consents to the appointment of a receiver, trustee, or liquidator of all or substantially all of its properties;

- 17.3.5 A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law is filed against Licensee and not dismissed within thirty (30) days after the filing thereof.
- 17.3.6 Licensee discontinues operations of the ATM at any of the Locations, other than due to acts of God, mechanical difficulties or causes beyond the control of Licensee, in City's sole judgment, for a period of three (3) or more consecutive days;
- 17.3.7 Licensee is unable to provide the Mobile and Temporary ATMs required under Subsection 2.2.2 two (2) times during the term of the Agreement, including any Renewal Term, whether or not City is able to relicense said services as provided in Subsection 2.2.3; or
- 17.3.8 Any other default specifically identified in this Agreement; however, if such other default has a different cure period stated, then that cure period shall control for that specified default.

17.4 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

17.5 Termination Options, and Remedies.

- 17.5.1 Future Legislation. Notwithstanding any other rights to renegotiate or terminate herein, this Agreement may be renegotiated or terminated by Licensee upon sixty (60) days' advance written notice to City as to any or all of the Locations pursuant to the authority of any subsequent legislation passed after the Commencement Date of this Agreement if said legislation prohibits the charging by Licensee of ATM surcharge fees or substantially reduces the Foreign Transaction Fee that may be charged by Licensee for the use of Licensee's ATMs.
- 17.5.2 If a crime of any nature occurs at any Location while an individual is attempting to use the ATM or such crime is directly related to the use or service of the ATM, then City shall have the right to temporarily suspend or terminate this Agreement as to said Location immediately upon notice to Licensee. The period of the temporary suspension, if any, shall be at City's sole discretion, but shall not exceed thirty (30) days.
- 17.5.3 In the event any condition of default shall occur and is not timely cured pursuant to Subsections 17.3.2, 17.3.3 or another cure provision provided elsewhere in this Agreement, whichever is applicable, or no cure period is permitted, then City shall have the right, at its election, either (1) to terminate this Agreement at which time Licensee will then peacefully quit and surrender to City the Locations, but Licensee shall remain liable as hereinafter provided, or (2) to enter upon and take possession of the Locations, without demand or notice, and City may repossess said Locations as City's former estate, expelling Licensee and those claiming under Licensee, forcibly if necessary, without prejudice to any remedy for arrears of fees or any preceding breach of covenant and without any

liability to Licensee or those claiming under Licensee for such repossession.

- 17.5.4 City's repossession of any Location shall not be construed as an election to terminate this Agreement nor shall it cause a forfeiture of fees or other charges remaining to be paid during the balance of the Initial Term or Renewal Term, unless a written notice of such intention be given to Licensee. Notwithstanding any relicensing by City without termination as provided for in Subsection 2.2.3, City may, at any time after such relicensing, elect to terminate this Agreement for any such default.
- 17.5.5 Upon repossession, whether or not this Agreement is terminated and notwithstanding any law or anything contained herein to the contrary, to the full extent permitted under applicable law, Licensee and City agree that City shall have a duty to relicense the Locations or otherwise to mitigate damages under this Agreement in accordance with the Texas Property Code, if Licensee abandons the Locations, but not otherwise. Licensee agrees that City shall not be liable and Licensee's liability shall not be affected or diminished in any way whatsoever for City's failure to relicense the Locations, or in the event the Locations is relicensed for failure to collect any fees under such relicensing. Unless otherwise required by the Texas Property Code, such duty shall be satisfied and City shall be deemed to have used objectively reasonable efforts to relicense the Locations by doing the following: (a) posting a "For License" sign on the Locations; (b) advising City's agent for securing such licensees, if any, of the availability of the Locations; and (c) advising at least one outside commercial brokerage entity of the availability of the Locations. If City receives any payments from the relicensing of the Locations, any such payment shall first be applied to any costs or expenses incurred by City as a result of Licensee's default under this Agreement.
- 17.5.6 In the event that City shall relicense any Location(s), then any fees received by City from such relicensing shall be applied: First to any costs or expenses incurred by City as a result of Licensee's default; Second, to the payment of any indebtedness due hereunder from Licensee to City; Third, to the payment of any cost of such relicensing; Fourth, to the payment of the cost of any repairs or other improvements to a Locations to bring said Locations up to good condition, as solely determined by City, and the residue, if any, shall be held by City and applied in payment of any other future Fees, charges or costs as the same may become due and payable hereunder, by virtue of Licensee's default herein. Should that portion of such fees received from such relicensing during any month, which is applied to the payment of Licensee's Fees and other indebtedness, costs of relicensing or other costs hereunder, be less than the amount due for such indebtedness or relicensing or other costs, then Licensee shall pay such deficiency to City within ten (10) days after City mails a notice to Licensee indicating the amount due.
- 17.5.7 If City shall terminate this Agreement or take possession of the Locations by reason of Licensee's default, Licensee and those holding under Licensee, shall forthwith remove their goods and effects from said Location. If Licensee or any such claimant shall fail to remove such goods and effects, then City may, without liability to Licensee or those claiming under Licensee, remove such goods and effects and may store the same for the account of, and at the expense of, Licensee

or of the owner thereof at any place selected by City, or, at City's election, and upon giving fifteen (15) days written notice to Licensee of the date, time and location of sale, City may sell the same at public auction (including, but not limited to, internet auction), or private sale on such terms and conditions as to price, payment and otherwise as City in its sole discretion may deem advisable. If in City's sole judgment, the cost of removing and storing or the cost of selling any such goods and effects exceeds the value thereof or the probable sale price thereof, City shall have the right to dispose of such goods in any manner City may deem advisable, without liability to Licensee or those claiming under Licensee. Any goods or effects left at the Locations for a period in excess of thirty (30) days after such termination or taking of possession by City shall be deemed abandoned by Licensee or any other claimant and may be so removed and sold by City in accordance with the terms of this section.

- 17.5.8 Licensee shall be responsible for all costs of removal, storage and sale, and City shall have the right to reimburse itself from the proceeds of any sale for all such costs paid or incurred by City. If any surplus sale proceeds remain after such reimbursement, City may deduct from such surplus any other sum due to City hereunder and shall pay over to Licensee any remaining balance of such surplus sale proceeds.
- 17.5.9 If City shall enter into and repossess the Locations for reason of the default of Licensee in the performance of any of the terms, covenants or conditions herein contained, Licensee hereby covenants and agrees that Licensee will not claim the right to redeem or re-enter the Locations to restore the operation of this Agreement and Licensee hereby waives the right to such redemption and re-entrance under any present or future law, and does hereby further, for any party claiming through or under Licensee, expressly waive its right, if any, to make payment of any Fees or other sums or otherwise, of which Licensee shall have made default under any of the covenants of this Agreement and to claim any subrogation of the rights of Licensee under such circumstances, or any of the covenants thereof by reason of such payment.
- 17.5.10 The words "repossess" and "take possession" as used in this Agreement are not restricted to their technical legal meaning.
- 17.5.11 All rights and remedies of City herein created or otherwise existing at law are cumulative, and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently and whenever and as often as deemed desirable.
- 17.5.12 If proceedings shall at any time be commenced for recovery of possession of the Locations and compromise or settlement shall be effected either before or after judgment whereby Licensee shall be permitted to retain possession of the Locations, then such proceeding shall not constitute a waiver of any condition or agreement contained herein or of any subsequent breach thereof or of this Agreement.
- 17.5.13 Any actual expenses related to the operation, maintenance or repair of the ATMs or the Locations or liability incurred by City for the account of Licensee, such as

a payment of insurance premiums by City, if Licensee defaults, and City is allowed by law to provide such payment of insurance premiums for the protection of the Locations, may be deemed to be additional fees and the same may, at the option of City, be added to any fees then due or thereafter falling due hereunder.

### **Article XVIII Condemnation**

18.1 In the event that a specific Location is taken, in whole or in part, by a governmental entity, and the taking materially deprives Licensee of its rights to use the remaining part of said specific Location, if any, and any other rights pursuant to this Agreement, either party may, upon thirty (30) days prior written notice to the other, terminate this Agreement as to said Location. City shall be entitled to receive the entire condemnation award. However, Licensee shall have the right to pursue in the condemnation proceedings, a separate claim arising from the taking or condemnation as it affects Licensee's rights hereunder, limited to damage to any improvements made to the specific Location by Licensee.

### **Article XIX Non-Discrimination**

19.1 Any discrimination by Licensee, its agents or employees on account of race, color, sex, age, religion or national origin, in employment practices or in the use of, or admission to, each ATM or the Locations is strictly prohibited.

### **Article XX Small Business Economic Development Advocacy (SBEDA) Program**

#### **20.1 DEFINITIONS**

20.1.1 SBEDA Program. The City has adopted a Small Business Economic Development Advocacy Ordinance (the "SBEDA Program"), which is posted on the City's Economic Development Department website and is also available in hard copy form upon request to the City. In addition to the definitions provided in the SBEDA Program, the following definitions will apply pursuant to SBEDA Program requirements and this Agreement:

20.1.1.1 SBEDA Enterprise ("SE") – A corporation, limited liability company, partnership, individual, sole proprietorship, joint stock company, joint venture, professional association or any other legal entity operated for profit that is properly licensed, as applicable, and otherwise authorized to do business in the state of Texas and certified pursuant to SBEDA Program requirements.

20.1.1.2 Commercially Useful Function – A function performed by an SE when it is responsible for supplying goods or for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine whether an SE is performing a Commercially Useful Function, the amount of work subcontracted, industry practices and other relevant factors shall be evaluated. Commercially Useful Function is measured for purposes of determining participation on a contract, not for determination of certification eligibility.

20.1.1.3 Conduit – An SE that knowingly agrees to pass the scope of work for which it is listed for participation, and is scheduled to perform or supply on the

contract, to a non-SE firm. In this type of relationship, the SE has not performed a Commercially Useful Function and the arranged agreement between the two parties is not consistent with standard industry practice. This arrangement does not meet the Commercially Useful Function requirement and therefore the SE's participation does not count toward the SE utilization goal.

20.1.1.4 SBEDA Plan – The Good Faith Effort Plan (“GFEP”), SBEDA Narrative, List of Subcontractors/Suppliers and executed Letters of Intent (all as applicable) that are submitted with Licensee’s submittal for this project Agreement, attached hereto and incorporated herein as “Exhibit B”.

**20.2 For this Agreement, the Parties agree that:**

- 20.2.1 The terms of the City’s SBEDA Ordinance, as amended, together with all requirements and guidelines established under or pursuant to the Ordinance (collectively, the “SBEDA Program”) are incorporated into this Agreement by reference; and
- 20.2.2 The failure of Licensee or any applicable SE to comply with any provision of the SBEDA Program shall constitute a material breach of the SBEDA Program and this Agreement.
- 20.2.3 Failure of Licensee or any applicable SE to provide any documentation or written submissions required by the City Managing Department or SBEDA Program Office pursuant to the SBEDA Program, within the time period set forth by the SBEDA Program Office, shall constitute a material breach of the SBEDA Program and this Agreement.
- 20.2.4 During the Term of this Agreement, and any renewals thereof, any unjustified failure to utilize good faith efforts to meet, and maintain, the levels of SE participation identified in Licensee’s SBEDA Plan (“Exhibit B”) shall constitute a material breach of the SBEDA Program and this Agreement.
- 20.2.5 Licensee shall pay all suppliers and subcontractors identified in its SBEDA Plan (“Exhibit B”) in a timely manner for satisfactory work, pursuant to and as outlined in Section VII, Paragraph F(2)(e) of the SBEDA Ordinance, as amended. Documentation of all billing and payment information applicable to SBEDA Plan suppliers and subcontractors shall be submitted by Licensee to the City Managing Department. Failure to pay SEs in a timely manner or submit the required billing and payment documentation shall constitute a material breach of this Agreement.

**20.3 The Parties also agree that the following shall constitute a material breach of the SBEDA Program and this Agreement:**

- 20.3.1 Failure of Licensee to utilize an SE that was originally listed at bid opening or proposal/SOQ submission to satisfy SBEDA Program goals in order to be awarded this Agreement, or failing to allow such SE to perform a Commercially Useful Function; or
- 20.3.2 Modification or elimination by Licensee of all or a portion of the scope of work

attributable to an SE upon which the Agreement was awarded; or

- 20.3.3 Termination by Licensee of an SE originally utilized as a Subcontractor, Joint Venturer, Supplier, Manufacturer or Broker in order to be awarded the Agreement without replacing such SE with another SE performing the same Commercially Useful Function and dollar amount, or without demonstrating each element of Modified Good Faith Efforts to do so; or
- 20.3.4 Participation by Licensee in a Conduit relationship with an SE scheduled to perform work that is the subject of this Agreement.

20.4 **Remedies for Violation of SBEDA Program.** The Parties further agree that in addition to any other remedies the City may have at law or in equity, or under this Agreement for material breach, including the specified remedies available under the SBEDA Program for Alternative Construction Delivery Method, the City shall be entitled, at its election, to exercise any one or more of the following remedies if the Licensee materially breaches the requirements of the SBEDA Program:

- 20.4.1 Terminate this Agreement for default;
- 20.4.2 Suspend this Agreement for default;
- 20.4.3 Withhold all payments due to the Licensee under this Agreement until such violation has been fully cured or the Parties have reached a mutually agreeable resolution; and/or
- 20.4.4 Offset any amounts necessary to cure any material breach of the requirements of the SBEDA Program from any retainage being held by the City pursuant to the Agreement, or from any other amounts due to the Licensee under the Agreement.
- 20.4.5 Suspension, Revocation or Modification of SE Certification: The SBEDA Program Office may suspend or revoke an offending SE's eligibility for Certification, and may suspend its participation from counting toward a project goal, based upon such SE's acting as a Conduit, failing to comply with the provisions of the SBEDA Program, failing to perform a Commercially Useful Function on a project, failing to submit information as required by the SBEDA Program Office, submitting false, misleading or materially incomplete statements, documentation or records, or failing to cooperate in investigations. The SBEDA Program Office may further modify the list of areas for which an SE is certified, if the SE is routinely failing to submit bids or proposals for work in a particular area, or if it becomes apparent that the SE is not qualified to perform work in a particular area.

The Parties agree that nothing in the SBEDA Program or that any action or inaction by the SBEDA Program Office or the SBEDA Program Manager shall be deemed a representation or certification that an SE is qualified to perform work in a particular area for the purposes of this Agreement.

*The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.*

- 20.5 **City Process for Exercising SBEDA Program Remedies.** The SBEDA Program

Manager shall make all decisions regarding the suspension or revocation of an SE's certification as well as the duration of such suspension or revocation. The SBEDA Program Manager shall make a recommendation to the Managing Department Director regarding appropriate remedies for the City to exercise in the event a Contractor violates the SBEDA Program. The Managing Department Director shall make a recommendation regarding appropriate remedies to the City Manager or designee, who shall have final recommendation regarding the remedy to be exercised except for termination of the Agreement. If the recommended remedy is to terminate the Agreement, then the Managing Department Director or City Manager, or her designee, shall bring forward the recommendation to City Council for final determination.

**20.6 Special Provisions for Extension of Agreements.** In the event the City extends this Agreement without a competitive Bid process, the City Managing Department responsible for monitoring the Agreement shall establish the following, subject to review and approval by the SBEDA Program Manager:

- 20.6.1 A SBEDA Utilization Goal for the extended period; and
- 20.6.2 A modified version of the Good Faith Efforts ("Modified Good Faith Efforts Plan") set forth in the SBEDA Program Ordinance, as amended, if Licensee does not meet the SBEDA Utilization Goal; and
- 20.6.3 The required minimum Good Faith Efforts outreach attempts that Licensee shall be required to document in attempting to meet the SBEDA Utilization Goal. The SBEDA Utilization Goal, Modified Good Faith Efforts Plan and the required number of minimum Good Faith Efforts outreach attempts shall be added into the Agreement extension document. The Licensee entering into the extension shall either meet the SBEDA Utilization Goal or document that it has made the Good Faith Efforts to meet the SBEDA Utilization Goal. Failure to do so shall:
  - 20.6.3.1 Subject Licensee to any of the remedies listed above; and/or
  - 20.6.3.2 Result in resolicitation of the Agreement to be extended.

#### **Article XXI Severability**

21.1 If any clause or provision of this Agreement is held illegal, invalid or unenforceable under present or future federal, state or local laws, including, but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties hereto that such illegality, invalidity or unforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such illegal, invalid or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible, legal, valid and enforceable.

#### **Article XXII Compliance**

22.1 Licensee shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations and **Licensee shall indemnify and hold harmless City, its elected officials, employees, officers, directors, and representatives, from any and all charges, fines or penalties that may be assessed or levied by any**

department or agency of the United States or the State of Texas by reason of Licensee's failure to comply with the terms of this Article or with any other terms set forth in this Agreement.

### **Article XXIII Notices**

23.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either Party may from time to time designate in writing.

If intended for City, to:

City of San Antonio  
Attn: Director – Convention, Sports & Entertainment Facilities  
200 E. Market St.  
San Antonio, Texas 78205

If intended for Licensee, to:

Access to Money, Inc.  
Attn: President and CEO  
1101 Kings Hwy., North Suite G-100  
Cherry Hill, New Jersey 08034

### **Article XXIV Independent Contractor**

24.1 Licensee covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Licensee shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Licensee, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Licensee. The Parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Licensee under this Agreement and that the Licensee has no authority to bind the City.

### **Article XXV Conflict of Interest**

25.1 Licensee acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as City-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market

value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

25.2 Pursuant to the subsection above, Licensee warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Licensee further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

#### **Article XXVI Nonwaiver of Performance**

26.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XXXIV Amendment. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

#### **Article XXVII Parties Bound**

27.1 This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

#### **Article XXVIII Law Applicable**

**28.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

28.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

#### **Article XXIX Approvals by City**

29.1 Whenever this Agreement calls for approval by City, such approval shall be evidenced by written approval of the Director or his designee, unless a City of San Antonio ordinance is required by the Charter of the City or as stated herein.

#### **Article XXX Gender**

30.1 Words of any gender used in this Agreement shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

**Article XXXI Captions**

31.1 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

**Article XXXII Incorporation of Exhibits**

32.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

32.2 Exhibit A – Advertising Guidelines

32.3 Exhibit B – SBEDA Plan

32.4 Exhibit C – Licensee’s Proposal to Alamodome ATM Concession RFP and Licensee’s Best and Final Offer

32.5 Any conflict with this document shall be resolved in favor of this document.

**Article XXXIII Entire Agreement**

33.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire Agreement between the Parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or to bind the Parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the Parties, in accordance with Article XXXIV Amendment; it being the intent of the Parties that neither shall be bound by any term, condition, or representations not herein written.

**Article XXXIV Amendment**

34.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Licensee. The City Manager, her designee or the Director of Convention, Sports and Entertainment Facilities shall have authority to execute amendments on behalf of the City without further action by the City Council, except where the amendment pertains to the fee paid by Licensee to the City under this Agreement.

**Article XXXV Legal Authority**

35.1 The signer of this Agreement for Licensee represents, warrants, assures and guarantees that he has had full opportunity to read the contents hereof and to seek its review by legal counsel, and has full legal authority to execute this Agreement on behalf of Licensee and to bind Licensee to all of the terms, conditions, provisions and obligations herein contained.

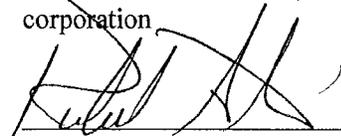
**SIGNATURES APPEAR ON NEXT PAGE**

Executed in multiple counterparts, which shall be deemed an original, to be effective upon the Commencement Date.

**LICENSOR:**  
**CITY OF SAN ANTONIO**, a Texas municipal corporation

**LICENSEE:**  
**ACCESS TO MONEY, INC.**, a New Jersey corporation

\_\_\_\_\_  
Name: \_\_\_\_\_  
City Manager

  
\_\_\_\_\_  
Name: Richard B. Stern  
Title: President and CEO

**Approved as to Form:**

\_\_\_\_\_  
Name: \_\_\_\_\_  
City Attorney

**Attest:**  
  
\_\_\_\_\_  
Name: \_\_\_\_\_  
City Clerk

**Attest:**  
  
\_\_\_\_\_  
Name: Lizette NEGRONI  
Title: Executive Assistant

## Exhibit A Advertising Guidelines

These guidelines apply to the sale of advertising space in City facilities and on City property that are non-public forums. These include, but are not limited to the Alamodome, the Henry B. Gonzalez Convention Center, municipal golf courses, City parks and community recreation centers, City parking garages and lots, public libraries and other applicable City-owned buildings and facilities. A non-public forum is one that is not traditionally open for public discourse. Such a forum is not created by inaction or by permitting limited discourse. A government creates a public forum only by intentionally opening a nontraditional forum for public discourse. That is not the intent of the City of San Antonio in initiating any activities governed by these guidelines. The advertising permission granted under this Agreement is not meant to designate any of the advertising spaces as public forums for all expressive activity, but to reserve them for commercial speech.

Only advertisements that propose a commercial transaction will be allowed. A commercial advertisement is one that has as its sole purpose the promotion of a product for sale or a service for hire, does not convey, whether expressly or impliedly or intentionally or unintentionally, any message regarding any political matter, social or religious issue or viewpoint of any person or any entity and would not cause the City's property upon which the ad is placed to become a public forum.

All advertisements must maintain the appearance of neutrality on controversial issues.

The City reserves the right to deny advertising space to any entity when its use does not serve the best interest of the City.

The City must approve of the type, location, size, and content of an advertisement prior to its placement.

Advertisements deemed objectionable by the City after placement, regardless of prior approval by the City, shall not be used and shall be immediately removed by the Licensee at the Licensee's sole expense.

No advertisements shall be permitted that the City deems are lewd, obscene, vulgar or unsuitable for immature audiences.

No advertisement shall be permitted that is false, misleading or deceptive or that relates to unlawful or illegal goods, services or activities.

No advertisement shall be permitted that promotes or depicts violence or anti-social behavior or presents a danger of causing riot, disorder or other threat to public safety, peace or order.

No advertisement shall be permitted that holds up an individual, group of individuals or an entity to public criticism, derision or embarrassment or that defames an individual, group of individuals or an entity.

Advertisement for certain products or services shall not be permitted:

- X or R-rated movies
- gambling or gambling aids
- tobacco products
- alcohol products (advertisements for such products may be permitted in certain facilities when in the best interest of the City and deemed appropriate by the City)
- birth control products or information
- drug paraphernalia

- pornography
- adult-only entertainment or sexually-oriented businesses
- political advertising
- religious advertising
- pawn shops
- massage parlors
- tattoo parlors
- check cashing businesses
- firearms

Advertisements may not represent a product or service which presents a conflict of interest with any policy, objective or mandate of the City, including these guidelines.

Advertisements may not be placed by a firm awaiting approval from the City Council on any matter unrelated to these guidelines, a firm which operates in an industry regulated by the City or a firm with a pending lawsuit against the City.

Advertising space sold under these guidelines is reserved solely for commercial advertising for products and services that do not directly compete with an existing commercial interest of the City.

These guidelines shall be consistently enforced and an advertisement should never be excluded based on the viewpoint it advocates.

The City reserves the right to amend these guidelines at any time that it deems necessary and as the social norms of the San Antonio community may dictate.

**Exhibit B SBEDA Plan**

**LIST OF SUBCONTRACTORS/SUPPLIERS**

The Bidder/Proposer, Access to Money, Inc., as part of the procedure for the submission of bid/proposals on a project known as **Alamodome ATM Concession**, submits the following list of subcontractors/suppliers for proposed subcontracting areas (use additional sheets if necessary) to be used in the performance of work to be done on said project.

NAME OF SUBCONTRACTOR/SUPPLIER	SBE-MBE-WBE-AABE CERTIFICATION NO.	PERCENT AND DOLLAR AMOUNT OF SUBCONTRACT
<b>Tranax (ATM Supplier)</b>	N/A	20%
<b>Pendum (Armored Car)</b>	N/A	40%
<b>Pendum ( 1<sup>st</sup> &amp; 2<sup>nd</sup> Line Service)</b>	N/A	40%

The following section is to be completed if the contract (Project) is for less than \$200,000. Please list subcontracting solicitations to all SBE-MBE-WBE-AABE contractors for participation on project. If none, explain (exclude successful bidders listed above). Use additional sheets if necessary. **The contractor is expected to solicit participation on subcontracts from available MBE-WBE-AABE-SBEs under this contract.**

NAME OF COMPANY PERFORMING WORK	SBE-MBE-WBE-AABE CERTIFICATION NO.	REASON FOR REJECTION

Only companies certified as an MBE, WBE, AABE or SBE by the City of San Antonio or its certifying organization can be applied toward the contracting goals. All MBE-WBE-AABE-SBE subcontractors or suppliers must submit a copy of their certification certificate through the Prime Contractor. **Proof of certification must be attached to this form.** If a business is not certified, please call the Small Business Office at (210) 207-3900 for information and details on how subcontractors/suppliers may obtain certification.

It is understood and agreed that, if awarded a contract by the City of San Antonio, the Contractor will not make additions, deletions, or substitutions to this certified list without consent of the Director of International and Economic Development and Director of the appropriate contracting department (through the proposal of the Request for Approval of Change to Affirmed List of Subcontractors/Suppliers).

**AFFIRMATION**

***I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED THE CONTRACT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.***

NAME AND TITLE OF AUTHORIZED OFFICIAL: Richard Stern President & CEO  
 SIGNATURE:  DATE: 9/7/10

**Exhibit C Licensee's Proposal to Alamodome ATM Concession RFP**



**ALAMODOME ATM CONCESSION PROPOSAL**

**RFP-010-079-TC**

**PRESENTED TO**

**THE CITY OF SAN ANTONIO**

**SEPTEMBER 10, 2010**

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**GENERAL INFORMATION & REFERENCES****To be submitted with Respondent's Proposal as TAB 1****1. Respondent Information:** Provide the following information regarding the Respondent.

(NOTE: Co-Respondents are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. Sub-contractors are not Co-Respondents and should not be identified here. If this proposal includes Co-Respondents, provide the required information in this Item #1 for each Co-Respondent by copying and inserting an additional block(s) before Item #2.)

Respondent Name: Access to Money, Inc.

(NOTE: Give exact legal name as it will appear on the contract, if awarded.)

Principal Address: 1101 Kings Hwy. North Suite G-100

City: Cherry Hill State: NJ Zip Code: 08034

Telephone No: 856-414-9100 Fax No: 856-414-9075

Website Address: www.accesstomoney.com

Year Established: 1989 Number of years in business under present name: 15

Social Security Number (SSN) or Federal Employer Identification Number (FEIN): 93-0809419

Texas Comptroller's Taxpayer Number, if applicable: 3-20382-5741-9

(NOTE: This 11-digit number is sometimes referred to as the Comptroller's TIN or TID.)

DUNS NUMBER: NA

Business Structure: Check the box that indicates the business structure of the Respondent.

Individual or Sole Proprietorship If checked, list Assumed Name, if any: \_\_\_\_\_

Partnership

Corporation If checked, check one:  For-Profit  Nonprofit

Also, check one:  Domestic  Foreign

Other If checked, list business structure: \_\_\_\_\_

Provide any other names under which Respondent has operated within the last 10 years and length of time under for each:

In 2008 TRM Corporation (founded in 1981) acquired LJR Consulting Corporation dba Access to Money (founded in 1995), and began doing business under the name Access to Money, Inc.

Provide address of office from which this project would be managed: 1101 Kings Hwy. North Suite G-100

City: Cherry Hill State: NJ Zip Code: 08034

Telephone No: 856-414-9100 Fax No: 856-414-9075

Annual Revenue: 90 million Total Number of Employees: 67

Total Number of Current Clients/Customers: 6,000

Briefly describe other lines of business that the company is directly or indirectly affiliated with: In 2009 we launched our Student Loan division, PSL Advantage, which operates as an outsourcing partner to credit unions and other financial institutions in student loan origination, processing and servicing.

List Related Companies: None

- 2. **Contact Information:** List the one person who the City may contact concerning your proposal or setting dates for meetings.

Name: Douglas Falcone Title: Chief Operating Officer  
Address: 628 State Route 10 Suite 8  
City: Whippany State: NJ Zip Code: 08034  
Telephone No: 973-599-0600 Fax No: 973-599-0605  
Email Address: DFalcone@accesstomoney.com

- 3. Does Respondent anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months?

Yes  No

- 4. Is Respondent authorized and/or licensed to do business in Texas?

Yes  No  If "Yes", list authorizations/licenses.

Comptroller's TIN #3-20382-5741-9

- 5. Where is the Respondent's corporate headquarters located? Cherry Hill, NJ

- 6. **Local/County Operation:** Does the Respondent have an office located in San Antonio, Texas?

Yes  No  If "Yes", respond to a and b below:

- a. How long has the Respondent conducted business from its San Antonio office?

Years \_\_\_\_\_ Months \_\_\_\_\_

- b. State the number of full-time employees at the San Antonio office: N/A

If "No", indicate if Respondent has an office located within Bexar County, Texas:

Yes  No  If "Yes", respond to c and d below:

c. How long has the Respondent conducted business from its Bexar County office?

Years \_\_\_\_\_ Months \_\_\_\_\_

d. State the number of full-time employees at the Bexar County office: N/A

7. **Debarment/Suspension Information:** Has the Respondent or any of its principals been debarred or suspended from contracting with any public entity?

Yes  No  If "Yes", identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension.

\_\_\_\_\_  
\_\_\_\_\_

8. **Surety Information:** Has the Respondent ever had a bond or surety canceled or forfeited?

Yes  No  If "Yes", state the name of the bonding company, date, amount of bond and reason for such cancellation or forfeiture.

\_\_\_\_\_  
\_\_\_\_\_

9. **Bankruptcy Information:** Has the Respondent ever been declared bankrupt or filed for protection from creditors under state or federal proceedings?

Yes  No  If "Yes", state the date, court, jurisdiction, cause number, amount of liabilities and amount of assets.

\_\_\_\_\_  
\_\_\_\_\_

10. **Disciplinary Action:** Has the Respondent ever received any disciplinary action, or any pending disciplinary action, from any regulatory bodies or professional organizations? If "Yes", state the name of the regulatory body or professional organization, date and reason for disciplinary or impending disciplinary action.

No. \_\_\_\_\_  
\_\_\_\_\_

11. Previous Contracts:

a. Has the Respondent ever failed to complete any contract awarded?

Yes  No  If "Yes", state the name of the organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

---

---

b. Has any officer or partner proposed for this assignment ever been an officer or partner of some other organization that failed to complete a contract?

Yes  No  If "Yes", state the name of the individual, organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

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---

c. Has any officer or partner proposed for this assignment ever failed to complete a contract handled in his or her own name?

Yes  No  If "Yes", state the name of the individual, organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

---

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**REFERENCES**

Provide three (3) references, that Respondent has provided services to within the past three (3) years. The contact person named should be familiar with the day-to-day management of the contract and **be willing to respond to questions** regarding the type, level, and quality of service provided.

**Reference No. 1:**

Firm/Company Name: New Jersey Sports & Exposition Authority (Meadowlands Sports Complex)

Name: Lou Terminello Title: Director of Sales

Address: 50 State Route 120

City: East Rutherford State: NJ Zip Code: 07073

Telephone No: 201-507-8119 Fax No: 201-460-4294

Email Address: Lterminello@njsea.com

Date and Type of Service(s) Provided: Access to Money operates 38 ATM machines under a full placement program at the Giants Stadium, Meadowlands Racetrack, IZOD Center, Monmouth Racetrack and Off Track Waging locations owned and operated by the New Jersey Sports & Exposition Authority. We have been a preferred vendor for over 10 years.

**Reference No. 2:**

Firm/Company Name: The Pantry, Inc.

Name: Robin Vaughn Title: Category Manager

Address: 305 Gregson Dr.

City: Cary State: NC Zip Code: 27511

Telephone No: 919-774-6700 Fax No: \_\_\_\_\_

Email Address: Robin.Vaughn@thepantry.com

Date and Type of Service(s) Provided: We have over 1,400 ATMs deployed on a full placement program at various Pantry locations throughout the eastern United States. We have been managing their portfolio for over 5 years.

**Reference No. 3:**

Firm/Company Name: PPL Park/Philadelphia Union

Name: Mike Scanlon Title: Vice President

Address: One Stadium Drive

City: Chester State: PA Zip Code: 19016

Telephone No: 610-497-6405 Fax No: \_\_\_\_\_

Email Address: mscanlon@philadelphiaunion.com

Date and Type of Service(s) Provided: PPL is an American soccer specific stadium located in Chester, PA. It is home to the Philadelphia Union, a Major League Soccer club. They are on a full placement program. We have been their preferred ATM provider since the stadium's inception earlier this year.

**EXPERIENCE, BACKGROUND, QUALIFICATIONS**

**To be submitted with Respondent's Proposal as TAB 2**

Prepare and submit narrative responses to address the following items. If Respondent is proposing as a team or joint venture, provide the same information for each member of the team or joint venture.

1. Describe Respondent's experience relevant to the Scope of Services requested in this RFP. List and describe relevant projects of similar size and scope performed over the past four (4) years. List relevant operation and management experience including the following:

- a. Length of time providing ATM services;

With 25 years of experience in providing services to hotels, convention centers, sports and entertainment locations, we know the business challenges faced by hospitality operators. We use this knowledge to design superior products and programs to help build revenues. With over 11,000 ATMs located throughout the United States, we're one of the largest ATM providers in the world.

We tailor ATM programs to meet the specific needs of hospitality locations offering a full turnkey solution and self managed programs. Access to Money provides a fully managed placement ATM program where we handle all aspects of the ATM management, giving hospitality operators the freedom to focus on serving customers and running their businesses. Our placement ATM programs have been tailored to perfectly address the complex needs of today's hospitality locations. We provide every service and cover every expense necessary to ensure seamless ATM operation across our clients' organizations. In this program we provide the ATM, ensure cash management and cash balancing for each ATM. We also maintain and service the ATM and provide all other services and supplies, such as receipt paper, necessary for the operation of the ATM. If hospitality operators prefer to manage their own ATM portfolio, Access to Money offers a competitive menu of processing-only options. Your transactions will flow smoothly through the networks, and our account management will make it much easier for you to administer your fleet of ATMs.

Access to Money has always believed that the most important part of our business is to provide superior customer service. Our highly-skilled, professionally-trained service staff is available to answer your call 24 hours a day, 365 days a year, helping to avoid any downtime by diagnosing and resolving any general ATM issue. If it is necessary for an expert technician to visit your site for a more complex repair, you can be assured our team will replace any necessary parts and bring the ATM back to working condition. These are only some of the key ways we differ from our competition and why we believe we are one of the nation's best ATM companies in our industry.

b. Identify current clients and locations where ATM services are offered:

Current ATM Deployments:

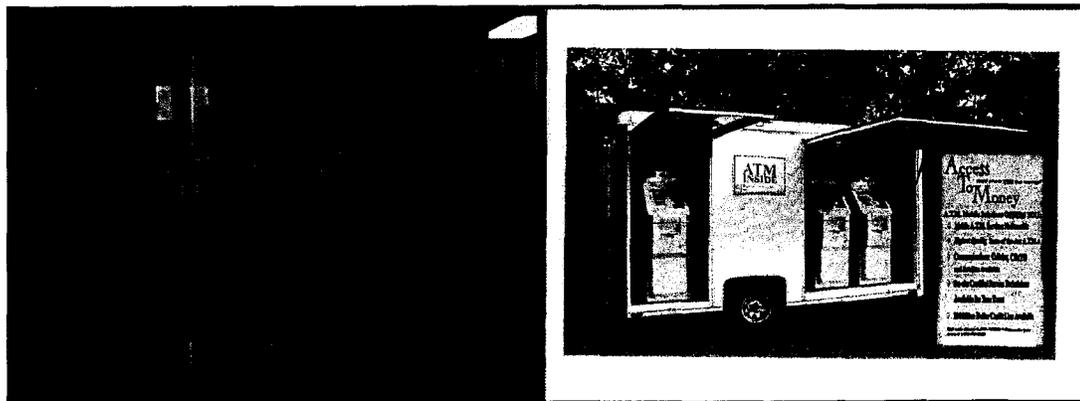


c. Total number of ATMs currently operated by your firm.

11,000

2. Describe Respondent's specific capacity and experience in providing Mobile and Temporary ATM services as defined herein.

These are available for excess capacity needs:



3. Provide three (3) additional clients that have ATM services provided by the Respondent. Include company name, contact name, email address and current phone number.
  - 1) New Jersey Sports & Exposition Authority  
Lou Terminello  
Lterminello@njsea.com  
201-507-8119
  - 2) The Pantry, Inc.  
Robin Vaughn  
Robin.Vaughn@thepantry.com  
919-774-6700
  - 3) PPL/Philadelphia Union  
Mike Scanlon  
mscanlon@philadelphiaunion.com  
610-497-6405
4. List key personnel who will be assigned and actively involved in the management and maintenance of the ATMs. For each, provide resumes, including relevant experience, licenses, certifications, associations, specialized training, etc. Also, provide the number of other projects/clients for which key personnel are responsible.

**Richard B. Stern** is President and Chief Executive Officer, appointed June 15, 2007. Prior to serving as Chief Executive Officer, Mr. Stern served as Chief Operating Officer from November 2006 to June 2007 and Executive Vice President of Corporate Operations from October 2006 to November 2006. Mr. Stern previously served as Vice President/General Manager of Building Solutions for American Tower Corporation from August 2005 to June 2006. He held that position with SpectraSite Communications, which was acquired by American Tower, from May 2002 to August 2005. From January 2000 to May 2002, Mr. Stern served as Vice President of Real Estate, Building Division, with SpectraSite Communications.

**Douglas B. Falcone** is the Company's Chief Operating Officer and Executive Vice President, appointed April, 18 2008. He founded Access To Money in 1997 and he is responsible for its development into one of the nation's premier ATM companies. Prior to this, he served in the automobile industry for over 12 years in various positions from Sales Manager to F&I Manager, overseeing a multi-franchise dealer including imports and domestic lines. Mr. Falcone is currently on the Triton Sales & Marketing Advisory Board and Triton's Service Advisory Council. Mr. Falcone has been instrumental in leading the ATM industry into the 21st Century.

**Michael Dolan** was appointed Chief Financial Officer on August 1, 2007. Prior to taking on this role, Mr. Dolan previously served as Senior Vice President and General Manager of Direct Group, a privately held direct mail and fulfillment services company, from September 2005 to October 2006, and Chief Financial Officer from September 1999 to August 2005. From 1989 to 1999, Mr. Dolan held several key roles with Acxiom Corporation, a multinational database, customer relationship and data content management company, including Finance Leader (from April 1993 to August 1999), Corporate Accounting Manager (from September 1989 to March 1993) and Division Controller (from August 1988 to August 1989).

5. Describe Respondent's specific experience with public entities clients, especially large municipalities. If Respondent has provided services for the City in the past, identify the name of the project and the department for which Respondent provided those services.

We currently provide ATM programs for various hospitality operators like the New Jersey Sports & Exposition Authority whose locations include Giants Stadium, the IZOD Center, Meadowlands and Monmouth Park racetracks and the Atlantic City Convention Center.

6. List other resources, including total number of employees, number and location of offices, and number and types of equipment available to support this project.

In addition to the proposed Tranax c4000, we have 20 mobile units all wireless and 2 mobile trailers, each equipped with 6 ATMs each and also wireless.

Access to Money has 67 full time employees and operates from the following facilities:

**Corporate Headquarters**

1101 Kings Highway North  
Suite G100  
Cherry Hill, NJ 08034  
856-414-9100

**Operations Center**

628 State Route 10  
Whippany, NJ 07981  
973-599-0600

**West Coast Administration**

12560 N.E. Marx Street  
Portland, OR 97230  
503-252-1048

Website: [www.accesstomoney.com](http://www.accesstomoney.com)

7. If Respondent is proposing as a team or joint venture or has included sub-contractors, describe the rationale for selecting the team and the extent to which the team, joint ventures and/or sub-contractors have worked together in the past.

Not applicable; not contemplating a joint venture.

8. Additional Information. Identify any additional skills, experiences, qualifications, and/or other relevant information about the Respondent's qualifications.

Access to Money has been involved in mobile ATM services for over 15 years (Access to Money Mobile Solutions). The following is a partial list of some of the venues in which we were the mobile ATM provider:

- Woodstock 99
- NHRA Drag Racing
- NASCAR
- San Gennaro Festival, NYC
- State Fairs

**PROPOSED PLAN**

**To be submitted with Respondent's Proposal as TAB 3**

Prepare and submit the following items.

**1. Operating Plan**

- a. Provide a detailed operating plan to provide the scope of services of this RFP including:

**ATM Operation Plan**

The servicing and repair of our ATMs is completed by Pendum. Pendum is a global leader in assisted and self-service solutions, helping businesses in retail, financial, travel, hospitality, gaming, entertainment and other industries enhance their customer interactions across all channels: online, mobile, kiosk, ATM and more. Pendum has an extensive service network, with customer care centers and field offices around the country, with more than 6,000 technical support experts in the field.

We also partner with Solvport and NSA (described below) both nationwide service providers. Through our partnerships with these companies we deliver professional and reliable ATM services to maximize your up-time and profitability. In conjunction with our staff we tailor our requirements with our partners to coordinate and supply the following:

- Expert Field Technical Services and Installation throughout the United States
- 24/7/365 Phone Technical Help Desk Services
- Project Management of ATM & Kiosk installations, upgrades, and conversions

Established in 2004, Solvport has grown to become the premier servicing company in the ATM & Kiosk industry. They provide phone technical help desk support and professional reliable field service throughout the United States. Through their Solview 2.0 web based software we are able to open service calls and track their progress 24/7/365 in real-time. To learn more about Solvport go to [www.solvport.com](http://www.solvport.com).

NSA performs ATM maintenance and basic repairs, cleaning, compliance labeling, installation and removals. With more than 450 full-time or part-time experienced representatives located throughout the U.S. they update information, rebrand and clean one in seven ATM machines in the United States. To learn more about NSA go to [www.nsafielddservice.com](http://www.nsafielddservice.com).

**Armored Delivery Services**

We utilize the services of Pendum, Loomis and Brinks to deliver cash to our ATMs. These suppliers are the premier providers of cash delivery services in the ATM market delivering cash for banks and other financial institutions as well as many other ATM independent sales organizations.

Pendum draws on more than 25 years of dedicated service to the ATM industry, operating from 70+ armored branches with 500+ armored vehicles servicing more 35,000 ATMs in cash replenishment/deposit pull services. To learn more about Pendum go to [www.Pendum.com](http://www.Pendum.com).

Loomis history dates back over 150 years and is an international leader in the cash handling services industry. Their international network covers over 400 operating locations in the U.S. and eleven western European countries. In the U.S., Loomis operates an electronically linked service network of nearly 200 operating locations, employs over 8,000 teammates and utilizes a fleet of approximately 3,000 armored and other vehicles to provide secure armored transport, ATM services, cash processing and outsourced vault services for banks, other financial institutions, commercial and retail businesses. To learn more about Loomis go to [www.Loomisfargo.com](http://www.Loomisfargo.com).

Brink's, Incorporated is a leading provider of armored car transportation, ATM servicing, currency and coin processing and other value-added services to banks, retailers and other commercial and governmental agencies around the world. Brinks operates from more than 800 facilities with 9,100 vehicles in 50 countries on 6 continents. Founded in 1859, Brink's has evolved from a leading armored transportation service carrier to a premier provider of secure transportation and logistics solutions around the world. More than 53,900 employees uphold the Brink's standards of trust, integrity, respect, quality, innovation and safety. To learn more about Brinks go to [www.Brinksinc.com](http://www.Brinksinc.com).

### **Cash Management**

We have access to \$100,000,000 of cash through a Cash Provisioning Agreement with Elan Financial Services, under which we can use to operate ATMs we are responsible for supplying cash for. Elan is a division of U.S. Bank and has been a provider of services to the ATM industry for more than 40 years managing ATM programs for over 1,500 financial institutions and 150 Independent Sales Organizations. They are the leading provider of ATM vault cash managing over \$12 billion annually and source cash in all 50 states. As a business of U.S. Bank, Elan obtain cash directly from the Federal Reserve and provide the experience, stability and scale as well as a wide range of vault cash provisioning and management services. To learn more about Elan Financial Services go to [www.elanfinancialservices.com](http://www.elanfinancialservices.com).

#### First and second line maintenance on ATMs

- NCR
- Solvport
- NSA
- Pendum

#### Armored Car Delivery

- Loomis
- Brinks
- Pendum

#### Cash Provisioning

- Elan

- b. Provide an organization chart of respondent's entire organization indicating the reporting relationships between assigned staff and upper management.

Organization chart provided at the end of this tab/section.

2. **Transition Plan** – Provide a detailed transition plan from the current licensee, if applicable, to include a schedule for installation and operational readiness of ATMs.

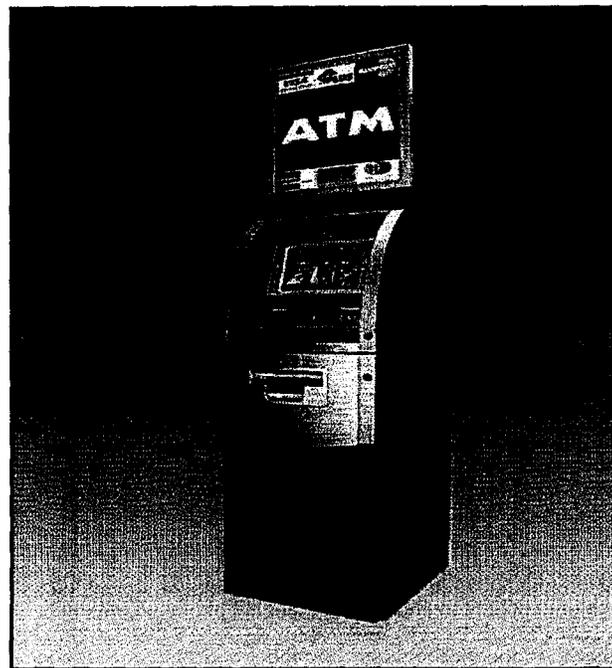
If Access to Money is awarded this contract, Access to Money will contact the current provider two weeks prior to our install to coordinate the de-install of their ATMs and the installation of ours.

3. **Equipment Plan**

- a. Provide a detailed equipment plan, including make, model, features, and technical specifications for proposed ATM equipment (Permanent, Temporary and Mobile).

**Tranax C-4000**

The Tranax c4000 combines the 'best in class' convergence between ATM and self-service functionality. Built standard with features such as a 10.4" High-Resolution color LCD, both modem and integrated Ethernet (SSL) communications and a wide variety of dispensing options (up to 4 cassettes), the C4000 provides the perfect hardware platform on which to implement innovative new services and potential revenue streams for ATM owners. The Win CE Operating System provides the flexibility to create made-to-order solutions including custom applications, customer-specific branding and graphics for retailers and value added services for consumers. The Tranax c4000 is fully TDES and ADA as well as an integrated Ethernet (SSL) communications compliant right out of the box, including a PCI/VISA or Interac. Encrypting Pin Pad (EPP) and a voice/lighted transaction guidance system.



Tranax c4000

- b. Describe ATM reporting capabilities, including report types and names, report information, and report frequency. Provide a sample report, if possible.

Access to Money uses Morphis software, a state-of-the-art application platform currently in use at central banks, depository institutions, armored carriers and ATM deployers throughout the world. We will upload daily transaction files into our database and generate a detailed monthly statement that provides both a consolidated summary, as well as a detailed daily statement for each ATM location. This data can be accessed and viewed real time via the web at [www.accesstomoney.com](http://www.accesstomoney.com)

The following is an example of our monthly transaction report:

Name: Our Favorite Customer		Contact: Our Best Contact	
Address: 123 Main St Blouctfield, PA 12345			
XY175003 The Grocery			
Line Type	Line Code	Amount	
			Wd: 254    Tr: 254    Bal Inq: 254    Tot: 254    Wd Amt: \$0,940.00    Sch: 254    Schg Collat: \$489.00
Income to You	Interchange Share	\$20.40	
Income to You	Surcharge Share	\$326.40	
Exp Paid by You	VISA / PLIS Fee	(\$3.15)	
Exp Paid by You	MasterCard / Cirrus Fee	(\$17.28)	
Exp Paid by You	NYCS Fee	(\$1.38)	
Exp Paid by You	Customer Service Fee	(\$15.00)	
<b>Net Income:</b>		<b>\$308.99</b>	
XY1375000 The Stationary			
			Wd: 330    Tr: 330    Bal Inq: 330    Tot: 330    Wd Amt: \$17,180.00    Sch: 330    Schg Collat: \$825.00
Income to You	Surcharge Share	\$163.00	
Exp Paid by You	VISA / PLIS Fee	(\$0.75)	
Exp Paid by You	Customer Service Fee	(\$15.00)	
Exp Paid by You	MasterCard / Cirrus Fee	(\$10.80)	
Exp Paid by You	NYCS Fee	(\$3.24)	
<b>Net Income:</b>		<b>\$333.21</b>	
XY1475003 The Store			
			Wd: 219    Tr: 219    Bal Inq: 219    Tot: 219    Wd Amt: \$12,800.00    Sch: 219    Schg Collat: \$648.83
Income to You	Interchange Share	\$21.70	
Income to You	Surcharge Share	\$648.83	
Exp Paid by You	VISA / PLIS Fee	(\$0.45)	
Exp Paid by You	MasterCard / Cirrus Fee	(\$9.72)	
Exp Paid by You	NYCS Fee	(\$2.31)	
Exp Paid by You	Customer Service Fee	(\$15.00)	
<b>Net Income:</b>		<b>\$643.85</b>	
XY1575006 The Doll			
			Wd: 205    Tr: 205    Bal Inq: 205    Tot: 205    Wd Amt: \$0,780.00    Sch: 205    Schg Collat: \$410.00

9/8/2010 1 03 30 PM

- c. Provide maintenance and repair statistics of proposed ATM equipment (i.e. how reliable is the equipment). Detail common repair issues and average downtimes.

Access to Money uses new state of the art ATMs with the latest remote technologies to guarantee our customers 99.98 uptime.

- d. Provide brochures, photos and schematics of proposed ATM equipment, including design features for ADA compliance.

Please see the product guide at the end of this tab/section.

4. Financial Plan

- a. Provide all proposed ATM network affiliations.

- b. Provide all proposed transactions, transaction types, and fees, including proposed Foreign Transaction Fee.
- Cash withdrawal from credit or debit card account
  - Cash withdrawal from checking account
  - Cash withdrawal from savings account
  - Transfers from checking to savings (no fee)
  - Transfers from savings to checking (no fee)
  - Balance inquiries from checking and savings (no fee)

- c. Describe accounting and managerial controls to prevent fraud and other types of losses.

Access to Money is responsible for all Reg-E chargebacks. All of our ATMs are PCI compliant using state of the art SSL encryption and Triple DES encryption.

- d. Describe mechanisms to protect ATM user personal information, including name, account information, etc.

All communication with our processor is encrypted; no personal info is stored at the ATM or processor level.

**Note: Respondents should not include any proposed revenue share information with your response to the Financial Plan; instead, this information should be included in the response to RFP Attachment A, Part Four – Compensation Schedule.**

## 5. Customer Service Plan

- a. Provide a detailed plan to provide customer service to ATM users.

Access to Money offers 24/7/365 in house call center capabilities for all first line and second line service issues that an ATM may experience. Our obvious goal is to have 100% uptime on all ATMs and have historically had superior uptime results in excess of 99% with our current customer base.

We will provide a dedicated Customer Service Representative (“CSR”) to The Alamodome. This person will be supported by our other CSRs and Technical Service Representatives (“TSR”) who monitor all of our ATMs real time and are available to answer questions at anytime regarding the operation of a specific ATM. Each CSR & TSR has access to our enterprise ATM management system which houses all data regarding our customers’ ATMs. All transaction history, uptime statistics, operational issues, services calls, timing of events and resolution recaps are logged and maintained in our system for instant access by a CSR or TSR.

In the event a service technician has to visit an ATM for service, our response time will be within 4 hours, 7 days a week including holidays.

Access to Money’s cash management team utilizes a sophisticated cash management module, which is part of our enterprise operating system, to forecast the cash needs of each ATM. Our

team has a combined 33 years of experience managing ATM cash and specifically understands the needs of our customers. The team uses historical trending data to forecast individual ATM balance requirements for holidays, weekends and special events. The team is always open to input from clients about isolated events that may create a demand for extra cash to be loaded into an ATM. Once cash levels are determined for special events holidays and weekends the cash management team coordinates with our armored car carriers and cash supplier to ensure funds are scheduled to arrive in advance of the demand that is expected to occur. Typically the lead time for holiday schedules is 1-2 days earlier than the normal replenishment cycle. We also have the ability to coordinate emergency cash deliveries at anytime

Access to Money would like to extend a visit to our Operations Center to demonstrate our unique service offerings. First and foremost is our dedicated Customer Service Representative (“CSR”) and Technical Service Representative (“TSR”) structure. Each ATM in our portfolio is assigned to a CSR. The CSR’s primary responsibilities are to answer phones and address first line issues associated with an ATM. Whether its issues regarding a machine’s operations or an issue associated with payment or questions from store management, the CSR can immediately address the Alamadome’s question and work towards solving the problem. If an issue is too technical for a CSR to address, he/she can immediately escalate the question to our on-site TSR. The TSR team is located in our Whippany, NJ operations center adjacent to our CSR team and has access to all the ATMs deployed in your portfolio through our enterprise management system. The TSR can work with the customer to try and address the problem without having to dispatch an on site technician saving both time and money. This structure allows us to maintain some of the highest “uptime” levels in the industry.

In addition to this, Access to Money can also provide a tour of our on-site warehouse and parts department. These functions allow us to prepare machines prior to delivery to ensure they are fully operational upon installation. Moreover, our parts department allows Access to Money to fulfill needed requests without waiting for manufacturers. Again, this allows us to drive up uptime levels well beyond industry average.

Finally, a visit to Access to Money would also show the Alamadome staff, our dedication to testing and evaluating new technology and opportunities in the ATM marketplace.

### **Proposed Agenda**

- Meeting with Executive Staff to Review Access to Money’s Proposal
- Tour of Access to Money Facility
- Presentation on Operational Excellence (uptime measurements, response time measurements)
- Meet with the dedicated Alamodome Team to review practices, confirm requirements and set goals
- A Power Point presentation on our state of the art reporting

- b. Provide contact information for the customer service center that meets the requirements of this RFP, including:
- Services provided
  - Contact information
    - Toll-free phone number
    - Internet address
    - Email address
    - Mailing address
  - Hours of operation

Operations Center  
 628 State Route 10  
 Whippany, NJ 07981  
 365/24/7 Toll Free Customer Service #: 888-701-1004  
 Website: www.Accessmoney.com

Access to Money's management hierarchy for dispute resolution:

Level	Contact	Type of Issue
Level 1	Dedicated CSR	Day to Day management of ATMs
Level 2	VP of Operations	Escalation of day to day management Addition of new location and contract negotiations
Level 3	VP of Sales	
Level 4	Chief Operating Officer	Escalation of any dispute and performance issue
Level 5	Chief Executive Officer	Final escalation

**6. Maintenance and Repair Plan**

- a. Provide a detailed ATM maintenance and repair plan to include:
- Service categories (cleaning, maintenance/repair, and cash replenishment);
  - Specific tasks;
  - Assigned staff;
  - Subcontractors;
  - Schedules
  - Contact information
    - Name and Title
    - Company Name
    - Contact Hours
    - Office and/or Mobile Phone Number
    - Email Address
  - Contingency plans

All of the ATMs will be new and set up on annual service contracts and quarterly preventative maintenance service calls. During the preventative maintenance service calls, the ATMs will be cleaned, bulbs changed, diagnostic testing performed, and software and programming will be upgraded to ensure optimal performance.

## b. Describe mechanisms to ensure minimal operational downtime.

Access to Money will deploy state of the art remote monitoring which will allow us to monitor and service ATMs in real time to ensure minimal downtime.

Provide response times for maintenance, repair and service calls that meet the requirements of this RFP.

Condition/Criterion	Procedure
"Machine down" status	<p>As soon as a "machine down" status is generated by our status monitoring platform, a service call is placed directly to the respective service provider, who may either be a third party outsourced technician or an employee of Access to Money, to dispatch a first-line technician on-site within 4 hours. The service call will contain a detail machine down status indicating the hardware/software fault condition.</p> <p>Before arriving at the site, the technician is aware of the problem and required steps to resolve the problem. This involves a detailed review of the reported fault messages and any components associated with the fault messages.</p>
On-site assessment	<p>Once the technician has arrived on site and fixed the problem, a component level test is completed to ensure that all components are in working order.</p> <p>If a successful repair action plan cannot be ascertained within one hour of the first-line technician's arrival on site, the call will be escalated to dispatch indicating customer satisfaction is in jeopardy and a second-line technician will be dispatched to achieve a satisfactory repair.</p>
Within 2 hours on site	<p>If the problem is not resolved within two hours (approximate time on site) after second-line technician's arrival, dispatch will escalate call to advise Access to Money and will also contact ATM hardware manufacturer (Tranax) for additional tech support.</p>
Within 4 hours on site	<p>If the problem is not resolved within four hours (approximate time on site) after second-line technician's arrival, dispatch will notify Access to Money and escalate the call with Manager of Technical support at Tranax.</p>
Within 6 hours on site	<p>After six hours (approximate time on site), dispatch will notify Access to Money. At this point, Access to Money's internal escalation process will take effect and VP of Operations will be contacted; he/she will escalate with the appropriate managers at Tranax to ensure proper support is provided.</p>
Within 8 hours on site	<p>After eight hours, dispatch will notify Access to Money, and Access to Money's VP of Operations will provide updated status to COO, who will in-turn contact the Alamodome authorities and communicate status. The COO will continue to communicate with the Alamodome every 4 hours on the status until the ATM is back in service.</p>
Within 24 hours	<p>If the ATM is not in service after 24 hours (one full business day) the VP of Operations will evaluate the need for a physical site visit with a Tranax engineer. The COO will ensure continuity of communications with the Alamodome and conformance to policy.</p>

- c. Provide contact information for the ATM operations center that meets the requirements of this RFP, including:
- Services Provided
  - Contact Information
    - Toll-free phone number
    - Internet address
  - Email address
  - Mailing address
    - Hours of Operation

Operations Center  
628 State Route 10  
Whippany, NJ 07981  
365/24/7 Toll Free Customer Service #: 888-701-1004  
Website: [www.Accesstomoney.com](http://www.Accesstomoney.com)

## 7. Safety and Security Plan

- a. Provide a detailed ATM safety and security plan, including video surveillance, if applicable, and lighting (for Mobile ATM), and compliance with all laws and regulations.

The Tranax c4000 ATMs are 3DES ready for protecting and encrypting consumer PIN information. In addition, all TCP/IP communications are conducted via cellular wireless triple DES encryption with IPsec tunneling and x.509 key exchange between the ATM and host processor. Our wireless communication is observant of all security requirements of the Gramm-Leach-Bliley Act, VISA, and NCUA.

- b. Describe specific mechanisms to ensure security of customers, ATM staff/contractors, currency, and associated equipment and supplies.

We understand consumers' need for safe and secure transactions at the ATM. Our ATM placements are always in a well-lighted and visible area. If required, we can add rear-view mirrors to help consumers see the surrounding area behind them as they perform transactions. Our ATM fascia is designed to maintain privacy of personal information. All consumer ATM card information printed on the receipts is truncated, and only shows the last 4 digits of the card.

- c. Describe specific mechanisms to address vandalism and graffiti issues.

We will include quarterly cleaning and/or replacement of fascia to remove excess dirt or vandalism.

- d. Describe the use and coordination of off-duty San Antonio Police Department police officers for Mobile ATM security as required in this RFP, if necessary.

We will contact the San Antonio Police department prior to any event to engage in security and protection of all mobile events.

8. **Additional Information** – Provide any additional plans and/or relevant information about Respondent’s approach to providing the required services, including any additional value-added services and incentives Respondent may propose for ATM customers or the City.

TRANAX c4000 PRODUCT GUIDE

# Mini-Bank c4000



## versatility redefined

The all new **Mini-Bank c4000** represents the best in class convergence of **ATM** and **self-service functionality**, resulting in innovative new services and generating revenue streams for ATM owners.

Designed and engineered from the experience of over 80,000 existing Tranax ATMs, the Mini-Bank c4000 is built on a platform that is **flexible, modular, and robust**.

The Mini-Bank c4000 is **TDES** and **ADA** compliant out of the box, including a **VISA/Interac certified encrypting PIN pad (EPP)**, a voice guidance system, and lighted action indicators.

**TRANAX**

Discover the Tranax Difference

# Mini-Bank c4000

**TRANAX**  
www.tranax.com

**TOPPER**  
Illuminated topper (standard) for creating high visibility and attracting customers  
High bright topper (optional) shown

**MONITOR**  
10.4 inch diagonal 32-bit color, backlit TFT LCD panel  
800 x 600 SVGA resolution

**PRINTER**  
80 mm thermal receipt printer  
200 DPI monochrome print capable

**KEYPAD**  
16-key alphanumeric keypad  
VISA/Interac certified  
Triple DES (TDES) compliant  
Encrypting PIN pad (EPP)

**CASH DISPENSER**  
Sliding cash dispensing unit for easy service

- 800 note fixed cassette (standard)
- 1,700 note removable cassette (optional, up to 4 cassettes)



**CPU**  
Intel XScale<sup>®</sup> 32-bit CPU  
Windows<sup>®</sup> CE operating system

**CARD READER**  
Manual insert (dip) magnetic card reader

**ADA**  
Accessible keypad layout  
Voice guidance  
Lighted action indicators

**SECURITY**  
UL 291 Business Hour listed  
UL291 Level 1 (optional)  
Electronic lock  
Cencon Lock (optional)

**COMMUNICATION**  
56K dial-up modem or Ethernet (TCP/IP)  
Wireless solution (optional) available

## SPECIFICATIONS

### Dimensions

56" H 17" W 23" D  
Weight: 260 lbs

*Optional dispensers will increase overall weight*

### Operating Environment:

Temperature range: 40°F-55°F  
Relative humidity: Non-condensing 15%-85%

### Options and Upgrades:

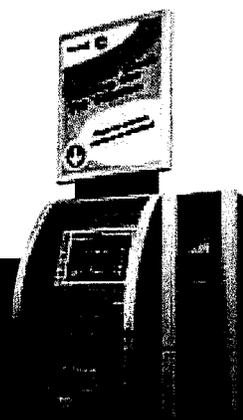
High-bright topper  
Wireless (cellular) communications  
Upgrade to Windows XP

## ADVANCED SERVICES

Option for future upgrades to enable value-add solutions such as Bill Payment and Pre-paid products.

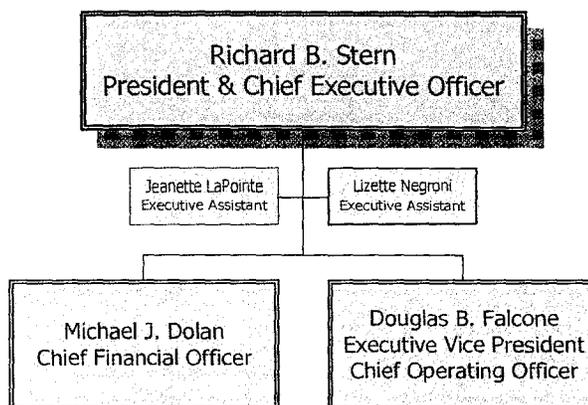
**WebRMS** is a web-based monitoring and cash management solution that ensures a reliable network of ATMs. Instant alerts on your cell phone and via email, as well as online access to electronic journal records, allow you to monitor the health of your ATMs 24/7. WebRMS increases your ATMs' uptime and lowers your operational costs.

**Tranax Extend** offers ATM owners a worry-free investment in a Tranax ATM beyond the standard manufacturer's warranty. If a component of an ATM covered under Tranax Extend is in need of repair, Tranax will promptly ship a working replacement part at no charge.

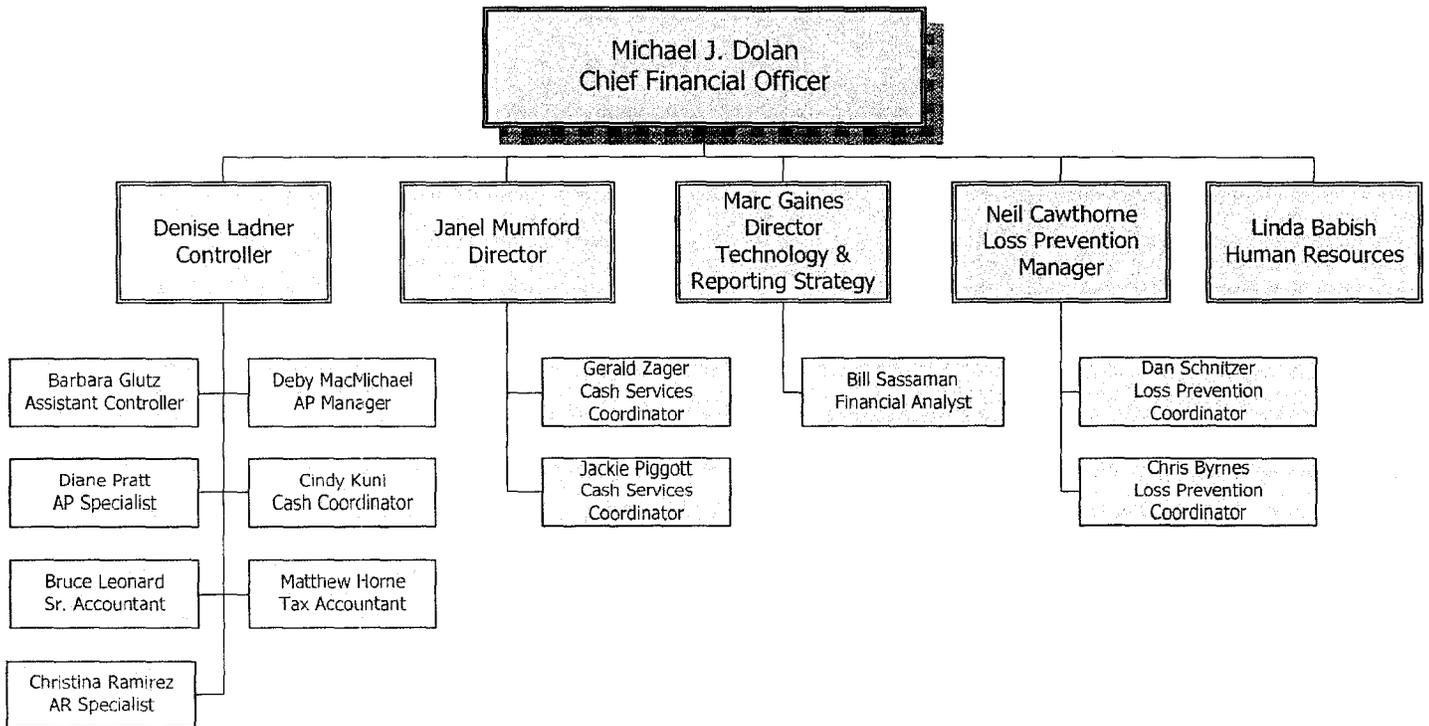


PERSONNEL ORGANIZATION CHARTS

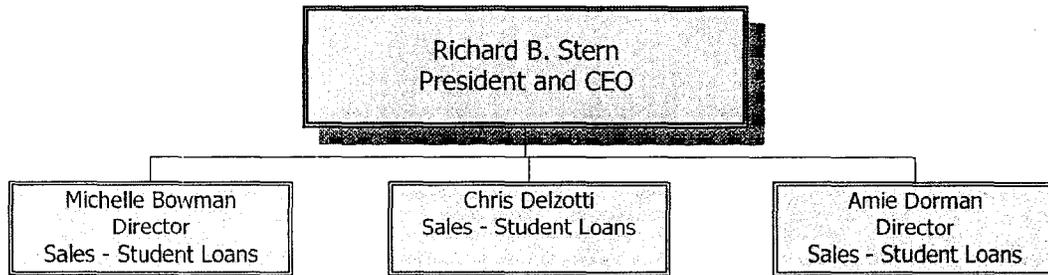
# Access to Money, Inc. Executive Management



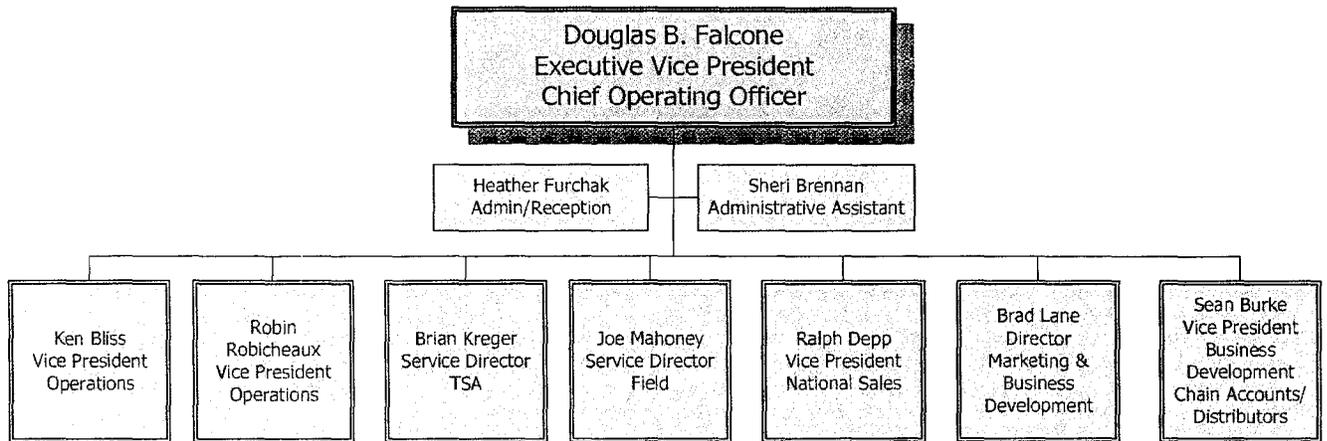
# Access to Money, Inc. Accounting and Finance



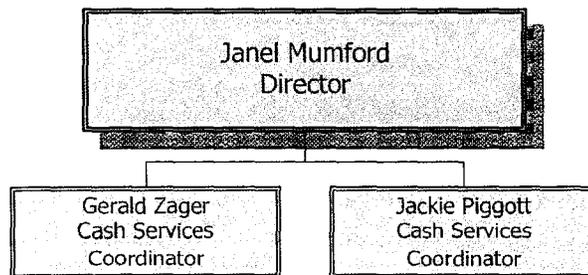
# Access to Money - SL, Inc. Student Loan



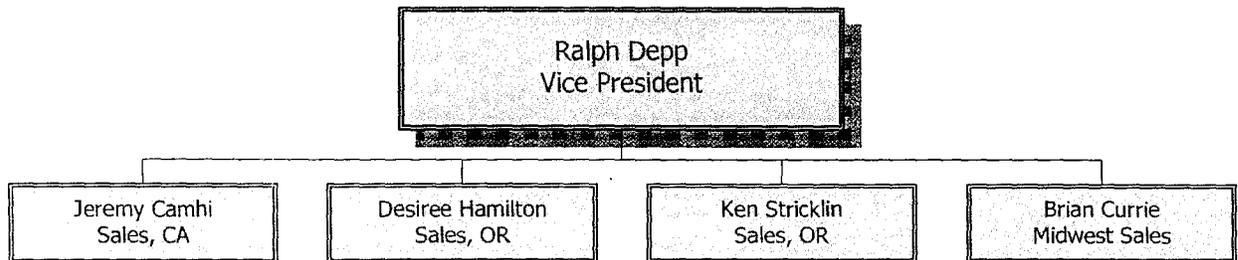
# Access to Money, Inc. Operations and Sales Management



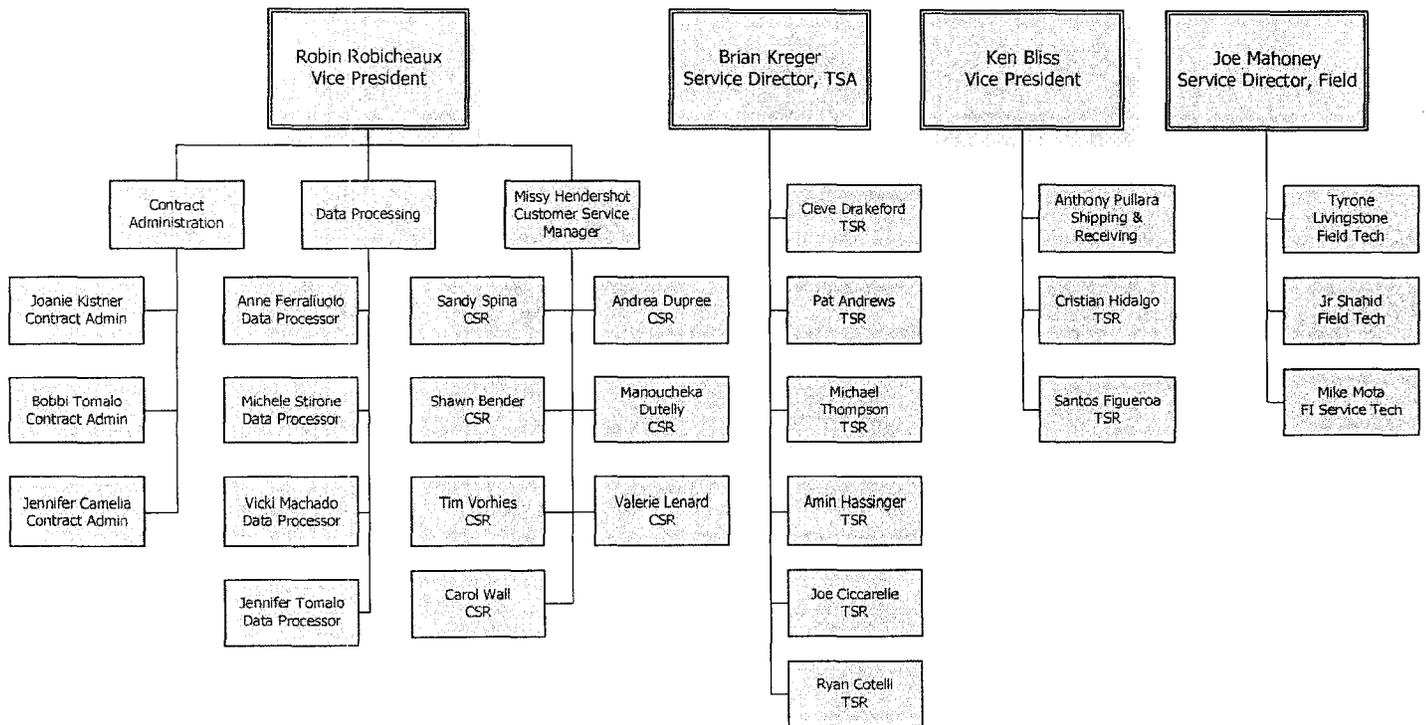
# Access to Money, Inc. Cash Services



# Access to Money, Inc. National Sales



# Access to Money, Inc. Operations





1. **Tab 3 – Proposed Plan – Operating Plan** – Your firm did not provide any detailed information on the proposed Mobile and Temporary ATM program. Please provide your best and final offer and specific information on the program, including quantities, availability, scheduling, transaction fees, and City Percentage and City Share. Please provide the information in narrative format.

Access To Money will provide 4 ATMs to be stored at the Alamodrome that can be deployed when required. When we are given notice that the ATMs need to be made operational for an event We will arrange for a local technician to install the ATMs in the locations required and arrange for them to be loaded with cash. Once the event has finished we will have the ATMs decashed and the technician will return them to storage.

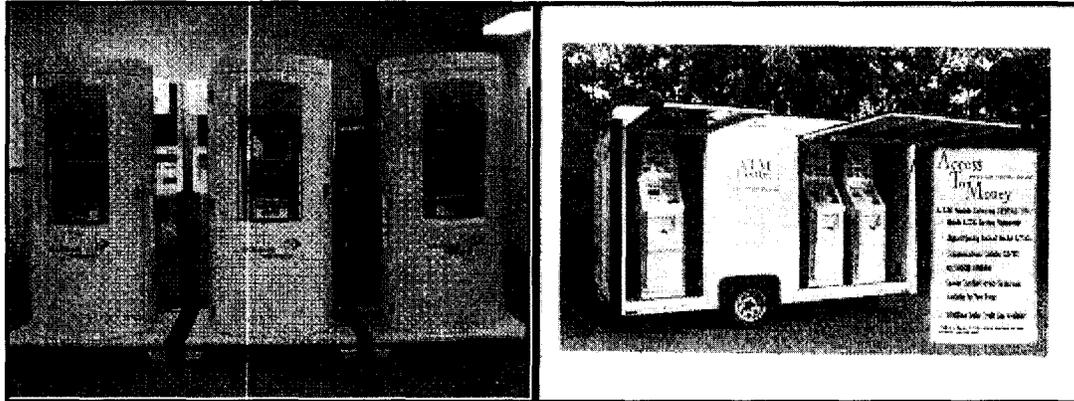
Due to the added expense incurred operating these temporary and mobile ATMs the transaction fees and City Percentage and City Share will be as shown in the table below. This pricing is different to the pricing for the permanent ATMs in our RFP submission

Transaction Category Type	Fee	City %	City Share
Any type of withdrawal transaction	\$2.00	50%	\$1.00
	\$2.50	50%	\$1.25
	\$2.75	50%	\$1.38
	\$3.00	50%	\$1.50

2. **Tab 3 – Proposed Plan – Equipment Plan** – In reference to “innovative new services and potential revenue streams for ATM owners” and “made-to-order solutions including custom applications, customer-specific branding and graphics for retailers and value added services for consumers”, please provide your best and final offer on any specific programs/activities you propose that could benefit the Alamodome that includes design, production, installation and maintenance of turnkey programs/activities, preferably at no cost to the City. This information should be provided independent and exclusive of any other aspects of your proposal. The Alamodome is particularly interested in any programs/activities to improve patron value or experience and/or increase revenue. Please provide the information in narrative format, with illustrations if necessary.

We are able to provide the following value added services and revenue increasing solutions:

The ATMs that we would use for the temporary and mobile ATMs would be the Tranax C4000 together with a trailer that is owned by Access To Money that hold up to 4 ATMs that can be located anywhere as needed. This unit communicates via wireless the only thing required is a 110volt power outlet. For more detailed information on these units please refer to page 8 or our RFP submission for the mobile trailer and Page 14 for the Tranax C400. Pictures of these units are below.



**Bank Branding** – We will be able to work with local Banks and Financial Institutions who want to place their brand on the ATM that allows their customers a surcharge free transaction. In return they would pay a branding fee and an amount per transaction for their customer. We would provide the Alamodome with 50% of the revenue generated from any Bank Branding arrangements made.

**Video Topper Advertising** – With a LCD full motion video topper added to the ATM we would be able to generate revenue by selling advertising space to brand owners. The Alamodome can also use this video topper for promotional purposes to run video of upcoming events. The city would have discretion over any advertising that was displayed on the video toppers and the city would incur no costs for the advertising content. We would provide the Alamodome with 50% of the revenue generated from any advertising revenue made.

### ***3. Tab 3 – Proposed Plan – Customer Service Plan and Maintenance and Repair Plan***

In reference to Customer Service Plan “our response time will be within 4 hours”, section 7.1.10 of the contract attached to the RFP specifies a response time of two hours. In addition, section 7.1.12 of the contract specifies that malfunctioning ATMs, which cannot be repaired within 24 hours, shall be replaced. Your Maintenance and Repair Plan does not specify this. As the Alamodome is an event-based facility, it is imperative that there be a response time of not more than two hours, as the duration of most events is only 2-4 hours. Please provide your best and final offer on your response time and your timeframe for replacing malfunctioning ATMs. Please provide your response in narrative format.

We have a technical help desk that is able to resolve 95% of any issues with an ATM immediately. We are also able to communicate with the ATMs remotely to fix most services issues with the ATM, such as bill jams and system resets.

If none of the above services are able to get the ATM operational and a technician would need to be dispatched they would be there within a 4-hour period of the call being set.

We would like to note that we average a 99.8% uptime on the 12,000+ ATMs that we provide service for.

4. **Tab 4 – Compensation Schedule** – Please provide another proposed Transaction Fee level of \$2.75 per transaction, if possible, and your best and final City Percentage and City Share at that level. Also, please provide your best and final City Percentages and City Share on all other proposed Transaction Fee levels. Please provide the information in the Compensation Schedule format as provided in the RFP.

For a \$2.75 transaction fee we would pay the city on the following schedule:

Transaction Category Type	Fee	City %	City Share
Any type of withdrawal transaction	\$2.75	62%	\$1.70