



NOTICE OF INVITATION FOR BID (IFB)

SOLICITATION NUMBER: 2021-013-IFB

EQUIPMENT: One (1) Baggage Belt Loader

BID OPENING DATE AND TIME: September 21, 2020 2:59 PM Arizona time

MAILING/DELIVERY ADDRESS: Phoenix-Mesa Gateway Airport Authority
Attn: Marian Whilden, Procurement Coordinator
5835 S. Sossaman Road
Mesa, AZ 85212

This solicitation may be downloaded from our website at www.gatewayairport.com under the Business | Procurements, Vendors & Public Notices section. The Phoenix-Mesa Gateway Airport Authority (PMGAA) Administration Office Reception Area Staff will receive competitive sealed Bids for the specified material or service until the time and date cited above. Late Bids will not be considered. All submissions and Offeror conduct must comply with applicable PMGAA policies, rules and procedures. PMGAA may cancel this solicitation at any time for any legally permissible reason.

Bids must be submitted in a sealed envelope with the solicitation number and the Offeror's name and address clearly indicated on the envelope. Submittals received on or before the correct time and date will be accepted by a staff member and a submittal receipt will be available upon request. Late submittals will not be considered. **PMGAA's Administration Offices are closed on Fridays, Saturdays, and Sundays therefore, submittals will not be accepted on these days.**

Additional instructions for preparing your bid are provided in the solicitation document. Requests for additional information or clarification of requirements must be in writing and submitted to:

Contact: Marian Whilden, Procurement Coordinator
Telephone: (480) 988-7646
Email: mwhilden@gatewayairport.com

Deadline for submitting questions to PMGAA is September 11, 2020 by 10:59 am Arizona Time. Responses to questions received will be issued in an addendum to the Invitation to Bid and posted at www.gatewayairport.com under the Business | Procurements, Vendors & Public Notices section of the website. Offerors are responsible for checking the PMGAA website at www.gatewayairport.com, under the Business | Procurements, Vendors & Public Notices section for any addenda that may be created for this solicitation and including the issued addenda in its submitted bid.

Direct contact with PMGAA Board of Directors and/or PMGAA representatives or staff other than as specified in this solicitation, on any subject related to this solicitation is expressly prohibited except with the prior knowledge and written permission of the procurement coordinator listed above. Unauthorized contact of any PMGAA Board of Directors, and/or PMGAA staff or representatives may be cause for rejection of proposals.

Issue Date: August 20, 2020

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Public Record Notice

All submittals in response to this solicitation shall become the property of PMGAA, shall not be returned to Bidder and shall become a matter of public record available for review subsequent to the contract award.

Please note that PMGAA's Procurement Policy requires:

If the Bidder deems any portion of its submittal as confidential, the Bidder must label each and every page of the confidential portions with: "Trade Secret", "Confidential" and/or "Proprietary". The Bidder must also list each of the materials it deems confidential at the beginning of its Bid, and provide a written, detailed justification for not making such material public, along with its submittal.

Additional information and requirements can be found in PMGAA's complete "Public Access to Procurement Information" contained in PMGAA's Procurement Policy that is available under the Policies, Documents and Forms link at:

<https://www.gatewayairport.com/policiesdocumentsandforms>

PMGAA encourages all Bidders to review this policy in its entirety prior to submitting a Bid.

**INVITATION FOR BID
SOLICITATION #2021-013-IFB FOR A BAGGAGE BELT LOADER**

SUBMITTAL COVER SHEET

Name of Offeror: _____

EIN#: _____

DUNS#: _____

Principal Address: _____

Primary Point of Contact: _____

Phone: _____

Email: _____

The undersigned hereby affirms that:

- The undersigned is a duly authorized agent of the Offeror
- The undersigned has read and understands all terms, conditions and commitments contained within the IFB and any addenda issued and fully understands and accepts these terms by submission of a bid.
- The submission is being offered independently of any other Offeror and did not involve collusion or other anti-competitive practices.

By: _____
Signature

Date

Printed Name

Title

Introduction

Purpose:

The purpose of this Phoenix-Mesa Gateway Airport Authority (PMGAA) document is to obtain bids for the purchase of one (1) Baggage Belt Loader to be used by the Airport's Fixed Based Operator (FBO) for the loading and unloading of cargo.

Background:

Gateway Aviation Services, owned and operated by the Phoenix-Mesa Gateway Airport Authority since 1996, is the Airport's sole fixed-base operator (FBO). Gateway Aviation Services provides ground handling services and sells 100LL Avgas and Jet-A fuel to based and transient aircraft and customers.

The Phoenix-Mesa Gateway Airport is owned and operated by the Phoenix-Mesa Gateway Airport Authority. The PMGAA Board of Directors is comprised of the Mayors of the Cities of Mesa, Phoenix and Apache Junction, Towns of Gilbert and Queen Creek, and the Governor of the Gila River Indian Community. The Board of Directors provides policy direction for the Airport Authority. The Executive Director and professional staff conduct the day-to-day activities of the Airport Authority.

Section One

Offeror Information and Instructions

A. GENERAL INFORMATION ON SOLICITATION PROCESS

1. **Availability of Solicitation.** The solicitation package is available via the Internet at www.gatewayairport.com –under the Business | Procurements, Vendors & Public Notices section.
2. **Addenda.** If the PMGAA deems it necessary to amend the solicitation, an Addendum will be prepared in writing. Offerors are responsible for obtaining all addenda via the PMGAA website at www.gatewayairport.com under the Business | Procurements, Vendors & Public Notices section or by other means. Any Addenda issued by the PMGAA are to be included in the response and will become a part of the contract. Offeror shall acknowledge receipt of each addendum by signing and returning the document, as part of the Offeror’s submittal under this IFB, and by the specified due date and time of the IFB..
3. **Familiarization with Requirements.** It is the Offeror’s responsibility to examine the entire solicitation package and seek clarification of any requirement or contract term that may not be clear and to check all responses for accuracy before submitting a bid. Negligence in preparing a bid confers no right of withdrawal after due date and time.
4. **Cost of Bid Preparation.** PMGAA shall not reimburse the cost of developing, presenting or providing any response to this solicitation. Bids, proposals and/or statements of qualifications submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.
5. **Inquiries.**
 - a. **Contact Person.** Any inquiry related to a solicitation, including any requests for or inquiries regarding standards referenced in the solicitation should be directed to the staff member listed on the cover page of the solicitation. The Offeror shall not contact or direct inquiries concerning this solicitation to any other PMGAA employee unless the solicitation specifically identifies additional person(s) as a contact.
 - b. **Submission of Inquiries.** All inquiries, except those at the Pre-Bid Conference (if scheduled), shall be submitted in writing and/or electronic mail and shall refer to the appropriate solicitation number, page and paragraph. PMGAA shall consider the relevancy of the inquiry but is not required to respond in writing. All questions must be submitted by the date and time specified in this RFQ for PMGAA to consider its relevancy.
 - c. **Oral Responses.** Oral interpretations or clarifications will be without legal effect. An Offeror shall not rely on oral responses to inquiries. An oral reply to an inquiry does not constitute a modification of the solicitation.
6. **Offer and Acceptance Period.** Unless specified differently in Section Two, all bids submitted shall remain valid and irrevocable for sixty (60) days after the opening time and date of bids.
7. **Bid Results.** Bid results are not provided in response to telephone inquiries. A tabulation of responses received is on file at PMGAA and available for review after a contract is awarded.
8. **Debarment/Suspended.** By submitting a bid, Offeror certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this solicitation by any Federal department or agency.

9. Protest of Solicitation or Specifications (Before Bid Opening).

- a. Any interested person aggrieved in connection with the solicitation of a contract shall protest irregularities in the IFB, RFP, or RFQ within three business days from the date the protester knew or should have known of the basis for the protest and, in any case, at least five business days before opening bids or proposals.
- b. All protests must be made in writing to the Purchasing Director / Chief Financial Officer. Each protest must state the specific factual and legal grounds on which the protest is based. The protester must also include with the protest all pertinent documents and all supporting evidence. PMGAA need not accept any protest that fails to comply with the requirements of this section. The protester's failure to timely protest specifications or other solicitation terms and conditions constitutes a waiver of the protest.
- c. If a timely protest before bid opening is made, PMGAA may proceed with the solicitation or with the award of the contract unless the Purchasing Director / Chief Financial Officer determines in writing that the protest should be sustained or that an addendum addressing the protest should be issued.

10. Protest of Award Recommendation.

- a. A protest made after the deadline for bids or proposals, including challenges to the evaluation committee, must be submitted in writing to the Purchasing Director / Chief Financial Officer.
- b. A protest must be received by the Purchasing Director / Chief Financial Officer within five business days following public posting of PMGAA's award recommendation. The formal protest must contain the following information.
 - i. PMGAA's solicitation identification number and title.
 - ii. Name and address of the protester, the title or position of the person submitting the protest, and a statement that the protest has been authorized by the protester and the protest is made in good faith.
 - iii. A statement of all facts alleged and all rules, regulations, statutes, or constitutional provisions that entitles the protester to relief.
 - iv. All other information, documents, materials, legal authority, and evidence in support of the protest.
 - v. A statement indicating the precise relief sought by the protester.
- c. The Purchasing Director / Chief Financial Officer will make a written decision on the protest within ten business days after it is received.
- d. The Protester may appeal the Purchasing Director's / Chief Financial Officer's decision to the Executive Director. Any appeal must be filed with the Executive Director within three business days after the protester receives the Purchasing Director's / Chief Financial Officer's decision.
- e. The Executive Director may hear the appeal or appoint an independent hearing officer to do so. If a hearing officer is appointed, the hearing officer shall conduct an informal hearing on the appeal within 10 business days from receipt of the appeal. The hearing officer shall promptly prepare an informal decision and recommendation on the appeal for the Executive Director's consideration. The hearing officer shall promptly serve the recommendation on the protester.
- f. Upon receipt of the hearing officer's recommendation, or if no hearing officer is appointed, the Executive Director shall decide any protest for a solicitation valued at less than \$50,000. For solicitations valued less than \$50,000 or sustained protests, the Executive

Director's decision is final. For solicitations valued over \$50,000 and the Executive Director is recommending denial of the protest, the Executive Director shall make a recommendation to the Board, and the Board shall make the final decision regarding award of the contract.

- g. Notice of the Board's final decision must be furnished to the protesting party, in writing, by the Purchasing Director / Chief Financial Officer.
11. **Special Conditions.** Wherever special conditions are written into the Special Conditions and Specifications (Section Two), which are in conflict with conditions stated in these Instructions to Offerors, the conditions stated in Special Provisions and Specifications, shall take precedence.
12. **Title VI Solicitation Notice.** The Phoenix-Mesa Gateway Airport Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or Offerors that it will affirmatively ensure that any contract entered into pursuant to this solicitation, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

B. BID PREPARATION AND SUBMITTAL

1. Bid Preparation.

- a. Forms. All bids shall be submitted on the forms provided in this solicitation. It is permissible to copy these forms if required.
- b. No Facsimile or Electronic Mail Bids. Bids may not be submitted via facsimile or electronically. Facsimiles or electronic mail bids shall not be considered.
- c. Typed or Ink Corrections. The bid shall be typed or in ink. The person signing the bid shall initial erasures, interlineations or other modifications in the bid in ink.
- d. Signature. The person authorized to sign the bid shall submit the Offer and Acceptance page with an original ink signature.
- e. Confidential, Trade Secret and Proprietary Information. Requests for nondisclosure of information deemed Confidential, Trade Secret, and/or Proprietary must be made in accordance with PMGAA's Procurement Policy. Please review PMGAA's complete "Public Access to Procurement Information" contained in PMGAA's Procurement Policy that is available under the Policies, Documents and Forms link at: <http://www.gatewayairport.com/policiesdocumentsandforms>.

2. Bid Submittal.

- a. Submission Package. One (1) original and the specified number of copies of the bid (see Section Two) should be contained in each submission package. Each submittal package/envelope should be firmly sealed and clearly marked on the outside with the solicitation number, "BID" and the name and address of the Offeror.
- b. Late Bids. Late bids shall be rejected and returned to the Offeror.
- c. No Modifications. Modifications shall not be permitted after bids have been opened except as otherwise provided under applicable law, such as a specific request by PMGAA such as a requested Best and Final Offer (BAFO). All modifications shall be made in writing and executed and submitted in the same form and manner as the original bid.

- d. Withdrawal of Bid. Bids may be withdrawn at any time prior to the specified bid due date and time. An Offeror (or authorized representative) may withdraw the response by notifying

the designated contact for this solicitation in writing on company letterhead. Facsimiles or other electronic format withdrawals shall not be considered.

3. **Bid Evaluation.**

- a. Conformance to IFB. Each received bid will be checked for the presence or absence of required information in conformance with the submission requirements of this IFB and to ensure that the bid is fully responsive to the specifications listed.
- b. Disqualification. An Offeror who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its bid rejected.
- c. Clarifications. PMGAA reserves the right to obtain Offeror clarifications where necessary to arrive at full and complete understanding of Offeror's product, service and/or solicitation response. Clarification means a communication with an Offeror for the sole purpose of eliminating ambiguities in the bid and does not give Offeror an opportunity to revise or modify its bid.
- d. Response Rejection. Submission of additional terms, conditions and/or agreements with the bid may result in bid rejection.

4. **Award of Contract.**

- a. Rights of PMGAA. The PMGAA reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the PMGAA. PMGAA may reject any or all bids, waive any minor informality or irregularity in bids received or reject any alternate bid(s) and reserves the right to reject the bid(s) of any Offeror who has previously failed to perform competently in any contract with the PMGAA.
- b. Selection. The contract shall be awarded as outlined in Section Two.
- c. Contract. A response to a solicitation is an offer to contract with PMGAA based upon the terms, conditions, and specifications contained in the solicitation. Bids do not become contracts until the PMGAA Board of Directors or the PMGAA Executive Director executes them.

Section Two

Special Provisions and Instructions

A. INFORMATION SPECIFIC TO THIS SOLICITATION

1. Minimum Specifications for one (1) Baggage Belt Loader:

The minimum specifications and requirements that will be acceptable to PMGAA for the Baggage Belt Loader (Equipment) are detailed in Attachment C which shall be completed by Offeror. Specifications may be exceeded and should be noted by the Offeror

Any bid not meeting the minimum specifications and requirements may be rejected.

PMGAA reserves the right to inspect and refuse equipment for purchase based upon the established requirements.

2. Manuals

Manuals required will consist of one (1) each operator, maintenance, and parts manuals. All manuals are required to be provided in hardcopy and in digital format.

All manuals shall be delivered to PMGAA at the address noted below within two (2) days of delivery of the equipment to PMGAA. All costs of manuals, if any, shall be listed in Attachment D.

3. Delivery

Delivery of equipment shall be made to:
7630 E. Velocity Way
Mesa, AZ 85212

Offeror shall schedule delivery at least three days ahead by contacting:
Ray Logsdon at 480-988-7729

PMGAA shall have the right to inspect the equipment when delivered and reject equipment if it does not meet the specifications outlined in this IFB and/or Offerors bid specifications submitted. PMGAA shall have up to three (3) business days to inspect, test, and notify Offeror if such equipment does not meet the specifications or is defective in any way.

PMGAA does not have a loading dock. Equipment will need to be offloaded direct from the hauler.

4. Warranty

Warranty start date shall begin the date the equipment is delivered to PMGAA and fully operational, whichever is later.

Minimum warranty periods PMGAA will accept are stated in Attachment C and all costs, if any shall be listed in Attachment D.

5. Payment

Payment will be made by PMGAA 30 days upon receipt and successful test of the Equipment unless otherwise agreed to by PMGAA. Payment discount period, if offered, shall be computed from the

date of receipt of the Equipment at the address listed below. Unless freight and other charges are itemized, any discount provided shall be taken on full amount of invoice. PMGAA shall be entitled to take advantage of any payment discount offered by Offeror provided payment is made within the discount period.

6. Add Alternate Option

Offeror is to include a bid for the equipment listed in Attachment C. PMGAA is under no obligation to purchase such equipment from Offeror.

7. Bid Guarantee

Offeror's bid, including all pricing, terms and conditions, shall be guaranteed for sixty (60) days from IFB due date.

8. Bid Submittal

Offerors shall include all attachments of the Invitation for Bid and ensure the following items are addressed in their submittal package and in this order:

1. Submittal Cover Sheet
2. Evidence that Offeror, if a corporation, is in good standing and qualified to conduct business in Arizona.
3. Attachment A: Authorization for Release of Performance Information and Waiver
4. Attachment B: Offer Agreement
5. Attachment C: Minimum Specifications
6. Attachment D: Offeror's Bid
7. Attachment E: References
8. A complete, detailed description of the equipment and its operational capabilities, including those for all major components. Promotional materials may or may not satisfy this requirement. Provide a photograph of the equipment bid. Maximum of 10 pages for this submittal item.
9. Detail of the warranty terms and conditions

9. Evaluation and Award Criteria

The selection process will be based on the information provided in response to this Invitation for Bid. PMGAA will determine how well each Offeror's response meets the requirements as stated in the solicitation and will select the bid which appears most beneficial to PMGAA. Evaluation of bids will be based on, but not limited to:

- a. Responsive and Complete submittal per this IFB
- b. Responsibility—PMGAA will determine whether the Offeror is one with who it can or should do business. Factors include but are not limited to excessively high or low priced bids, past performance, references from any source, financial stability and perceived ability to perform.
- c. Price (Evaluated both with and without the Add Alternate, if applicable, at PMGAA discretion)

Award will be made to the lowest responsive and responsible bid meeting the above criteria. The PMGAA Procurement Policy governs this procurement and is incorporated by this reference.

10. Definitions

- a. PMGAA – The Phoenix Mesa Gateway Airport Authority
- b. Offeror/Proposer/Bidder/Firm – The individual, partnership, or corporation who, as a result of the competitive bid process, has submitted a bid for specified goods/services
- c. Invitation for Bid - A type of competitive sealed bid procurement process
- d. Contractor/Consultant - The individual, partnership, or corporation who, as a result of the competitive bid process, submitted a bid for goods/services and is awarded the resulting contract.

PMGAA’s Administration Offices are closed on Fridays and therefore, submittals will not be accepted on Fridays.

Section Three

Standard Terms and Conditions

1. **Certification.** Offeror certifies:
 - a. The award of this Contract did not involve collusion or other anti-competitive practices.
 - b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
 - c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Offeror hereby certifies that the individual signing this Contract is an authorized agent for Offeror and has the authority to bind the Offeror to the Contract.

2. **Dispute Resolution.**
 - a. **Negotiations.** If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.

 - b. **Mediation.** Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.

 - c. **Binding Dispute Resolution.** Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

3. **Independent Contractor.** At all times, each party acts in its individual capacity not as agent, employee, partner, joint venturer, or associate of the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Offeror nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days. PMGAA will not provide any insurance to Offeror, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

4. **Affirmative Action.** Offeror shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

5. **Human Relations.** Offeror shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

6. **Non-Exclusive Contract.** This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.
7. **Americans with Disabilities Act.** Offeror shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.
8. **Confidentiality of Records.** Offeror shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Offeror also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Offeror as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.
9. **Gratuities.** PMGAA may, by written notice to the Offeror, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Offeror or any agent or representative of Offeror, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Offeror the amount of the gratuity.
10. **Applicable Law.** This Contract shall be governed by, and PMGAA and Offeror shall have, all remedies afforded each by the *Uniform Commercial Code*, as adopted in the state of Arizona, except as otherwise provided in this Contract or in laws pertaining specifically to PMGAA. This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.
11. **Contract Amendments.** This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or its designee, and persons duly authorized to enter into contracts on behalf of Offeror.
12. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.
13. **Severability.** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.
14. **Protection of Government Property.** Offeror shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Offeror damages PMGAA's property in any way, Offeror shall immediately repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Offeror fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Offeror under the Contract.
15. **Interpretation – Parol Evidence.** This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.
16. **Subcontracts.** Offeror shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Offeror of its acceptance or rejection within forty-five (45) days or written request by

Offeror. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Offeror referred to herein. Offeror is responsible for Contract performance whether subcontractors are used.

17. **No Waiver.** No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Offeror's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.
18. **Warranties.** Offeror warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Offeror or the rights of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.
19. **Indemnification.** To the fullest extent permitted by law, Offeror shall defend, save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Offeror's acts, errors, omissions, or mistakes relating to Offeror's services under this Contract.
20. **Right to Assurance.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.
21. **Advertising.** Offeror shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.
22. **Right to Inspect.** PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of Offeror's or any of Offeror's subcontractor's business, which is related to the performance of this Contract or related subcontract.
23. **Force Majeure.** In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Offeror to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

24. **Exclusive Possession.** All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Offeror or any other person except with prior written permission by PMGAA.
25. **Title and Risk of Loss.** The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.
26. **Liens.** All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Offeror shall provide a formal release of all liens.
27. **Licenses.** Offeror shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Offeror as applicable to this Contract.
28. **Subsequent Employment.** PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of the PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.
29. **Clean Up.** Offeror shall at all times keep Contract performance areas, including storage areas used by the Offeror, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Offeror shall leave the work and premises in clean, neat, and workmanlike condition.
30. **Patents.** Offeror shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Offeror under this Contract.
31. **Records and Audit Rights.** Offeror's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Offeror and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Offeror's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Offeror and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Offeror under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Offeror and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Offeror or subcontractors reasonable advance notice of intended audits. Offeror shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.
32. **E-Verify Requirements.** To the extent applicable under A.R.S. § 41-4401, Offeror and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Offeror's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Offeror's and any of Offeror's subcontractor's employee who works on this Contract to ensure the Offeror is complying with this paragraph.

33. **Availability of Project Funding.** This Contract's approval and continuation is conditioned on the availability of funds appropriated by PMGAA for this purpose. If funds are not available or appropriated for the Contract's requirements, PMGAA may terminate the Contract/Procurement.

Attachment A

Authorization for Release of Performance Information and Waiver

The purpose of this disclosure is to provide references to PMGAA. Offeror hereby consent that as an Offeror to PMGAA's Solicitation 2021-013-IFB, Baggage Belt Loader for Phoenix-Mesa Gateway Airport, Offeror authorizes those companies and government entities listed in Offeror's IFB submittal and any other government entity for whom this company has provided Baggage Belt Loaders, to disclose and release to PMGAA, or their representatives, information, records and opinions concerning this company's past performance.

_____ (Offeror) hereby waives any claim it may have against PMGAA or any company or entity providing information to PMGAA by reason of any information being disclosed or opinions provided regarding the actions or performance of this company.

This authorization for disclosure of information is effective for one (1) year.

This consent or copy of this authorization shall be as valid and effective as the original.

Signature of Offeror

Date

Attachment B
Offer Agreement

OFFER TO PHOENIX-MESA GATEWAY AIRPORT AUTHORITY:

The Offeror hereby offers and agrees to furnish the material or service in compliance with all terms, conditions, specifications, and amendments in the Invitation for Bid including Attachment D – Offeror’s Bid.

Company Name: _____

Federal Tax Identification Number: _____

Sales Tax Identification Number: _____

Signature

Date

Printed Name

Title

For clarification of this offer, contact:

Name: _____

Title: _____

Telephone: _____

Email: _____

Attachment C
Minimum Specifications

1. By submitting a bid, Offeror hereby certifies that the Baggage Belt Loader submitted for consideration by PMGAA under this solicitation, 2021-013-IFB, meets all specifications contained in this Attachment C.

Signed: _____

Date: _____

2. Specifications may be exceeded and should be noted by Offeror and submitted to PMGAA as part of Offeror's bid.

| # | New Belt Loader Minimum Required Specifications (New Only) | Met (Y or N) | Comments |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-----------------|
| 1. | New | | |
| 2. | Engine – Gas/Diesel powered engine Meet all current Federal & State environmental requirements. Offeror shall state the engine manufacturer and horsepower for the engine being offered. | | |
| 3. | Engine hour meter | | |
| 4. | Automatic transmission. Offeror shall state the transmission manufacturer. | | |
| 5. | Power steering | | |
| 6. | Cab/Chassis – painted white | | |
| 7. | Warranty, bumper-to-bumper – minimum of 12 months | | |
| 8. | Warranty, engine – minimum of 36 months | | |
| 9. | Warranty, transmission – minimum of 36 months | | |
| 10. | Conveyor controls on both ends of conveyor | | |
| 11. | Hand rail on conveyor | | |
| 12. | Bumpers on both ends of conveyor | | |
| 13. | Emergency stops on two (2) corners of unit | | |
| 14. | Amber flashing LED beacon | | |
| 15. | Back up alarm | | |
| 16. | Minimum conveyor length 280” | | |
| 17. | Minimum conveyor width 22” | | |
| 18. | Minimum 2,000 lb lift capacity at full height | | |
| 19. | Tires minimum 10 ply | | |
| 20. | Provide one (1) complete hard copy and one (1) electronic copy each of the operations, maintenance, and parts manuals at time of delivery. | | |
| 21. | Add Alternate: Collision Avoidance System | | |

Attachment D
Offeror's Bid

| Item | Price |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 1 (one) New Baggage Belt Loader, Meeting the Minimum Specifications per Attachment C | \$ _____ |
| Manuals | \$ _____ |
| Sales Tax (1 Baggage Belt Loader and Manuals) PMGAA is NOT tax exempt. If Offeror does not collect sales tax on behalf of the State of Arizona when invoicing, Offeror should still include tax at a rate of 7.6% for Use Tax. | \$ _____ |
| Warranty, Meeting the Minimum Specifications per Attachment C | \$ _____ |
| Shipping | \$ _____ |
| Total WITHOUT ADD ALTERNATE | \$ _____ |
| ADD ALTERNATE – Collision Avoidance System | \$ _____ |
| Total WITH ADD ALTERNATE | \$ _____ |

Discounts:

Prompt Payment: The price(s) quoted above can be discounted by _____ % if payment is made within _____ days.

Parts: PMGAA price for purchasing parts direct from the Offeror shall be discounted by _____ % of the current list price for parts published by Offeror.

Exceptions / Clarifications of Offeror:

Equipment is manufactured in (country): _____

Delivery Time Estimate: _____

Proposal Certification

By Offeror's signature, Offeror certifies that Offeror is authorized to bind this firm/individual to provide the Equipment/Services accepted herein, in compliance with the scope of work, technical specifications, minimum specifications, and other terms and conditions in this Invitation for Bid at the price provided on this page.

Printed Name

Signature

Attachment E

References

Company Name: _____ Contact Person: _____

City, State: _____ Telephone: _____

Model/Date of Purchase: _____

Company Name: _____ Contact Person: _____

City, State: _____ Telephone: _____

Model/Date of Purchase: _____

Company Name: _____ Contact Person: _____

City, State: _____ Telephone: _____

Model/Date of Purchase: _____