

Date: October 16, 2007
To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners
From: George M. Burgess
County Manager
Subject: Request to Advertise, Request for Proposals Non-Exclusive Advertising Display
Program at Miami International Airport, RFP No. MDAD-05-06

Amended
Agenda Item No. 8(A)(1)(F)

R-1167-07

This item was amended to include the following language: "The proposer shall disclose whether it has received notices of any violation of the sign code of Miami-Dade County. The County may consider any such violation when determining the responsibility of the bidder." In addition the item was amended to increase the MAG to \$3 million and that proposers must disclose any litigation with the County."

RECOMMENDATION

It is recommended that the Board approve this request to advertise a Request for Proposals (RFP) for non-exclusive Advertising Display Program at Miami International Airport (MIA). A copy of the RFP is attached in substantially completed form.

SCOPE

MIA is located within Commissioner Rebeca Sosa's District. However, the impact of this agenda item is countywide in nature as Miami International Airport is a regional asset.

The scope of this project consists of offering advertising locations to be financed, designed, developed, furnished, installed, maintained and operated by the Selected Proposer to ensure implementation of a comprehensive, successful, dynamic, creative and profitable Advertising Display Program at MIA.

TRACKING RECORD/MONITOR

Not applicable as this is a request to advertise. The Miami-Dade Aviation Department (MDAD) Project Manager will be Dr. Patricia Ryan.

FISCAL IMPACT/FUNDING SOURCE

This is a revenue-generating contract for the County. See Payments to the County.

BACKGROUND

The current static advertising and exhibit display services concession is managed by JCDecaux Airport, Inc., which has been performing advertising services at MIA since March 1, 1994. Under the current agreement, MDAD owns all the advertising displays and the incumbent sells advertising to third parties. The new Agreement requires the Selected Proposer to provide all displays.

MDAD held an Industry Review Meeting on May 31, 2006, which was attended by fourteen (14) representatives from potential advertising services providers. As a result of that meeting, it was determined it would be in the best interest of the Department to extend the term of the proposed Agreement, adjust the Minimum Qualifications and the number of locations. Interested parties were informed of the adjustment to the RFP via letter, and the RFP was structured to address these issues.

PROJECT: Advertising Display Program

PROJECT NO.: RFP-MDAD-05-06

TERM OF AGREEMENT: A period of ten (10) years, with an option to extend at the County's sole discretion for one - two (2) year period.

COST ESTIMATE: N/A

PAYMENTS TO THE COUNTY: This project is revenue generating with the following payments to the County:

A. **Minimum Annual Guarantee** - A minimum acceptable Minimum Annual Guarantee (MAG) of \$1,400,000 (or such other MAG amount as may be proposed and agreed upon in the RFP process), beginning 120 days from the effective date of the agreement. For each year after the first year, the MAG will be adjusted by the Consumer Price Index (South Region, all items).

B. **Percentage Fee** - A minimum acceptable percentage fee of fifty percent (50%), (or such other percentage fee amount as may be proposed and agreed upon in the RFP process), that corresponds to the monthly gross revenues or the minimum monthly guarantee, whichever is greater.

C. **Annual Rental** - A support space consisting of 491 square feet to store supplies is currently calculated at \$61.90 per square feet. Annual total: \$30,392.

MINIMUM QUALIFICATIONS EXCEED LEGAL REQUIREMENTS: No

FUNDING SOURCE: N/A. (See above - Payments to the County)

REVIEW COMMITTEE DATE: N/A. Airport Concession Disadvantaged Business Enterprise (ACDBE) project.

CONTRACT MEASURES: ACDBE Goal of eleven percent (11%) of gross revenues

USING AGENCY: Miami-Dade Aviation Department

APPROVED FOR LEGAL SUFFICIENCY: Yes


Assistant County Manager

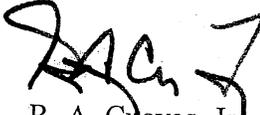


MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: October 16, 2007

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Amended
Agenda Item No. 8(A)(1)(F)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor

Veto _____

Override _____

Amended
Agenda Item No. 8(A)(1)(F)

10-16-07

RESOLUTION NO. R-1167-07

RESOLUTION AUTHORIZING THE ISSUANCE AND ADVERTISING OF A REQUEST FOR PROPOSALS (RFP MDAD-05-06) TO SELECT A QUALIFIED FIRM TO DEVELOP AN ADVERTISING DISPLAY PROGRAM AT MIAMI INTERNATIONAL AIRPORT

WHEREAS, the Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the Mayor, or his designee, to issue and advertise in local publications for responses to the Request for Proposals (RFP No. MDAD-05-06) in substantially the form attached hereto, so as to obtain a qualified firm to finance, design, develop, furnish, maintain and operate a successful and creative advertising display program at Miami International Airport. The County Manager shall select from among those submitting responses that proposal which best fulfills the requirements and standards set forth in the Request for Proposals, and the selection process shall be undertaken as provided in the Request for Proposals. Upon such selection, the County Manager, or his designee, shall negotiate a contract with the selected proposer for submission to the County Commission for approval.

The foregoing resolution was offered by Commissioner
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

| | |
|------------------------------------|--------------------|
| Bruno A. Barreiro, Chairman | |
| Barbara J. Jordan, Vice-Chairwoman | |
| Jose "Pepe" Diaz | Audrey M. Edmonson |
| Carlos A. Gimenez | Sally A. Heyman |
| Joe A. Martinez | Dennis C. Moss |
| Dorrin D. Rolle | Natacha Seijas |
| Katy Sorenson | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairperson thereupon declared the resolution duly passed and adopted this
16th day of October, 2007. This resolution shall become effective ten (10) days after the
date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only
upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. RW

Roy Wood

ADVERTISEMENT

**ADVERTISEMENT
REQUEST FOR PROPOSALS
NON-EXCLUSIVE
ADVERTISING DISPLAY PROGRAM
AT
MIAMI INTERNATIONAL AIRPORT
RFP NO. MDAD-05-06**

SCOPE OF SERVICES: Miami-Dade County (the "County"), by and through its Miami-Dade Aviation Department ("MDAD"), requires the services of interested parties to finance, design, develop, furnish, install, manage and operate an Advertising Program at Miami International Airport (MIA). MDAD currently has a contract in place for Advertising Services with JCDecaux Airport, Inc. ("Incumbent") who has operated at the Miami International Airport since 1994. Any agreement issued as a result of this RFP will be a non-exclusive agreement, for a period of ten (10) years, with an option to extend at the County's sole discretion for one - two (2) year period.

There are approximately 320 advertising locations (indoor and outdoor) which include: static advertising, hotel reservations and information boards, wall wraps and floor exhibits at MIA approved locations for advertising for the purpose of this RFP. The advertising locations are as follows: 72 on the first level, 153 on the second level and 95 on the third level. The Department will entertain adding or deleting locations and/or any proposed comprehensive advertising program submitted by the Proposer.

Payment to the Department shall include a Minimum Annual Guarantee ("MAG"); or a Percentage Fee of advertising gross revenue, whichever is greater. The current payment to the County includes a Minimum Annual Guarantee (MAG) of \$1.4 million and a percentage fee.

The Selected Proposer shall make an investment in all display equipment, approved by the Department for use to comply with Scope of Services requirements. All advertising or revenue initiatives displays provided by the Selected Proposer shall be the property and responsibility of, and shall be maintained by the Selected Proposer.

Phasing Schedule

The South Terminal is anticipated to be open for business prior to the award of this RFP. The North Terminal is currently under construction and will open in phases with an expected completion date sometime in 2011. Concourses A and the Terminal area of A-C, which are a part of the North Terminal, will be temporarily closed to the public upon opening of the South Terminal for a period of at least two (2) years.

For the purpose of this RFP, the areas comprised of Concourse A and the Terminal area of A-C are not computed in the advertising locations total and will be added to the advertising program upon availability.

MDAD will offer advertising locations to be financed, designed, developed, furnished, installed, maintained and operated by the Selected Proposer to ensure implementation of

a comprehensive, successful, dynamic, creative and profitable Advertising Display Program at Miami International Airport. The Selected Proposer will need to take into consideration the unique environment of an Airport with its challenges and constraints; while marketing and offering advertising and revenue initiatives opportunities at the Airport on a local, national and international level.

PROPOSAL DUE DATE: Proposals for the project designated above will be received for and in behalf of Miami-Dade County, by the Office of the Clerk until 2:00 P.M. Friday, December 7, 2007 or as may be modified by addendum at which time the names of the Proposers will be read aloud (refer to RFP documents). The County reserves the right to postpone or cancel the proposal opening at any time prior to the submittal due date. Proposers are invited to be present. Proposals received after the time and date specified will not be considered, and will be returned unopened.

PROPOSAL BOND GUARANTY: Each Proposal shall be accompanied by a proposal guaranty deposit (the "Guaranty Deposit") of \$10,000 (Ten Thousand Dollars) which shall be in the form of a cashier's check, treasurers check, irrevocable letter of credit, or bank draft drawn on any state or national bank ONLY, *payable to Miami-Dade County, Florida*, or a Proposal Bond Guaranty included as Appendix G. The form of Proposal Bond Guaranty and the requirements of the surety are included in the RFP documents. No other form of deposit will be accepted.

Proceeds of checks, if submitted as the Guaranty Deposit will be deposited by the County into an appropriate County account and will be held by the County, without interest to the Proposer, until the Selected Proposer has been awarded an Agreement.

PRE-PROPOSAL CONFERENCE: A Pre-proposal Conference will be held on Wednesday, November 14, 2007, at 10:00 AM (local time) at Miami-Dade Aviation Department 4200 N.W. 36TH. Street, Bldg. 5A, 4th Floor, Miami, FL 33122, Conference Room "F", for all interested parties and attendance is recommended, but not mandatory. Any changes to the Request for Proposals will be by written addendum. There will be a site visit beyond security, if you are interested please email Lourdes Borrego lborrowgo@miami-airpot.com by Thursday, November 8, 2007, 3:00 pm local time and provide your name, date of birth, last four digits of your social security number or your passport number, citizenship, nationality and Country of issuance.

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) CONTRACT MEASURES: The County has established an ACDBE concession goal of eleven percent (11%) of gross revenues. The ACDBE overall goal can be achieved either through the Proposer being an ACDBE itself, a partnership or joint venture, or subcontracting a percentage of gross revenues.

ADDITIONAL INFORMATION/ADDENDA: Requests for additional information or clarifications must be made in writing and sent via email and/or fax to the Contracting Officer for this RFP, no later than close of business fourteen (14) calendar days prior to the date established for the Proposal Due Date. The request must contain the RFP number and title, Proposer's name, name of Proposer's contact person, address, phone number, and facsimile number.

AVAILABILITY OF PROPOSAL DOCUMENTS: Prospective Proposers may purchase Proposal Documents on and after Tuesday, November 6, 2007 from the Office of Contracts Administration, Miami-Dade Aviation Department, Building 5A, 4200 N.W.

36th Street, 4th Floor, Miami, Florida 33122, Contracting Officer Margaret Hawkins Moss, Telephone Number (305) 869-1421, Facsimile Number (305) 876-8068, by payment of Fifty Dollars (\$50.00) (non-refundable) per set, check only, made payable to the Miami-Dade Aviation Department (MDAD). Each Proposer shall furnish a contact person, an address, telephone and fax numbers for the purpose of contact during the proposal submittal process. All Proposals shall be submitted as set forth in the Request for Proposals.

SUBMITTAL REQUIREMENTS: All Proposals must be submitted on 8 1/2" X 11" paper, neatly typed on one side only, with normal margins and spacing. The original document package for Appendix A, Questionnaire Form and Appendix B, Price Proposal Schedule must not be bound. Two (2) unbound originals and eight (8) copies (a total of 10) of the complete Proposal (Technical Proposal and Price Proposal) must be received by the due date as specified in the advertisement for this RFP ("Proposal Due Date and Time"), as may be amended by Addendum. **The originals shall be unbound and all copies must be bound, with the Technical Proposal packaged separately from the Price Proposal**) and submitted in an envelope or container stating on the outside the Proposer's name, address, telephone number and RFP number, RFP title, and Proposal Due Date to:

**Clerk of the Board
Stephen P. Clark Center
111 NW 1st Street, 17th Floor, Suite 202
Miami, FL 33128-1983**

Hand-carried Proposals may be delivered to the above address **ONLY** between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday. Please note that Proposals are due at the Office of the Clerk of the Board on the date and at the time indicated in the advertisement and on the cover of the RFP. The Office of the Clerk of the Board is closed on holidays observed by the County. Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the required address information appears on the outer wrapper or envelope used by such service.

THE RESPONSIBILITY FOR SUBMITTING PROPOSALS TO THE CLERK OF THE BOARD ON OR BEFORE THE STATED TIME AND DATE IS SOLELY AND STRICTLY THE RESPONSIBILITY OF THE PROPOSER. MIAMI-DADE COUNTY IS NOT RESPONSIBLE FOR DELAYS CAUSED BY ANY MAIL, PACKAGE OR COURIER SERVICE, INCLUDING THE U.S. MAIL, OR CAUSED BY ANY OTHER OCCURRENCE.

CONE OF SILENCE: Pursuant to Section 2-11.1(t) of the County Code and Administrative Order 3-27 ("Cone of Silence Provisions"), as amended, a "Cone of Silence" is imposed upon RFPs, RFQs, or bids after advertisement and terminates at the time the County Manager issues a written recommendation to the Board of County Commissioners. The Cone of Silence prohibits communication regarding RFPs, RFQs, or bids between: A) potential vendors, service providers, bidders, lobbyists or consultants and the County's professional staff including, but not limited to, the County Manager and the County Manager's staff; B) a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners or their respective staffs; C) the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and the County Manager's staff; D) a potential vendor, service provider, bidder, lobbyist, or

consultant and any member of the selection committee assigned to this Solicitation; E) the Mayor, County Commissioners or their respective staffs and member of the selection committee assigned to this Solicitation; F) any member of the County's professional staff and any member of the selection committee therefore.

Section 2.11.1(t) of the County Code and Administrative Order 3-27, as amended, permits oral communications regarding a particular RFP, RFQ or bid for solicitation of goods or services between any person and the procurement officer responsible for administering the procurement process for such RFP, RFQ, or bid, provided that the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.

The Cone of Silence Provisions do not apply to oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meetings, public presentations made to the Board of County Commissioners during any duly noticed public meeting, or communications in writing at any time unless specifically prohibited by the applicable RFP, RFQ, or bid document. Proposers must file a copy of any written communications with the Clerk of the Board, which shall be made available to any person upon request. Written communications may be submitted via e-mail to the Clerk of the Board at CLERKBCC@MIAMIDADE.GOV. The Contracting Officer shall respond in writing and file a copy with the Clerk of the Board, which shall be made available to any person upon request.

In addition to any other penalties provided by law, violation of the Cone of Silence Provisions by any proposer and bidder shall render any RFP award, RFQ award, or bid award voidable. Any person having personal knowledge of a violation of the Cone of Silence provisions shall report such violation to the State Attorney and/ or may file a complaint with the Ethics Commission. Proposers should reference the actual Cone of Silence Provisions for further clarification. All Proposers will be notified in writing when the County Manager makes an award recommendation to the Board of County Commissioners.

THE COUNTY SHALL NOT BE RESPONSIBLE FOR ANY MODIFICATIONS OR ALTERATIONS MADE TO THE REQUEST FOR PROPOSAL DOCUMENTS.

MIAMI-DADE COUNTY, FLORIDA
HARVEY RUVIN, CLERK

BY: _____
DEPUTY CLERK



**LEGAL ANNOUNCEMENT REGARDING
REQUEST FOR PROPOSALS
FOR
ADVERTISING DISPLAY PROGRAM
RFP NO. MDAD-05-06**

**MIAMI-DADE COUNTY
MIAMI, FLORIDA**

The Miami-Dade Aviation Department is announcing the availability of the above referenced advertisement, which can be obtained by visiting our Website at:

www.miami-airport.com/html/business_opportunities.html (in order to view the full Advertisement, please select "**Advertisements**" link at the bottom of the **Business Opportunities** page and then select the respective solicitation).

Copies of the RFP solicitation package can only be obtained through the MDAD, Contracts Administration Division, in person or via courier at 4200 NW 36th Street, Building 5A, 4th Floor, Miami, FL 33122, or through a mail request to P.O. Box 025504, Miami, FL 33102-5504. The cost for each solicitation package is \$50.00 (non-refundable) check or money order payable to: Miami-Dade Aviation Department.

This solicitation is subject to the "**Cone of Silence**" in accordance with section **2-11.1(t) of the Miami-Dade County Code**.

REQUEST FOR PROPOSALS

**REQUEST FOR PROPOSALS
FOR
ADVERTISING DISPLAY PROGRAM
AT
MIAMI INTERNATIONAL AIRPORT
RFP No. MDAD-05-06**

**PRE-PROPOSAL CONFERENCE TO BE HELD ON
November 14, 2007 at 10:00 A.M. (LOCAL TIME)
At**

**Miami International Airport
4200 N.W. 36TH Street Bldg. 5A, 4th Floor
Miami, FL 33122, Conference Room "F"**

**ISSUING DEPARTMENT:
MIAMI-DADE AVIATION DEPARTMENT
CONTRACTS ADMINISTRATION DIVISION**

**Contracting Officer: Margaret Hawkins Moss
Telephone/ Facsimile: 305-869-1421 / 305-876-8068
Email: mmoss@miami-airport.com**

**PROPOSALS ARE DUE AT THE ADDRESS SHOWN BELOW
NO LATER THAN**

December 7, 2007 at 2:00 P.M. (EASTERN LOCAL TIME)

at

**CLERK OF THE BOARD
STEPHEN P. CLARK CENTER
111 NW 1st STREET, 17TH FLOOR, SUITE 202
MIAMI, FLORIDA 33128-1983**

PROPOSALS WILL BE OPENED PROMPTLY AT THE TIME AND PLACE SPECIFIED. PROPOSALS RECEIVED AFTER THE FIRST PROPOSAL HAS BEEN OPENED WILL NOT BE OPENED AND WILL NOT BE CONSIDERED. THE RESPONSIBILITY FOR SUBMITTING A PROPOSAL TO THE CLERK OF THE BOARD ON OR BEFORE THE STATED TIME AND DATE IS SOLELY AND STRICTLY THE RESPONSIBILITY OF THE PROPOSER. MIAMI-DADE COUNTY IS NOT RESPONSIBLE FOR DELAYS CAUSED BY ANY MAIL, PACKAGE OR COURIER SERVICE, INCLUDING THE U.S. MAIL, OR CAUSED BY ANY OTHER OCCURRENCE.

TABLE OF CONTENTS

| | |
|--|------------------------|
| Advertisement | ADV-1 |
| <u>Section</u> | <u>RFP Page</u> |
| General Definitions | 1 |
| Project Specific Definitions | 3 |
| | |
| 1.0 Introduction/Background, Scope of Services and Minimum Qualification Requirements | 5 |
| 1.1 Introduction/Background | 5 |
| 1.1.1 Miami International Airport General Description | 6 |
| 1.1.2 Concession Goals and Objectives | 11 |
| 1.2 Scope of Services | 12 |
| 1.3 Minimum Qualification Requirements | 19 |
| | |
| 2.0 RFP Submittal Process | 19 |
| 2.1 RFP Availability | 19 |
| 2.2 Proposal Submittal | 20 |
| 2.3 Proposal Format | 20 |
| 2.4 Additional Information/Addenda | 27 |
| 2.5 Responsibility of Proposer | 27 |
| 2.6 Project Briefing | 28 |
| 2.7 Cone of Silence/Contracting Officer | 28 |
| 2.8 Proposal Guarantee Deposit | 29 |
| 2.9 Modified Proposals | 30 |
| 2.10 Withdrawal of Proposal | 30 |
| 2.11 Late Proposals, Late Modifications and Late Withdrawals | 30 |
| 2.12 RFP Postponement/Rejection/Cancellation | 31 |
| 2.13 Costs Incurred by Proposers | 31 |
| | |
| 3.0 Provisions of Law Affecting Solicitation | 31 |
| 3.1 Provisions of Law Regarding Affidavits to be submitted with proposal and Condition of Award Requirements | 31 |
| 3.2 Lobbyist Registration for Oral Presentation | 36 |
| 3.3 Independent Private Sector Inspector General Review | 37 |
| 3.4 Miami-Dade County Inspector General Review | 37 |
| 3.5 Conflict of Interest and Code of Ethics | 38 |
| 3.6 Telephone Logs | 39 |
| 3.7 Proprietary/Confidential Information | 39 |
| 3.8 Ordinances, Resolutions and/or Administrative Orders | 40 |
| 3.9 Rules, Regulations and Licensing Requirements | 40 |
| 3.10 Non-exclusivity | 40 |

| <u>Section</u> | <u>RFP Page</u> |
|--|-----------------|
| 4.0 Airport Concession Disadvantaged Business Enterprises (ACDBE) | 40 |
| 4.1 ACDBE Requirements | 40 |
| 4.2 Counting ACDBE Participation toward Contract Goals | 41 |
| 4.3 ACDBE Goal Achieved Through Joint Venture ("JV") Partnering | 42 |
| 4.4 Certification – ACDBE | 43 |
| 4.5 Affirmative Action and ACDBE Programs | 44 |
| 4.6 ACDBE Mentoring, Assistance and Training Program | 45 |
| 4.7 ACDBE Participation Plan | 46 |
| | |
| 5.0 Evaluation Process | 47 |
| 5.1 Process Overview | 47 |
| 5.2 Review of Proposals for Responsiveness and Responsibleness | 47 |
| 5.3 Evaluation Process | 47 |
| 5.4 Price Proposal Evaluation | 48 |
| 5.5 Overall Ranking | 49 |
| 5.6 Local Preference | 50 |
| 5.7 Negotiations | 51 |
| 5.8 Contract Award | 52 |
| 5.9 Failure to Complete Contract Award Requirements | 52 |
| 5.10 Rights of Protest | 52 |

Attachments to the RFP document:

- Appendix A:** Questionnaire and Minimum Qualification Requirements Affidavit
- Appendix B:** Price Proposal Schedule
- Appendix C:** Acknowledgement of Addenda
- Appendix D:** Lobbyist Registration for Oral Presentation Affidavit
- Appendix D-1:** Lobbying Rules
- Appendix E-1:** Single Form Execution Affidavits
- Public Entity Crimes Affidavit
 - Debarment Disclosure Affidavit
 - Criminal Record Affidavit
 - Disclosure of Ownership Affidavit
 - Affirmative Action Plan/Procurement Policy Affidavit
- Appendix E-2:** Condition of Award Requirements Single Form Execution Affidavits
- Disability Nondiscrimination
 - Family Leave
 - Domestic Leave
 - Currently Due Fees and Taxes
 - Drug Free Workplace
 - Current in County Obligations

- Code of Business Ethics
- Subcontracting Policies Statement
(No format, insert document)
- Subcontractor/Supplier Listing
- Proof of Authorization to do Business
(No format, insert document)

Appendix F: Local Business Preference
Appendix G: Proposal Bond Guaranty
Appendix H: Airport Concession Disadvantaged Business
Enterprise Participation Plan/Provision

The following Appendices are for information purposes only and can be obtained by visiting our Website at: www.miami-airport.com/html/business_opportunities.html

Appendix I: Current Rate Card
Appendix J: Passenger Traffic (FY2005/06 and partial 2007)
Appendix K: International Enplanement and John F. Brown
Forecast
Appendix L: Information Counter Proposed Design
Appendix M: Advertising Sales History

6.0 Form of Concession Agreement

Exhibits to the Concession Agreement:

Exhibit A: Advertising Locations
Exhibit A1: Summary of Inventory
Exhibit A2: Administrative Office and Support Space
Exhibit B: Surety Performance and Payment Bond
Exhibit C: MAG Performance Bond
Exhibit D: Affidavits to be provided by the Successful Proposer
Exhibit E: Scope of Services
Exhibit F: Calculation of Monthly Sales Taxes

The following Exhibits can be obtained by visiting our Website at: www.miami-airport.com/html/business_opportunities.html

Exhibit G: Independent Audit Report
Exhibit H: Monthly Report of Gross Revenues
Exhibit I: List of Prohibited Items
Exhibit J: Tenant Handbook
Exhibit K: Not Used
Exhibit L: Standard of Operations
Exhibit M: Tenant Airport Construction-Non-Reimbursable Procedures (TAC-N)
Tenant Airport Construction Reimbursable Procedures (TAC-R)
Exhibit N: Retail Concessions Design Guidelines (North, Central, South
Terminals)

GENERAL DEFINITIONS

The following words and expressions used in this Solicitation shall be construed as follows, except when it is clear from the context that another meaning is intended:

The terms "**Addenda**" or "**Addendum**" shall mean the written or graphic instruments issued prior to Proposal opening that clarify, correct or change the RFP documents or the Lease and Concession Agreement.

The terms "**Agreement**" or "**Contract**" shall mean the Lease and Concession Agreement, including all attachments thereto and a part thereof entered into by the County and the Successful Proposer, including all of its terms and conditions, attachments, exhibits, and amendments.

The term "**Airport**" or "**MIA**" shall mean Miami International Airport.

The terms "**Airport Concession Disadvantaged Business Enterprises or ACDBE**" shall have the meaning described in Section 4.0 of this RFP entitled "Airport Concession Disadvantaged Business Enterprises".

The term "**Approved Improvements**" are the improvements to a Location which has been approved by the Department which may include the design, engineering, construction, equipment, furniture, fixtures, and flooring and signage.

The terms "**Aviation Director**" or "**Director**" shall mean the Director of the Miami-Dade Aviation Department or his or her designee.

The term "**Board**" shall mean the Board of County Commissioners of Miami-Dade County.

The terms "**Capital Improvement Program**" or "**CIP**" shall refer to the Department's construction program that will involve the refurbishment of MIA's terminal interiors, airline relocations, changes in access to the terminal and concourses, construction of new concession spaces, and other improvements that may affect concession operations in the MIA terminal building and on the concourses.

The term "**Central Terminal**" shall refer to the area of the terminal building and concourses, within the central part of the MIA terminal area, landside and airside, which is now known as Concourses E-G.

The term "**Code**" shall mean the Code of Miami-Dade County, Florida.

The term "**Consumer Price Index**" or "**CPI**" shall mean that index published by the United States Department of Labor, Bureau of Labor Statistics known as the Consumer Price Index for all urban consumers ("CPI-U") in the South Region Average: All items.

The term "**County**" shall mean Miami-Dade County, a political subdivision of the State of Florida.

The term "**Days**" shall mean calendar days, unless specifically stated as other.

The term "**Department**" or "**MDAD**" shall mean the Miami-Dade Aviation Department. Wherein in this solicitation document, rights are reserved to the County, MDAD may exercise such rights.

The term "**General Aviation Airports**" shall mean Opa-locka Executive Airport, Kendall-Tamiami Executive Airport, Homestead General Aviation Airport, Opa-locka West Airport.

The term "**North Terminal**" shall mean the area of the terminal building and concourses, within the north part of the MIA terminal area, landside or airside, which is now known as Concourses A-D.

The term "**Proposal**" shall mean a Proposer's written response to this Solicitation document.

The terms "**Request for Proposals**" or "**RFP**" shall mean this Solicitation document and all associated addenda and attachments.

The terms "**Proposer**" or "**Respondent**", "**Submitter**", "**Vendor**", "**Bidder**" or "**Contractor**" shall mean the person, firm, entity, organization, or joint venture submitting a response to this Solicitation.

The term "**Selected Proposer or Successful Proposer**" shall mean the Proposer that receives any award of an Agreement from the County as a result of this Solicitation.

The term "**Solicitation**" shall mean this Request for Proposals and all associated addenda and attachments.

The term "**South Terminal**" shall refer to the area of the terminal building and concourses, within the south part of the MIA terminal area, landside or airside which is now known as Concourse H, a new J Concourse and connecting concession and public space.

The terms "**Subcontractor/Subconsultant**" shall mean any person, firm, entity, organization, or joint venture other than the employees of the Proposer, who contracts with the Proposer to furnish labor, or labor and materials, in connection with the services that will be provided to the County, whether directly or indirectly, on behalf of the Successful Proposer.

The word "**Terminal**" shall mean the area of the MIA consisting of the terminal buildings and concourses, within the North, Central and South Terminals, landside or airside and connecting concession and public spaces.

The term "**TSA**" shall mean the United States Transportation Security Administration, and any successor agency, office or department thereto.

The term "**Turnover Date**" shall mean the date approved by the Department for the Concessionaire to commence construction or installation at a Location.

PROJECT SPECIFIC DEFINITIONS

The term "**Advertising Concession**" shall mean the right and privilege for a firm to finance, design, develop, furnish, install, maintain and operate the advertising program within the MIA terminal or on other airport property as authorized by the Department. Furthermore, provide advertising displays and sell advertising for those locations which the Successful Proposer has offered in response to the RFP or as may be mutually agreed upon by both parties.

The term "**Advertising Display Program**" shall refer to the Concessionaire's proposed plan for advertising at the Airport. This includes any medium of communication used for Advertising at MIA and includes, but is not limited to, signs, posters, back lit wall-mounted displays of various sizes, mechanically or electronically rotating multiple distinct advertising messages, exhibits, self contained units, high tech plasma screens, recessed signs with LED displays, fiber optic displays, wide screen video systems, digital image banners, interactive multimedia software or optical imaging display cases, wall murals, courtesy phone centers, wall wraps and outdoor display.

The term "**Approved Location**" shall mean those locations listed in Exhibit A.

The term "**Beneficial Occupancy**" shall mean the date the Location is turned over by the Department to the Successful Proposers for use, or when a Certificate of Occupancy or Temporary Certificate of Occupancy has been issued.

The term "**Capital Investment**" shall refer to the investment of fixtures, display equipment purchase and affiliated design of advertising plans, equipment and support mechanism for the advertising program.

The term "**Current Rate Card**" shall mean to provide for information proposes only and indicates the incumbent's current rates.

The term "**Date of Execution**" shall mean the day upon which the Agreement is executed by the County Mayor of Miami-Dade County or designee.

The term "**Display, Fixture, Signs, and Equipment,**" shall mean any media used by the Successful Proposer and approved by the Department for the purpose of providing advertising and revenue initiative services at MIA and if applicable, the General Aviation Airports.

The term "**Effective Date**" shall mean the sixtieth (60th) day after the Date of Execution.

The term "**Gross Revenues**" shall mean all monies paid or payable to and consideration of determinable value received by the Successful Proposer on all sales made by the Successful Proposer of advertising services, whether received or not, and other items and revenues of every kind and character derived from, arising out of or payable on account of the business conducted by the Successful Proposer at the Airport or from the operations of the Successful Proposer under this Agreement, whether for cash or credit, without any deduction for credit card discounts or credit card services, where the same shall be paid or unpaid provided, however, that the term "Gross Revenues" shall not include: (i) federal, state or municipal taxes; (ii) sales tax collection allowance paid by the state of Florida to the Successful Proposer as compensation for the keeping of prescribed records and the proper accounting and remittance of state sales tax; (iii) any charges on a reimbursement basis, as mutually agreed upon by MDAD and the Successful Proposer; (iv) any refunds made by the Successful Proposer to customers, if approved by MDAD and made for reasons other than unacceptable or unsatisfactory services; (v) actual telephone line charges to the Successful Proposer for the telephone Hotel reservations and information boards; (vi) advertising agency or employees sales commissions actually paid, not to exceed 15% of the customer billing, provided however that such agreement is written into the sales contact between the Successful Proposer and advertiser; (vii) any taxes imposed by law which are separately stated to and paid by the customer and directly payable by the Successful Proposer to a taxing authority; and (viii) as stated in the last paragraph in Sub-article 3.05 "Capital Investment" of the Form of Agreement.

The term "**Hotel Reservation and Information Boards**" shall mean the hotel/rental car reservation phone boards that service passengers, which are located on the first level throughout the Terminal building, and in one location on the third level of the South Terminal.

The term "**Location**" or "**Advertising Location**" shall mean each of the approved sites for advertising as depicted on Exhibit A, Advertising Locations, where advertising may be placed, as amended from time to time by the parties.

The term "**Proposal Due Date**" shall mean the deadline for receipt of the Proposal identified in the advertisement of this Solicitation, as may be amended by addendum.

The term "**Revenue Initiatives**" shall mean any concepts implemented at MIA as a result of sponsorships, promotions, special events, naming rights opportunities, products rights suppliers' sponsors and licensing and branding opportunities or other initiatives which may be proposed and approved by MDAD.

The term "**Scope of Services**" shall mean Section 1.2 of this Solicitation, which details the work to be performed by the Selected Proposer.

The term "**Shell Condition**" shall mean smooth concrete floors, demising studs and walls, and the utility services listed below (conduits, lines, pipes, etc.) stubbed to the

lease lines of each Location or area immediately adjacent thereto for electric, telephone and data communications, heating ventilating and air conditioning systems including ducts ("HVAC"), fire alarm system and fire sprinkler system.

The word "**Term**" shall mean the time period of any lease and concession agreement issued as a result of this RFP.

SECTION 1.0 INTRODUCTION, SCOPE OF SERVICES, AND MINIMUM QUALIFICATION REQUIREMENTS

1.1 INTRODUCTION/BACKGROUND

Miami-Dade County (the "County"), by and through its Miami-Dade Aviation Department ("MDAD"), requires the services of interested parties to finance, design, develop, furnish, install, maintain and operate an Advertising Program at Miami International Airport (MIA). MDAD currently has a contract in place for Advertising services with JCDecaux Airport, Inc. ("Incumbent") who has operated at the Miami International Airport since 1994. Any agreement issued as a result of this RFP will be a non-exclusive agreement, for a period of ten (10) years, with an option to extend at the County's sole discretion for one - two (2) year period.

Approximately 320 advertising locations (indoor and outdoor) which include: static advertising, hotel reservations and information boards, wall wraps and floor exhibits at MIA are approved locations for advertising for the purpose of this RFP. The Advertising locations are located as follows: 72 on the first level, 153 on the second level and 95 on the third level. The Department will entertain adding or deleting locations and/or any proposed comprehensive advertising program submitted by the Proposer.

Payment to the Department shall include a Minimum Annual Guarantee ("MAG"); or a Percentage Fee of advertising gross revenue, whichever is greater. The current payment to the County includes a Minimum Annual Guarantee (MAG) of \$1.4 million and a percentage fee.

The Selected Proposer shall make an investment in all display equipment, approved by the Department for use to comply with Scope of Services requirements. All advertising or revenue initiatives displays provided by the Selected Proposer shall be the property and responsibility of, and shall be maintained by the Selected Proposer.

Phasing Schedule

The South Terminal is anticipated to be open for business prior to the award of this RFP. The North Terminal is currently under construction and will open in

phases with an expected completion date sometime in 2011. Concourses A and the Terminal area A-C, which are a part of the North Terminal, will be temporarily closed to the public upon opening of the South Terminal for a period of at least two (2) years.

For the purpose of this RFP, the areas comprised of Concourse A and the Terminal area A-C are not computed in the advertising locations total and will be added to the advertising program upon availability.

1.1.1 MIAMI INTERNATIONAL AIRPORT GENERAL DESCRIPTION

Aviation has been a hometown industry in Miami, having started more than 75 years ago. The first flight from Pan Am Field in 1928 was an international departure. Today, Miami International Airport enjoys top rankings as the leading international freight airport in the USA and the nation's third leading gateway for international passenger traffic.

MIA strengths in international passengers, and cargo activity stimulate a host of other companies, such as tourism, the cruise industry and international banking and commerce. More than 77% of all exports and 80% of all imports between the United States and the Latin American/Caribbean region flow through MIA.

MIA is the port of entry for 79% of all international traffic arriving by air to Florida. The Airport is the world's largest Latin American/Caribbean gateway, offering over 1,100 weekly departures with direct service to 62 destinations in the region. With 46% of total passenger traffic being international, MIA is among the top two airports in the U.S. with the highest international to domestic passenger ratios.

Miami-Dade County operates the world's leading cruise port, and more than 80% of all cruise passengers begin or end their cruise with flights to/from the Airport. In addition, Miami is the leading international financial center in the southeastern United States. The Airport stimulates much of that activity as well, through the financing of international trade facilitated through our Airport. During 2005, trade originating and clearing at MIA amounted to 881,563 tons, valued at \$27.6 billion. This activity represents only 56% of the actual total of 1.58 million tons of international freight, as the remaining 44% was shipped through MIA in-transit to third-country destinations.

Following are "Facts at a Glance" information regarding the Miami-Dade Aviation Department, as of April 2007:

Miami-Dade Airports:

- Miami International Airport -MIA
- Opa-locka Executive Airport - OPF
- Kendall-Tamiami Executive Airport - TMB
- Homestead General Aviation Airport - X51
- Dade-Collier Training and Transition Airport - TNT

Economic Impact:

The Airport's annual impact on local tourism, cruise, international banking, trade & commerce is \$19.1 billion. The Airport and related aviation industries contribute 242,387 jobs directly and indirectly to the South Florida economy. That equates to one out of 4.3 jobs.

MIA Rankings for 2005:

U.S. Airport Rankings

| | | |
|------------------|---|------------------------------|
| 1st in the U.S. | - | International Freight |
| 3rd in the U.S. | - | International Passengers |
| 4th in the U.S. | - | Total Freight |
| 4th in the U.S. | - | Total Cargo (Freight + Mail) |
| 16th in the U.S. | - | Total Passengers |
| 21st in the U.S. | - | Total Number of Operations |

World Airport Rankings

| | | |
|-------------------|---|------------------------------|
| 11th in the world | - | Total Freight |
| 10th in the world | - | International Freight |
| 11th in the world | - | Total Cargo (Freight + Mail) |
| 28th in the world | - | Total Number of Operations |
| 28th in the world | - | Total Passengers |
| 31st in the world | - | International Passengers |

Miami International Airport (Year 2006 Figures)

| | |
|------------|-------------|
| Land area: | 3,230 acres |
| Runways: | |
| 9-27: | 13,000' |
| 8R-26L: | 10,500' |
| 8L-26R: | 8,600' |
| 12/30: | 9,355' |

Personnel:

Aviation Dept. and Other: 38,273

Hotel:

Miami International Airport Hotel has 260 rooms.

Flight Operations: (2006)

| | |
|------------------|--------------|
| Domestic | 210,821 |
| International | 167,660 |
| General Aviation | 4,668 |
| Military | <u>1,328</u> |
| Total: | 384,477 |

Passengers: (2006)

| | |
|------------------------|---------------------|
| Domestic | 17.8 million |
| International | <u>14.7 million</u> |
| Total: | 32.5 million |
| Weekday Daily Average: | 87,692 passengers |
| Weekend Daily Average: | 98,336 passengers |
| Weekly Average: | 637,023 passengers |

Freight: (2006)

| | |
|---------------|--------------------------|
| International | 1,677,384 U.S. Tons |
| Domestic | <u>298,380 U.S. Tons</u> |
| Total: | 1,975,764 U.S. Tons |

Carriers: (04/07)

| | | | |
|---------------|-----------|-----------|-----------|
| U.S. | 48 | Scheduled | 71 |
| International | <u>47</u> | Charter | <u>24</u> |
| Total | 95 | | 95 |

Number of Destinations: (2nd Q'07)

| | | |
|---------------|-----------------|-----------------|
| | <u>Non-Stop</u> | <u>One Stop</u> |
| Domestic | 47 | 20 |
| International | <u>71</u> | <u>10</u> |
| Total | 118 | 30 |

Number of Ticketing Positions: 450

Number of gates: 107* Common

*changes according to construction

Parking: Two long-term parking garages – Dolphin and Flamingo – and two short-term lots provide approximately 7,885 spaces, including those reserved for persons with disabilities. There is also a high-vehicle lot adjacent to the Dolphin Garage.

Airport Improvements: The Airport's \$6.2 billion Capital Improvement Program is well under way, encompassing all aspects of Airport operations, from the terminal and roadways to the cargo facilities and the airfield.

New Runway: One of the major projects of the CIP was the construction of MIA's Fourth Runway. Operational in September 2003, the new 8,600-foot runway has increased MIA's airfield capacity by 25%, extending the ability of the Airport to sustain growth, while decreasing the cost of delays to airlines and passengers.

Terminal: MIA's passenger terminal has grown from 3.5 million square feet in 1995 to 4.7 million square feet. Further development of the North and South Terminals will add 2.7 million square feet for a total of 7.4 million square feet upon completion of Phase One of the CIP, with 100 international gates and 30 domestic gates for a total of 130 gates. The Terminal will have 556 ticket counters and 120 self-service check-in devices.

Cargo: MIA's cargo facility development program that began in 1992 has been completed, providing the Airport with over 2.7 million square feet in seventeen new cargo buildings. Apron space has grown to over 3.8 million square feet, capable of handling 17 B747s or 38 DC 10F's.

Roadway Improvements

Central Boulevard: To accommodate forecasted growth, improvement programs include: widening of Central Boulevard, new service roads, wider bridges and improved access to parking facilities.

25th Street Viaduct: N.W. 25th Street is the primary connector to the Florida Intrastate and Federal Highway System for ground transportation of air cargo. MDAD has partnered with FDOT and has allocated funding for a project to widen the existing roadway to six lanes and construct an elevated viaduct/roadway between MIA, over SR 826, and out to N.W. 82nd Avenue.

Concession Information: Part of the Airport CIP will include the refurbishment of Terminal interiors and construction of new concession locations. There are approximately 124 retail/food and beverage locations at MIA. With the buildout of new concessions, MIA will more than double to 250 locations

The Airport is divided into three terminals: North (currently Terminals A-D), Central (E, F and G) and South Terminals (H and under construction J).

The **North Terminal** will have approximately 60-65% of the passenger traffic. The North Terminal will become a linear Terminal running from A - D Concourse.

The North Terminal has 44,000 square feet of existing concession space. There are three duty free stores, seven news/gifts, three specialty retail stores, one sundries store and twenty-one food and beverage locations.

The North Terminal is in the process of being built out with new food/beverage and retail concessions. Food/beverage locations have been added or renovated in the past two years (*Starbucks* was added in the Atrium of Concourse A, and a *Miami Subs* was renovated into a *Jose Cuervo Tequilaria*). A new *Carousel Cone* (a local concept) is under construction. A new *Café Versailles* has opened at the end of A and a new *Islander Grille and Bar* is planned across from the new *Café*.

The **Central Terminal** is located between the North and South Terminals in the center of the landside area and is now known as Terminals/Concourses E, F and G. The majority of the retail space is located on the pre-security portion of the Airport Terminal.

Existing concessions include five duty free stores, seven news/gifts stores, seven specialty retail stores and thirty-seven food and beverage locations totaling 73,000 square feet.

There is a food court in the Central Terminal with recently changed concepts including *Starbucks*, *California Pizza Kitchen*, *Great American Bagel*, *Burger King* and *Café Bacardi*. Additional concepts throughout the landside include *Chili's*, *Café Versailles*, *Sbarros*, *Au Bon Pain*, and *Cozollis*. Concourse concessions include *Chili's to Go*, *Guava-Java*, and *Burger King*.

The **South Terminal** is being built to accommodate the *Star Alliance* and *Skyteam Alliance* which include *United Airlines*, *U.S. Airways*, *Delta Airlines* and their code share and marketing Alliance partners. Approximately 20-25% of all passenger traffic is expected to flow through the South Terminal with 26 airlines planned to occupy the Terminal.

The existing South Terminal Concourse and Terminal area currently has two existing news/gifts stores, and six food and beverage locations totaling 7,700 square feet. Food and beverage offerings include *Café Versailles*, *Starbucks*, *Cinnabon*, *Au Bon Pan*, *Hammerhead bar* and *Hurricane Reef bar*.

The South Terminal is planned to be in substantial completion in the fall 2007 and open March, 2008. This terminal will have approximately 40,000 square feet of concession locations to be built out with in the next year.

A new Concession Hall in the South Terminal joins Concourse H and Concourse J. Concessions are already located in Concourse H. New Concessions are planned for the Concourse J and the Concession Hall, which is beyond security with limited additional concessions before security. Some locations have been deferred until the passenger traffic builds up enough to create demand for additional locations.

There will be approximately twelve concessions totaling 8,600 square feet of food and beverage concessions. Concessions are planned to include *Nathan's Famous*, *Nestle Toll House*, *ILLY*, *Bongos* (Bar), *Haagen Dazs* (yogurt/pastry), *Dan Marino's* (café/bar), *McDonalds*, *Gilbert's foodbar* (Latin) *Beanery*, *Islander* (Caribbean) and *Famous Famiglia Pizzeria* (Italian).

There will be four new duty and tax free concessions totaling 8,700 square feet. These locations will be built out by *Duty Free Americas*.

There will be ten locations totaling approximately 12,100 square feet of news/gifts, newsstands and books.

1.1.2 CONCESSION GOALS AND OBJECTIVES

The Department has established concession goals and objectives to better meet or exceed the demands of today and tomorrow's traveling public.

The Department's concession goals and objectives for the Airport are to:

- Enhance the image of the Airport as a world-class airport.
- Enhance customer service and satisfaction by improving product choice, price choice, and customer service.
- Optimize sales and revenues.
- Optimize design and location of retail units.
- Present a local and regional identity to the traveling public.
- Provide national and international branded concepts.
- Increase local and Airport Concession Disadvantaged Business Enterprises (ACDBE) participation to the extent possible.

1.2 SCOPE OF SERVICES

MDAD will offer advertising locations to be financed, designed, developed, furnished, installed, maintained and operated by the Selected Proposer to ensure implementation of a comprehensive, successful, dynamic, creative and profitable Advertising Display Program at Miami International Airport. The Selected Proposer will need to take into consideration the unique environment of an Airport with its challenges and constraints; while marketing and offering advertising and revenue initiatives opportunities at the Airport on a local, national and international level.

1.2.1 Advertising Program

The advertising Locations for the Successful Proposer's development at Miami International Airport include, but are not limited to surrounding buildings and improvements, the terminal, concourses, bag claim facilities, Automated People Mover Systems, limited outdoors opportunities such as cargo area, and the parking garages.

The following traditional and non-traditional advertisings are currently permitted: backlit displays, hotel reservation and information boards, wall wraps, directories, advertising on ticket counter monitors, FIDS, GIDS, BIDS, dominance campaigns, luggage carts, cable advertising (CNN monitors) and floor exhibits. The Department is also interested in developing a webpage advertising program and an Airport Magazine. The percentage for these two concepts will be agreed upon initiation. The Department will consider incorporating other such advertising concepts, as may be suggested by the Successful Proposer with the Department's written permission.

The Successful Proposer shall have a sales organization capable of actively soliciting and selling advertising and revenue initiative programs, on a local, regional, national, and international level. The Successful Proposer shall promote Miami by highlighting regional products and tourism opportunities and the region's role as a gateway for international commerce.

In the instance that the Department is presented with an advertising opportunity, it will offer this opportunity to the Successful Proposer, who will have the first right to refusal. If a response is not received within seven days from the notice, MDAD may decide to pursue the opportunity on its own. In addition to the services being provided at Miami International Airport locations at MDAD's General Aviation Airports may be added during the term of any agreement issued as a result of this RFP at the Department's sole discretion.

The Successful Proposer shall comply with the Department's "Tenant Handbook" Exhibit J, and the "Standard of Operations", Exhibit L; the

"MIA Terminal Standards" available on www.miami-airport.com; Retail Concessions Design Guidelines (North, Central, South Terminals), Exhibit N; and all revisions to these documents promulgated from time to time by the Department at its sole discretion.

1.2.2 Advertising and Capital Investment Plan

Thirty (30) days after the Effective Date of the Agreement, the Successful Proposer shall submit an updated Advertising and Capital Investment Plan for the Advertising program at MIA. The Department shall review such updated Plan and send back any comments within fourteen (14) days. The Successful Proposer shall have fourteen (14) days thereafter to submit its revised Plan to the Department.

After the Department approves the Advertising and Capital Investment Plan, the Successful Proposer shall install a Minimum Acceptable Program of 25% of all approved Locations within 90 days from the date the Department approves the plan. The Minimum Acceptable Program will include high visibility locations. Within that 90 Days period the Successful Proposer must have removed existing fixtures and have installed the new fixtures in those locations. The Department will be responsible for storage of the fixtures that have been removed.

The remainder of the approved Advertising Program and Capital Investment Plan must be installed at all available Locations within 180 Days from the approved date, unless specifically otherwise approved in writing by the Department. Advertising may remain until removed.

The Selected Proposer shall provide as part of the Advertising and Capital Investment Plan a plan to maximize revenue initiatives which would include as a minimum: concepts, new locations, if needed, innovative marketing programs and realistic timeline for implementation.

The Successful Proposer shall make a capital investment for all Advertising and Revenue Initiative program Displays, and pay for installation of all advertising and/or revenue initiative program display hardware and supporting electrical connections, in accordance with the Departments standards and handbook as identified in Sub-section 1.2.1. The Successful Proposer is also responsible for removing inventory, existing and future or any agreed equipment, fixture or modifications necessary to support the revenue initiative program.

1.2.3 Provision for Inventory and Displays

The Successful Proposer shall provide and install all new equipment, for the Locations approved by the Department as stated in Exhibit A, or as may be amended by the Department through an administrative written notice to the Successful Proposer.

Inventory and Displays Current Inventory

- Outdoor Program: One banner in the Terminal A, one banner in the Flamingo Parking Garage, one banner in the Dolphin Parking Garage and two sky bridge between the parking garages and the Terminal Building at A and at H.
- Summary of Inventory (Refer to Exhibit A-1 Summary of Inventory and Exhibit A, Advertising Locations).
- A minimum of ten (10) Hotel Reservation and Information Boards throughout the Airport. The Department will provide two Hotel Reservation and Information Boards in the South Terminal (first floor of Terminal H and Terminal J). The Selected Proposer will be required to provide the other Hotel Reservation and Information Boards. The Selected Proposer may submit new design subject to MDAD approval. Any needed infrastructure work, including telephone service to these boards, as well as maintenance of these boards is the responsibility of the Successful Proposer. The existing Reservation boards will remain in place until the new reservation boards are installed to ensure advertising continuity.
- A minimum of five (5) brochure rack Displays may be built in close proximity to MIA's planned five main information counters. The Successful Proposer shall provide the brochure racks. Appendix L "Information Counter Proposed Design", generating element of the program is an example of the proposed design for the Information Counters. The brochure rack should be consistent with the materials and design of the Information Counters.
- The Bus Shelters Program includes ten (10) advertising units installed in the Bus Shelters to serve as pick up/drop off points for rental cars, off Airport parking and hotel shuttles. The Bus Shelters are located in the Upper Vehicle Drive of Miami International Airport. (More Details in Section 1.2.16).

The Proposer may choose not to propose on all the current advertising locations; however, the Bus Shelters, Brochure Racks and Hotel Reservation and Information Boards cannot be reduced in number.

For the purposes of this RFP, the Proposer shall specifically present its ideas (creativity and advertising skills) on three (3) advertising locations at MIA of its choosing. These ideas may or may not be implemented upon award of the Contract. The Proposer's proposed design and plan of the Advertising Program will be evaluated based on it being the most comprehensive and creative advertising program that will generate interest and revenue and make best use of the space available.

MDAD reserves the right to add or delete locations during the term of the Agreement.

Other locations in new terminal areas will be available for installation no later than thirty (30) Days prior to the respective terminal opening date (to be designated by the Department).

The Department will select at least ten (10) standard backlit displays from Locations in Exhibit A for direct Department use.

1.2.4 Advertising Display Specifications

Displays must not compete with way finding, amenity or informational signage, as determined by the Department. They are not to be mounted in a manner that might limit passenger's use and access to way finding, amenity or informational signage. All Displays must be warranted by the Successful Proposer to comply with the Americans with Disabilities Act (ADA) pursuant to Sub-article 7.02 "Americans with Disabilities Act Requirements" of the Form of Agreement.

There shall never be any unlighted terminal backlit advertising display. All Locations must be sold with a paid advertisement or filled with an approved Public Service Announcement (PSA), or Department's advertisement.

All Displays are to be cleaned as needed, checked, and stocked no less than weekly. A stocking schedule must be submitted to the Department. The Department may require a more frequent stocking schedule if the racks are empty too often.

The Hotel Reservations and Information boards are to include provisions for general ground transportation information, and a built-in map of the area. Rental Car companies operating at the Airport will be offered phone service to their facilities located off airport at no cost, unless otherwise specified by the Department. The Successful Proposer may solicit these Rental Car companies, for paid advertising on the Reservation Board.

1.2.5 General Manager

The Selected Proposer shall appoint a full time, experienced and properly trained General Manager to represent and act on behalf of the Successful Proposer in all matters pertaining to the business operation. The General Manager shall be responsible for the proper conduct and appearance of its officers, agents, employees, suppliers, and representatives. The General Manager shall be responsible for all Locations.

1.2.6 Staffing and Maintenance

The Successful Proposer will carry on its business diligently twenty – four (24) hours per day and three hundred sixty five (365) day per year.

The Successful Proposer shall employ at all times a sufficient number of personnel necessary to assure prompt, courteous and efficient service. Advertising staff shall be properly trained and attired, and must wear identification “badges” in accordance with MIA requirements.

The Successful Proposer must provide a local airport service manager, a maintenance contact and a phone number, which they or their substitute can be reached at all times. Maintenance personnel are to be available for emergency contact 24 hours a day, 365 days a year. The Successful Proposer shall respond to Department’s emergency requests within 24 hours and within 48 hours for other requests unless otherwise directed by the Department.

The Successful Proposer must provide on-site staff during the week to inspect clean and maintain advertising display/fixtures. All fixtures and advertising copy must be inspected and cleaned once a week. Damaged fixtures, lamps and faded or torn copies or display units must be repaired or replaced within 24 hours of being identified.

The Successful Proposer understands and agrees that its operation under this Agreement is a service to airline passengers and the users of the Airport and that the Successful Proposer shall conduct its operation in a first-class, businesslike, efficient, courteous, and accommodating manner.

1.2.7 Advertising Sales Rates/Rate Card

A rate sheet detailing proposed prices for all advertising locations including package promotions must be submitted annually, or whenever such rates are adjusted, and approved by the Department prior to advertising the rate card. Appendix I “Current Rate Card”. Any adjustment to the first year rates must be submitted to the Department for approval prior to contract execution.

1.2.8 Utilities

The cost of all utilities used or consumed in the Locations shall be borne by the Selected Proposer. The Selected Proposer shall pay for such utilities in the Locations as a monthly charge upon billing by the Department or utility companies. If billed by the Department, the Department at its sole discretion, will base this monthly charge on (i) a survey of consumption by the Department and current non-discriminatory rates charged others in the Terminal Building, or (ii) at the option and expense of the Selected Proposer on actual usage measured by meters arranged and paid for by the Selected Proposer.

Utilities including electric and telecommunications, as necessary, must be pulled by the Successful Proposer from the nearest junction box in accordance with Exhibit M, Tenant Airport Construction Non-Reimbursement Procedures (TAC-N) and Tenant Airport Construction Reimbursable Procedures (TAC-R) if not otherwise available at the Location.

1.2.9 Graphics

The Department must approve a copy of any advertising creative/display and/or public services graphics prior to installation at any Advertising Location. All copies of such graphics must be submitted to the Department for approval at least seven (7) days prior to the scheduled installation date.

1.2.10 Federal Aviation Administration/MIA Operations Requirements

The Successful Proposer shall comply with all Federal Aviation Administration (FAA) regulations, including all security requirements, and all MIA Regulations.

1.2.11 Successful Proposer Performance

The Successful Proposers shall comply with the Department's "Tenant Handbook", Exhibit J; the "MIA Terminal Standards" available on www.miami-airport.com, and all revisions to same promulgated from time to time by the Department. (also, see Sub-article 5.01, "Standards of Operation" of the Form of Agreement.)

1.2.12 Minimum Annual Guarantee (MAG)

As consideration for the privilege to engage in business at Miami International Airport, the Successful Proposer shall pay a minimum MAG of \$3,000,000 (Three Million Dollars) (or such other Minimum Annual Guarantee amount as may be proposed and agreed upon in the RFP process), beginning 120 days from the Effective Date of the Agreement. The MAG shall be payable in US funds, prorated and payable in twelve (12) equal monthly payments on or before the first day of each month, in advance, without billing or demand, plus any applicable state taxes as may be required by law. For each year after the first year, the MAG will be adjusted by the Consumer Price Index (South Region, all items).

1.2.13 Percentage Fee

The Successful Proposer shall pay the Department a minimum of fifty percent (50%), (or such other Percentage Fee amount as may be proposed as a result of the RFP process), that corresponds to the

monthly Gross Revenues or the Minimum Monthly Guarantee, whichever is greater. The monthly percentage fee shall be due on the 15th day of the month following the month during which the monthly gross revenues were received or accrued.

1.2.14 Annual Rental

The Selected Proposer shall be offered an “**Administrative Office and Support Space**”, **Exhibit A2**, consisting of 491 square feet to store its supplies.

The Successful Proposer shall pay the prevailing Class VI Terminal rates “Annual Rent” for the lease of the Administrative Office and Support Space, upon Beneficial Occupancy of the Location, and shall be in US funds, prorated and payable in twelve (12) equal monthly payments on or before the first day of each month, in advance, without billing or demand, plus any applicable state taxes as may be required by law. The Terminal Class VI rental rate is currently at \$61.90 per square foot and is based on rates in effect as of October 1, 2006, adjusted annual for CPI.

1.2.15 Construction Permit Fee

The Successful Proposer shall pay a permit fee to the Department in an amount equal to one percent (1%) of the cost of the estimated construction costs for Improvements, which is due at time the building permit is issued. Such fee shall be used to reimburse the Department its costs of maintaining on-site Building Department staff or outside consulting assistance to review the Successful Proposer’s plans or specifications. Such fee is non-refundable.

Planning and design must be in accordance with MDAD’s “Retail Concessions Design Guidelines” (North, Central, South Terminals), Exhibit N, attached hereto and which may be modified from time to time, Exhibit M, “Tenant Airport Construction–Non-Reimbursable Procedures (TAC-N)” and Tenant Airport Construction Reimbursable Procedures (TAC-R)” in the Lease and Concession Agreement, MDAD’s Construction and Development Manuals and the Life Safety Master Plan Manual, both of which can be found on the MIA internet web page (<http://www.miami-airport.com>). Click on Construction, and then click on Life Safety Master Plan.

1.2.16 Bus Shelter Program

The Selected Proposer shall reimburse the Department for the implementation of the Bus Shelters program at the Airport upon the Effective Date of the Agreement. The cost of such investment is estimated to be Four Hundred Eighty Thousand Dollars (\$480,000). The Department will allow the Selected Proposer to deduct such amount as a credit from advertising revenues the Selected Proposer

obtains through the displays in the Bus Shelters until the capital investment for the bus shelters has been satisfied by the Selected Proposer or within a five (5) year period after the Effective Date of the Agreement, whichever occurs first. Thereafter, any revenues obtained through the displays in the Bus Shelter shall be considered Gross Revenues as defined in this Agreement.

1.3 MINIMUM QUALIFICATION REQUIREMENTS

The Proposer must provide evidence that it meets the following minimum qualification requirements:

1. The Proposer must have three (3) or more years of experience within the last five (5) years in the majority ownership (at least 50%) of an entity that financed, designed, developed, furnished, installed, maintained, and operated an advertising program or revenue initiatives for transportation centers such as airports, bus or train stations or at shopping centers or any other venues with continuous large population exposure locations.
2. The Proposer must submit documentation to evidence gross revenues totaling no less than \$3,500,000 (Three Million Five Hundred Thousand Dollars) per year derived from advertising revenues.

The Proposer must complete Appendix A to evidence that it meets the following questionnaire and minimum qualification requirements affidavit:

SECTION 2.0 RFP SUBMITTAL PROCESS

2.1 RFP AVAILABILITY

Copies of this Solicitation package can be obtained through the MDAD, Contracts Administration Division, in person or via courier at 4200 NW 36th Street, Building 5A, 4th Floor, Miami, FL 33122, or through a mail request to P.O. Box 025504, Miami, FL 33102-5504. The cost for each Solicitation package is **Fifty Dollars (\$50.00) (non-refundable) check or money order** payable to: Miami-Dade Aviation Department.

Proposers who obtain copies of this Solicitation from sources other than MDAD's Contracts Administration Division risk the potential of not receiving addenda, since their names will not be included on the list of firms participating in the process for this particular Solicitation. Such Proposers are solely responsible for those risks and the County bears no liability (**see Section 2.4**).

2.2 PROPOSAL SUBMITTAL

Two (2) unbound originals and eight (8) copies (a total of 10) of the complete Proposal (Technical Proposal and Price Proposal) must be received by the due date as specified in the advertisement for this RFP ("Proposal Due Date and Time"), as may be amended by Addendum. **The originals shall be unbound and all copies must be bound, with the Technical Proposal packaged separately from the Price Proposal** and submitted in an envelope or container stating on the outside the Proposer's name, address, telephone number and RFP number, RFP title, and Proposal Due Date to:

Clerk of the Board
Stephen P. Clark Center
111 NW 1st Street, 17th Floor, Suite 202
Miami, FL 33128-1983

Both the Technical (Quality) Proposal and the Price Proposal must be signed by an officer of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer. In the absence of a corporate seal, the documents must be notarized by a Notary Public. The submittal of a proposal by a Proposer will be considered by MDAD as constituting an offer by the Proposer to perform the services outlined in this RFP, at the price submitted and in accordance with the terms and conditions herein, until the Board of County Commissioners awards the Agreement, if the Proposer is the Successful Proposer. The Proposer also agrees to honor and comply with the terms of the executed agreement, if the Proposer is the Successful Proposer.

Hand-carried proposals may be delivered to the above address **ONLY** between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays observed by the County. Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the required address information appears on the outer wrapper or envelope used by such service.

2.3 PROPOSAL FORMAT

A. INSTRUCTIONS TO THE PROPOSERS

The Proposer should carefully follow the format and instructions outlined below, observing format requirements where indicated. All materials (except for plans and schematics) are to be submitted on 8 1/2" X 11" pages, neatly typed on one side only, with normal margins and spacing. All documents and information must be fully completed and signed as required. Proposals that do not include the required documents may be deemed non-responsive and may not be considered for contract award.

B. CONTENTS OF PROPOSAL

The Proposal must consist of two (2) separate parts: (A) Technical Proposal, and (B) Price Proposal Form as follows:

1. TECHNICAL PROPOSAL (Part A)

A Technical Proposal shall be written in sufficient detail to permit the County to conduct a meaningful evaluation of the submittal. No cost information is to be included with the Technical Proposal. A Technical Proposal must include the following information:

a) Table of Contents

The table of contents should outline, in sequential order, the major areas of the Technical Proposal. All pages of the Technical Proposal, including the enclosures, must be clearly and consecutively numbered and correspond to the table of contents.

b) Questionnaire and Minimum Qualification Requirements Affidavit

The "Questionnaire and Minimum Qualification Requirements Affidavit" (see Appendix A) is to be completed and signed by an authorized officer of the Proposer submitting the Proposal.

The Proposer shall verify its ability to satisfy all of the minimum qualification requirements (see Appendix A "Minimum Qualification Requirements Affidavit"). A Proposer who does not meet the minimum qualification requirements may be rejected from consideration for award.

c) Executive Summary

The executive summary shall briefly and concisely describe the basic services offered by the Proposer; the Proposer's ability to perform the work requested in this RFP; the background, experience and qualifications of the Proposer and the Subcontractors/Subconsultants; the qualifications of the Proposer's personnel to be assigned to this project; and, any other information called for by this RFP, which the Proposer deems relevant. The executive summary should be no longer than four (4) pages.

d) Technical Information

1) The Proposer shall describe its specific policies, plans, procedures or techniques to be used in providing services (see Section 1.2, "Scope of Services"). The Proposer shall also describe its approach to project organization and management, and the responsibilities of Proposer's management and personnel that will perform work pursuant to this project.

- 2) The Proposer shall provide an organizational chart including titles for all personnel to be assigned to this project. The chart must clearly identify the Proposer's key personnel. Key personnel include all partners, managers, seniors, and other professional staff that will perform services on this project.
- 3) The Proposer shall describe their key personnel's experience, qualifications, functions to be performed and other vital information including relevant experience on previous similar projects. The Proposer shall also provide their resumes with job descriptions and other detailed qualification information.

Note: After proposal submission, the Proposer has a continuing obligation to advise the Department of any changes, intended or otherwise, to the key personnel identified in its Proposal.

- e) Proposer's Experience, Past Performance, Litigation, Convictions, Indictments, or Investigations, Affiliations, and References
 - 1) Experience: The Proposer shall provide a history of its background and experience in providing similar services and shall state the number of years that it has been in existence, the current number of employees, and the primary markets served.
 - 2) Specific Project Experience: The Proposer shall provide a detailed description of comparable contracts (similar in scope of services to those requested herein) which the Proposer has either ongoing or completed within the past three (3) years. For each comparable contract, the Proposer should identify: (i) the client, (ii) a description of the work performed, (iii) the total dollar value of the contract, (iv) the contract duration, (v) the client contact person and telephone number for reference, (vi) a statement or notation of whether Proposer(s) is/was the primary consultant / contractor or subcontractor / subconsultant, and (vii) the results of the project. The Proposer shall also list and describe any projects performed for government clients or similar sized private entities, and any work performed for the County.
 - 3) Additional Experience: The Proposer shall describe any other experiences or information related to the Services described in Section 1.2, Scope of Services. (e.g. software/hardware information, training, etc.).
 - 4) Past Performance: List all contracts which the Proposer has performed for Miami-Dade County. The County will review all contracts the Proposer has performed for the County in accordance with Section 2-8.1(g) of the Code, which requires that "a Bidder's or Proposer's past performance on County

contracts be considered in the selection of consultants and contractors for future County contracts." The Proposer must list and describe all work performed or being performed for Miami-Dade County, include the name of the County department which administers or administered the contract(s); the contact person(s) on the contract(s) and their contact telephone number(s); the dates covering the term of the contract(s); the dollar value of the contract(s), whether or not the County contract was audited by the County and the results therefrom, and the name, address, telephone number, responsibilities and employment status of the management team, assigned to any County contract within the last three (3) years.

- 5) Litigation: The Proposer shall describe any prior or pending litigation, in which (i) the Proposer, (ii) any member of a joint venture, of which the propose was a member (iii) Subcontractors, (iv) any of those entities' subsidiaries, affiliates or parent companies, or (v) any of those entities' employees is or has been involved within the last ten (10) years which arise out of their employment. If so, give details.
- 6) Sign Code of Miami-Dade County: The Proposer shall disclose whether it has received any notices of any violations of the Sign Code of Miami-Dade County, Section 33-82 et seq of the Miami-Dade County Code, and also whether the proposer is currently in litigation with Miami-Dade County regarding any provisions of the Sign Code of Miami-Dade County. The County may consider the information so disclosed when determining the responsibility of the proposer. **(See Appendix E-1)**
- 7) Convictions, Indictments, or Investigations: Has the organization of the Proposer or any of its directors, officers, partners or supervisory personnel including those of any Joint Venture ever been party to any criminal action relating directly or indirectly to the general conduct of the business of the Proposer herein? Identify any criminal convictions or civil judgments for the last the (10) years, and pending criminal indictments or governmental/regulatory investigations. Information must include: (i) nature of the offense; (ii) sentence, fines, restitution or probation imposed; (iii) jurisdiction of occurrence; (iv) indicting or investigative authority; and (v) status of indictment or investigation.
- 8) Affiliations: Please state whether the Proposer, any Principal of Proposer, any family, member of any Principal, or any person or entity with which such person has a business relationship, has

or had within the last ten (10) years (a) directly or indirectly a business relationship with Miami-Dade County (including Miami-Dade Aviation), (b) directly or indirectly receives or received revenues from Miami-Dade County (including Miami-Dade Aviation) or (c) directly or indirectly receives or received revenue from the result of conducting business on County property or pursuant to any contract with the County. Please describe such relationship.

Please also state whether the Respondent, any Principal of Respondent or any of their family members has or had with the last ten (10) years, a direct or indirect business relationship with any elected or appointed County official or an affiliate or with any County employee or any affiliate, and fully describe such business relationship.

9) References: The Proposer shall provide customer references for similar projects, in scope and magnitude preferably in an airport environment, which the Proposer has either ongoing or completed within the last three (3) years.

f) Financial Capacity to Perform:

This section should include the documentation requested below for the proposing company and individual companies comprising a team or joint venture that are signatories to the guaranteed payment of the Minimum Annual Guarantee. It should note financial relationship and responsibilities with regard to subsidiary or related companies.

All Proposers must provide information on the percentage of equity of any partnerships formed and an estimate of working capital and reserves. Equity shares should be specified on the form and on additional sheets, if necessary. Proposers should specify the source of funds (cash, bank loan, etc.) for the start-up costs.

1) Capital Investment:

Proposer shall submit a financial plan, which will indicate the source of funding to be used for capital improvements, and the amount of working capital the Proposer determines will be required to maintain operations. Additional information will include, but not be limited to, estimated costs for improvements with projected expenses for leasehold improvements and/or furniture, fixtures and equipment.

2) References:

The Proposer must list three (3) business references related to its business operations during the past three (3) years.

Proposer shall provide for each reference a contact name, title, phone number, fax number, email address.

3) Financial Background Information:

In order to understand the financial capabilities of your company, the Department requires that the following historical financial information and that of any joint venture or affiliated entities be included:

- i). Audited or reviewed balance sheet and income statements for the last two fiscal years prepared in accordance with generally accepted accounting principals (GAAP), reflecting current financial conditions; if there are no audited or reviewed financial statements available, then provide the last two (2) federal income tax returns filed with the Internal Revenue Service (IRS).
- ii). An interim balance sheet and income statement for any period of time in excess of six months of the financial statements submitted as part of (i) above, reflecting any significant financial events occurring subsequent to the closing date; if no significant events occurred, please state the fact.

4) Requested Information From Subsidiaries:

The Proposer must state whether this company operates as a subsidiary of another company. If so, include the appropriate financial information as requested above for both the parent and subsidiary. State whether the parent company guarantees the Minimum Annual Guarantee and Agreement for the subsidiary company. If so, provide a letter from the appropriate agent of the parent company verifying the parent company's intent to guarantee the Minimum Annual Guarantee and Agreement.

h) Subcontractors/Subconsultants Performing Services

The Proposer shall also include a list of the names and addresses of all major first tier Subcontractors/Subconsultants, and describe the extent of work to be performed by each one. Include resumes for the Subcontractors/Subconsultants' key personnel.

i) Submission of Required Documentation

The Proposer must complete, sign as required, and submit the following documents as part of its Proposal, which have been included as attachments to this RFP:

- Appendix A:** Questionnaire and Minimum Qualification Requirements Affidavit
- Appendix B:** Price Proposal Schedule
- Appendix C:** Acknowledgement of Addenda
- Appendix D:** Lobbyist Registration for Oral Presentation
- Appendix D-1:** Lobbying Rules
- Appendix E-1:** Single Form Execution Affidavits
 - Public Entity Crimes Affidavit
 - Debarment Disclosure Affidavit
 - Criminal Record Affidavit
 - Disclosure of Ownership Affidavit
 - Affirmative Action Plan/Procurement Policy Affidavit
- Appendix E-2:** Condition of Award Requirements
 - Single Form Execution Affidavits
 - Disability Nondiscrimination
 - Family Leave
 - Domestic Leave
 - Currently Due Fees and Taxes
 - Drug Free Workplace
 - Current in County Obligations
 - Code of Business Ethics
 - Subcontracting Policies Statement (No format, insert document)
 - Subcontractor/Supplier Listing
 - Proof of Authorization to do Business (No format, insert document)
- Appendix F:** Local Business Preference
- Appendix G:** Proposal Bond Guaranty
- Appendix H:** Airport Concession Disadvantaged Business Enterprise Participation Plan/Provision

C. PRICE PROPOSAL SCHEDULE - (Part B)

The Proposer must submit the executed Price Proposal Schedule (**see Appendix B**) in a separate **sealed** envelope or package (**separate from the Technical Proposal**) clearly marked on the sealed envelope or package "**PRICE PROPOSAL SCHEDULE**", together with the Proposer's name, RFP Number and RFP title. The Proposer may submit the separate sealed Price Proposal Schedule inside the same container or package together with the separate Technical Proposal. The Proposer's price shall

be submitted in the manner required herein. There are no exceptions allowed to this requirement. Proposers who do not submit pricing in accordance with this RFP document shall be deemed non-responsive. The Price Proposal must contain all information required in the Price Proposal Schedule. Proposers cannot qualify, place conditions or additional terms with the Price Proposal Schedule. Proposers who place qualifications, conditions or additional terms with the Price Proposal Schedule may be found non-responsive.

2.4 ADDITIONAL INFORMATION/ADDENDA

Requests for additional information or clarifications must be submitted in writing via facsimile number (305) 876-8068 and/or email to the designated Contracting Officer herein, located at MDAD, Building 5A, 4200 N.W. 36th Street, 4th Floor, Miami, Florida 33122, in accordance with Section 2.7, "Cone of Silence," at least fourteen (14) calendar days prior to the originally established due date for Proposals. The facsimile cover sheet must contain the RFP number and title, the Proposer's name, address, telephone and facsimile numbers, and the Proposer's contact person.

MDAD will issue responses to inquiries, and any other corrections or amendments it deems necessary, in written addenda prior to the deadline for Proposals. The Proposer should not rely on any representations, statements or explanations other than those made in this RFP or in any written addendum to this RFP. Where there appears to be a conflict between the RFP and any addenda issued, the last addendum issued shall prevail.

It is a Proposer's responsibility to ensure receipt of all addenda. The Proposer should verify with the Contracting Officer, prior to submitting a Proposal, that all addenda have been received. The Proposer is required to acknowledge the number of addenda (**see Appendix C, Acknowledgement of Addenda**) received as part of their Proposal.

2.5 RESPONSIBILITY OF PROPOSER

It is the sole responsibility of the Proposer to become thoroughly familiar with the RFP requirements and all terms and conditions of the Agreement affecting the performance of this RFP. Pleas of ignorance by the Proposer of conditions that exist, or that may exist, will not be accepted as a basis for varying the requirements of the Department, or the compensation to be paid to the Successful Proposer.

It shall be the responsibility of the Proposer to examine the entire RFP document and Agreement, and to become fully informed of the conditions to be encountered from the Agreement to be performed.

2.6 PROJECT BRIEFING

A project briefing has been scheduled for the date, time and place specified in the advertisement for this RFP. The purpose of this project briefing is to review the scope of services and response requirements, and to afford Proposers an opportunity to seek clarifications prior to the due date for Proposals. The Proposer is encouraged to submit any questions they may have, in writing, to the Contracting Officer in advance of the project briefing.

2.7 CONE OF SILENCE/CONTRACTING OFFICER

CONE OF SILENCE: Pursuant to Section 2-11.1(t) of the Code and Administrative Order 3-27 ("Cone of Silence Provisions"), as amended, a "Cone of Silence" is imposed upon RFPs, RFQs, or bids after advertisement and terminates at the time the County Manager issues a written recommendation to the Board of County Commissioners. The Cone of Silence prohibits communication regarding RFPs, RFQs, or bids between: A) potential vendors, service providers, bidders, lobbyists or consultants and the County's professional staff including, but not limited to, the County Manager and the County Manager's staff; B) a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners or their respective staffs; C) the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and the County Manager's staff; D) a potential vendor, service provider, bidder, lobbyist, or consultant and any member of the selection committee assigned to this Solicitation; E) the Mayor, County Commissioners or their respective staffs and member of the selection committee assigned to this Solicitation; F) any member of the County's professional staff and any member of the selection committee therefor.

Section 2.11.1(t) of the Code and Administrative Order 3-27, as amended, permits oral communications regarding a particular RFP, RFQ or bid for solicitation of goods or services between any person and the Contracting Officer responsible for administering the procurement process for such RFP, RFQ, or bid, provided that the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.

The Cone of Silence Provisions do not apply to communications with the Office of the County Attorney or members of the staff of that office; communications with employees of the Management and Technical Assistance Unit of the Development of Small Business Department regarding small and/or minority business programs, the Community Business Enterprise and Equitable Distribution Programs; oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed

public meetings, public presentations made to the Board of County Commissioners during any duly noticed public meeting, or communications in writing at any time unless specifically prohibited by the applicable RFP, RFQ, or bid document. Proposers must file a copy of any written communications with the Clerk of the Board, which shall be made available to any person upon request. Written communications may be submitted via e-mail to the Clerk of the Board at CLERKBCC@MIAMIDADE.GOV. The Contracting Officer shall respond in writing and file a copy with the Clerk of the Board, which shall be made available to any person upon request.

In addition to any other penalties provided by law, violation of the Cone of Silence Provisions by any proposer, respondent or bidder shall render any RFP award, RFQ award, or bid award voidable. Any person having personal knowledge of a violation of the Cone of Silence provisions shall report such violation to the State Attorney and/ or may file a complaint with the Ethics Commission. Proposers should reference the actual Cone of Silence Provisions for further clarification.

All Proposers will be notified in writing when the County Manager makes an award recommendation to the Board of County Commissioners.

The Contracting Officer for this RFP is:

| | |
|--------------------------|--|
| Name: | Margaret Hawkins Moss |
| Title: | Contracting Officer |
| Name of Agency: | MDAD – Contracts Administration Division |
| Physical Address: | 4200 NW 36th St. Bldg. 5A, 4th Floor, Miami, FL 33122 |
| Mailing Address: | P.O. Box 025504, Miami, FL 33102-5504 |
| Telephone: | (305) 869-1421 |
| Facsimile: | (305) 876-8068 |
| Email: | <u>mross@miami-airport.com</u> |

2.8 PROPOSAL GUARANTEE DEPOSIT

Each Proposal shall be accompanied by a Proposal Guarantee Deposit of **Ten Thousand Dollars (\$10,000.00)** attached to **Appendix A, Questionnaire and Minimum Qualifications Requirements Affidavit**, which shall be in the form of a cashier's check, treasurers check, irrevocable letter of credit, or bank draft drawn on any state or national bank ONLY, payable to Miami-Dade County, Florida, or Proposal Bond Guaranty prepared on the form attached hereto, **Appendix G**, duly executed by the Proposer as Principal and having a Surety Company's Rating thereon meeting the requirements set forth in Subarticle 3.11 of the Form of Agreement. No other form of deposit will be accepted.

Proceeds of checks, if submitted as the Proposal Guarantee Deposit, will be held by the County without interest to the Proposer, and such proceeds will be returned to the Unsuccessful Proposers after the County and the Successful Proposer have executed the Agreement for the work. Proposal Bond Guarantees will not be returned to any Proposer.

After award of an Agreement to the Successful Proposer, the Proposal Guarantee Deposit of such Proposer will be held pending receipt of the executed Agreement and evidence of insurance as required by the Agreement. If a Successful Proposer fails to (a) execute the Agreement within five (5) business days after such documents are presented to the Successful Proposer, or (b) provide evidence of insurance within twenty (20) calendar days after notice of the award by the Board of County Commissioners, or (c) provide a Performance Bond as required by Subarticle 3.11 of the Form of Agreement, or (d) begin operations as required by the Agreement, the Proposal Guarantee Deposit will be forfeited to the County as liquidated damages to compensate the County for the delay and administrative services resulting from such failures. The County shall also be entitled, but not obligated, to award an Agreement to any other Proposer as determined to be in the best interest of the County.

Any Proposal that is not accompanied by the required Proposal Guarantee Deposit, as of the Proposal Due Date, shall be considered non-responsive and ineligible for award.

2.9 MODIFIED PROPOSALS

Any modification to the Proposal by the Proposer shall be submitted to the Clerk of the Board prior to the Proposal Due Date and Time. The Proposer shall submit, in a sealed envelope, the modified Proposal forms and a letter, on company letterhead and signed by a representative of the Proposer, stating that the modified Proposal supersedes the previously submitted Proposal. No modifications of a Proposal shall be accepted after the Proposal Due Date. The Evaluation/Selection Committee will only consider the latest version of the Proposal.

2.10 WITHDRAWAL OF PROPOSAL

A Proposal shall be irrevocable until contract award, unless the Proposal is withdrawn. A Proposal may only be withdrawn in writing and must be submitted to the Clerk of the Board prior to the Proposal Due Date.

2.11 LATE PROPOSALS, LATE MODIFICATIONS AND LATE WITHDRAWALS

Proposals received after the Proposal Due Date are late and will not be opened or considered. Modifications received after the Proposal Due Date are also late and will not be considered. Proposals will be opened promptly on the Proposal Due Date. The responsibility for submitting a Proposal to the Clerk

of the Board on or before the Proposal Due Date is solely and strictly the responsibility of the Proposer. The County is not responsible for delays caused by any form of delivery utilized by the Proposer, including U.S. mail, package, courier service, or by any other occurrence.

2.12 RFP POSTPONEMENT/REJECTION/CANCELLATION

MDAD may, at its sole and absolute discretion, reject any and all, or parts of any and all Proposals; re-advertise this RFP; postpone or cancel, at any time, this RFP process; or waive any irregularities in this RFP or in the Proposals received as a result of this RFP.

2.13 COSTS INCURRED BY PROPOSERS

All expenses involved with the preparation and submission of a Proposal to the County, or any work performed in connection therewith, shall be borne by the Proposer. No payment will be made for any responses received or for any other effort required of or made by the Proposer prior to the date set for commencement of work as defined by the Agreement approved by the Board.

SECTION 3.0 PROVISIONS OF LAW AFFECTING SOLICITATION

3.1 PROVISIONS OF LAW REGARDING AFFIDAVITS TO BE SUBMITTED WITH PROPOSAL AND CONDITION OF AWARD REQUIREMENTS:

A. AFFIDAVITS TO BE SUBMITTED WITH PROPOSAL:

The Affidavits described below are part of a single execution affidavit:

1. Public Entity Crimes Affidavit

Pursuant to Paragraph 2(a) of Section 287.133, Florida Statutes, "Any person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list."

2. Debarment Disclosure Affidavit

Section 10-38 of the Code relates to the debarment of any individual or other legal entity from County work. The Debarment Disclosure Affidavit requires the Proposer to affirm, under oath, that neither the Proposer, its officers, principals, directors, shareholders owning or controlling more than ten percent (10%) or more of the stock, partners, affiliates, as defined in the Code, nor its Subcontractors/Subconsultants, have been debarred by the County. Any individual or entity that has been debarred by the County is prohibited from entering into any contract with the County during the period for which they have been debarred. Debarment may also constitute grounds for termination of any existing County contract. It is the Proposer's responsibility to ascertain this information before submitting the Proposal.

3. Criminal Record Affidavit

Pursuant to Section 2-8.6 of the Code, the Proposer must disclose, at the time the Proposal is submitted, if the Proposer or any of its officers, directors, or executives have been convicted of a felony during the past (10) years. Failure to disclose such conviction may result in the debarment of the Proposer who knowingly fails to make the required disclosure or to falsify information.

Following contract award, if a principal of the contracting entity is convicted of a felony, the County may terminate the contract.

4. Disclosure of Ownership Affidavit

Pursuant to Section 2-8.1(d)(1) of the Code, the Proposer shall disclose under oath their full legal name and business address. The Proposer shall also disclose the full legal name and business address of all individuals (other than Subcontractors/ Subconsultants, materialmen, suppliers, laborers, or lenders) that has, or will have any interest (legal, equitable, beneficial or otherwise) in the contract transaction. If the contract is with a corporation, the full legal address shall be provided for each officer, director, and stockholder who holds directly or indirectly five percent (5%) or more of the corporation's stock. If the contract is with a partnership or joint venture, the full legal address shall be provided for each partner. If the contract or business transaction is with a trust, the full legal name and address shall be provided for each trustee and each beneficiary of the trust. Post Office addresses are not acceptable.

In addition, pursuant to Section 2-8.1(d)(2) of the Code, the Proposer shall disclose the composition of its workforce, as to race, national origin and gender, as well as the existence of a collective bargaining agreement with employees. The Proposer must also disclose whether they provide paid health care benefits for its employees.

5. Affirmative Action Plan/Procurement Policy Affidavit

Pursuant to Section 2-8.1.5 of the Code, all firms with annual gross revenues in excess of \$5 million seeking to contract with Miami-Dade County shall, as a condition of award, have a written Affirmative Action Plan and Procurement Policy on file with the County's Department of Small Business Development. The Proposer shall submit with its Proposal the Affirmative Action Plan/Procurement Policy Affidavit, indicating one of the following: (i) that the firm's gross revenues are in excess of \$5 million and the firm has a current Affirmative Action Plan/Procurement Policy on file with the Department of Small Business Development or, (ii) that the firm's gross revenues are in excess of \$5 million and the firm will file an Affirmative Action Plan/Procurement Policy with the Department of Small Business Development for approval; or, (iii) the firm's Board of Directors are representative of the population make-up of the nation and is exempt from this requirement; or, (iv) the firm's annual gross revenues do not exceed \$5 million and therefore Section 2-8.1.5 of the Code is not applicable.

B. CONDITION OF AWARD REQUIREMENTS

1. The affidavits described below are part of a single execution affidavit that should be submitted with the Proposal. If a Proposer does not submit said condition of award affidavits with its Proposal, the Proposer should state in its Proposal when such affidavits will be provided, which shall be no later than with the execution of the Agreement as provided in Section 5.8 herein.

a) Disability Nondiscrimination

Pursuant to County Resolution No. R-182-00, amending Resolution No. R-385-95, the Proposer shall, as a condition of award, provide written certification that the firm is not in violation of the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Federal Transit Act, the Fair Housing Act, nor any other laws prohibiting discrimination on the basis of disability. Any post-award violation of these Acts may result in the contract being declared void. If any certifying Proposer or their affiliate is found in violation of the Acts, the County will conduct no further business with such attesting firm. Any violation of this Resolution may result in debarment.

b) Family Leave

Pursuant to County Resolution No. R-183-00, the Proposer shall, as a condition of award, provide written certification that the firm provides family leave to their employees as required by the County's

family leave policy. Failure to comply with the requirements of this Resolution may result in debarment.

c) Domestic Leave

Pursuant to County Resolution No. R-185-00, the Proposer shall, as a condition of award, provide written certification that the firm is in compliance with the County's domestic leave policy. Failure to comply with the requirements of this Resolution, may result in the contract being declared void, the contract being terminated, and/or the firm being debarred. The obligation to provide domestic leave to their employees shall be a contractual obligation.

d) Currently Due Fees and Taxes

Pursuant to Section 2-8.1(c) of the Code, the Proposer shall, as a condition of award, verify that all delinquent and currently due fees or taxes - including but not limited to real and property taxes, utility taxes and occupational licenses - collected in the normal course by the County Tax Collector, as well as County issued parking tickets for vehicles registered in the name of the Proposer, have been paid. Failure to comply with this requirement may result in debarment.

e) Drug Free Workplace

Pursuant to Section 2-8.1.2(b) of the Code, no person or entity shall be awarded or receive a County contract for public improvements unless such person or entity certifies that it will provide a drug free workplace. Failure to comply with this requirement may result in debarment for those persons or entities that knowingly violate this policy or falsify information.

f) Current in County Obligations

Pursuant to Section 2-8.1(h) of the Code, no individual or entity shall be allowed to receive any additional County contracts, if it is in arrears in any payment under a contract, promissory note or other loan document with the County, or any of its agencies or instrumentalities, including the Public Health Trust, either directly or indirectly through a firm, corporation, partnership or joint venture in which the individual or entity has a controlling financial interest as that term is defined in Section 2-11.1(b)(8) of the Code, until either the arrearage has been paid in full or the County has agreed in writing to a payment schedule. Any contract or transaction entered into in violation of Section 2-8.1(h) of the Code shall be voidable. Failure to meet the terms and conditions of any obligation or repayment schedule with the County shall constitute a default of the

subject contract and may be cause for suspension, termination and debarment, in accordance with the terms of the contract and the debarment procedures of the County.

g) Code of Business Ethics

Pursuant to Section 2-8.1(i) of the Code, each person or entity that seeks to do business with the County shall adopt a Code of Business Ethics ("Ethics Code") and shall, prior to the execution of any contract between the Proposer and the County, submit an affidavit stating that it has adopted an Ethics Code that complies with the requirements of Section 2-8.1(i) of the Code. If the Proposer fails to submit the required affidavit, it shall be ineligible for contract award.

2. Subcontracting documents not part of single execution affidavit:

a) Subcontracting Policies

Pursuant to Section 2-8.8(4) of the Code, the Proposer on County contracts, wherein subcontractors/subconsultants may be used, shall, prior to contract award, provide a detailed statement of their policies and procedures for awarding subcontracts which:

- 1) notifies the broadest number of local subcontractors/subconsultants of the opportunity to be awarded a subcontract;
- 2) invites local subcontractors/subconsultants to submit bids in a practical, expedient way;
- 3) provides local subcontractors/subconsultants access to information necessary to prepare and formulate a subcontracting bid;
- 4) allows local subcontractors/subconsultants to meet with appropriate personnel of the Proposer to discuss the Proposer's requirements; and
- 5) awards subcontracts based on full and complete consideration of all submitted proposals and in accordance with the Proposer's stated objectives.

The Proposer who fails to provide the required statement shall be precluded from receiving the contract.

b) Listing of Subcontractors/Subconsultants and Suppliers

Section 10-34 of the Code requires that on County or Public Health Trust contracts, which involve the expenditure of \$100,000 or more,

that the entity contracting with the County shall, as a condition of award, provide a listing which identifies all first tier subcontractors/subconsultants who will perform any part of the contract work, describes the portion of the work such subcontractor/subconsultant will perform, identifies all suppliers who will supply materials for the contract work directly to the Proposer, and describes the materials to be so supplied.

A Proposer who is awarded the contract shall not change or substitute first tier subcontractors/subconsultants, direct suppliers, the portions of the work to be performed, or the materials to be supplied from those identified in the listing provided, except upon written approval by the County.

THE FORM CONTAINED IN APPENDIX E-2, OR A COMPARABLE LISTING MEETING THE REQUIREMENTS OF SECTION 10-34 OF THE CODE, MUST BE COMPLETED AND SUBMITTED EVEN THOUGH THE PROPOSER MAY NOT UTILIZE SUBCONSULTANTS OR SUPPLIERS FOR THIS PROPOSAL. THE PROPOSER SHOULD ENTER THE WORD "NONE" UNDER THE APPROPRIATE HEADING(S) ON THE ATTACHED FORM, APPENDIX E-2, IN THOSE INSTANCES WHERE NO SUBCONSULTANTS AND/OR SUPPLIERS WILL BE USED ON THIS PROPOSAL.

3. Proof of Authorization to do Business

Pursuant to Florida Statutes Section 607.0128 F.S, Proposer must attach a copy of the Certificate of Status or Authorization, and certificate evidencing compliance with the Florida Fictitious Name Statute per Florida Statutes Section 865.09, (if applicable.)

3.2 LOBBYIST REGISTRATION FOR ORAL PRESENTATION

In accordance with Section 2-11.1(s) of the Code, the attached Lobbyist Registration for Oral Presentation Affidavit (**see Appendix D**) must be completed, notarized and included with the proposal submission. Lobbyists specifically include the principal, as well as any employee whose normal scope of employment includes lobbying activities.

Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection, technical review or similar committee shall list on this affidavit all individuals who may make a presentation. The affidavit shall be filed with the Clerk of the Board at the time the response is submitted. The individual or firm must submit a revised affidavit for any additional team members with the Clerk of the Board at least two (2) days prior to the oral presentation. Any person not listed on

the revised affidavit or who is not a registered lobbyist will not be permitted to participate in the oral presentation.

NOTE: Other than for the oral presentation, Proposers who wish to address the Board of County Commissioners, or a County board or committee concerning any actions, decisions or recommendations of County personnel regarding this RFP must also register with the Clerk of the Board (Form BCCFORM2DOC) and pay all applicable fees.

In accordance with 2-11.1(s) of the Code, prior to conducting any lobbying, all principals must file a form with the Clerk of the Board of County Commissioners, signed by the principal or the principal's representative, providing that the lobbyist is authorized to represent the principal. Failure of a principal to file the form required by the preceding sentence may be considered in the evaluation of this Proposal as evidence that a Proposer is not a responsible Proposer.

The County's Ethics Commission has also adopted rules delineating the responsibilities of lobbyists and County personnel in implementing the requirements of the lobbying section of the Conflict of Interest and Code of Ethics Ordinance (**see Appendix D-1**). The Proposer shall comply with these requirements.

3.3 INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL REVIEW

Pursuant to County Administrative Order No. 3-20 and in connection with any award issued as a result of this RFP, the County has the right to retain the services of an IPSIG, whenever the County deems it appropriate. Upon written notice from the County, the Successful Proposer shall make available to the IPSIG retained by the County all requested records and documentation pertaining to this Proposal or any subsequent award for inspection and copying. The County will be responsible for the payment of these IPSIG services and under no circumstance shall the Proposer's cost/price for this Proposal be inclusive of any charges relating to these IPSIG services. The terms of this provision herein apply to the Proposer, its officers, agents, employees and Subcontractors/Subconsultants. Nothing contained in this provision shall impair any independent right of the County to conduct, audit or investigate the operations, activities and performance of the Proposer in connection with this RFP or any Contract issued as a result of this RFP. The terms of this provision are neither intended nor shall the Proposer or any third party construe them to impose any liability on the County.

3.4 MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW

According to Section 2-1076 of the Code, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General

which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit of any contract issued as a result of this RFP shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount [See below "Exception" for (f) concessions and (h) revenue-generating contracts.]

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. **Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one-quarter (1/4) of one percent in any exempted contract at the time of award.**

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above.

3.5 CONFLICT OF INTEREST AND CODE OF ETHICS

Pursuant to Section 2-11.1 of the Code, no County employee or his or her immediate family shall be prevented from entering into any contract, individually or through a firm, corporation, partnership or business entity, in which the employee or any member of his or her immediate family has a controlling financial interest with the County, or any person or agency acting for the County, as long as (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and (3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with the County or any person or agency acting for the County, if the employee works in the County department that will enforce, oversee or administer the subject contract.

Any affected County employee shall seek a conflict of interest opinion from the County Commission on Ethics and Public Trust ("the Ethics Commission")

prior to submittal of a bid, response, or application, of any type, to contract with the County by the employee or his or her immediate family. A request for a conflict of interest opinion shall be made in writing and shall set forth and include all pertinent facts and relevant documents. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

If the affected employee or his or her immediate family member chooses to respond to a solicitation to contract with the County, such employee shall file with the Clerk of the Board a statement, in a form satisfactory to the Clerk of the Board, disclosing the employee's interest or the interest of his or her immediate family in the proposed contract and the nature of the intended contract at the same time as or before submitting a bid, response, or application of any type to contract with the County. Along with the disclosure form, the affected employee shall file with the Clerk of the Board a copy of his or her request for an Ethics Commission opinion and an opinion or waiver from the Board. Also, a copy of the request for a conflict of interest opinion from the Ethics Commission and any opinion or waiver must be submitted with the response to the solicitation to contract with the County.

3.6 TELEPHONE LOGS

Pursuant to Section 11A-43(4) of the Code, each Proposer must maintain telephone logs of all telephone calls to and from subcontractors/subconsultants and suppliers. These logs shall contain the name of the subcontractor/subconsultant or supplier, the time and date of the call, the names of the persons contacted, a description of the work to be subcontracted or of the material to be furnished, and the dollar amount of the quotation. Telephone logs shall be made available to County personnel.

3.7 PROPRIETARY/ CONFIDENTIAL INFORMATION

Proposers are hereby notified that all information submitted as part of, or in support of their Proposal will be available for public inspection after opening of Proposals, in compliance with Chapter 119 of the Florida Statutes. The Proposer shall not submit any information in response to this Solicitation, which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any information to the County in connection with this Solicitation shall be deemed a waiver of any trade secret or other protection, which would otherwise be available to Proposer. In the event that the Proposer submits information to the County in violation of this restriction, either inadvertently or intentionally, and clearly identifies that information in the Proposal as protected or confidential, the County shall endeavor to redact or return that information to the Proposer as practicable, and if appropriate, evaluate the balance of the Proposal. The redaction or return of information pursuant to this clause may render a Proposal non-responsive.

55

3.8 ORDINANCES, RESOLUTIONS AND/OR ADMINISTRATIVE ORDERS

To request a copy of any ordinance, resolution and/or administrative order cited in this Solicitation, the Proposer must contact the Clerk of the Board at (305) 375-5126.

3.9 RULES, REGULATIONS AND LICENSING REQUIREMENTS

The Proposer shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, especially those applicable to conflicts of interest and collusion. The Proposer is presumed to be familiar with all federal, state and local laws, ordinances, codes, rules, regulations, operational directives and other Department procedures that may in any way affect the goods or services offered. The Proposer shall also comply with Executive Order No. 11246 entitled "Equal Employment Opportunity" and as amended by Executive Order No. 11375, as supplemented by the Department of Labor Regulations (41 CFR, Part 60), the Americans with Disabilities Act of 1990 and implementing regulations, the Rehabilitation Act of 1973, as amended, Chapter 553 of Florida Statutes and any and all other local, state and federal directives, ordinances, rules, orders, and laws relating to people with disabilities.

3.10 NONEXCLUSIVITY

This RFP is nonexclusive in character and in no way prevents the County from entering into an Agreement with any other parties for the sale or offering of competitive services, products or items by others in other Locations at the Airport during the term of the Agreement.

SECTION 4.0 AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISES

4.1 ACDBE REQUIREMENTS:

It is the policy of the County that ACDBE's shall have the maximum practical opportunity to participate in the performance of County agreements. As used in the Bid Documents, the term "Airport Concession Disadvantaged Business Enterprises (ACDBE)" means a small business concern, which (a) is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it as set forth in 49 CFR Part 23, Code of Federal Regulations. The County has established an ACDBE concession specific goal of eleven percent (11%) of gross revenues. The ACDBE overall goal can be achieved either through the Proposer

being an ACDBE itself, a partnership or joint venture, or subcontracting a percentage of gross revenues.

The Airport Concession Disadvantaged Business Enterprise (ACDBE) Plan must be submitted with the Proposal in accordance with **Appendix H, Section II** and its supporting documents. The Successful Proposer will be required to submit to the Department's Minority Affairs Division, Monthly Utilization Reports (MUR) reflecting ACDBE revenue and operational expenses, commencing 90 days after beneficial occupancy and monthly thereafter, on or before the 10th of every month.

4.2 COUNTING ACDBE PARTICIPATION TOWARD CONTRACT GOALS

1. When an ACDBE participates in a contract, only the value of the work actually performed by the ACDBE toward the ACDBE goal will be counted.
2. When an ACDBE performs as a participant in a joint venture, a portion of the total dollar value of the contract **during the complete contract term**, equal to the distinct clearly defined portion of the work of the contract that the ACDBE performs will be counted toward ACDBE goals as outlined in **Appendix H**.
3. Expenditures to an ACDBE contractor toward ACDBE goals will be counted only if the ACDBE is performing a commercially useful function as defined below:
 - (a) An ACDBE performs a commercially useful function when it is responsible for execution of specific quantifiable work of the contract and is carrying out its responsibilities by actually performing, or managing, or supervising the specific identified work.

MDAD will determine whether an ACDBE is performing a commercially useful function by evaluating the specific duties outlined in the Joint Venture Agreement; the subcontract agreement or other agreements in accordance with industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and other relevant factors.

- (b) An ACDBE does not perform a commercially useful function if its role is limited to that of an extra participant in a financial or other transaction, contract, or project through which funds are passed in order to obtain the appearance of ACDBE participation.
- (c) If an ACDBE does not perform or exercise responsibility for at least their percentage of its participation or if the ACDBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that the ACDBE is not performing a commercially useful function.

- (d) When an ACDBE is presumed not to be performing a commercially useful function as provided in paragraph (c) of this section, the ACDBE may present evidence to rebut this presumption. MDAD will determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

4. MDAD's decision on commercially useful function matters are final.

4.3 ACDBE GOAL ACHIEVED THROUGH JOINT VENTURE ("JV") PARTNERING

Proposers may decide to satisfy a part of the ACDBE goal by Joint Venturing with an ACDBE. The ACDBE partner must meet the eligibility standards set forth in 49 CFR Part 23. A "joint venture" or ("JV") shall mean and may be referred to as an "association" of two or more businesses acting as a Successful Proposer and performing or providing services on a contract, in which each joint venture or association partner combines property, capital, efforts, skill, and/or knowledge. The joint venture agreement must specify the following:

- (1) Each ACDBE joint venture ("JV") partner must be responsible for a clearly defined portion of the work to be performed. The work should be detailed separately from the work performed by the non-ACDBE JV partner.

The work should be submitted as part of this solicitation and annually thereafter to the Aviation Department's Minority Affairs Division. The work to be performed by the ACDBE joint venture partner should be store specific with regards to tasks and locations.

The ACDBE Joint Venture partner will be required to spend the minimum amount of aggregate time on-site, focused on the operation of the concession. Such "minimum amount of aggregate time" is defined as ten hours per week.

- (2) Each Joint Venture partner must submit a notarized Monthly Utilization Report and a notarized Monthly Report of ACDBE Joint Venture Activity providing details of how the performance objectives were achieved and providing documentation of that achievement on the form. This information should include, but not be limited to:
- a. Details of training sessions, including class rosters and lesson plans.
 - b. Deliverables and work products.
 - c. Time sheets of partner employees used to fulfill objectives. Time sheets must accurately reflect hours worked and compensation earned.

- d. Proof that employees of partners actually work for them (payroll, payroll tax returns and the like).
- (3) Each ACDBE partner must share in the ownership, control, management, and administrative responsibilities, risks and profits of the JV in direct proportion to its stated level of JV participation.

Each ACDBE JV partner must perform work that is commensurate with the Lease Agreement.

As described below, each Proposer must submit, as part of its Proposal, a plan for the achievement of the ACDBE goal, including Schedule of Participation and the Letter of Intent from ACDBE's who are Certified or have applied for Certification to the Miami-Dade County Department of Small Business Development as required by Airport Concession Disadvantaged Business Enterprise (ACDBE) Participation Plan.

Without limiting the requirements of the Agreement, the County will have the right to review and approve all agreements utilized for the achievement of these goals. Such agreements must be submitted with the Proposal.

4.4 CERTIFICATION-AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)

In order to participate as an ACDBE on this contract, an ACDBE must be certified or have applied for certification to the Miami-Dade County Department of Small Business Development or Florida Uniform Certification Program (FLUCP) at the time of Proposal submittal, but the ACDBE firm must be fully certified on or before the award date.

Application for certification as an ACDBE may be obtained by contacting the Miami-Dade County Department of Small Business Development located at 111 NW 1st Street, Stephen P. Clark Center, 19th floor, Miami Florida 33128-1974 or by telephone at (305) 375-3111 or facsimile at (305) 375-3160, or visit their website at www.co.miamidade.fl.us/DSBD/.

The ACDBE Certification List is maintained and published at least every other week by the Department of Small Business Development and contains the names and addresses of currently certified Airport Concession Disadvantaged Business Enterprise (ACDBEs) certified by the agency.

The FLUCP Directory is available at <http://www.bipincwebapps.com/biznetflorida/>. The Directory lists the firm's name, address, phone number, date of the most recent certification, certifying agency and type of work the firm has been certified to perform. The FLUCP updates the data every 24 hours and revises the Directory regularly.

The address for Florida UCP is:

Florida Department of Transportation,
Equal Opportunity Office
605 Suwannee Street, MS 65
Tallahassee, Florida 32399-0450
Tel: (850) 414-4747 Fax: (850) 414-4879

4.5. AFFIRMATIVE ACTION AND AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PROGRAMS:

The Successful Proposer acknowledges that the provisions of 14 CFR Part 152, Affirmative Action Employment Programs, and 49 CFR Part 23, Disadvantaged Business Enterprise Programs, are applicable to the activities of the Successful Proposer under the terms of the Agreement, unless exempted by said regulations, and hereby agrees to comply with all requirements of the Department, the Federal Aviation Administration and the U.S. Department of Transportation.

These requirements may include, but not be limited to, the compliance with Airport Concession Disadvantaged Business Enterprise and/or Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if directed by the Department, the contracting of specified percentages of goods and services contracts to Airport Concession Disadvantaged Business Enterprises. In the event it has been determined, in accordance with applicable regulations, that the Successful Proposer has defaulted in the requirement to comply with the provisions of this section and fails to comply with the sanctions and/or remedies then prescribed, the County shall have the right, upon written notice to the Successful Proposer, to terminate this Agreement, pursuant to Default language referenced in the Agreement.

The Successful Proposer shall include the following nondiscrimination language in concession and management related contracts with MDAD:

"This agreement is subject to the requirements of the US Department of Transportation's Regulations 49 CFR Part 23. The Successful Proposer or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23."

"The Successful Proposer or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements."

4.6 ACDBE MENTORING, ASSISTANCE AND TRAINING PROGRAM:

Consistent with the goal of providing ACDBEs with hands-on participation and the responsibility for a clearly defined portion of the Airport Concession operations, subject to Section 4 "Airport Concession Disadvantaged Business Enterprise" hereof, each ACDBE shall have the duty and responsibility to operate certain areas of the concession(s) following a mentoring period, if needed, which shall include but not be limited to the following specific duties and responsibilities:

- A. Shop Store Operations
 - (1) Passenger profile analysis
 - (2) Cash handling/sales audit
 - (3) Enhancing sales
 - (4) Selling to the customer
 - (5) Staffing to meet customer levels
 - (6) Opening and closing procedures
- B. Personnel
 - (1) Employment practices
 - (2) Compliance with wage and hour laws
 - (3) Compliance with County and Airport requirements
 - (4) Designing compensation and benefits plans
 - (5) Management and staff training to enhance product knowledge and customer service
 - (6) Warehousing packaging and sales reporting of merchandise
- C. Shop Design and Display
 - (1) Retail layout
 - (2) Merchandising techniques
 - (3) Visual display techniques
- D. Loss Prevention
 - (1) External and internal theft
 - (2) Shop security
- E. Books, Records and Reports
 - (1) The books of account and supporting records of the joint venture(s) and the sub-Successful Proposer(s) shall be maintained at the principal office and shall be open for inspection by the MDAD or the ACDBE Sub-Successful

Proposer(s) or Joint Venture(s), upon reasonable prior written notice, during business hours.

- (2) The books of account, for both financial and tax reporting purposes shall be maintained on the accrual method of accounting. The Successful Proposer shall provide to the Sub-Successful Proposer(s) or joint venture(s), within an agreed upon time after the end of each month during the term of this agreement, an unaudited operating (*i.e.*, income) statement for the preceding month and for the year-to-date.
- (3) Reports of the ACDBE Mentoring Program shall be submitted to the Department's Minority Affairs and Business Management Divisions, outlining the specific areas of training (*i.e.*, components covered, total number of hours of training, training material covered, etc.).

4.7 AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN:

The Successful Proposer shall contract with those firm(s) as are listed on the Successful Proposer's ACDBE Participation Plan in the Proposal documents and approved by the Department, and shall thereafter neither (i) terminate such ACDBE firm(s), nor (ii) reduce the scope of the work to be performed, nor (iii) decrease the percentage of participation, nor (iv) decrease the dollar amount of participation by the ACDBE firm(s) without the prior written authorization of the Department.

The County shall monitor the compliance of the Successful Proposer with the requirements of this provision during the term of this agreement.

The County shall have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records, records of expenditures, contracts between the Successful Proposer and the ACDBE Participant, and other records pertaining to the ACDBE Participation Plan.

If at any time the County has reason to believe that the Successful Proposer are in violation of this provision, the County may, in addition to pursuing any other available legal remedy, impose sanctions which may include, but are not limited to, the termination or cancellation of the agreement in whole or in part, unless the Successful Proposer demonstrates, within a reasonable time, its compliance with the terms of this provision. No such sanction shall be imposed by the County upon the Successful Proposer except pursuant to a hearing conducted by the ACDBELO and/or Director.

SECTION 5.0 EVALUATION PROCESS

5.1 PROCESS OVERVIEW

Each Proposal will be evaluated by an Evaluation/Selection Committee ("Committee") appointed by the County Manager. It is the responsibility of the Committee to ensure that a Proposal submittal complies with all of the requirements of this RFP and to assess it accordingly.

5.2 REVIEW OF PROPOSALS FOR RESPONSIVENESS AND RESPONSIBLENESS

Each Proposal will be preliminarily reviewed by County staff for a determination of compliance with the submission requirements outlined in this RFP. A responsive Proposal is one which meets the minimum qualification requirements, follows the requirements of this RFP, includes all documentation, is submitted in the format outlined in the RFP, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may result in a Proposal being deemed non-responsive by the Office of the County Attorney.

The Committee shall then evaluate the Proposer's Proposal to determine if it is responsible. In making this determination, the Committee shall have the right to investigate the management, operational experience, reputation and business judgment of any Proposer, their affiliates and/or parent company(s), including the conducting of investigations of the officers, directors, principals and stockholders, and to review and investigate all contracts the Proposer has performed for the County or others. The Proposer agrees to provide, upon request, any additional information that may be required by the Committee or the County. In addition, the Committee reserves the right to inspect the facilities at which the Proposer conducts its business and provides services.

5.3 EVALUATION PROCESS

Evaluation criteria has been established based upon the goals and objectives as provided in this RFP. Based on the Committee's evaluation of the written Technical Proposal and oral presentations, if required, the Committee shall rate and rank the responsive and responsible firms on their Proposal based on the Technical Criteria listed below. The Technical Criteria listed below are not of equal value or decision weight nor are they necessarily ranked in order of importance. The Technical Criteria are itemized with their respective weights for a maximum total of eight hundred fifty (850) points per each voting Committee member, for all Technical Criteria. A Proposer may receive the maximum points or a portion of this score depending on the merit of its

Proposal, as determined by the Committee member in accordance with the criteria listed below.

If there is only one (1) responsive, responsible Proposer, the Committee may, following evaluation of the Price Proposal, recommend to award or negotiate an Agreement or to reject the sole Proposal.

| <u>Technical Criteria</u> | <u>Max. Points</u> |
|--|----------------------|
| 1) Marketing and Sales Plan | 200 |
| 2) Design and Implementation | 150 |
| 3) Management and Operation Plan | 100 |
| 4) Experience and Qualifications | 150 |
| 5) Financial Capacity to Perform/Financing | 150 |
| 6) ACDBE Participation | 100 |
| Technical Proposal Maximum Points | 850 (Maximum) |

Price Proposal Evaluation

| <u>Criteria</u> | <u>Maximum</u> |
|---|--------------------|
| 1) MAG proposed | 75 |
| 2) Percentage Fee Proposed | 75 |
| Sub-Total Price Proposal Maximum Points | <u>150</u> |
| Total Maximum Evaluation Points | <u>1000</u> |

5.4 PRICE PROPOSAL EVALUATION

After the Evaluation/Selection Committee evaluates the Technical Proposals in light of the oral presentation (if necessary), it will then evaluate the Price Proposals.

The sealed Price envelopes of the responsive/responsible Proposers will then be opened. The Price Proposals will be considered separately and only after the evaluation of the Technical (Quality) Proposals has been completed by the Evaluation/Selection Committee.

The Price Proposal will be assigned a maximum of one hundred fifty (150) points per each voting Evaluation/Selection Committee member, which will be comprised of a maximum of seventy-five (75) points for the Minimum Annual Guarantee ("MAG") proposed and a maximum of seventy-five (75) points for the Percentage Fee proposed. The Price Proposals will be evaluated in the following manner:

MAG Criteria:

1. The responsive/responsible proposal with the highest proposed MAG will be given the full weight of seventy-five (75) points assigned to the MAG criterion.

64

2. Every other responsive/responsible proposal will be given points proportionately in relation to the highest proposed MAG. This point total will be calculated by dividing the MAG of the proposal being evaluated by the highest proposed MAG with the result being multiplied by the maximum weight for the MAG of seventy-five (75) points to arrive at a Price score of less than the full score for the MAG criterion.

Example:
$$\frac{\text{Proposer's Proposed MAG}}{\text{Highest Proposed MAG}} \times \text{Total Points for MAG} = \text{MAG Score}$$

Percentage Fee Criteria:

1. The responsive/responsible proposal with the highest proposed Percentage Fee will be given the full weight of seventy-five (75) points assigned to the Percentage Fee criterion.
2. Every other responsive/responsible proposal will be given points proportionately in relation to the highest proposed Percentage Fee. This point total will be calculated by dividing the Percentage Fee of the proposal being evaluated by the highest proposed Percentage Fee with the result being multiplied by the maximum weight for the Percentage Fee of seventy-five (75) points to arrive at a Price score of less than the full score for the Percentage Fee criterion.

Example:
$$\frac{\text{Proposer's Proposed Percentage Fee}}{\text{Highest Proposed Percentage Fee}} \times \text{Total Points for \% Fee} = \% \text{ Fee Score}$$

The MAG score and the Percentage Fee Score will then be added for each Proposer to come up with a total Price Proposal score.

The application of the above formula will result in a uniform assignment of points relative to the Price criterion.

5.5 OVERALL RANKING

The Evaluation/Selection Committee will then determine the overall ranking by adding the Price Proposal score with the Technical (Quality) Proposal evaluation score and all other applicable additional points specified in this Solicitation, if any, to determine the overall ranking.

Following the evaluation and overall ranking of the proposals, the Evaluation/Selection Committee will recommend to the County Manager that a contract be awarded to the highest ranked responsive and responsible Proposer or that a contract be negotiated with the highest ranked responsive and responsible Proposer (see also Section 5.7).

5.6 LOCAL PREFERENCE

Pursuant to Section 2-8.5 of the Code, a local preference is provided as follows:

1. Local business means the vendor has a valid occupational license issued by Miami-Dade County at least one (1) year prior to bid or proposal submission to do business within Miami-Dade County that authorizes the business to provide the goods, services or construction to be purchased, and a physical business address located within the limits of Miami-Dade County from which the vendor operates or performs business. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way. This may include, but not be limited to the retention and expansion of employment opportunities and the support and increase to the County's tax base. Vendors shall affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a "local business" under this section. A vendor who misrepresents the Local Preference status of its firm in a proposal or bid submitted to the County will lose the privilege to claim local preference status for a period of up to one (1) year. The County Manager, in his discretion, may also recommend that the firm be referred for debarment in accordance with Section 2-8.4.1 of the Code.
2. Request for proposals, qualifications or other submittals and competitive negotiation and selection. If, following the completion of final rankings (technical and price combined, if applicable) by the selection committee, a non-local business is the highest ranked Proposer, and the ranking of a local Proposer is within 5% of the ranking obtained by the non-local Proposer, then the highest ranked local Proposer shall have the opportunity to proceed to negotiations with the County under the applicable sections of the Code.
3. If a tie occurs between two (2) or more local businesses, then contract award on the basis of best and final bids, or the opportunity to proceed to negotiations, shall be made to such local business having the greatest number of its employees that are Miami-Dade County residents.
4. The application of local preference to a particular purchase or contract for which the Board of County Commissioners is the awarding authority may be waived upon approval of the Board of County Commissioners. The application of local preference to a particular purchase or contract for which the County Manager is the awarding authority may be waived upon written recommendation of the Director of Procurement Management or successor and approval of the County Manager.

5. The preferences established herein in no way prohibit the right of the Board of County Commissioners to compare quality of materials proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals. Further, the preferences established herein in no way prohibit the right of the County Commission from giving any other preference permitted by law instead of the preferences granted herein.
6. In the event Broward County, Palm Beach County or Monroe County extend preferences to local businesses, Miami-Dade County may enter into an interlocal agreement with such county wherein the preferences of this section may be extended and made available to vendors that have a valid occupational license issued by Broward County, Palm Beach County or Monroe County to do business in that county that authorizes the vendor to provide the goods, services or construction to be purchased, and a physical business address located within the limits of that county. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of Broward County, Palm Beach County or Monroe County, whichever is applicable, in a verifiable and measurable way. This may include, but not be limited to, the retention and expansion of employment opportunities and the support and increase to that county's tax base. Vendors shall affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a "local business" under this section. In no event shall the amount of the preference accorded Broward County, Palm Beach County or Monroe County firms exceed the amount of preference that such county extends to Miami-Dade County firms competing for its contracts. **Note: An interlocal agreement has been entered into with Broward County.**
7. The Proposer should complete, sign and submit the attached form, **Appendix F**, "Local Business Preference" with the Proposal, in order to be considered for local preference.

5.7 NEGOTIATIONS

If negotiations are recommended by the Evaluation/Selection Committee, or are required as a result of the application of local preference (see RFP Section 5.6), upon appointment and authorization by the County Manager, the Negotiation Committee will proceed to negotiate with the recommended Proposer(s). The County may award the attached Agreement on the basis of initial offers received, without discussion or negotiation. Therefore, each initial offer should contain the Proposer's best terms from a monetary and technical standpoint.

If the County and the selected Proposer(s) cannot negotiate a successful agreement, the County may terminate said negotiations and begin

negotiations with the next ranked responsive/responsible Proposer. This process may continue until an Agreement is executed, or the County may reject all Proposals and re-advertise. The Proposer shall not have any legal rights or otherwise against the County arising from such negotiations or termination thereof.

5.8 CONTRACT AWARD

The Contract Award, if any, shall be made to the Proposer(s) whose Proposal shall be deemed by the Board to be in the best interest of the County. The Board's decision of whether to make the award and which Proposal is in the best interest of the County shall be final.

Prior to the filing of the County Manager award recommendation with the Clerk of the Board, the Proposer must execute the Agreement within seven (7) calendar days after such Agreement is presented to the Proposer. Upon notification of award recommendation, the Proposer must provide the required insurance within the time specified in the Agreement.

5.9 FAILURE TO COMPLETE CONTRACT AWARD REQUIREMENTS

Failure to furnish the required evidence of insurance or to execute the required documents, as referenced in Section 5.8 "Contract Award", may constitute a repudiation of the Proposer's submittal, and may result in the annulment of the award and result in forfeiture of any deposits and bonds provided pursuant to this RFP. The award may then be made to the next ranked responsive/responsible Proposer, or all remaining Proposers may be rejected and the RFP re-advertised.

5.10 RIGHTS OF PROTEST

A recommendation for contract award or rejection of award may be protested by a bidder or proposer in accordance with the procedures contained in Sections 2-8.3 and 2-8.4 of the Code, and as established in Miami-Dade County Administrative Order No. 3-21.

As a condition of initiating any protest, the protester shall present to the Clerk of the Board a non-refundable filing fee payable to the Clerk of the Board in accordance with the schedule provided below.

| <u>Award Amount</u> | <u>Filing Fee</u> |
|------------------------|-------------------|
| \$ 25,001- \$100,000 | \$ 500 |
| \$100,001- \$500,000 | \$1,000 |
| \$500,001- \$5 million | \$3,000 |
| over \$5 million | \$5,000 |

Any question, issue, objection or disagreement concerning, generated by, or arising from the published requirements, terms, conditions or processes

contained or described in the solicitation document shall be deemed waived by the protester and shall be rejected as a basis for protest unless it was brought by that bidder or proposer to the attention, in writing, of the procurement agent, buyer, contracting officer or other contact person in the County department that issued the solicitation document, at least two (2) working days (not less than forty-eight (48) hours) prior to the hour of bid opening or proposals submission.

A protest hereunder may not challenge the relative weight of the evaluation criteria or the formula specified for assigning points therefore contained in bid, request for proposals or request for qualifications specifications which have been approved by the Commission.

Award Recommendations Over \$100,000

Notice of award recommendations for contracts and purchases involving the expenditure of over \$100,000 will be in writing, signed by the issuing department to each competing bidder or proposer announcing the proposed award, and a copy shall be deposited with the Clerk of the Board on the same day it is mailed. The bidder or proposer must file a written intent to protest with the Clerk of the Board and shall mail it to all participants in the competitive process and to the County Attorney's Office within three (3) working days of the filing of the Manager's recommendation with the Clerk. Within three (3) working days after the filing of a written intent to protest, the protester shall then file with the Clerk of the Board all pertinent documents, stating with particularity the specific facts and grounds on which the protest is based and shall include supporting evidence, as well as the corresponding filing fee, and shall mail copies to all participants in the competitive process and to the Office of the County Attorney. Other facts, grounds, documentation or evidence not contained in the protester's submission to the Clerk of the Board at the time of filing the protest shall not be permitted in the consideration of the protest, except for such additional evidence as is allowed during the course of the protest proceedings. A hearing examiner shall be appointed to hear the protest and submit a written report and recommendation to the County Manager within twenty (20) working days of the filing of the protest (maximum 25 working days if hearing examiner consents to an extension request). Failure to timely file the written protest shall constitute a waiver of the right to protest the award recommendation.

APPENDIX A

QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS AFFIDAVIT

ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT

(To be completed by the Proposer)

ALL INFORMATION REQUESTED ON THIS AFFIDAVIT MUST BE FURNISHED AND SUBMITTED BY PROPOSER. STATEMENTS MUST BE COMPLETE, ACCURATE, IN THE AFFIDAVIT REQUESTED. IT IS THE SOLE RESPONSIBILITY OF EACH PROPOSER TO VERIFY THAT ALL THE DOCUMENTS AND INFORMATION REQUESTED IN THIS RFP ARE FULLY COMPLETED, SIGNED AND NOTARIZED AS REQUIRED. A QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS AFFIDAVIT SUBMITTED WHICH DOES NOT INCLUDE THIS INFORMATION MAY BE DEEMED NON-RESPONSIVE AND MAY NOT BE CONSIDERED FOR AWARD OF THE AGREEMENT. OMISSION, INACCURACY OR MISSTATEMENT MAY BE CAUSE FOR REJECTION. THIS FORM MUST BE FULLY COMPLETED AND SIGNED BY AN AUTHORIZED OFFICER OF THE PROPOSER SUBMITTING THE PROPOSAL.

1) Name and address of Proposer:

2) Official contact or representative of Proposer:

Name _____

Title _____

Address _____

Phone # _____ Fax # _____

Email address _____

3) Proposer, if selected, intends to carry on the business as:

() Individual () Partnership () Joint Venture

() Corporation () Other () If "Other" attach explanation.

() If "Corporation", is Proposer a subsidiary? Yes ____ No ____

If yes, Name and Address of parent corporation

21

ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT

(To be completed by the Proposer)

4) **If a Partnership**, answer the following:

a. Name, address, and share of each partner or member of Partnership:

| Name | Address | Share |
|-------|---------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

b. Date of Organization _____

c. General or Limited Partnership (If applicable) _____

d. Where Recorded _____
County State Date

e. Registered in Florida _____ If so, when _____

f. Attach copy of (1) Partnership Agreement and (2) Certificate evidencing compliance with the Florida Fictitious Name Statute, if applicable.

5) **If a Corporation**, answer the following:

a. When incorporated _____

b. In what state _____

c. If foreign, date of registration with Florida Secretary of State

**ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT**

(To be completed by the Proposer)

d. Name, address, and amount of stock held by the following officers:

President: -

Name: _____

Address: _____

Stock: _____

Vice President:

Name: _____

Address: _____

Stock: _____

Secretary:

Name: _____

Address: _____

Stock: _____

Treasurer:

Name: _____

Address: _____

Stock: _____

e. Name, address and shares of stock held by each Member of the Board of Directors:

Chairman:

Name: _____

Address: _____

Share: _____

**ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT**

(To be completed by the Proposer)

Member

Name: _____

Address: _____

Share: _____

Member

Name: _____

Address: _____

Share: _____

Member

Name: _____

Address: _____

Share: _____

[Attach additional sheets as necessary]

Attach a list of the names, addresses and shares of stock held by other principal Stockholders: (A Principal Stockholder is defined as a stockholder who holds 10% or more of the outstanding stock of the corporation).

Total capitalization \$ _____.

Amount of capital stock subscribed \$ _____.

Amount paid in \$ _____.

- f. Attach copy of Certificate of Status or Authorization per 607.0128 F.S., and certificate evidencing compliance with the Florida Fictitious Name Statute per 865.09 F.S.

74

ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT

(To be completed by the Proposer)

6) **If Joint Venture**, complete the following:

a. The Joint Venture Proposer, _____

Consists of the following entities:

(i) _____, a _____ corporation,
(Corporate Name) (State of Incorporation)

authorized to do business in the State of Florida. The officers of the joint venture are:

President: _____

Vice President: _____

Secretary: _____

Treasurer: _____

(ii) _____, a _____ corporation,
(Corporate Name) (State of Incorporation)

authorized to do business in the State of Florida. The officers of the joint venture:

President: _____

Vice President: _____

Secretary: _____

Treasurer: _____

ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT

(To be completed by the Proposer)

- b. The Managing or the General Partner of the Joint Venture, or other appropriate person legally authorized to bind the Joint Venture is:

_____, who is the _____
(Name) (Title)

_____, of _____
(Name of joint venture)

The Joint Venture, of whatever composition, must attach a copy of the Joint Venture Agreement.

Each corporate member of the Joint Venture must attach copy of Certificate of Status or Authorization per 607.0128 F.S., and certificate evidencing compliance with the Florida Fictitious Name Statute per 865.09 F.S.

- 7) **If New Entity (including newly formed Joint Ventures), complete the following:**

- a. **Name of the New Entity, _____, Consists of the following individuals, corporation, or other entities:**

(i) _____, a _____ corporation,
(Corporate Name) (State of Incorporation)

(ii) _____, a _____ corporation,
(Corporate Name) (State of Incorporation)

- (iii) **Individuals or other entities which are not a corporation**

_____, who is the _____
(Name) (Title)

_____, of _____

76

**ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT**

(To be completed by the Proposer)

- b. The Managing or the Principal Member of the New Entity, or other appropriate person legally authorized to bind the New Entity is:**

_____, who is the _____
(Name) (Title)

_____, of _____
(Name of new entity principal)

The New Entity, of whatever composition, must attach a copy of the newly formed entity's, corporate charter or formation agreement.

Each corporate member of the New Entity must attach: (1) copy of corporate charter, (2) proof of registration with Florida Secretary of State, and (3) certificate evidencing compliance with the Florida Fictitious Name Statute per 865.09 F.S.

- 8) The Proposer represents that it is is not owned or controlled by a parent company. For this purpose, a parent company is defined as one which either owns or controls the activities and basic business policies of the Proposer. To own another company means the parent company must own at least a majority (more than fifty percent (50%) of the voting rights in that company. To control another company, such ownership is not required; if another company is able to formulate, determine or veto basic business policy decisions of the Proposer, such other company is considered the parent of the Proposer. This control may be exercised through the use of dominant minority voting rights, use or proxy voting, contractual arrangements or otherwise.
- 9) The Proposer understands that the information contained in its Proposal is to be relied upon by the County in its consideration for awarding the Agreement and such information is expressly warranted by the Proposer to be true and correct. The undersigned Proposer agrees to furnish corroborating and confirming information, prior to award of the Agreement, as may be requested by the County under the solicitation.

**ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT**

(To be completed by the Proposer)

MINIMUM QUALIFICATION REQUIREMENTS

The Proposer must attach supporting document(s) and explain in a detailed manner that it meets the following minimum qualifications:

1. The Proposer must have three (3) or more years of experience within the last five (5) years in the majority ownership (at least 50%) of an entity that financed, designed, developed, installed, maintained, and operated an advertising program or revenue initiatives for transportation centers such as airports, bus or train stations or at shopping centers or any other venues with continuous large population exposure locations.
2. The Proposer must Submit documentation to evidence gross revenues totaling no less than \$3,500,000 (Three Million Five Hundred Thousand Dollars) per year derived from advertising revenues.

If Proposer is a joint venture, then at least one of the joint venture partners must satisfy all of the foregoing Minimum Qualification Requirements. If the Proposer is a New Entity other than a Joint Venture, then the managing or principal member listed in 7, b above must satisfy all of the minimum qualifications requirements.

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**ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT**

(To be completed by the Proposer)

PREVIOUS CONTRACT EXPERIENCE

Complete the boxes below for contracts you have held, for provision of services similar to those proposed, that started within the last five years. Contracts cited will serve as references for this RFP.

| | | | |
|--|---|-------------|--|
| Contract Name | | | |
| Contract Amount | | Time Period | |
| Type of Service | | | |
| Service Included (Check all that apply) | <input type="checkbox"/> Financing <input type="checkbox"/> Designing <input type="checkbox"/> Installing <input type="checkbox"/> Maintaining <input type="checkbox"/> Developing <input type="checkbox"/> Operating an Advertising Program <input type="checkbox"/> Revenue Initiatives for Transportation Centers | | |
| Gross Revenue | | | |
| Reference Name and Telephone number | | | |
| Reason Contract Ended | | | |

| | | | |
|--|---|-------------|--|
| Contract Name | | | |
| Contract Amount | | Time Period | |
| Type of Service | | | |
| Service Included (Check all that apply) | <input type="checkbox"/> Financing <input type="checkbox"/> Designing <input type="checkbox"/> Installing <input type="checkbox"/> Maintaining <input type="checkbox"/> Developing <input type="checkbox"/> Operating an Advertising Program <input type="checkbox"/> Revenue Initiatives for Transportation Centers | | |
| Gross Revenue | | | |
| Reference Name and Telephone number | | | |
| Reason Contract Ended | | | |

79

**ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT**

(To be completed by the Proposer)

| | | | |
|--|--|-------------|--|
| Contract Name | | | |
| Contract Amount | | Time Period | |
| Type of Service | | | |
| Service Included (Check all that apply) | <input type="checkbox"/> Financing <input type="checkbox"/> Designing <input type="checkbox"/> Installing <input type="checkbox"/> Maintaining <input type="checkbox"/> Developing <input type="checkbox"/> Operating an Advertising Program <input type="checkbox"/> Revenue Initiatives for Transportation Centers | | |
| Gross Revenue | | | |
| Reference Name and Telephone number | | | |
| Reason Contract Ended | | | |

| | | | |
|--|--|-------------|--|
| Contract Name | | | |
| Contract Amount | | Time Period | |
| Type of Service | | | |
| Service Included (Check all that apply) | <input type="checkbox"/> Financing <input type="checkbox"/> Designing <input type="checkbox"/> Installing <input type="checkbox"/> Maintaining <input type="checkbox"/> Developing <input type="checkbox"/> Operating an Advertising Program <input type="checkbox"/> Revenue Initiatives for Transportation Centers | | |
| Gross Revenue | | | |
| Reference Name and Telephone number | | | |
| Reason Contract Ended | | | |



**ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT**

(To be completed by the Proposer)

| | | | |
|--|--|-------------|--|
| Contract Name | | | |
| Contract Amount | | Time Period | |
| Type of Service | | | |
| Service Included (Check all that apply) | <input type="checkbox"/> Financing <input type="checkbox"/> Designing <input type="checkbox"/> Installing <input type="checkbox"/> Maintaining <input type="checkbox"/> Developing <input type="checkbox"/> Operating an Advertising Program <input type="checkbox"/> Revenue Initiatives for Transportation Centers | | |
| Gross Revenue | | | |
| Funding Source | | | |
| Reference Name and Telephone number | | | |
| Reason Contract Ended | | | |

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ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT

(To be completed by the Proposer)

SIGNATURE PAGE FOR PARTNERSHIP AND CORPORATION

The Proposer represents and warrants that this information to be true and accurate to the best of the Proposer's knowledge and the Proposer intends that Miami-Dade County rely thereon in the award of the Agreement for which this information is submitted.

Proposer (If Corporation):

Name of Corporation

By: _____
President

(Print Name)

Attest: _____
Secretary

(Print Name)

(CORPORATE SEAL)

Proposer (If Partnership)

Name of Partnership

Partner
By: _____
Name: _____
Print Name

Partner
By: _____
Name: _____
Print Name

Signature

Witness

Signature

Witness

ADVERTISING DISPLAY PROGRAM
QUESTIONNAIRE AND MINIMUM QUALIFICATION REQUIREMENTS
AFFIDAVIT

(To be completed by the Proposer)

SIGNATURE PAGE FOR JOINT VENTURE

The Proposer represents and warrants that this information to be true and accurate to the best of the Proposer's knowledge and the Proposer intends that Miami-Dade County rely thereon in the award of the Agreement for which this information is submitted.

The Managing or the General Partner of the Partnership or Joint Venture, or other appropriate person legally authorized to bind the Joint Venture is

_____, who is the _____ of
(Name) (Title)

(Name of Entity)

The Officers of the Corporate Members of the Joint Venture are:

| | |
|----------------------|----------------------|
| (a) President: _____ | (b) President: _____ |
| Vice-Pres: _____ | Vice-Pres: _____ |
| Secretary: _____ | Secretary: _____ |
| Treasurer: _____ | Treasurer: _____ |

The Principals of the Partnership Members or the Joint Venture are:

| | |
|-----------|-----------|
| (a) _____ | (b) _____ |
| (Name) | (Name) |
| _____ | _____ |
| (Title) | (Title) |

APPENDIX B
PRICE PROPOSAL SCHEDULE

APPENDIX B
ADVERTISING DISPLAY PROGRAM
Price Proposal Schedule
(To be filled out by Proposer)

Print Name of Proposer: _____

Print Name of Authorized Representative: _____

Signature of Authorized Representative of Proposer: _____

Date: _____

The Advertising Display Concessionaire shall pay to the Department a Minimum Annual Guarantee or a Percentage Fee (whichever is greater). The Proposer shall propose its Minimum Annual Guarantee and Percentage Fee in the areas below. The Minimum Annual Guarantee and the Percentage Fee will be evaluated in accordance with the RFP Section 5.

1) Minimum Annual Guarantee \$ _____
In numbers

Minimum Annual Guarantee _____
In words

2) Percentage Fee \$ _____
In numbers

Percentage Fee _____
In words

Note: Minimum acceptable Minimum Annual Guarantee is \$ 3,000,000 (Three Million Dollars). Minimum acceptable Percentage Fee is fifty percent (50%).

In case of conflict between words and figures, the words will govern; provided, however, that if the words are obviously incorrect, the County shall have the right to accept the Price Proposal based on the figures. Additionally, the County shall have the right to correct obvious arithmetic errors.

Proposers cannot qualify, place conditions or additional terms on this price proposal. Any Proposers who qualify or place conditions or additional terms with this price proposal may be found non-responsive. The Minimum Annual Guarantee is in addition to the Annual Rent due as payment to the Department.

PROPOSER

(If individual, partnership or joint venture):

Name: _____

By: _____
Signature

Print Name

Title: _____

PROPOSER (If Corporation):

Name: _____

By: _____
President

Print Name

Attest: _____
Secretary

Print Name

Witnesses to above signature:

Signature

Print Name

Signature

Print Name

Dated _____

Sworn to and subscribed before me
This ____ day of _____, 200_

Notary Public

My commission Expires on:

(NOTARY SEAL)

(CORP. SEAL)

APPENDIX C

ACKNOWLEDGEMENT OF ADDENDA

APPENDIX "C"
ACKNOWLEDGEMENT OF ADDENDA

Instructions: Complete Part I or Part II, whichever is applicable.

PART I: Listed below are the dates of issue for each Addendum received in connection with this solicitation.

Addendum #1, Dated _____, 200__

Addendum #2, Dated _____, 200__

Addendum #3, Dated _____, 200__

Addendum #4, Dated _____, 200__

Addendum #5, Dated _____, 200__

Addendum #6, Dated _____, 200__

Addendum #7, Dated _____, 200__

Addendum #8, Dated _____, 200__

Addendum #9, Dated _____, 200__

PART II:

___ No Addendum was received in connection with this solicitation.

Authorized Signature: _____ Date: _____

Print Name: _____ Title: _____

Federal Employer Identification Number: _____

Firm Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____ Fax: _____

A-3 - Rev. 1/27/00

APPENDIX D
LOBBYIST REGISTRATION FOR ORAL
PRESENTATION

APPENDIX D 1
LOBBYING RULES

LOBBYING RULES

1.1 Purpose and Scope of Lobbying Rules

- a) The following rules delineate the responsibilities of lobbyists and County personnel in implementing the requirements of the lobbying section of the Conflict of Interest and Code of Ethics ordinance.

1.2 Definition of "Lobbyist"

- a) A lobbyist is any person, firm or corporation employed or retained by a principal that seeks to encourage the passage, defeat or modification of
 - 1) any ordinance, resolution, action or decision of the County Commission;
 - 2) any action, decision, or recommendation of the County Manager or any County board or committee; or
 - 3) any action, decision, or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities.

1.3 Exclusions

- a) Attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communication. A quasi-judicial proceeding is a hearing before a County or municipal commission or board where the rights of particular persons or entities are determined and for which prior notice, the opportunity to be heard and the introduction and evaluation of evidence are required (e.g. Value Adjustment Board, Community Zoning Appeals Board, Equal Opportunity Board).
- b) Expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings. An expert witness is a person duly and regularly engaged in the practice of a profession who holds a professional degree from a university or college and special training or experience, or a person who is possessed of special knowledge or skill about the subject.
- c) A representative of a neighborhood association who appears without compensation or reimbursement, whether direct, indirect or contingent, to express support of or opposition to any item. A neighborhood association is an organization of residential homeowners and tenants created to address quality of life issues in a defined neighborhood or community.
- d) A representative of a not-for-profit community based organization for the purpose of requesting a grant, without special compensation or reimbursement for the appearance. A community based organization is a not-for-profit association or

corporation organized under state or local law to engage in community development activities (including, but not limited to, housing and economic development activities) and has as its primary purpose the improvement of the physical, economic or social environment by addressing one or more of the critical needs of the area, with particular attention to the needs of people with low or moderate incomes

- e) Employees of a principal whose normal scope of employment does not include lobbying activities.

1.4 Examples of Lobbying Activities

a) Lobbying activities include but are not limited to:

- 1) Meetings or communication with elected officials or staff regarding a particular solicitation or product (i.e. time frames for the solicitation, specifications, qualifications, etc.).
- 2) Meetings or communication with elected officials or staff to discuss issues regarding a prior or ongoing solicitation or contract when a resolution of the matter may require approval of the Board of County Commissioners, the County Manager and his or her designee or a County board or committee.
- 3) Meetings or communication with elected officials or staff regarding any matter where the lobbyist is seeking to influence a decision or recommendation of staff on any matter that will require action or decision by the Board of County Commissioners, the County Manager or any County board or committee.
- 4) Meetings or communication with elected officials or staff regarding policy matters that may foreseeably before the Board of County Commissioners, the County Manager or any County board or committee.

1.5 Examples of Activities Not Constituting Lobbying

a) Activities that do not constitute lobbying include but are not limited to the following:

- 1) Requests for information about procedures, forms, budgets or other requirements on behalf of another
- 2) Appearances at meetings or communications with staff or an elected official at the department or elected official are request or a description of materials or services available in response to a departmental request.
- 3) Advices or services communicated to a department or an elected official which arise out of an existing contractual obligation to the county or municipality.
- 4) Meetings or communication to provide staff or elected officials with general information regarding a firm's background or expertise.

1.6 General Registration Requirements

- a) Every lobbyist must file an annual registration form with the Clerk at the time of initial registration and on or before January 15th of each year thereafter, along with an annual registration fee of four hundred and ninety dollars (\$490.00).
- b) Every lobbyist must file a registration form with the Clerk of the Board for each client within five days of being retained by a principal or before conducting any lobbying activities, whichever comes first.
- c) The principal must also submit a principal authorization form prior to any lobbying. The principal must identify whether the lobbyist is retained for a particular matter or may lobby on any matter regarding the principal.
- d) Every lobbyist must file a Notice of Withdrawal when the representation ends. The lobbyist must file an expenditure statement for the preceding year.

1.7 Selection Committee Registration Requirements

- a) Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection n, technical review or similar committee shall list on an affidavit provided by the County, all individuals who may make a presentation. The affidavit shall be filed with the Clerk of Board at the time the response is submitted.
- b) The individual or firm must submit a revised affidavit for any additional team members with the Clerk of the Board at least 2 days prior to the oral presentation. Any person not listed on the revised affidavit or who is not a registered lobbyist will not be permitted to participate in the oral presentation.
- c) All additional team members, who are lobbyists, as defined herein, must file a principal authorization form (for the individual or entity) with the Clerk of the Board of County Commissioners prior to the oral presentation.

1.8 Not for Profit Registration Requirements

- a) A lobbyist for a not-for-profit organization (unless lobbying for a community-based organization seeking grant funds) must register and file the required expenditure form. Upon request, the Clerk of the Board may waive the applicable registration fees.

1.9 Expenditure Reports

- a) All registered lobbyists must file an expenditure report with the Clerk of the Board by July 1st of each year. The date of filing is the date that the report is received by the Clerk's office.
- b) A lobbyist must file a report for every principal and must list all expenditures in excess of twenty-five dollars (\$25.00) for the preceding calendar year. The form must be filed even if the lobbyist did not make any expenditures during the prior year.

1.10 Expenditure Categories

- a) The lobbyist must report expenditures in the following categories: communications, entertainment, food and beverages, lodging, media advertising, publications and other. The information covered in each category is:
- 1) "Communications" means dissemination of information, including but not limited to the following means: audio-visual materials, signs, placards, buttons, promotional materials, or other display materials; together with any associated production services. This category does not include media advertising, publications or research.
 - 2) "Entertainment" means amusement or recreation including but not limited to sporting, hunting, fishing, theatrical, artistic, cultural and musical activities or events.
 - 3) "Food and Beverages" means meals, snacks or edible substances or liquids for drinking including services associated therewith.
 - 4) "Lodging" means sleeping or living accommodations for an individual for one or more nights.
 - 5) "Media advertising" means newspaper and magazine advertising, radio and television advertising and outdoor advertising including production services and copyrighting services.
 - 6) "Other" means any item or service which is not included in one of the specified categories; this category does not include any item or service which is not required by law to be reported.
 - 7) "Publications" means mass-produced, printed materials including but not limited to magazines, newsletters, brochures or pamphlets, which expressly encourage to communicate with agency officials or employees or to influence an agency with respect to a decision of the agency in the area of policy or procurement or which are designed to communicate with agency officials or employees.
 - 8) "Research" means obtaining information relating to a specific policy issue or procurement matter regardless of the form or medium in which such information is provided including, but not limited to, surveys, information services, periodicals and consultants or consultant services to gather data or statistics.
 - 9) "Special Events" means large scale functions, including but not limited to receptions, banquets, dinners or fairs to which more than 250 persons are invited and for which the expenditures associated with hosting the function are negotiated with a catering service or facility at a single, set price or which include multiple expenditure categories.
 - 10) "Travel" means transporting an individual from, one place to another, regardless of the means used.

- b) Certain items such as communications, publications and research are office expenses if performed by the lobbyist or principal or their employees. If those functions are performed by independent contractors, other than the lobbyist or principal or an affiliate controlled by the principal, they are reportable under the appropriate expenditure category.
- c) If an expense is incurred for a business purpose unrelated to lobbying and the product of that expense is later used for a lobbying purpose, the expenditure does not have to be reported.

1.11 Penalties for Late Filing

- a) A late fee of fifty dollars per day per report will automatically be assessed for any report filed after the due date. All fines must be paid to the Clerk of the Board of County Commissioners.
- b) The Clerk of the Board of County Commissioners will notify all lobbyists who have failed to file by July 15th of each year that they are not in compliance with the ordinance and of the current fines assessed against the lobbyist.
- c) A lobbyist is automatically suspended and may not lobby any employee, elected official or before any County board (including the Board of County Commissioners) if the lobbyist has not filed an expenditure report by September 1st of each year.
- d) The Clerk of the Board of County Commissioners must provide the Ethics Commission with a report listing all lobbyists who have either failed to file disclosure reports or pay assessed fines by October 1st of each calendar year. The Ethics Commission will provide the list to the Commission Advocate who may initiate complaint proceedings against any lobbyist for failure to file an expenditure report and/or pay assessed fines.

1.12 Appeals

- a) Any lobbyist may appeal a fine and request a hearing before the Ethics Commission by filing an appeal with the Ethics Commission within fifteen days receipt of the Notice of Violation. Late fees will continue to accrue after an appeal unless the required forms are filed.
- b) The lobbyist must mail or fax a letter to the Executive Director of the Ethics Commission stating the reasons for the appeal. The lobbyist must include in his or her notice of appeal any request for a hearing before the Ethics Commission. The lobbyist must attach any documentation or evidence for consideration by the Ethics Commission in making a determination on the appeal at the time the notice of appeal is filed.
- c) The Ethics Commission may delegate determinations of appeals without a request for hearing to Commission staff. The staff may have the authority to waive fines in whole or part for good cause shown. Any determinations by staff must be ratified by the Ethics Commission or a committee appointed by the Chair.

- d) A hearing on an appeal under this ordinance may be heard by a committee appointed by the Chair or the Ethics Commission as a whole. The Ethics Commission may waive any fines, in whole or part, for good cause shown.

1.13 Contingency Fees

- a) After May 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
- b) A contingency fee is a fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Manager or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee.

1.14 Departmental Responsibilities

- a) All departments and agencies must maintain a visitor log for anyone seeking to do business with the department or agency or seeking administrative action from the department or agency. The log should include information regarding the name of the visitor, the staff person or persons visited and the purpose of the visit (i.e. name of matter or agenda item number).
- b) All elected officials, board members and employees shall be diligent to ascertain whether persons appearing before them have registered as lobbyists. County personnel may check on a lobbyist's status through the Lobbyist Registration section of the Metronet or by calling the Clerk of the Board of County Commissioners. Elected officials, board members and employees may not knowingly permit a person who is not registered to lobby them regarding an issue.

1.15 Penalties for Lobbying Violations

- a) The Ethics Commission may prohibit any lobbyist who commits a lobbying violation from lobbying before the Board of County Commissioners or any committee, board or personnel of the Miami-Dade County for a period of: 1) ninety days following determination of the first violation; 2) one year following determination of the second violation and 3) five years from determination of the third violation.
- b) Any lobbyist who commits a lobbying violation is also subject to a two hundred and fifty-dollar fine for the first violation and a five hundred-dollar fine for the second violation.

- c) The County Manager or the Board of County Commissioners may void any contract where a lobbying violation has occurred.

APPENDIX E

AFFIDAVITS

APPENDIX E-1

SINGLE EXECUTION AFFIDAVITS

APPENDIX E-1

**MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE
EXECUTION AFFIDAVITS**

APPENDIX E-1
MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION AFFIDAVITS

This sworn statement is submitted for:

PROJECT TITLE _____

PROJECT NUMBER _____

COUNTY OF _____

STATE OF _____

Before me the undersigned authority appeared _____ (Print Name),
who is personally known to me or who has provided as identification and who
(did or did not) take an oath, and who stated:

That he/she is the duly authorized representative of

(Name of Entity)

(Address of Entity)

____/____-____/____/____/____/____/____/
Federal Employment Identification Number

hereinafter referred to as the Entity being its

(Sole Proprietor)(Partner)(President or Other Authorized Officer)

and as such has full authority to make these affidavits and say as follows.

**PUBLIC ENTITY CRIMES
SWORN STATEMENT UNDER SECTION 287.133(3)(a),
FLORIDA STATUTES**

1. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), **Florida Statutes**, means "a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation."

2. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), **Florida Statutes**, means "a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere."

3. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), **Florida Statutes**, means:
 - "1 A predecessor or successor of a person convicted of a public entity crime;
or
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate."

4. I understand that a "person" as defined in Paragraph 287.133(1)(e), **Florida Statutes**, means "any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in management of an entity."

5. The statement which is marked below is true in relation to the Entity submitting this sworn statement. **[Please indicate which statement applies.]**

**PUBLIC ENTITY CRIMES
SWORN STATEMENT UNDER SECTION 287.133(3)(a),
FLORIDA STATUTES (Cont'd)**

_____ Neither the Entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the Entity, nor any affiliate of the Entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The Entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the Entity, or an affiliate of the Entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. **[Please indicate which additional statement applies.]**

_____ There has been a proceeding concerning the conviction before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. **[Please attach a copy of the final order.]**

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. **[Please attach a copy of the final order.]**

_____ The person or affiliate has been placed on the convicted vendor list. **[Please describe any action taken by or pending with the Florida Department of General Services.]**

**DEBARMENT DISCLOSURE AFFIDAVIT
PURSUANT TO SECTIONS 10-38 AND 2-8.4.1
OF THE MIAMI-DADE COUNTY CODE**

Section 10-38 of the Code relates to the debarment of any individual or other legal entity from County work. The Debarment Disclosure Affidavit requires the Entity to affirm, under oath, that neither the Entity, its officers, principals, directors, shareholders owning or controlling more than ten percent (10%) or more of the stock, partners, affiliates, as defined in the Code, nor its

subcontractors/subconsultants, have been debarred by the County. Any individual or Entity listed above that has been debarred by the County is prohibited from entering into any contract with the County during the period for which they have been debarred. Debarment may also constitute grounds for termination of any existing County contract. It is the Entity's responsibility to ascertain this information before submitting the Qualification Statement.

_____ The Entity affirms under oath that neither the Entity, its officers, principals, directors, shareholders owning or controlling more than ten percent (10%) or more of the stock, or affiliates, nor its Subcontractor/Subconsultant have been debarred by the County.

**CRIMINAL RECORD AFFIDAVIT
PURSUANT TO SECTION 2-8.6 OF THE
MIAMI-DADE COUNTY CODE**

Pursuant to Section 2-8.6 of the Code, the Entity must disclose, at the time the submission, if the Entity or any of its officers, directors, or executives have been convicted of a felony during the past (10) years. Failure to disclose such conviction may result in the debarment of the Entity who knowingly fails to make the required disclosure or to falsify information.

Indicate below if the above named Entity, as of the date of submission:

_____ has not been convicted of a felony during the past ten (10) years, nor does it, as of the date of submission, have an officer, director or executive who has been convicted of a felony during the past ten (10) years.

_____ has been convicted of a felony during the past ten (10) years, or as of the date of submission, has an officer, director or executive who has been convicted of a felony during the past ten (10) years.

**DISCLOSURE OF OWNERSHIP AFFIDAVIT
PURSUANT TO SECTION 2-8.1
OF THE MIAMI-DADE COUNTY CODE**

I hereby declare that the information given herein and in the documents attached hereto are true and correct.

PART I

1. The full legal name and business address* of the person or Entity transacting business with the County is:

2. If the transaction is with a Corporation**, provide the full legal name and business address* and title for each officer. This disclosure requirement does not apply to publicly traded corporations, however please indicate here whether the Entity is a publicly traded corporation.

3. If the transaction is with a Corporation**, provide the full legal name and business address* for each director. This disclosure requirement does not apply to publicly traded corporations.

**DISCLOSURE OF OWNERSHIP AFFIDAVIT
PART I (cont'd)**

4. If the transaction is with a Corporation**, provide the full legal name and business address* for each stockholder who holds directly or indirectly five percent (5%) or more of the corporation's stock and state the percentage. This disclosure requirement does not apply to publicly traded corporations.

5. If the transaction is with a Partnership or joint venture, provide the full legal name and address for each partner or joint venture member.

6. If the transaction is with a trust, provide the full legal name and address for each trustee and each beneficiary of the trust.

7. The full legal name and business addresses* of any other individuals (other than stockholders owning less than five percent (5%) of the stock, subcontractors, materialmen, suppliers, laborers, or lenders) who have, or will have, any interest (legal, equitable, beneficial or otherwise) in the transaction with the County are:

**DISCLOSURE AFFIDAVIT FOR MIAMI-DADE COUNTY
PART I (cont'd)**

1. Does your firm have a collective bargaining agreement with its employees?

Yes No

2. Does your firm provide paid health care benefits for its employees?

Yes No

3. Provide a current breakdown (number of persons) of your firm's work force and ownership as to race, national origin and gender:

| | | | | |
|------------------|-------|-------|-------|---------|
| White: | _____ | Males | _____ | Females |
| Asian: | _____ | Males | _____ | Females |
| Black: | _____ | Males | _____ | Females |
| Native American: | _____ | Males | _____ | Females |
| Hispanics: | _____ | Males | _____ | Females |
| Alaskan Natives: | _____ | Males | _____ | Females |
| _____: | _____ | Males | _____ | Females |
| _____: | _____ | Males | _____ | Females |

(ADD EXTRA SHEETS IF NEEDED)

* **Post Office Box addresses not acceptable.**

** **If a Joint Venture, list this information for each member of the Joint Venture**

**DISCLOSURE OF OWNERSHIP AFFIDAVIT
PART II**

**LIST ALL CONTRACTS IN EFFECT WITH MIAMI-DADE COUNTY DURING
THE LAST FIVE (5) YEARS:**

| CONTRACT DATE | DOLLAR AMOUNT OF ORIG.CONTRACT | FINAL AMT. OF CONTRACT | PERCENTAGE DIFFERENTIAL |
|--------------------------|---|-----------------------------------|------------------------------------|
|--------------------------|---|-----------------------------------|------------------------------------|

=====

(1)

_____ \$ _____ \$ _____ %

Name of Dept.
& Summary
of Services
Performed

Litigation
Arising out
of Contract

=====

(2)

_____ \$ _____ \$ _____ %

Name of Dept.
& Summary
of Services
Performed

Litigation
Arising out
of Contract

**DISCLOSURE OF OWNERSHIP AFFIDAVIT
PART II (Cont'd)**

| CONTRACT DATE | DOLLAR AMOUNT OF ORIG.CONTRACT | FINAL AMT. OF CONTRACT | PERCENTAGE DIFFERENTIAL |
|---------------|--------------------------------|------------------------|-------------------------|
|---------------|--------------------------------|------------------------|-------------------------|

=====

(3)

| | | | |
|-------|----------|----------|---------|
| _____ | \$ _____ | \$ _____ | _____ % |
|-------|----------|----------|---------|

Name of Dept.
& Summary
of Services
Performed

Litigation
Arising out
of Contract

=====

(4)

| | | | |
|-------|----------|----------|---------|
| _____ | \$ _____ | \$ _____ | _____ % |
|-------|----------|----------|---------|

Name of Dept.
& Summary
of Services
Performed

Litigation
Arising out
of Contract

=====

(ADD EXTRA SHEET(S) IF NEEDED.)

**DISCLOSURE OF OWNERSHIP AFFIDAVIT
PART III**

A. How long has Entity been in business? _____

B. Has the Entity or the principals of the Entity ever done business under another name or with another firm? _____

If yes, attach separate sheet(s) listing same information as in parts I, II and III of this affidavit.

**AFFIRMATIVE ACTION PLAN/PROCUREMENT
POLICY AFFIDAVIT PURSUANT TO SECTION 2-8.1.5
OF THE MIAMI-DADE COUNTY CODE**

I, being duly first sworn, hereby state that the Respondent for this contract:

- has a current Affirmative Action Plan and Procurement Policy, as required by Section 2-8.1.5 of the Code, processed and approved for filing with the Miami-Dade County Department of Small Business Development under the file No. _____ and the expiration date of _____.
- had annual gross revenues in excess of \$5,000,000 for the previous year and does not have a current Affirmative Action Plan and Procurement Policy as required by Section 2-8.1.5 of the Code, processed and approved for filing with the County Department of Small Business Development. I will contact the Department of Small Business Development at 305-375-3111 regarding this condition of award requirement.
- had annual gross revenues less than \$5,000,000.00 for the previous year; therefore Section 2-8.1.5 of the Code is not applicable.
- has a Board of Directors which is representative of the population make-up of the nation and are exempt from the requirements of Section 2-8.1.5 of the Code. I will contact the Department of Small Business Development at 305-375-3111 in order to submit the required exemption request.

**Sign Code of Miami-Dade County
Section 33-82 et seq of the Miami-Dade County Code**

I, being duly first sworn, hereby state that the Respondent for this contract:

The Proposer shall disclose whether it has received any notices of any violations of the Sign Code of Miami-Dade County, Section 33-82 et seq of the Miami-Dade County Code, and also whether the proposer is currently in litigation with Miami-Dade County regarding any provisions of the Sign Code of Miami-Dade County. The County may consider the information so disclosed when determining the responsibility of the proposer.

- Has not received any notices of any violations of the Sign Code of Miami-Dade County, Section 33-82 et seq of the Miami- Dade County Code,
- Has received notices of violations of the Sign Code of Miami-Dade County, Section 33-82 et seq of the Miami-Dade County Code, Please attach explanation.

Is currently in litigation with Miami-Dade County regarding provisions of the Sign Code of Miami-Dade County. Please attach explanation.

Is not currently in litigation with Miami-Dade County regarding any provisions of the Sign Code of Miami-Dade County.

This single execution shall have the same force and effect as if each of the above affidavits had been individually executed.

(Signature of Authorized Representative)

Title _____

Date _____

STATE OF:

COUNTY OF:

The above affidavits were acknowledged before me this ____ day of _____, 20__.

by _____,
(Authorized Representative)

of _____
(Name of Corporation, Partnership, etc.)

who is personally known to me or has produced as identification and who did/did not take an oath.

(Signature of Notary) Notary Stamp or Seal:

(Print Name)

Notary Commission Number: _____

My Commission Expires: _____

APPENDIX E-2
ADDITIONAL CONDITION OF AWARD
AFFIDAVITS

APPENDIX E-2

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION
CONDITION OF AWARD REQUIREMENTS

APPENDIX E-2

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION
CONDITION OF AWARD REQUIREMENTS

The following pages are provided for the Respondent's convenience and are a prerequisite to a contract award:

- Single Execution Condition of Award Affidavits:
 - Disability Nondiscrimination
 - Family Leave
 - Domestic Leave
 - Currently Due Fees and Taxes
 - Drug Free Work Place
 - Current In County Obligations
 - Code of Business Ethics

- Subcontractor/Supplier Listing

- Subcontracting Policies Statement
(Also required, but no format (insert page is provided))

- Proof of Authorization to do Business
(Attach a copy of the Certificate of Status or Authorization per 607.0128 F.S., and certificate evidencing compliance with the Florida Fictitious Name Statute per 865.09 F.S., if applicable.)
(Also required, but no format (insert page is provided))

MIAMI-DADE COUNTY

**MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION CONDITION OF
AWARD AFFIDAVITS**

This sworn statement is submitted for:

PROJECT TITLE _____

PROJECT NUMBER _____

COUNTY OF _____

STATE OF _____

Before me the undersigned authority appeared _____ (Print Name),
who is personally known to me or who has provided _____ as
identification and who (did or did not) take an oath, and who stated:

That he/she is the duly authorized representative of

(Name of Entity)

(Address of Entity)

_____/_____-_____/_____/_____/_____/_____/_____
Federal Employment Identification Number

hereinafter referred to as the Entity being its

(Sole Proprietor)(Partner)(President or Other Authorized Officer)

and as such has full authority to make these affidavits and say as follows.

**DISABILITY NONDISCRIMINATION
PURSUANT TO COUNTY RESOLUTION NOS. R-182-00 AND R-385-95,**

Pursuant to County Resolution No. R-182-00, amending Resolution No. R-385-95, the Entity shall, as a condition of award, provide written certification that the firm is not in violation of the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Federal Transit Act, the Fair Housing Act, nor any other laws prohibiting discrimination on the basis of disability. Any post-award violation of these Acts may result in the contract being declared void. If any certifying Respondent or their affiliate is found in violation of the Acts, the County will conduct no further business with such attesting firm. Any violation of this Resolution may result in debarment.

_____ The Entity affirms under oath that the Entity is not in violation of the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Federal Transit Act, the Fair Housing Act, nor any other laws prohibiting discrimination on the basis of disability.

**FAMILY LEAVE
PURSUANT TO COUNTY RESOLUTION NO. R-183-00**

Pursuant to County Resolution No. R-183-00, the Entity shall, as a condition of award, provide written certification that the firm provides family leave to their employees as required by the County's family leave policy. Failure to comply with the requirements of this Resolution may result in debarment.

_____ The Entity affirms under oath that the Entity is in compliance with the County's family leave requirements.

**DOMESTIC LEAVE
PURSUANT TO COUNTY RESOLUTION NO. R-185-00**

Pursuant to County Resolution No. R-185-00, the Entity shall, as a condition of award, provide written certification that the firm is in compliance with the County's domestic leave policy. Failure to comply with the requirements of this Resolution may result in the contract being declared void, the contract being terminated, and/or the firm being debarred. The obligation to provide domestic leave to their employees shall be a contractual obligation.

_____ The Entity affirms under oath that the Entity is in compliance with the County's domestic leave policy.

**CURRENTLY DUE FEES OR TAXES,
PURSUANT TO SECTION 2-8.1 (c)
OF THE MIAMI-DADE COUNTY CODE**

Pursuant to Section 2-8.1(c) of the Code, the Entity shall verify that all delinquent and currently due fees or taxes - including but not limited to real and property taxes, utility taxes and occupational licenses - collected in the normal course by the County Tax Collector, as well as County issued parking tickets for vehicles registered in the name of the Entity, have been paid. Failure to comply with this requirement may result in debarment.

_____ The Entity affirms under oath that the Entity does not have any County delinquent and currently due fees or taxes, including but not limited to real and property taxes, utility taxes and occupational licenses, or County issued parking tickets for vehicles registered in the name of the Entity.

**DRUG FREE WORKPLACE
PURSUANT TO SECTION 2-8.1.2 (b)
OF THE MIAMI-DADE COUNTY CODE**

Pursuant to Section 2-8.1.2(b) of the Code, no person or entity shall be awarded or receive a County contract for public improvements unless such person or entity certifies that it will provide a drug free workplace. Failure to comply with this policy may result in debarment for those persons or entities that knowingly violate this policy or falsify information.

_____ The Entity affirms under oath that it will comply with the County's drug free workplace requirements.

**CURRENT IN COUNTY OBLIGATIONS AFFIDAVIT
PURSUANT TO SECTION 2-8.1(h)
OF THE MIAMI-DADE COUNTY CODE**

Pursuant to Section 2-8.1(h) of the Code, no individual or entity shall be allowed to receive any additional County contracts, if it is in arrears in any payment under a contract, promissory note or other loan document with the County, or any of its agencies or instrumentalities, including the Public Health Trust, either directly or indirectly through a firm, corporation, partnership or joint venture in which the individual or entity has a controlling financial interest as that term is defined in Section 2-11.1(b)(8) of the Code, until either the arrearage has been paid in full or the County has agreed in writing to a payment schedule. Failure to meet the terms and conditions of any obligation or repayment schedule with the County shall constitute a default of the subject contract and may be cause for suspension, termination and debarment, in accordance with the terms of the contract and the debarment procedures of the County.

_____The Entity affirms under oath that the Entity is current in its obligations to the County.

**CODE OF BUSINESS ETHICS AFFIDAVIT
PURSUANT TO SECTION 2-8.1(i)
OF THE MIAMI-DADE COUNTY CODE**

Pursuant to Section 2-8.1(i) of the Code, each person or entity that seeks to do business with the County shall adopt a Code of Business Ethics ("Ethics Code") and shall, prior to the execution of any contract between the Entity and the County, submit an affidavit stating that the Entity has adopted an Ethics Code that complies with the requirements of Section 2-8.1(i) of the Code. An entity failing to submit the required affidavit shall be ineligible for contract award.

_____The Entity affirms under oath that the Entity has adopted an Ethics Code that complies with the requirements of Section 2-8.1(i) of the Code.

This single execution shall have the same force and effect as if each of the above affidavits had been individually executed.

(Signature of Authorized Representative)

Title _____

Date _____

STATE OF:

COUNTY OF:

The above certifications/verifications were acknowledged before me this _____ day
of _____, 20____,

by _____,

(Authorized Representative)

of _____,

(Name of Corporation, Partnership, etc.)

who is personally known to me or has produced as
identification and who did/did not take an oath.

(Signature of Notary)

Notary Stamp or Seal:

(Print Name)

Notary Commission Number: _____

My Commission Expires: _____

**SUBCONTRACTOR/SUPPLIER LISTING
PURSUANT TO SECTION 10-34 OF THE CODE**

Firm Name of Prime Entity/Respondent: _____

Project No. _____

Project Name: _____

| Business Name and Address of First tier Subcontractor/Subconsultant | Principal Owner | Scope of Work to be Performed by Subcontractor/Subconsultant | Subcontractor/Subconsultant Dollar Amount | (Principal Owner) Gender Race |
|---|-----------------|--|---|-------------------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Business Name and Address of Direct Supplier | Principal Owner | Supplies/Materials/Services to be Provided by Supplier | Supplier Dollar Amount | (Principal Owner) Gender Race |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

123

I certify that the certifications contained in this Subcontractor/Supplier Listing are to the best of my knowledge true and accurate

Prime Entity/Respondent Signature _____ Print Name _____ Print Title _____ Date _____

(Duplicate if additional space is needed)

**SUBCONTRACTING POLICIES STATEMENT
PURSUANT TO SECTION 2-8.8(4) OF THE CODE**

(Insert Here)

PROOF OF AUTHORIZATION TO DO BUSINESS

(Attach a copy of the Certificate of Status or Authorization per 607.0128 F.S., and certificate evidencing compliance with the Florida Fictitious Name Statute per 865.09 F.S., if applicable.)

(Insert Here)

APPENDIX F

LOCAL BUSINESS PREFERENCE

LOCAL BUSINESS PREFERENCE

The evaluation of competitive solicitations is subject to Section 2-8.5 of the Miami-Dade County Code, which, except where contrary to federal or state law, or any other funding source requirements, provides that preference be given to local businesses. A local business, for the purposes of receiving the aforementioned preference above, shall be defined as a Proposer which meets all of the following.

1. Proposer has a valid occupational license, issued by Miami-Dade County or Broward County at least one year prior to proposal submission due date to do business within Miami-Dade County or Broward County that authorizes the business to provide the goods, services or construction to be purchased.

Proposer shall attach hereto a copy of said occupational license(s). (Note: Current and past year licenses shall be submitted as proof that Proposer has had the license at least one year prior to the proposal submission due date.)

2. Proposer has a physical business address located within the limits of Miami-Dade County or Broward County from which the Proposer operates or performs business. (Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address.)

Proposer shall state its Miami-Dade County or Broward County physical business address _____ and shall submit proof of occupancy for this address. If Proposer is leasing space from another company, a copy of the lease or an affidavit from the lessor must be submitted.

3. Proposer contributes to the economic development and well-being of Miami-Dade County or Broward County in a verifiable and measurable way. This may include but not be limited to the retention and expansion of employment opportunities and the support and increase in the County's tax base. To satisfy this requirement, the Proposer shall affirm in writing its compliance with any of the following objective criteria as of the proposal submission due date:

Check box, if applicable:

- a. Proposer has at least ten (10) permanent full time employees, or part time employees equivalent to 10 FTE ("full-time equivalent" employees working 40 hours per week) that live in Miami-Dade County or Broward County, or at least 25% of its employees that live in Miami-Dade County or Broward County. **Proposer shall provide Internal Revenue Service Forms 941 for a one year period or other supporting documentation.**
- b. Proposer contributes to Miami-Dade County's or Broward County's tax base by paying either real property taxes or tangible personal property taxes to Miami-Dade County or Broward County. **Proposer shall provide real property tax receipts or tangible personal property tax returns.**
- c. Proposer contributes to the economic development and well-being of Miami-Dade County or Broward County by some other verifiable and measurable contribution by _____

Proposer shall check the box if applicable. If checking item "c" above, Proposer shall provide a written statement defining how Proposer meets that criteria and provide supporting documentation.

By signing below, Proposer affirms that it meets the above criteria to qualify for Local Preference and has submitted the requested documents.

In addition, to the above, the Proposer shall also list the total number of employees that are Miami-Dade County and Broward County residents. The number of employees submitted is to be accurate as of the proposal submission due date.

_____ employees

Note: At this time, there is an interlocal agreement in effect between Miami-Dade and Broward Counties until September 30, 2009. Therefore, a Proposer which meets the requirements of (1) (2) and (3) above for Broward County shall be considered a local business for the purposes outlined herein.

Name of Firm: _____

Federal Employer Identification Number: _____

Address: _____

City/State/Zip Code: _____

Telephone: (____) _____ Fax: (____) _____

I hereby certify that to the best of my knowledge and belief all the foregoing facts are true and correct.

Signature of Authorized Representative: _____

Title: _____

Date: _____

STATE OF _____
COUNTY OF _____

SUBSCRIBED AND SWORN TO (or affirmed) before me on _____,
(Date)

by _____, He/She is personally known to me or has
(Affiant)

presented _____ as identification.
(Type of Identification)

(Signature of Notary)

(Serial Number)

(Print or Stamp Name of Notary)

(Expiration Date)

Notary Public _____
(State)

Notary Seal

APPENDIX G
PROPOSAL GUARANTY BOND

APPENDIX G
REQUEST FOR PROPOSAL
ADVERTISING DISPLAY PROGRAM
PROPOSAL BOND GUARANTY

State of _____, County of _____

We, _____ as Principal

and _____ as Surety, are

held and firmly bound unto Miami-Dade County, Florida hereinafter called the County, in the **Penal sum** of _____ **Dollars** (\$ _____) lawful

money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The Principal has submitted the attached Proposal, dated _____, 20__ , for the **Advertising**

Display Program, RFP No. MDAD-05-06. The Principal shall at time of Proposal opening

furnish all documents and information required by the RFP Documents, and shall within the time stipulated in the Instructions to Proposers execute and deliver to the County, the Contract, the Performance

Bond, Payment Bond and satisfactory evidence of all required Insurance. The Principal shall give a Performance Bond, Payment Bond with good and sufficient surety, as required by the RFP Documents, for

the faithful performance and proper fulfillment of such Contract and for the prompt payment of all persons furnishing labor or materials in connection therewith. Having met these obligations shall render this Bond

void and of no effect; or in the event of withdrawal of said Proposal within the period specified, or in the event of the failure to comply with the RFP Documents, or in the event of failure to enter into such

Contract and give such Bonds and evidence of insurance within the time specified, if the Principal shall pay the County the difference between the amounts specified in said Proposal and the amount for which

the County may procure the required services and supplies, provided the latter amount be in excess of the former, then the above obligations shall be void and of no effect; otherwise, to remain in full force and

virtue.

IN WITNESS WHEREOF, the above bound parties have caused this Proposal Bond to be executed by their appropriate officials as of the _____ day of _____, 200__.

WITNESSES

PRINCIPAL (If Corporation)

(Corporate Name)

President

Print Name: _____

Attest: _____
Secretary

(CORPORATE SEAL)

PRINCIPAL (If Partnership or Corporate Joint Venture)

**(A) PARTNERSHIP OR CORPORATE
JOINT VENTURER:**

Name of Joint Venture

By: _____
President

Print Name: _____

Attest: _____
Secretary

(CORPORATE SEAL)

**COUNTERSIGNED BY RESIDENT
FLORIDA AGENT OF SURETY:**

(Copy of Agent's current Identification
Card as issued by State of Florida Insurance
Commissioner must be attached)

**(A) PARTNERSHIP OR CORPORATE
JOINT VENTURER:**

Name of Joint Venture

By: _____
President

Print Name _____

Attest: _____
Secretary

(CORPORATE SEAL)

SURETY:

By: _____
Attorney-in-Fact

(CORPORATE SEAL)

(Power of Attorney must be attached)

APPENDIX H

**AIRPORT CONCESSION
DISADVANTAGED BUSINESS
ENTERPRISE PARTICIPATION
PLAN/PROVISION**

APPENDIX H
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION PLAN/PROVISION

I. DEFINITION:

Airport Concession Disadvantaged Business Enterprise (ACDBE): means a concession that is a for-profit small business concern –

- (1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Small business concern: means a for-profit business that does not exceed the size standards of 49 CFR Part 23 Section 23.33 for airport concession.

Socially and economically disadvantaged individual: means any individual who is a citizen (or lawfully admitted permanent resident) of the United States who is –

- (1) Any individual determined by Miami-Dade County to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (iv) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, The U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - (v) “Subcontinent Asian Americas,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - (vi) Women;
 - (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

133

APPENDIX H
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION PLAN/PROVISION

II. ACDBE PARTICIPATION PLAN

The ACDBE participation plan required to be submitted with the proposal by each Bidder/Proposer must contain at least the following:

- 1) ACDBE Utilization Form (ACDBE APPENDIX 1); Schedule of Participation (ACDBE APPENDIX 2) and Letter of Intent (ACDBE APPENDIX 3) by the Bidder/Proposer of the percentage of participation by an ACDBE Firm the Bidder/Proposer intends to have in this Agreement and how the Bidder/Proposer intends to achieve such stated participation.
- 2) Below is the documentation which will be required as part of the Bidder/Proposer's ACDBE Participation Plan for any one or combination of the following:
 - (a) If Bidder/Proposer intends to meet the ACDBE goal as an ACDBE itself the Bidder/Proposer shall submit:
 - 1) ACDBE Utilization Form (ACDBE APPENDIX 1);
 - 2) A Schedule of Participation (ACDBE APPENDIX 2);
 - 3) Letter of Intent (ACDBE APPENDIX 3);
 - 4) ACDBE Certification or applied for ACDBE Certification to the Miami-Dade County Small Business Affairs-DPM (formerly DBD) (Phone: (305) 375-3111) or the Florida Unified Certification Program (FLUCP) at (850) 414-4747 or their website address <http://www.bipincwebapps.com/biznetflorida/>;
 - 5) Explanation of participation by the ACDBE Firm in management and day-to-day operation; and,
 - 6) Financial participation by the ACDBE Firm Proposer in gross revenues from this agreement.
 - (b) If Bidder/Proposer intends to meet the ACDBE goal as a partnership or joint venture, the Bidder/Proposer must submit:
 - 1) ACDBE Utilization Form (ACDBE APPENDIX 1);
 - 2) A Schedule of Participation (ACDBE APPENDIX 2);
 - 3) Letter of Intent (ACDBE APPENDIX 3);
 - 4) Partnership or joint venture agreement;
 - 5) An explanation of participation by the ACDBE participant in the management and day-to-day operations;
 - 6) Financial participation by the ACDBE Firm to meet the ACDBE participation in gross revenues;
 - 7) ACDBE Certification or applied for ACDBE Certification to the Miami-Dade County Small Business Affairs-DPM Phone: (305) 375-3111 or the Florida Unified Certification Program (FLUCP) at (850) 414-4747 or their website address <http://www.bipincwebapps.com/biznetflorida/>; of the ACDBE joint venturer or partner; and,
 - 8) Experience of ACDBE joint venturer or partner must be listed on the experience sheet. (ACDBE APPENDIX 4)
 - (c) If the Bidder/Proposer intends to meet the ACDBE goal through subcontracting, the Bidder/Proposer must submit:
 - 1) ACDBE Utilization Form (ACDBE APPENDIX 1);
 - 2) A Schedule of Participation (ACDBE APPENDIX 2);
 - 3) Letter of Intent (ACDBE APPENDIX 3);
 - 4) A listing of those activities which the Proposer intends to subcontract and the estimated percentage of gross revenues such subcontracted services will represent of the gross revenues from all activities under the agreement that will be

APPENDIX H
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION PLAN/PROVISION

- subcontracted;
- 5) ACDBE Certification or applied for ACDBE Certification to the Miami-Dade County Small Business Affairs-DPM or the Florida Unified Certification Program (FLUCP) at (850) 414-4747 or their website address <http://www.bipincwebapps.com/biznetflorida/>; of such ACDBE firms; and,
 - 6) Experience of ACDBE subcontractors must be listed on the experience sheet. (ACDBE APPENDIX 4)

MDAD may request any other information as may be required to determine the listed ACDBE Firm's Qualifications. Agreements between a Bidder/Proposer and an ACDBE Firm in which the ACDBE firm promises not to provide quotations to other bidder/proposers is prohibited. The listing of an ACDBE Firm by a Bidder/Proposer as part of its Airport Concession Disadvantaged Business Enterprise Participation Plan shall constitute a representation by the Bidder/Proposer that such ACDBE Firm is Qualified and available, and a commitment by Bidder/Proposer that if it is awarded this agreement, it will utilize such ACDBE firms listed for the portion of the contract and at the percentage of gross revenues set forth in its submission, subject to the terms of these Provisions.

III. GOOD FAITH EFFORTS:

The Bidder/Proposer shall make good faith efforts to achieve the established ACDBE participation goal. In the event that the Bidder/Proposer's ACDBE Participation Plan does not meet the established ACDBE participation goal, the Bidder/Proposer must submit with his proposal documentation to demonstrate all good faith efforts extended by the Bidder/Proposer in attempting to meet the stated ACDBE participation goal. The good faith efforts documentation is required to be submitted with the proposal and shall include, but not be limited to:

- a. A detailed statement of the efforts made to contact and negotiate with ACDBE Firms, including (i) the names, addresses and telephone numbers of ACDBE Firms who were contacted, (ii) a description of the information provided to ACDBE Firms regarding the proposal or portions of the work to be performed, and (iii) a detailed statement of the reasons why additional prospective agreements with ACDBE Firms, if needed to meet the stated goal, were not reached.
- b. A detailed statement of the efforts made to select portions of the work proposed to be performed by ACDBE Firms in order to increase the likelihood of achieving the stated goal.
- c. For each ACDBE Firm contacted but which the Bidder/Proposer considered to be not qualified, a detailed statement of the reasons for the Bidder/Proposer's conclusions.
- d. Attendance at pre-proposal meetings, if any, scheduled by the Bidder/Proposer to inform ACDBEs of participation opportunities under a given solicitation.
- e. Advertisement in general circulation media, trade association publications, and minority focus media for at least twenty (20) days before bidder/proposals are due. If the interval between MDAD advertising and proposal due date is so short that (20) days are not available, then publication for a shorter reasonable time is acceptable.
- f. Efforts made to assist the ACDBE firms contacted that needed assistance in obtaining bonding or insurance required by the Bidder/Proposer or MDAD.

APPENDIX H
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION PLAN/PROVISION

- g. Written notification to ACDBEs that their interest in the contract is solicited.

Failure of the Bidder/Proposer to submit the evidence of ACDBE Participation and the good faith efforts if necessary, as set forth above, may render the proposal non-responsible.

IV. INVESTIGATION AND RECOMMENDATION BY ACDBELO

In the event that the Bidder/Proposer has not met the stated ACDBE participation goal established for this agreement, the Airport Concession Disadvantaged Business Enterprise Liaison Officer (ACDBELO), the Associate Aviation Director, MDAD, may require that the Bidder/Proposer meet with the ACDBELO at Miami-Dade County Aviation Department, Minority Affairs Division, Building 5A, 3rd Floor, Miami, Florida 33102-5504, or such other place as the ACDBELO may designate. The purpose of this meeting shall be for the ACDBELO to determine, if necessary, whether the effort of the Bidder/Proposer to meet the stated goals is sufficient. At this meeting, the Bidder/Proposer shall have an opportunity to present information pertinent to its compliance with the applicable requirements.

The ACDBELO may require the Bidder/Proposer to produce such additional information, as the ACDBELO deems appropriate.

No later than (15) days after initial meeting with the Bidder/Proposer, the ACDBELO shall make a written recommendation to the Deputy Aviation Director or his designee, which shall include a statement of the facts and reasons upon which the recommendation is based.

Administrative Reconsideration

- a) Within 5 days of being informed by MDAD that its Bid/Proposal is not in compliance and not responsible, because it has not documented sufficient good faith efforts, a Bidder/Proposer may request administrative reconsideration. Bidder/Proposer should make this request in writing to the Contracting Officer: Aviation Director or his designee, Miami-Dade Aviation Department P.O. Box 025504, Miami, Florida 33102-5504, telephone number (305) 876-7077. The reconsideration official will not have played any role in the original determination that the Bidder/Proposer did not document sufficient good faith efforts.
- b) As part of this reconsideration, the Bidder/Proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Bidder/Proposer will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. MDAD will send the Bidder/Proposer a written decision on reconsideration, explaining the basis for finding that Bidder/Proposer did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

136

APPENDIX H
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION PLAN/PROVISION

V. SUBSTITUTION OF ACDBE FIRMS FOR THOSE LISTED ON THE AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN/PROVISION PRIOR TO CONTRACT AWARD

A Bidder/Proposer may not change information required by these Provisions from that provided in its Disadvantaged Business Enterprise Participation Plan unless authorized to do so by the Director, or his designee, in writing.

Such written authorization may be given upon a receipt of written request from the Proposer outlining the reason the request for change is being submitted specific details of the requested change and impact of the requested change on the ACDBE Participation as originally submitted. Failure on the part of the Bidder/Proposer to comply with all of the requirement of these Provisions shall be grounds for the recommendation of the Director to the Board of County Commissioners that the Contract not be awarded to the Bidder/Proposer.

VI. REQUIREMENTS AND PROCEDURES SUBSEQUENT TO CONTRACT AWARD

A. Airport Concession Disadvantaged Business Enterprise Participation Plan. The Proposer shall contract with those ACDBE firms listed on the Bidder/Proposer's Airport Concession Disadvantaged Business Enterprise Participation Plan, and shall thereafter neither terminate such ACDBE Firms nor reduce the scope of the work to be performed by, or decrease the percentage of participation by the ACDBE Firm(s) there under without the prior written authorization of the Director.

B. Substitution of ACDBE Firms

1. Excuse from entering into agreements with ACDBE Firms. If prior to execution of an agreement required by these Provisions, the Bidder/Proposer submits a written request to the Director or his designee and demonstrates to the satisfaction of the Director that, as a result of a change in circumstances beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of award of the Contract, an ACDBE Firm which is to enter into such agreement has become not qualified, or that the ACDBE Firm has unreasonable refused to execute the agreement, the successful Bidder/Proposer shall be excused from executing such agreement.
2. Rightful Termination of agreements entered into with ACDBE firms. If after execution of an agreement required by these Provisions, the Bidder/Proposer submits a written request to the Director and demonstrates to the satisfaction of the Director that, as a result of a change in circumstance beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of execution of such agreement, an ACDBE Firm which entered into such agreement has become not qualified or has committed and failed to remedy a material breach of the agreement, the Bidder/Proposer shall be entitled to exercise such rights as may be available to it to terminate the agreement.

137

APPENDIX H
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION PLAN/PROVISION

3. Determination of Excuse of Rightful Termination. If the Bidder/Proposer at any time submits a written request under these Provisions to the Director, as soon as practicable, shall determine whether the Bidder/Proposer has made the requisite demonstration, and shall not determine that such a demonstration has not been made without first providing the Bidder/Proposer an opportunity to present pertinent information and arguments.
4. Alternative ACDBE Firm Participation Agreements. If the Bidder/Proposer is excused from entering or rightfully terminates an agreement with an ACDBE firm listed as part of the Bidder/Proposer's ACDBE Participation Plan, the Bidder/Proposer shall make every reasonable effort to enter into an alternative agreement for at least ACDBE Participation percentage as originally submitted as part of their proposal for this contract with another certified ACDBE firm.

The Bidder/Proposer shall be deemed to have satisfied the requirements of this section if:

- a. It shall enter each such alternative agreement(s) for at least the ACDBE participation as originally proposed.
- b. It demonstrates to the satisfaction of the Director that it has made every reasonable efforts to negotiate with an ACDBE Firm in an attempt to enter into an agreement, but that it was unable to enter into such agreement because the ACDBE Firms were (i) not qualified; (ii) Unavailable; or (iii) although Qualified and not Unavailable, was unwilling or unable to reach an agreement.
- c. If any situation covered by this section arises; the ACDBELO shall promptly meet with the Bidder/Proposer and provide him an opportunity to demonstrate compliance with these Provisions.

VII. Continued compliance - MDAD shall monitor the compliance of the Bidder/Proposer with the requirements of this Plan during the term of the contract. MDAD shall have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with these. Provisions including, but not limited to, manpower tables, records for expenditures, observations at the job site, and contracts between the Bidder/Proposer and his subcontractors, suppliers, etc., entered into during the life of the Contract.

VIII. Sanctions for violations - If at any time MDAD has reason to believe that the Bidder/Proposer is in violation of is obligation under these Provisions, or has otherwise failed to comply with these Provisions, MDAD may, in addition to pursuing any other available legal remedy, commence proceeding to impose sanctions which may include, but are not limited to, one or more of the following:

1. The suspension of any payment or part thereof due the ACDBE Subtenant, Joint Venture Partner or Subcontractor from the Bidder/Proposer until such time as the issues concerning the Proposers Compliance are resolved.

138

APPENDIX H
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION PLAN/PROVISION

2. The termination or cancellation of the Contract in whole or in part, unless the Bidder/Proposer demonstrates within a reasonable time its compliance with the terms of these Provisions.
3. The denial to the Bidder/Proposer of the right to participate in any further contracts awarded by MDAD for a period of not longer than three years. No such sanction shall be imposed by MDAD upon the Bidder/Proposer except pursuant to a hearing conducted by the ACDBELO and/or Director.

ACDBE Reporting Requirements – The Bidder/Proposer shall submit a Notarized MDAD Concession Monthly Utilization Report (**APPENDIX 6**) as required for Contracts in which an ACDBE Goal has been set. In addition, each Joint Venture partner must submit a Notarized Monthly Report of ACDBE Joint Venture Activity (**APPENDIX 7**) providing documentation on the achievement of the ACDBE Joint Venture partner to the Minority Affairs Division.

139

DEMONSTRATION OF GOOD FAITH EFFORTS
ACDBE UTILIZATION FORM

[Forms ACDBE Utilization Form, Schedule of Participation and Letter of Intent are provided as part of the solicitation documents.]

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space).

_____ The bidder/offeror is committed to a minimum of _____% ACDBE utilization in this Contract.

_____ The bidder/offeror (if unable to meet the ACDBE goal of _____%) is committed to a minimum of _____% ACDBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By: _____
(Signature)

Title: _____

(Print Name)

Date: _____

**LETTER OF INTENT
AIRPORT CONCESSION DISADVANTAGED BUSINESS
ENTERPRISE PARTICIPATION**

To: _____

Project: _____

Contract Number: _____ Total % of Bidder/Proposal: _____

The undersigned holds ACDBD Certificate No. _____ expiring on, _____ 20____.

The undersigned intends to perform the following work in connection with the above Bid/
Proposal (Describe): _____

| Description of Services | % of Bid/Proposal |
|-------------------------|-------------------|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

Total% _____

Signature _____
of ACDBE

Date _____

Print Name _____

Title _____

ACDBE Firm _____

**AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
EXPERIENCE SHEET**

ACDBE NAME _____

ADDRESS _____

| NAME OF CLIENT COMPANY NAME AND ADDRESS | DESCRIPTION OF SERVICES PROVIDED TO CLIENT | GROSS REVENUES | CALENDAR YEAR |
|--|---|-------------------|------------------|
|--|---|-------------------|------------------|

(A)

143

(B)

(C)

NOTES:
 USE A SEPARATE SHEET FOR EACH DBE COMPANY.
 ADDITIONAL PAGES MAY BE ATTACHED AS NECESSARY

Revised 11/22/06

144

3

CERTIFICATE OF UNAVAILABILITY

I, _____, _____
Title

of _____ certify that on _____
Date

I contacted the _____ to obtain a Bid/Proposal.
Airport Concession Disadvantaged Business Enterprise

Description of Services:

Signature

Print Name

Title

I, _____, was offered the above opportunity to Bid/Propose.
ACDBE NAME

I was unavailable to provide the services at the above specified time due to:

Signature

ACDBD Certificate No.

Print Name

Expires

Title

CONCESSION MONTHLY UTILIZATION REPORT

Reporting Period: _____ Name of Prime Concessionaire: _____ YTD ACDBE Goal: _____
 From: _____ To: _____ Lease Number: _____ Required _____
 Actual _____

| Name and Address | Date of Award | Terms of Agreement | Agreement Amount | Modification Amount |
|------------------|---------------|--|------------------|---------------------|
| | | Starting: _____ Expiration: _____ Options: _____ | | |

Amount of Revenues this Period \$ _____ ACDBE Revenues for this Period \$ _____
 Operational Expenses this Period \$ _____ ACDBE Operational Expenses this Period \$ _____
 Total Revenues to Date \$ _____ Total ACDBE Revenues to Date \$ _____
 Total Operational Expenses to Date \$ _____ Total ACDBE Operational Expenses to Date \$ _____

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISES (ACDBE) OPPORTUNITIES

| Name of ACDBE Firm | ACDBE Goal | Revenue This Period | Revenues to Date | Operational Expenses This Period | Operational Expenses to Date | Concession Opening Date | Actual Opening Date |
|--------------------|------------|---------------------|------------------|----------------------------------|------------------------------|-------------------------|---------------------|
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I attest that the above information is accurate and complete.

Authorized Signature _____ Print Name _____ Title _____ Date _____ Telephone _____

Sworn before me: This _____ day of _____ 20____

Notary Public: _____

146

The following Appendices are for information purposes only and can be obtained by visiting our Website at:
www.miami-airport.com/html/business_opportunities.html

- Appendix I:** Current Rate Card
- Appendix J:** Passenger Traffic (FY2005/06 and partial 2007)
- Appendix K:** International Enplanement and John F. Brown Forecast
- Appendix L:** Information Counter Proposed Design
- Appendix N:** Advertising Sales History

FORM OF CONCESSION AGREEMENT

FORM OF CONCESSION

AGREEMENT

BY AND BETWEEN

MIAMI-DADE COUNTY, FLORIDA

AND

CONCESSIONAIRE

FOR ADVERTISING DISPLAY PROGRAM

AT

MIAMI INTERNATIONAL AIRPORT

150

| | <u>Page</u> |
|---|-------------|
| Definitions | 1 |
| Article 1 – Term, Extension and Locations | 6 |
| 1.01 Term | 6 |
| 1.02 Extension | 6 |
| 1.03 Locations | 7 |
| 1.04 Administrative Office and Support Space | 7 |
| 1.05 Storage Space | 7 |
| 1.06 Common Warehouse System | 7 |
| 1.07 Addition, Deletion and Modification of Locations | 7 |
| 1.08 Non-exclusivity | 8 |
| 1.09 Condition of the Locations | 8 |
| 1.10 Capital Improvement Program | 9 |
| 1.11 Request for Proposal Incorporated | 9 |
| Article 2 – Use of Locations | 9 |
| 2.01 Use of Locations | 9 |
| 2.02 Concessionaire Services and Sales Rights | 9 |
| 2.03 Scope of Services | 10 |
| 2.04 Annual Plan Submission | 10 |
| 2.05 Prohibited Activities | 10 |
| Article 3 – Rentals, Payments and Reports | 10 |
| 3.01 Minimum Annual Guarantee (MAG) | 10 |
| 3.02 No Negotiation or Administrative Modifications | 11 |
| 3.03 Recalculation of the Minimum Annual Guarantee | 11 |
| 3.04 Percentage Fee to the Department | 11 |
| 3.05 Capital Investment | 11 |
| 3.06 Annual Rental | 12 |
| 3.07 Assignable Contracts | 12 |
| 3.08 Annual Rental Rate Adjustment | 12 |
| 3.09 Common Warehouse Logistics Fee | 13 |
| 3.10 Not Used | 13 |
| 3.11 Performance Bond for MAG Rent Requirements | 13 |
| 3.12 Taxes | 14 |
| 3.13 Reports of Gross Revenues | 14 |
| 3.14 Other Reports | 14 |
| 3.15 Late Payment | 15 |
| 3.16 Dishonored Check or Draft | 15 |
| 3.17 Address for Payments | 15 |
| 3.18 Revenue Control Procedures | 16 |
| 3.19 Annual Audit | 16 |
| 3.20 Right to Audit/Inspect | 16 |

| | |
|---|-----------|
| 3.21 Records and Reports | 17 |
| 3.22 Additional Fees Due | 18 |
| 3.23 Utilities | 18 |
| 3.24 Penalties | 19 |
| 3.25 Payment Security | 19 |
| Article 4 – Improvements to the Locations | 20 |
| 4.01 Improvements to Locations | 20 |
| 4.02 Design of Improvements | 20 |
| 4.03 Replacement of Displays by Concessionaire | 21 |
| 4.04 Payment for Improvements | 21 |
| 4.05 Certain Construction Contract Terms | 22 |
| 4.06 Improvements Free and Clear | 22 |
| 4.07 Other Requirements | 22 |
| 4.08 Review of Construction | 23 |
| 4.09 Cost Documentation | 23 |
| 4.10 Amortization Schedule | 24 |
| 4.11 Construction Permit Fee | 25 |
| 4.12 Construction Services | 25 |
| Article 5 – Standards of Operation | 27 |
| 5.01 Standards of Operation | 27 |
| 5.02 Pricing Policy | 28 |
| Article 6 – Obligations of the Department | 28 |
| 6.01 Department Services | 28 |
| Article 7 – Furniture, Fixtures, and Equipment | 30 |
| 7.01 Furniture, Fixtures, and Equipment | 30 |
| 7.02 Americans with Disabilities Act Requirements | 30 |
| 7.03 Disposal of Furniture, Fixtures, and Equipment | 31 |
| Article 8 – Maintenance | 31 |
| 8.01 Cleaning | 31 |
| 8.02 Removal of Trash | 31 |
| 8.03 Maintenance and Repair | 32 |
| 8.04 Failure to Maintain | 32 |
| 8.05 Environmental Recycling | 32 |
| 8.06 Fire Protection and Safety Equipment | 33 |
| Article 9 – Assignment and Ownership | 33 |
| 9.01 No Assignment | 33 |
| 9.02 Ownership of the Concessionaire | 33 |
| 9.03 Change of Control | 33 |
| 9.04 Holdover | 33 |

| | |
|---|-----------|
| Article 10 – Indemnification | 35 |
| 10.01 Indemnification Required of Concessionaire | 35 |
| Article 11 – Insurance | 35 |
| 11.01 Insurance | 35 |
| Article 12 – Default and Termination by County | 36 |
| 12.01 Events of Default | 36 |
| 12.02 Payment Default | 37 |
| 12.03 Other Defaults | 38 |
| 12.04 Habitual Default | 38 |
| 12.05 Notice of Default and Opportunity to Cure | 38 |
| 12.06 Unamortized Investment Extinguished | 39 |
| 12.07 Termination for Abandonment | 39 |
| 12.08 Termination for Cause | 39 |
| 12.09 Adequate Assurances | 39 |
| 12.10 Actions at Termination | 40 |
| Article 13 – Claims and Termination by Concessionaire | 40 |
| 13.01 Administrative Claim Procedures | 40 |
| 13.02 Termination | 41 |
| Article 14 – Airport Concession Disadvantaged Business Enterprises (ACDBE) | 41 |
| 14.01 ACDBE Requirements | 41 |
| 14.02 Counting ACDBE Participation toward Contract Goals | 41 |
| 14.03 ACDBE Goal Achieved through Joint Venture (JV) Partnering | 42 |
| 14.04 Certification-Airport Concession Disadvantaged Business Enterprise (ACDBE) | 43 |
| 14.05 Affirmative Action and Airport Concession Disadvantaged Business Enterprise Programs | 44 |
| 14.06 ACDBE Mentoring Assistance and Training Program | 45 |
| 14.07 Airport Concession Disadvantaged Business Enterprise Participation Plan | 46 |
| 14.08 Counting ACDBE Participation toward Contract Goals | 47 |
| Article 15 – Rules, Regulations and Permits | 48 |
| 15.01 Rules and Regulations | 48 |
| 15.02 Violations of Rules and Regulations | 48 |
| 15.03 Permits and Licenses | 48 |
| Article 16 – Governing Law | 48 |
| 16.01 Governing Law; Venue | 48 |
| 16.02 Registered Office/Agent Jurisdiction | 48 |
| Article 17 – Trust Agreement | 49 |
| 17.01 Incorporation of Trust Agreement by Reference | 49 |
| 17.02 Adjustment of Terms and Conditions | 49 |
| 17.03 Inspections | 49 |

| | |
|--|-----------|
| 17.04 Not Used | 49 |
| 17.05 Miami-Dade County Inspector General Review | 50 |
| Article 18 – Other Provisions | 50 |
| 18.01 Payment of Taxes | 50 |
| 18.02 Alterations by Concessionaire | 50 |
| 18.03 Rights to Department | 50 |
| 18.04 Administrative Modifications | 50 |
| 18.05 Security | 51 |
| 18.06 Rights of Department at Airport | 51 |
| 18.07 Suspension of Services | 51 |
| 18.08 Other Department Rights | 51 |
| 18.09 Federal Subordination | 51 |
| 18.10 Notices | 51 |
| 18.11 Severability | 52 |
| 18.12 Rights Reserved to Department | 52 |
| 18.13 Department Lien | 52 |
| 18.14 Authorized Uses Only | 52 |
| 18.15 No Waiver | 52 |
| 18.16 Right to Regulate | 53 |
| 18.17 Intent of Agreement | 53 |
| 18.18 Modifications | 53 |
| 18.19 Radon Disclosure | 53 |
| 18.20 Trademarks and Licenses | 53 |
| 18.21 Headings | 53 |
| 18.22 Binding Effect | 54 |
| 18.23 Governmental Department | 54 |
| 18.24 Independent Contractor | 54 |
| 18.25 Other Liens | 54 |
| Article 19 – Sub-Leases | 55 |
| 19.01 Assignment of Sub-Leases by Department | 55 |
| 19.02 Department’s Right to Approve Sub-Leases | 55 |
| 19.03 Concessionaire’s Sub-Lease Agreement Requirements | 56 |
| 19.04 Sub-Tenant Minimum Qualifications Requirement | 56 |
| Article 20 – Waiver of Claims | 56 |
| Article 21 – Required, General and Miscellaneous Provisions | 56 |
| 21.01 Agreements with State of Florida and Miami-Dade County | 56 |
| 21.02 Right to Amend | 57 |
| 21.03 Concessionaire Covenants and Assurances | 57 |
| 21.04 Right to Modify | 59 |
| 21.05 Tax Exempt Status of Department Revenue Bonds | 59 |
| 21.06 Remedies | 589 |
| 21.07 Warranty of Concessionaire as to Conflicts of Interest | 59 |

| | |
|---------------------------------|-------|
| 21.08 Regulations of Department | 59 |
| 21.09 Interest | 59 |
| 21.10 Miscellaneous Provisions | 60 |
| 21.11 Force Majeure | 61 |
| 21.12 Entire Agreement | 61 |
| Signature Page | 62-63 |

Attachments

- Exhibit A – Advertising Locations
- Exhibit A1 - Summary of Inventory
- Exhibit A2 - Administrative Office and Support Space
- Exhibit B – Surety Performance and Payment Bond
- Exhibit C – MAG Performance Bond
- Exhibit D – Affidavits to be provided by the Successful Proposer
- Exhibit E – Scope of Services
- Exhibit F – Calculation of Monthly Sales Taxes

The following Exhibits can be obtained by visiting our Website at: www.miami-airport.com/html/business_opportunities.html

- Exhibit G – Independent Audit Report
- Exhibit H – Monthly Report of Gross Revenues
- Exhibit I – List of Prohibited Items
- Exhibit J – Tenant Handbook
- Exhibit K – Not Used
- Exhibit L - Standard of Operations
- Exhibit M - Tenant Airport Construction-Non-Reimbursable Procedures (TAC-N)
Tenant Airport Construction Reimbursable Procedures (TAC-R)
- Exhibit N - Retail Concessions Design Guidelines (North, Central, South Terminals)

DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended.

The term “**Advertising Concession**” shall mean the right and privilege for a firm to finance, design, develop, furnish, install, maintain and operate the advertising program within the MIA terminal or on other airport property as authorized by the Department. Furthermore, provide advertising displays and sell advertising for those locations which the Successful Proposer has offered in response to the RFP or as may be mutually agreed upon by both parties.

The term “**Advertising Display Program**” shall refer to the Concessionaire’s proposed plan for advertising at the Airport. This includes any medium of communication used for Advertising at MIA and includes, but is not limited to, signs, posters, back lit wall-mounted displays of various sizes, mechanically or electronically rotating multiple distinct advertising messages, exhibits, self contained units, high tech plasma screens, recessed signs with LED displays, fiber optic displays, wide screen video systems, digital image banners, interactive multimedia software or optical imaging display cases, wall murals, courtesy phone centers, wall wraps and outdoor display.

The terms “**Agreement or Contract**” shall mean this Concession Agreement including all exhibits and attachments thereto and a part thereof entered into by the County and the Concessionaire.

The term “**Airport**” shall mean Miami International Airport (MIA).

The term “**Airport Concession Disadvantaged Business Enterprises or ACDBE**” shall have the meaning described in entitled “Airport Concession Disadvantaged Business Enterprises”, Article 14 of this Agreement.

The term “**Approved Improvements**” are the improvements to a Location which has been approved by the Department which may include the design, engineering, construction, equipment, furniture, fixtures, and flooring and signage.

The term “**Approved Location**” shall mean those locations listed in Exhibit A.

The term “**Aviation Director or Director**” shall mean the Director of the Miami-Dade Aviation Department or his or her designee.

The term “**Base Building Work**” shall mean the sub-flooring, ceiling structure, demising walls, utilities infrastructure and other base building improvements, structures and fixtures which the County installs or causes to be installed in the terminal building. Base Building Work includes delivery of portions of the Locations in Shell Condition.

The term “**Beneficial Occupancy**” shall mean the date the Location is turned over by the Department to the Concessionaire for business, or when a Certificate of Occupancy or Temporary Certificate of Occupancy has been issued.

The term "**Board**" shall mean Board of County Commissioners of Miami-Dade County.

The term "**Capital Improvement Program**" or "**CIP**" shall refer to the Department's construction program that will involve the refurbishment of MIA's terminal interiors, airline relocations, changes in access to the terminal and concourses, construction of new concession spaces, and other improvements that may affect concession operations in the MIA terminal building and on the concourses.

The term "**Capital Investment**" shall refer to the investment of fixtures, display equipment purchase and affiliated design of advertising plans, equipment and support mechanism for the advertising display program.

The term "**Central Terminal**" shall mean the area of the terminal building and concourses, within the central part of the terminal area, landside or airside, which is now known as Concourses E-G.

The term "**Code**" shall mean the Code of Miami-Dade County, Florida.

The term "**Common Logistics Fee**" shall mean an amount to be invoiced as a separate line item and collected from any Sub-tenants by the Concessionaire for common logistical support services.

The term "**Concessionaire**" shall mean the person, firm, or entity that enters into this Concession Agreement with the County.

The term "**Consumer Price Index**" or "**CPI**" shall mean that index published by the United States Department of Labor, Bureau of Labor Statistics known as the Consumer Price Index for all urban consumers ("CPI-U") in the South Region Average: All items.

The term "**County**" shall mean Miami-Dade County, Florida, a political subdivision of the State of Florida.

The term "**Days**", shall mean calendar days, unless specifically stated as other.

The term "**Date of Execution**" shall mean the day upon which the Agreement is executed by the County Mayor of Miami-Dade County or designee.

The term "**Department**" or "**MDAD**" shall mean the Miami-Dade Aviation Department. Wherein in this solicitation document, rights are reserved to the County, MDAD may exercise such rights.

The term "**Display, Fixture, Signs, and Equipment**," shall mean any media used by the Concessionaire and approved by the Department for the purpose of providing advertising and revenue initiative services at MIA and if applicable, the General Aviation Airports.

The term "**Effective Date**" shall mean the sixtieth (60th) day after the Date of Execution.

The term "**Extension**" shall mean the addition of one (1) separate two (2) year term following the initial ten year term.

The term "**Gross Revenues**" shall mean all monies paid or payable to and consideration of determinable value received by the Concessionaire on all sales made by Concessionaire of advertising services, whether received or not, and other items and revenues of every kind and character derived from, arising out of or payable on account of the business conducted by Concessionaire at the Airport or from the operations of Concessionaire under this Agreement, whether for cash or credit, without any deduction for credit card discounts or credit card services, where the same shall be paid or unpaid provided, however, that the term "Gross Revenues" shall not include: (i) federal, state or municipal taxes; (ii) sales tax collection allowance paid by the state of Florida to the Concessionaire as compensation for the keeping of prescribed records and the proper accounting and remittance of state sales tax; (iii) any charges on a reimbursement basis, as mutually agreed upon by MDAD and Concessionaire; (iv) any refunds made by the Concessionaire to customers, if approved by MDAD and made for reasons other than unacceptable or unsatisfactory services; (v) actual telephone line charges to the Concessionaire for the telephone Hotel reservations and information boards; (vi) advertising agency or employees sales commissions actually paid, not to exceed 15% of the customer billing, provided however that such agreement is written into the sales contact between the Concessionaire and advertiser; (vii) any taxes imposed by law which are separately stated to and paid by the customer and directly payable by Concessionaire to a taxing authority; and (viii) as stated in the last paragraph in Sub-Article 3.05 of the Concession Agreement.

The term "**Hotel Reservation and Information Boards**" shall mean the hotel/rental car reservation phone boards that service passengers, which are located on the first level throughout the Terminal building, and in one location on the third level of the South Terminal.

The term "**Location**" or "**Advertising Location**" shall mean each of the approved sites for advertising as depicted on Exhibit A, Advertising Locations, where advertising may be placed, as amended from time to time by the parties.

The term "**Minimum Annual Guarantee**" or "**MAG**" shall mean as ascribed in Sub-Article 3.01.

The term "**Minimum Monthly Guarantee**" shall mean as ascribed in Sub-Article 3.01.

The term "**Nonexclusivity**" shall mean in no way prevents the County from entering into an Agreement with any other parties for the sale or offering of competitive services, products or items by others in other Locations at the Airport during the term of the Agreement.

The term "**North Terminal**" shall mean the area of the terminal building and concourses, within the north part of the MIA terminal area, landside or airside, which is now known as Concourses A-D.

The term "**Proposal**" shall mean a Proposer's written response to the Solicitation document.

The term “**Request for Proposals**” or “**RFP**” shall mean the solicitation document and all associated addenda and attachments.

The term “**Retail Concession Design Guidelines**” shall mean MIA’s distinct design guidelines in the North, Central, and South Terminal as set forth in Exhibit O.

The term “**Revenue Initiatives**” shall mean any concepts implemented at MIA as a result of sponsorships, promotions, special events, naming rights opportunities, products rights suppliers’ sponsors and licensing and branding opportunities or other initiatives which may be proposed and approved by MDAD.

The term “**Scope of Services**” shall mean as reflected in the RFP Section 1.2, and attached to this Agreement as Exhibit E, which details the work to be performed by the Concessionaire.

The term “**Shell Condition**” shall mean smooth concrete floors, demising studs and walls, and the utility services listed below (conduits, lines, pipes, etc.) stubbed to the lease lines of each Location or area immediately adjacent thereto for electric, telephone and data communications, heating ventilating and air conditioning systems including ducts (“**HVAC**”), fire alarm system and fire sprinkler system.

The term “**Small Business**” shall mean a business with annual gross sales of three million dollars or less, regardless of the number of employees, and with its principal place of business in Dade County, Florida. (Ord. No. 79-35 Paragraph 2, 6-5-79)

The term “**South Terminal**” shall refer to the area of the terminal building and concourses, within the south part of the MIA terminal area, landside or airside which is now known as Concourse H, a new J Concourse and connecting concession and public space.

The term “**State**” shall mean the State of Florida.

The terms “**Subcontractor/Subconsultant**” shall mean any person, firm, entity or organization, other than the employees of the Concessionaire, who contracts with the Concessionaire to furnish labor, or labor and materials, in connection with the services that will be provided to the County, whether directly or indirectly, on behalf of the Concessionaire.

The term “**Sub-Lease**” shall mean the contractual agreement between the Concessionaire and its Sub-tenant.

The term “**Sub-tenant**” shall mean any person, firm, entity or organization, entering into an agreement with the Concessionaire for the purpose of providing services related to the Scope of Service of this Agreement.

The term “**Term**” shall mean as ascribed to in Sub-Article 1.01.

The word “**Terminal**” shall mean the area of the MIA consisting of the terminal buildings and concourses, within the North, Central and South Terminals, landside or airside and connecting concession and public spaces.

The term “**TSA**” shall mean the United States Transportation Security Administration, and any successor agency, office or department thereto.

The term “**Turnover Date**” shall mean the date approved by the Department for the Concessionaire to commence construction or installation at a Location.

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**FORM OF NON-EXCLUSIVE
CONCESSION AGREEMENT
FOR A NON-EXCLUSIVE
CONCESSIONAIRE
FOR ADVERTISING DISPLAY PROGRAM
AT
MIAMI INTERNATIONAL AIRPORT**

THIS NON-EXCLUSIVE CONCESSION AGREEMENT is made and entered into as of this _____ day of _____, 200__, by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida and _____, (“Concessionaire”), a _____ Corporation authorized to do business in the State of Florida.

RECITALS:

WHEREAS, the County is the owner of and operates Miami International Airport through the County’s Miami-Dade Aviation Department; and

WHEREAS, the Department desires to obtain an Advertising Display Program at Miami International Airport; and,

WHEREAS, the County has issued a Request for Proposal, RFP No. MDAD 05-06, to obtain such Advertising Display Program and the Concessionaire has responded with a Proposal, both items incorporated herein by reference to provide such.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

ARTICLE 1 – TERM, EXTENSION AND LOCATIONS

- 1.01 TERM:** The term of this Agreement is for ten (10) years starting on the Effective Date of this Agreement.
- 1.02 EXTENSION:** At the sole discretion of the Department, the initial ten (10) year Term may be extended for a maximum of one (1), - two (2) year Term period, provided the extension is mutually agreed to by the Department and the Concessionaire in writing.

In the event the Department elects to extend the Agreement, the Concessionaire shall be notified, in writing, no less than one hundred and twenty (120) calendar days prior to the expiration of the initial term. The Concessionaire may elect not to agree to the extension, and, if so, must notify the Department thirty (30) calendar days after receipt of written notification by the Department to extend the Agreement. In the event the Department does not give such notice, the Agreement shall expire accordingly.

In the event the Concessionaire is in default, pursuant to **Article 12 "Default and Termination by County"** of the Concession Agreement beyond applicable grace and cure periods, the Department shall not exercise its rights to extend the Agreement.

1.03 LOCATIONS: The County hereby makes available to the Concessionaire locations for the placement of Advertising as shown in **Exhibit A, "Advertising Locations"**. Locations shall include "Hotel Reservation and Information Boards".

1.04 ADMINISTRATIVE OFFICE AND SUPPORT SPACE: In addition to the Locations provided to the Concessionaire in **Sub-Article 1.03 "Locations"**, the Department is providing a support space to the Concessionaire of 491 square feet, located in Terminal F, third level and as depicted in Exhibit A-2.

The Concessionaire shall pay monthly rental payments for the Concessionaire's support space at the rate applicable for terminal rental payments and annual adjustments as provided for in Article 3.06 Annual Rent.

The Concessionaire's support space may be relocated or replaced, at the Department's sole cost and expense.

1.05 STORAGE SPACE: The Department may make available to the Concessionaire storage space if available.

1.06 COMMON WAREHOUSE SYSTEM: Due to the fact that storage space is limited in this Agreement and such space is separate from the Locations, should the Concessionaire determine, in its sole discretion, the need to use off-Airport properties for storage space, the Concessionaire shall be entitled through itself, or through an independent third-party contractor, to operate a common logistical support service with respect to the delivery and storage of Sub-tenants' merchandise, inventory, equipment and supplies to a central commissary warehouse location off of the Airport and the re-delivery of Sub-tenants' merchandise, inventory, equipment and supplies to each of the Sub-tenants' Locations at the Airport.

1.07 ADDITION, DELETION AND MODIFICATION OF LOCATIONS:

A. ADDITION OF LOCATIONS: If at any time after the Concession Effective Date of this agreement, the Department, at its sole discretion, identifies any additional Location for advertising development, the Department may, but is not required to offer such additional Location to the Concessionaire upon written notification. The Concessionaire will have thirty (30) calendar days to submit a written response accepting or rejecting the additional Location. Acceptance of any additional Location will require the Department and the Concessionaire to mutually agree.

B. NOT USED.

C. DELETION OR MODIFICATION OF LOCATIONS: The Department reserves the right, at its sole discretion, to delete or modify any of the Locations due to Airport

development/construction, operational necessity, and security or safety considerations. In the event of such deletion or modification the Concessionaire shall be given no less than: (i) thirty (30) calendar days written notice, for such deletion or modification due to operational necessity, and security or safety considerations; and (ii) sixty (60) calendar days written notice, for such deletion or modification due to development/construction.

The Department shall not be held liable to the Concessionaire or its Sub-Tenants for any inconvenience or loss of business as a result of the deletion or modification of any Locations pursuant to this Sub-Article.

D. ADMINISTRATIVE REVISIONS: This Agreement shall be administratively revised to reflect any additions, deletions or modifications to the Locations pursuant to the provisions herein. Such revision will include revised exhibits and appropriate changes to the Locations in **Sub-Article 1.03 "Locations"** or **Sub-Article 1.04 "Administrative Office and Support Space"** and total payments due to the Department in accordance with **Article 3, "Rentals, Payments and Reports"** and **Article 2 "Use of Locations"**.

E. SPECIAL ADVERTISING EXHIBITS: The Department may, by an administrative letter constituting a temporary amendment to this Agreement, authorize special advertising exhibits or devices under separate or different terms and conditions than those contained herein.

1.08 NONEXCLUSIVITY: This Agreement is nonexclusive in character and in no way prevents the Department from entering into an agreement with any other parties for the sale or offering of competitive services, products or items by other concessionaires and/or others in other locations at the Airport during the Term of this Agreement.

1.09 CONDITION OF THE LOCATIONS: CONCESSIONAIRE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE DEPARTMENT IS LEASING ALL LOCATIONS TO THE CONCESSIONAIRE ON AN "AS IS" BASIS AND THAT THE CONCESSIONAIRE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM THE DEPARTMENT OR ITS AGENTS, AS TO ANY MATTERS CONCERNING THOSE LOCATIONS including: (i) the quality, nature, adequacy and physical condition and aspects of the Locations, including utility systems; (ii) the existence, quality, nature, adequacy and physical condition of utilities serving the Locations; (iii) the development potential of the Locations, the use of the Locations, and the habitability, merchantability, or fitness, suitability, value or adequacy of the Locations for any particular purpose; (iv) the zoning or other legal status of the Locations or any other public or private restrictions on use of the Locations; (v) the compliance of the Locations or its operation with any applicable laws, regulations, statutes, ordinances, codes, covenants, conditions, and restrictions of any governmental or quasi-governmental entity or of any other person or entity; (vi) the presence of hazardous materials or industrial wastes on, under or about the Locations; (vii) the quality of any labor and materials used in any improvements on the

Locations; (viii) the condition of title to the Locations; (ix) the agreements affecting the Locations; and (x) the Proposal submitted by Concessionaire to the Department, including any statements relating to the potential success or profitability of such Proposal. Concessionaire represents and warrants that it has made an independent investigation of all aspects of its Proposal contemplated by this Agreement. Except as specifically provided in this Agreement, the Concessionaire has satisfied itself as to such suitability and other pertinent matters by the Concessionaire's own inquiries and tests into all matters relevant in determining whether to enter into this Agreement. The Concessionaire accepts the Locations in their existing condition, and hereby expressly agrees that if any remediation or restoration is required in order to conform the Locations to the requirements of applicable law, the Concessionaire assumes sole responsibility for any such work.

- 1.10 CAPITAL IMPROVEMENT PROGRAM:** The Capital Improvement Program (CIP) is currently underway and will involve the refurbishment of terminal interiors, airline relocations, changes in access to the terminal and concourses, construction of new concession Locations, and other improvements that may affect concession operations in the terminal building and on the concourses and access at the curbside or on the airfield. The CIP may affect the operation of the Locations, and **THE DEPARTMENT NEITHER MAKES NOR IMPLIES ANY WARRANTIES AS TO THE EFFECT OF SUCH CAPITAL IMPROVEMENT PROGRAM ON SAID OPERATIONS DURING THE TERM OF THIS AGREEMENT.** The Department shall use reasonable good faith efforts to the extent possible, so as to mitigate any adverse impact on the business operations of Locations that will not be demolished by the CIP.
- 1.11 REQUEST FOR PROPOSAL INCORPORATED:** The Concessionaire acknowledges that it has submitted to the County a Proposal, in response to a Request for Proposal (RFP), that was the basis for the award of this Agreement and upon which the County relied. **IN THE EVENT THERE ARE ANY CONFLICTS BETWEEN THIS CONCESSION AGREEMENT AND THE RFP OR THE PROPOSAL, THE TERMS OF SAID AGREEMENT SHALL GOVERN.**

ARTICLE 2 – USE OF LOCATIONS

- 2.01 USE OF LOCATIONS:** The Concessionaire shall have the right, privilege, and obligation to finance, design, develop, install, maintain and operate the Locations, depicted in Exhibit A, "Advertising Locations", for the purpose of establishing an Advertising Display Program at Miami International Airport, as approved by the Department.
- 2.02 CONCESSIONAIRE SERVICES AND SALES RIGHTS:** The Concessionaire shall not allow any services or the sale of any item or product not specifically approved in this Agreement. Any sales by the Concessionaire or Concessionaire's Sub-tenants of services, products, or items not specifically approved herein, in writing by the Department, shall constitute a violation. In the event of such violation, the Concessionaire shall discontinue or cause its Sub-tenants to discontinue the sale or service of the unapproved product immediately, upon written notice from the Department. Failure by Concessionaire or its Sub-tenants to discontinue such sales within 24 hours shall subject the Concessionaire to

penalties pursuant to **Sub-Article 3.24 "Penalties"**. Upon the assessment of thirty (30) days of penalties and direction of the Director for a Location operated by a Sub-tenant, the Concessionaire shall tender a notice of default to the Sub-tenant(s) in violation, with copies of said default notice to the Director and pursue all remedies available in law and equity to cease such actions. Failure of the Concessionaire to: (i) notify the Sub-tenant(s) of the default, (ii) pursue all remedies available to cease the unauthorized sales or services shall be an event of default and grounds for termination of this Agreement.

2.03 SCOPE OF SERVICES: The Scope of Services is as reflected in the RFP Section 1.2 and attached to this Agreement, as Exhibit E.

2.04 ANNUAL PLAN SUBMISSION: The Concessionaire shall prepare a marketing plan. The marketing plan shall be submitted to the Department on or before ninety (90) calendar days prior to the commencement of each lease year, and shall represent the upcoming fiscal year for the Department (October 1 – September 30). The Department shall have forty-five (45) calendar days after receipt of the foregoing plan to approve or disapprove the same in its reasonable discretion. If MDAD disapproves the plan, the Concessionaire shall operate in substantial conformity with all such plans approved by the Department as may be modified from time to time.

The Department reserves the right to request at any time any further submission of plans.

2.05 PROHIBITED ACTIVITIES: Without limiting any other provision herein, Concessionaire or its Sub-Tenants shall not, without the prior written consent of the Department which may be withheld in its sole and absolute discretion: (a) advertise or hold any distress, fire, or bankruptcy sales, (b) cause or permit anything to be done, in or about the Locations, or bring or keep anything thereon which might (i) increase in any way the rate of fire insurance on the MIA Terminal Building or any of its contents, (ii) create a nuisance or annoyance or safety hazard, or (iii) obstruct or interfere with the rights of others in the MIA Terminal Building; (c) commit or suffer to be committed any waste upon the Locations; (d) use, or allow the Locations to be used, for any improper or unlawful purpose; (e) do or permit to be done anything in any way tending to injure the reputation of the Department, the County, the Board of County Commissioners, or the appearance of the Airport; or (f) construct any improvement on or attach any equipment to the roof of the Airport. Except as required to permit Concessionaire or its Sub-Tenants to perform its maintenance and repair obligations under this Agreement, Concessionaire or its Sub-Tenants shall not gain access to the roof of the MIA terminal building without the consent of the Department, which may be withheld in the Department's sole and absolute discretion.

ARTICLE 3 – RENTALS, PAYMENTS AND REPORTS

3.01 MINIMUM ANNUAL GUARANTEE: As consideration for the privilege to engage in business at Miami International Airport, Concessionaire shall pay the Department a Minimum Annual Guarantee of _____.

The Minimum Annual Guarantee ("MAG") payment shall begin 120 days from the Effective Date of the Agreement and shall be in U.S. funds, and payable in twelve equal monthly payments ("Minimum Monthly Guarantee") on or before the first day of each month, in advance, without billing or demand, plus applicable state taxes as may be required by law.

- 3.02 NO NEGOTIATIONS OR ADMINISTRATIVE MODIFICATIONS:** The Concessionaire understands and agrees, as a condition precedent to the County's consideration of the proposal, that the terms and conditions of **Sub-Article 3.01 "Minimum Annual Guarantee"**, and **Sub-Article 3.04 "Percentage Fee to the Department"** are not subject to negotiation or adjustment for any reason, including, but not necessarily limited to, airport construction, airline relocation, airline bankruptcies, change in airline service, and the like, except in the event of an act of God or an event of force majeure as such term is defined in **Sub-Article 21.11 "Force Majeure"**. Nor shall the County be liable for any reduction in sales or disruptions or delays caused in whole or in part by any of the foregoing at any time during the Term of this Agreement, including any extensions.
- 3.03 RECALCULATION OF THE MINIMUM ANNUAL GUARANTEE:** The Minimum Annual Guarantee shall be recalculated at the anniversary of the Effective Date. An appropriate adjustment will be made to reflect the change in the Consumer Price Index ("CPI") for all urban consumers in the South Region Average: All items (preceding twelve months).
- 3.04 PERCENTAGE FEE TO THE DEPARTMENT:** The Concessionaire shall pay the Department the percentage fee of _____ or the Minimum Monthly Guarantee; whichever is greater. The monthly percentage fee shall be due on the 15th day of the month following the month during which the monthly gross revenues were received or accrued. Percentage fees are non-taxable.

The Monthly Percentage Fee payments to the Department shall commence upon the Beneficial Occupancy of the first Location.

Monthly Percentage Fee payments to the Department payable on any unreported Gross Revenues, determined by the annual audit required pursuant to **Sub-Article 3.19 "Annual Audit"**, are considered as having been due on the tenth (10th) day of the month following the month during which the unreported Gross Revenues were received or accrued.

- 3.05 CAPITAL INVESTMENT:** The Concessionaire shall submit, within thirty days from the Effective Date, to the Department a plan demonstrating its final Capital Investment under this Agreement in an amount not less than the amount proposed in its Proposal. The investment credited as part of Capital Investment shall include:
- (a) The design and installation costs for the advertising Displays, Fixtures, Signs, and Equipment; the design cost included in Capital Investment shall not exceed fifteen percent (15%) of the total approved Capital Investment.

10. Monitor punch list completion and review testing and inspection reports for all Locations.
11. Organize and have available upon request completed project files.
12. Coordinate access to the Location to allow staff training and equipment testing.
13. Obtain Certificate of Occupancy for each Location.
14. Submit Record Drawings (As-Built drawings) as per the TAC-N or TAC-R requirements within sixty (60) days from the issuance date of the Certificate of Occupancy, and deliver them to the Department pursuant to the TAC-N or TAC-R procedures.

ARTICLE 5 – STANDARDS OF OPERATION

5.01 STANDARDS OF OPERATION: The Concessionaire shall comply with the Department's "Tenant Handbook", Exhibit J; the "Standard of Operations", Exhibit L, the "MIA Terminal Standards" available on www.miami-airport.com, and all revisions to same promulgated from time to time by the Department.

The Department shall have the right to adopt and enforce reasonable and non-discriminatory rules and regulations and operating performance standards with respect to the use of Locations, which the Concessionaire agrees to observe and obey and cause its Sub-Tenants to observe and obey. The Department may amend such rules or regulations and operating performance standards from time to time and shall provide copies thereof to the Concessionaire. The Concessionaire shall distribute such rules and regulations and operating performance standards to its Sub-Tenants. The Department shall provide the Concessionaire with reasonable prior written notice, not less than fifteen (15) days, and prior to the implementation of any such amendment to the rules or regulations and operating performance standards. Those rules include, but are not limited to, any rules and regulations imposed upon the Department by any governmental agency.

The Concessionaire shall implement and comply with all amended requirements, within fifteen (15) days of receipt of an amendment to Exhibit L "Standard of Operations". The Concessionaire shall immediately implement and comply and shall cause its Sub-Tenants to immediately implement and comply with any rules and regulations promulgated for safety or security reasons.

The Concessionaire acknowledges the desire of the Department, as part of its obligation to ensure the highest level of public service, to provide the public and air traveler an adequate range and quality of service. The Department may monitor, test or inspect the Locations at any time through the use of its own personnel, and/or the use of a shopping service, and/or by any other reasonable means that do not unduly interfere with the operation of the business. The results of such service audits may be employed by the Department to enforce the obligations in this Agreement.

The Department shall retain the right, in accordance with the provisions of this Agreement, to make reasonable objections to the quality of articles sold, the character of the service rendered to the public, the prices charged, and the appearance and condition of the Locations, pursuant to Exhibit L "Standard of Operations", as may be amended from time to time. Failure to perform any of the services under this Agreement may result in damages being imposed pursuant to Sub-Article.

- 5.02 PRICING POLICY:** An Advertising Sales Rate/Rate Card detailing the prices for all advertising locations including package promotions must be submitted annually, or whenever such rates are adjusted, and approved by the Department prior to advertising the rate card. Any adjustment to the first year rates must be submitted to the Department for approval prior to contract execution.

The Concessionaire or its Sub-tenants who are not in compliance with the provisions of this Sub-Article shall be given seven (7) days to bring all rates into compliance. Failure to do so shall subject the Concessionaire to penalties pursuant to **Sub-Article 3.24 "Penalties"** in the Concession Agreement and shall constitute a default under this Agreement.

ARTICLE 6 – OBLIGATIONS OF THE DEPARTMENT

6.01 DEPARTMENT SERVICES:

- A. Department's Maintenance Obligation: The Department shall clean, maintain and operate in good condition the terminal building, excluding the Locations. This obligation includes, but is not limited to, all structural (including, but not limited to, the roof and base floor of the terminal building) and all base building work, maintenance of main electrical and mechanical systems, maintenance of walls and ceilings, and repair/maintenance of the roof. The Department shall maintain the public areas in the terminal building furnished and will provide adequate light, cold water and conditioned air. The Department agrees to make all necessary structural repairs to the Locations at its own expense; provided, however, that for purposes of this Agreement such structural repairs shall not include any repairs to any equipment installed by the Concessionaire or its Sub-tenants, and further provided that the Concessionaire shall or shall cause its Sub-tenants to reimburse the Department, within ten (10) calendar days of receipt of written demand for such reimbursement, for the cost and expense of all structural repairs required as a result of the negligent or intentional acts of the Concessionaire, its officers, partners, employees, agents, contractors, subcontractors, licensees, Sub-tenants or invitees. The Concessionaire shall give the Department written notice (or verbal notice in the event of any emergency conditions which may result in harm to the patrons of the Airport, which verbal notice shall be followed by written notice within twenty-four (24) hours) describing any repair, which is the responsibility of the Department. The Department shall commence the repair process promptly after its receipt of such written notice if the Department agrees that such repair is required and is the Department's

responsibility hereunder. The Department, except with respect to the As Is Locations shall provide all portions of the Locations to the Concessionaire in Shell Condition.

- B. The Department will provide air conditioning and electrical service as presently existing for the Locations. The Department shall provide to the Concessionaire a utilities matrix which describes the current utilities for each Location within the Locations within thirty (30) days from the Turnover Date. All new services, extensions, and/or relocations of existing utilities in order to properly meet the Concessionaire's operational needs shall meet all code requirements and such services, extensions and/or relocations shall be provided at no expense to the Department.

The Department encourages the Concessionaire to provide and install or cause the Sub-tenants to provide and install meters for utilities used at the Concessionaire's or its Sub-tenant's expense

The Concessionaire must ascertain the extent of the existing utility capacities, before designing any new loads to be connected to existing systems and piping. The Department agrees to cooperate in providing access to the Locations.

Such maintenance by the Department may be subject to interruption caused by repair, strikes, lockouts, labour related controversies, inability to obtain fuel, power or parts, accidents, breakdowns, catastrophes, national or local emergencies, and other conditions beyond the control of the Department. If the Concessionaire's or Sub-Tenant's Locations are of such a condition as to significantly impact the Concessionaire's or a Sub-tenant's operations for a period in excess of seventy two (72) hours and such damage is not insurable under an insurance policy of the type required to be maintained by the Concessionaire pursuant to this Agreement or the Sub-tenant pursuant to the Sub-lease or license agreement, the Department shall provide a rent abatement for that portion of the Locations rendered unusable for that period of time that the Department is unable to make repairs required by **Sub-Article 6.01 "Department Services"**.

- C. No Other Obligation of Department: The Concessionaire acknowledges that the Department has made no representations or warranties concerning the suitability of the Locations for the Concessionaire's or its Sub-Tenant's use or for any other use, and that except as expressly provided in this Agreement, the Department shall have no obligations whatsoever to repair, maintain, renovate or otherwise incur any cost or expense with respect to the Locations or any improvements, furnishings, fixtures, trade fixtures, signage or equipment constructed or used on or in the Locations by the Concessionaire or its Sub-Tenants.
1. The Concessionaire hereby confirms that it has made its own investigation of all the costs of doing business under this Agreement, including the costs of furnishings, fixtures, trade fixtures, inventory, signs and equipment needed for Sub-tenants to operate from the Locations hereunder, that it has done its own

- projections of the volume of business expected to be generated, that it is relying on its own business judgment concerning its prospects for providing the services required under this Agreement on a profitable basis, and that the Department has not made any representations or warranties with respect to any such matters.
2. The Department does not warrant the accuracy of any statistics or projections relating to the Airport and its operations, which have been provided to the Concessionaire by the Department or anyone on its behalf and the Department shall not be responsible for any inaccuracies in such statistics or their interpretation.
 3. All statements contained in this Agreement or otherwise made by the Department or anyone on its behalf concerning any measurement relating to the Locations or any other area of the Airport are approximate only, and any inaccuracy in such statements of measurements shall not give rise to any claim by the Concessionaire under or in connection with this Agreement.
 4. The Department shall not be liable to the Concessionaire for any loss of business or damages sustained by the Concessionaire as a result of any change in the operation or configuration of, or any change in any procedure governing the use of, the construction improvements of the terminal building.

ARTICLE 7—FURNITURE, FIXTURES AND EQUIPMENT

- 7.01 FURNITURE, FIXTURES, AND EQUIPMENT:** Any equipment, furnishings, fixtures and signs installed in the Locations by the Concessionaire, shall be in keeping with the decor of the terminal building and must be approved in advance by the Department. Any such equipment, furnishings, fixtures and signs so installed by the Concessionaire, as provided in **Sub-Article 4.01 “Improvements to Locations”**, shall, except as provided in **Sub-Article 7.03(B) “Disposal of Furniture, Fixtures, and Equipment”**, be removed from the Locations within five (5) days following the expiration or earlier termination of this Agreement.
- 7.02 AMERICANS WITH DISABILITIES ACT REQUIREMENTS:** The Concessionaire will be responsible, at its cost, for ensuring that the Locations and all equipment therein, and all functions it performs therein as part of the concession, conform in all respects to the requirements of the Americans with Disabilities Act (the “ADA”), including without limitation, the accessibility guidelines promulgated pursuant thereto. The ADA imposes obligation on both public entities, like the Department and those private entities that offer services for the convenience of users of the public entities’ locations. In some circumstances, the public entity must ensure that the operations of the private entity comply with the public entity’s ADA obligations. In most cases the ADA obligations of the Department and the Concessionaire will be the same. However, the Department reserves the right to require the Concessionaire to modify its or its Sub-Tenant’s operations or its physical locations to comply with the Department’s ADA obligations with respect to the Locations, as the Department in its sole discretion deems reasonably necessary.

- 7.03 DISPOSAL OF FURNITURE, FIXTURES, AND EQUIPMENT:** At least thirty (30) calendar days prior to the expiration of this Agreement, or upon termination pursuant to **Article 12 "Default and Termination by County"** or **Article 13 "Claims and Termination by Concessionaire"** hereof, the Department shall exercise, at its sole discretion, one (1) of the following options as to any equipment, furnishings, fixtures, signs, or carts installed in the Locations by the Concessionaire or any Sub-tenant:
- (A) Require the Concessionaire to remove such equipment, furnishings, fixtures, signs, or carts from the Locations within five (5) days following the expiration or earlier termination of this Agreement, subject to the provisions of **Sub-Article 4.01 "Improvements to Locations"**; or
 - (B) Retain any portion of the equipment, furnishings, fixtures, signs, or carts of the Concessionaire or any Sub-Tenant (personal property as referred to in **Sub-Article 4.01 "Improvements to Locations"**) in accordance with the provisions of this Agreement; provided however, the Department shall have no right to use or display any proprietary signs or logos (e.g., brand names owned by, or licensed or franchised to Concessionaire or any Sub-Tenant).

ARTICLE 8 – MAINTENANCE

- 8.01 CLEANING:** The Concessionaire shall, at its cost and expense, keep or cause its Sub-Tenants to keep the Locations clean, neat, orderly, sanitary and presentable at all times. If the Locations are not kept clean in the as provided in the Standard of Operations (Exhibit L) the Concessionaire will be so advised and shall take immediate corrective action. Failure to take immediate corrective action may result in penalties being assessed pursuant to **Sub-Article 3.24 "Penalties"**.
- 8.02 REMOVAL OF TRASH:** The Concessionaire shall, at its cost and expense, remove or cause to be removed from the Locations and properly disposed of in Department provided containers, all trash and refuse of any nature whatsoever which might accumulate and arise from the operations hereunder. If the Concessionaire enters into agreements for the janitorial and trash removal or any Sub-tenant service within the Locations, such service providers must have permits issued by the Department to do business at the Airport. Trash shall not be stored in any area visible to the public nor cause a private or public hazard through its means of storage. All edible items must be contained so as to minimize exposure to pests. The Concessionaire shall have the right to charge Sub-tenants for a proportionate share of any such costs and expenses incurred to remove and properly dispose of all trash, refuse, and pest control as a result of inactions or actions by the Concessionaire and/or its Sub-tenants of any nature whatsoever. Any trash left or stored in any area visible to the public or edible items not properly contained may result in penalties being assessed pursuant to **Sub-Article 3.24 "Penalties"**.

The Department reserves the right to back charge the Concessionaire for waste disposal a proportionate share in a non-discriminatory manner either indirectly through rental rates or

directly by a Department generated bill for actual usage. Such charges shall not exceed the Department's actual costs.

8.03 MAINTENANCE AND REPAIR: Except with respect to the Department's maintenance and repair obligations as set forth in **Sub-Article 6.01 "Department Services"**, the Concessionaire shall maintain and repair or cause to be maintained and repaired the interiors and exterior of the Display Locations. Such maintenance and repairs shall include, but not be limited to, painting, ceiling, walls, floors, laminating doors, windows, equipment, furnishings, fixtures, appurtenances, replacement of ceiling light bulbs, ballast and the replacement of all broken glass, which repairs shall be in quality and class equal to or better than the original work to preserve the same in good order and condition. Maintenance for all equipment furnished by the Concessionaire or its Sub-tenants specifically as a result of their operation shall remain with the Concessionaire or its Sub-tenants. The Concessionaire shall repair or cause to be repaired, at or before the end of the Term of this Agreement, all injury done by the installation or removal of furniture and personal property so as to restore the Locations to the state they were at the commencement of this Agreement, reasonable wear and tear excluded. The Department may, at any time during normal business hours, enter upon the public areas of the Locations, or with appropriate notice, enter upon the non-public areas of the Locations, to determine if maintenance is being performed satisfactorily. The Department may enter upon any Location when a Location is not open for business if the Department provides the Concessionaire notice no less than two (2) hours in advance so that a representative of either the Concessionaire and/or a representative of the applicable Sub-tenant may be present, except in the case of real or perceived emergencies where no such representatives shall be required to be present. If it is determined that said maintenance is not satisfactory, the Department shall so notify Concessionaire in writing. If said maintenance is not performed by Concessionaire (or if the Concessionaire fails to cause the Sub-tenant to perform such maintenance) to the satisfaction of the Department within seven (7) calendar days after receipt of such written notice, Department shall have the right to enter upon the Locations and perform such maintenance and charge Concessionaire for such services.

8.04 FAILURE TO MAINTAIN: Upon failure of the Concessionaire or its Sub-tenants to maintain the Locations as provided in this **Article 8 "Maintenance"**, the Department may enter upon the Locations and perform all cleaning, maintenance and repairs which may be necessary and the cost thereof plus twenty-five percent (25%) for administrative costs, shall constitute additional rental, and shall be billed to and paid by the Concessionaire, in addition to any penalties imposed by the Department pursuant to **Sub-Article 3.24 "Penalties"**.

Failure to pay said costs upon billing by the Department will cause this Agreement to be in default as stated in **Sub-Article 12.02 "Payment Default"**.

8.05 ENVIRONMENTAL RECYCLING: The Department is actively engaging in the development of environmental programs. A recycling program is planned at the Airport to include the participation of all Airport Concessionaires. Participation in this program, once established, will be mandatory. The Concessionaire and/or its Sub-tenants shall agree to

bear any reasonable and actual costs associated with the implementation and continued operation of this recycling program, or propose for approval by the Department an alternative environmental recycling plan which such approval shall not be unreasonably withheld.

Proper disposal of contaminated and/or regulated materials generated by the Concessionaire or its Sub-tenants is the sole responsibility of the Concessionaire. Disposal must be through the use of a licensed vendor regulated by the State of Florida and/or any other federal or local regulatory agency.

- 8.06 FIRE PROTECTION AND SAFETY EQUIPMENT:** The Concessionaire and its Sub-tenants must provide and maintain all fire protection and safety equipment and all other equipment of every kind and nature required by any applicable law, rule, ordinance, resolution or regulation, for the Term of this Agreement, and extensions, if any, or any insurance carrier providing insurance covering any portion of the Locations.

ARTICLE 9 – ASSIGNMENT AND OWNERSHIP

- 9.01 NO ASSIGNMENT:** The Concessionaire shall not assign, transfer, pledge or otherwise encumber this Agreement nor shall the Concessionaire allow others to use the Locations, without the prior written consent of the Department.
- 9.02 OWNERSHIP OF THE CONCESSIONAIRE:** Since the ownership, control, and experience of the Concessionaire were material considerations to the County in the award of this concession and the entering into of this Agreement, the Concessionaire shall take no actions which shall serve to transfer or, sell majority ownership or control of the Concessionaire without the prior written consent of the Department.
- 9.03 CHANGE OF CONTROL:** If Concessionaire is a corporation the issuance or sale, transfer or other disposition of a sufficient number of shares of stock (deemed to mean more than fifty-percent (50%) of the stock) in the Concessionaire to result in a change of control of Concessionaire shall be deemed an assignment of this Agreement for purposes of this **Article 9 “Assignment and Ownership”**. If the Concessionaire is a partnership, transfer of any interest in the partnership, which results in a change in control of such Concessionaire, shall be deemed an assignment of this Agreement for purposes of this **Article 9 “Assignment and Ownership”**.

9.04 HOLDOVER:

A. With the Department’s Permission:

If the Concessionaire (or anyone claiming through Concessionaire) shall remain in possession of the Locations or no less than seventy percent (70%) of the square footage of the Locations thereof after the termination of this Agreement, by written agreement executed by the Department the person or entity remaining in possession shall be deemed a tenant at sufferance otherwise subject to all of the provisions of

this Agreement. The Concessionaire shall thereafter continue to pay the Minimum Monthly Guarantee; as such Minimum Monthly Guarantee is subject to an annual Consumer Price Index adjustment. Such adjustment will be calculated by dividing the most recent Consumer Price Index published immediately prior to the expiration of the Concession Agreement and the most recent Consumer Price Index published one year immediately prior to the termination date and multiplying such amount by the Minimum Annual Guarantee. The recalculated Minimum Annual Guarantee will be used as the basis for calculating the Minimum Monthly Guarantee. Notwithstanding the adjustment, in no event will any adjustment by the Consumer Price Index cause the Minimum Annual Guarantee for any year to be lower than the amount of such Minimum Annual Guarantee for the Term. If the Consumer Price Index is discontinued or revised during the Term, any such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Consumer Price Index had not been discontinued or revised.

In addition, the Concessionaire shall pay the applicable Monthly Percentage Fee, and monthly installment or rent for the Concessionaire's Office pursuant to Sub-Article 3.06 "Annual Rental" (if Concessionaire remains in such Space), on account of the holdover use and occupancy of the Locations. One-sixtieth (1/60) of any un-amortized investment amounts per store Location owed the Concessionaire by the Department, for the slippage in Location turnover shall be extinguished, for each additional month the Concessionaire or its Sub-tenant remains in possession of any portion of the Locations. This provision shall survive the expiration or the termination of this Agreement.

B. Without Department Permission:

If the Concessionaire (or anyone claiming through Concessionaire) shall remain in possession of the Locations or any part thereof after the termination of this Agreement, without a written agreement executed by the Department, then without limiting the Department's other rights and remedies, the person or entity remaining in possession shall be deemed a tenant at sufferance otherwise subject to all of the provisions of this Agreement. The Concessionaire shall thereafter pay on account of its holdover use and occupancy of the Locations a sum, at a rate equal to two times (2x) the amount payable monthly as MMG PLUS Monthly Percentage Fee PLUS monthly installment of the administrative support space annual lease rental pursuant to Sub-Article 3.06 "Annual Rental", and with all additional rent also payable as provided in this Agreement (the "Holdover Charges"). Imposition of Holdover Charges, extinguishes any un-amortized investment amounts owed the Concessionaire by the Department, for the slippage in Location turnover. The Holdover Charges shall be payable weekly in advance. Notwithstanding the above, the Concessionaire shall remain liable to the Department for all damages resulting from such breach, with the amount of any Holdover Charges accepted by the Department on account of the holdover considered as mitigation of such damages. The covenant in this Sub-Article shall survive the expiration or the termination of this Agreement.

ARTICLE 10 – INDEMNIFICATION

10.01 INDEMNIFICATION REQUIRED OF CONCESSIONAIRE: The Concessionaire shall indemnify, defend, and hold harmless the Department and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and cost of defense, which the Department or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Concessionaire or its employees, agents, servants, partners, principles or any other persons. The Concessionaire shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Department, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon.

The Concessionaire expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Concessionaire shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Department or its officers, employees, agents and instrumentalities as herein provided.

ARTICLE 11 – INSURANCE

11.01 INSURANCE

11.1.01 The Contractor shall maintain the following insurance throughout the performance of this Contract until the Work has been completed by the Contractor and accepted by the Owner.

- A. **Worker's Compensation**, as required by Chapter 440, Florida Statutes.
- B. **Automobile Liability Insurance**, covering all owned, non-owned and hired vehicles used in connection with the work in an amount not less than:
 - (1) \$5,000,000 combined single limit per occurrence for bodily injury and property damage for vehicles used AOA.
 - (2) \$1,000,000 combined single limit per occurrence for bodily injury and property damage covering vehicles when being used by the Contractor off of the AOA.
- C. **Commercial General Liability Insurance**, on a comprehensive basis, including Contractual Liability, Broad Form Property Damage and Products and Completed Operations, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property

damage. The County must be shown as an additional insured with respect to this coverage.

11.1.02 All insurance policies required herein shall be issued in companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "VII" as to strength in accordance with the latest edition of "Best's Insurance Guide", published by A.M. Best Company, Inc., or its equivalent, subject to approval of MDAD Risk Management.

11.1.03 The Contractor shall furnish certificates of insurance and insurance policies to the Owner prior to commencing any operations under this Contract. Certificates and policies shall clearly indicate that the Contractor has obtained insurance, in the type, amount, and classifications, as required for strict compliance with this Article. The certificates and policies must provide that, in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the MDAD Risk Management.

11.1.04 Compliance with the foregoing requirements as to the carrying of insurance shall not relieve the Contractor from liability under any other portion of this Contract.

11.1.05 Cancellation of any insurance or bonds, or non-payment by the Contractor of any premium for any insurance policies or bonds required by this Contract shall constitute a breach of this Contract. In addition to any other legal remedies, the Owner at its sole option may terminate this Contract or pay such premiums, and deduct the costs thereof from any amounts that are or may be due to the Contractor.

11.1.06 The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this section remain in force for the duration of the agreement. If insurance certificates are scheduled to expire during the contract period, the Contractor shall be responsible for submitting new or renewed insurance certificates to MDAD's Risk Management Office at a minimum of thirty (30) calendar days before such expiration.

11.1.07 The Owner reserves the right, upon reasonable notice, to examine the original policies of insurance (including but not limited to: binders, amendments, exclusions, endorsements, riders and applications) to determine the true extent of coverage. The Contractor agrees to permit such inspection at the offices of the Owner.

ARTICLE 12- DEFAULT AND TERMINATION BY COUNTY

12.01 EVENTS OF DEFAULT: A default shall mean a breach of this Agreement by the Concessionaire (an "Event of Default"). In addition to those defaults defined in **Sub-Article 12.02 "Payment Default"**, **Sub-Article 12.03 "Other Defaults"**, and **Sub-Article 12.04 "Habitual Default"**, an Event of Default, may also include one (1) or more

of the following occurrences:

- (A) The Concessionaire has violated the terms and conditions of this Agreement;
- (B) The Concessionaire has failed to make prompt payment to subcontractors or suppliers for any service or work provided for the design, installation, operation, or maintenance of the advertising concessions;
- (C) The Concessionaire has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Concessionaire's creditors, or the Concessionaire has taken advantage of any insolvency statute or debtor/creditor law, or the Concessionaire's affairs have been put in the hands of a receiver;
- (D) The occurrence of any act, which operates to deprive Concessionaire of the rights, power, licenses, permits or authorities necessary for the proper conduct and operation of the activities authorized herein;
- (E) Abandonment or discontinuance of operations by Concessionaire of its business by any act(s) of Concessionaire;
- (F) Any persistent violation on the part of Concessionaire, its agents or employees of the traffic rules and regulations of City at Airport or disregard of the safety of persons using the Airports, upon failure by Concessionaire to correct the same;
- (G) Failure on the part of Concessionaire to maintain the quality of service required by the terms of this Agreement, including, but not limited to, any cessation or diminution of service by reason of Concessionaire being unable for any reason to maintain in its employ the personnel necessary to keep its business in operation and available for public use, unless such use is due to strike, lockout, or bona fide labor dispute;
- (H) Failure by Concessionaire to maintain its other equipment in a manner satisfactory to the Director;
- (I) The Concessionaire has failed to obtain the approval of the Department where required by this Agreement;
- (J) The Concessionaire has failed to provide adequate assurances as required under Sub-Article 12.09 "Adequate Assurances";
- (K) The Concessionaire has failed to comply with any provision of Sub-Article 14.07 "Disadvantaged Business Enterprise Participation Plan";
- (L) The Concessionaire has failed in a representation or warranty stated herein; or
- (M) The Concessionaire has received three (3) notices of default, of any kind, within a twenty-four (24) month period.

12.02 PAYMENT DEFAULT: Failure of the Concessionaire to make MAG/MMG payments and Percentage Fee payments and other charges required to be paid herein when due and fails to cure the same within five (5) calendar days after written notice shall constitute a default, and the Department may, at its option, terminate this Agreement after five (5)

calendar days notice in writing to the Concessionaire.

12.03 OTHER DEFAULTS: The Department shall have the right, upon thirty (30) calendar days written notice to the Concessionaire to terminate this Agreement upon the occurrence of any one or more of the following unless the same shall have been corrected within thirty (30) calendar days after written notice; provided, however, that if it is not reasonably possible to cure such failure within such thirty (30) day period, such cure period shall be extended for an additional period of such duration the Department shall deem appropriate without waiver of any of the Department's rights hereunder, if within the thirty (30) days after such written notice the Concessionaire commences to cure such default and thereafter diligently and continuously continues to cure such default:

- (A) Failure of the Concessionaire to comply with covenants of this Agreement other than those that constitute default pursuant to **Sub-Article 12.02 "Payment Default"**.
- (B) The conduct of any business, the performance of any service, or the merchandising of any product or service not specifically authorized herein.
- (C) Any Event of Default.

12.04 HABITUAL DEFAULT: Notwithstanding the foregoing, in the event that the Concessionaire has frequently, regularly or repetitively defaulted in the performance of or has breached any of the terms, covenants and conditions required herein, to be kept and performed by the Concessionaire, regardless of whether the Concessionaire has cured each individual condition of breach or default as provided for in **Sub-Article 12.02 "Payment Default"** and **Sub-Article 12.03 "Other Defaults"** above, the Concessionaire may be determined by the Director to be an "habitual violator". At the time that such determination is made the Aviation Director shall issue to the Concessionaire a written notice, advising of such determination and citing the circumstances thereof. Such notice shall also advise the Concessionaire that there shall be no further notice or grace periods to correct any subsequent breach(s) or default (s) and that any subsequent breach or default, of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the Department may terminate this Agreement upon the giving of written notice of termination to the Concessionaire, such termination to be effective upon the seventh (7) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Concessionaire shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the Concessionaire shall discontinue its operations at the Airport and proceed to remove all its personal property in accordance with **Sub-Article 12.10 "Actions at Termination"** hereof.

12.05 NOTICE OF DEFAULT AND OPPORTUNITY TO CURE: If an Event of Default occurs, the Department shall notify the Concessionaire by sending a notice of default Notice, specifying the basis for such Event of Default, and advising the Concessionaire that such default must be cured immediately or this Agreement with the Department may be terminated. The Concessionaire can cure and rectify the Event of Default, to the

Department's reasonable satisfaction, within thirty (30) days from Concessionaire's receipt of the Default Notice (the "Cure Period") or such other timeframe as delineated in the Agreement. The Department may extend the Cure Period and grant an additional period of such duration as the Department shall deem appropriate without waiver of any of the Department's rights hereunder, so long as, the Concessionaire has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the Department prescribes. The notice of default shall specify the Termination Date by when the Concessionaire shall discontinue the services.

12.06 UNAMORTIZED INVESTMENT EXTINGUISHED: Termination of this Agreement based upon **Sub-Article 12.07 "Termination for Abandonment"**, **Sub-Article 12.02 "Payment Default"**, **Sub-Article 12.03 "Other Defaults"**, **Sub-Article 12.04 "Habitual Default"**, or **Sub-Article 12.08 "Termination for Cause"**, shall extinguish any unamortized investment amounts owed the Concessionaire by the Department, for the slippage in Location turnover dates.

12.07 TERMINATION FOR ABANDONMENT: This Agreement may be terminated in its entirety upon the abandonment by the Concessionaire of the Locations or the voluntary discontinuance of Concessionaire's services at the Airport for any period of time exceeding twenty-four (24) consecutive hours, unless such abandonment or discontinuance has been caused by civil disturbance, governmental order or Act of God that prevents the Concessionaire from providing services on the Locations for the purposes authorized in **Article 2 "Use of Locations"**. The foregoing shall not include periodic Sub-tenant vacancies in individual Locations that may occur from time to time during the Term of this Agreement.

12.08 TERMINATION FOR CAUSE: The Department may terminate this Agreement, effective immediately if: (i) the Concessionaire attempts to meet its contractual obligation(s) with the County through fraud, misrepresentation or material misstatement; or (iii) a principal of the Concessionaire is convicted of a felony during the Term or any Extensions thereof if applicable. The Department may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or joint venture or other entity has with the Department and that such individual, corporation or joint venture or other entity shall be responsible for all direct and indirect costs associated with such termination, including attorney's fees.

The foregoing notwithstanding, any individual, firm, corporation, joint venture, or other entity which attempts to meet its contractual obligations with the Department through fraud, misrepresentation or material misstatement may be disbarred from County contracting for up to five (5) years in accordance with the County's debarment procedures. The Concessionaire may be subject to debarment for failure to perform, and all other reasons set forth in § 10-38 of the Code of Miami-Dade County, Florida (the "Code").

12.09 ADEQUATE ASSURANCES: When, in the opinion of the Department, reasonable grounds for uncertainty exists with respect to the Concessionaire's ability to perform the work or any portion thereof, the Department may request that the Concessionaire, within

the time frame set forth in the Department's request, provide adequate assurances to the Department, in writing, of the Concessionaire's ability to perform in accordance with terms of this Agreement. In the event that the Concessionaire fails to provide to the Department the requested assurances within the prescribed time frame, the Department may:

1. Treat such failure as a repudiation of this Agreement; and
2. Resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the work or any part thereof either by itself or through others.

12.10 ACTIONS AT TERMINATION: The Concessionaire shall, upon receipt of such notice to terminate, and as directed by the Department:

- (A) Stop all work as specified in the notice to terminate;
- (B) Take such action as may be necessary for the protection and preservation of the Locations and other Department materials and property;
- (C) Vacate, quit and surrender, and account for the administrative support space, all furnishings, fixtures, equipment, software, vehicles, records, funds, inventories, commodities, supplies and other property of the Department, on or before the date of termination.

ARTICLE 13 – CLAIMS AND TERMINATION BY CONCESSIONAIRE

13.01 ADMINISTRATIVE CLAIM PROCEDURES: If the Concessionaire has any claim against the County arising under this Agreement, it will be made in writing within thirty (30) calendar days of the occurrence of the event to the Director. The exact nature of the claim, including sufficient detail to identify the basis for the claim and the amount of the claim shall be clearly stated. The dispute will be decided by the Director, who will mail or otherwise furnish a written copy of the decision to the Concessionaire at the address furnished in **Sub-Article 18.09 "Notices"**. The decision of the Director will be final and conclusive unless, within thirty (30) calendar days from the date of receipt of such copy, the Concessionaire mails or otherwise furnishes to the Department a written appeal addressed to the County Manager. The decision of the County Manager, or his duly authorized representative for the determination of such appeals, will be final and conclusive unless within thirty (30) calendar days of the Concessionaire's receipt of such decision, the Concessionaire files an action in a court of competent jurisdiction. In connection with any appeal proceeding under this provision, the Concessionaire shall be afforded an opportunity to be heard and to offer other evidence in support of the appeal. Pending final decision of a dispute hereunder, the Concessionaire shall proceed diligently with the performance of this Agreement and in accordance with the County's decision. Failure to perform in accordance with the decision of the Director or the County Manager shall be cause for termination of this Agreement in accordance with **Sub-Article 12.03 "Other Defaults"**. The failure of the Concessionaire to comply with this administrative claim procedure shall be cause for a waiver of claim and an abandonment of any claim arising out of the event.

13.02 TERMINATION: The Concessionaire shall have the right, upon thirty (30) calendar days written notice to the Department to terminate this Agreement, without liability to the Department, at any time after the occurrence of one or more of the following events:

- (A) Issuance by any court of competent jurisdiction of any injunction substantially restricting the use of the Airport for airport purposes, and the injunction remaining in force for a period of more than one hundred eighty (180) calendar days.
- (B) A breach by the Department of any of the material terms, covenants or conditions contained in this Agreement required to be kept by the Department and failure of the Department to remedy such breach for a period of one hundred eighty (180) calendar days after receipt of written notice from the Concessionaire of the existence of such breach.
- (D) The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control or use of the airport locations or any substantial part, or parts thereof, in such a manner as substantially to restrict the Concessionaire's provision of services for a period of one hundred eighty (180) calendar days.

ARTICLE 14 - AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISES (ACDBE)

14.01 ACDBE REQUIREMENTS: It is the policy of the County that ACDBE's shall have the maximum practical opportunity to participate in the performance of County agreements. As used in the Bid Documents, the term "Airport Concession Disadvantaged Business Enterprises (ACDBE)" means a small business concern, which (a) is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it as set forth in 49 CFR Part 23, Code of Federal Regulations. The County has established an ACDBE concession specific goal of 11% (eleven) percent of gross revenues. The ACDBE overall goal can be achieved either through the Concessionaire being an ACDBE itself, a partnership or joint venture, or subcontracting a percentage of gross revenues.

The Airport Concession Disadvantaged Business Enterprise (ACDBE) Plan must be submitted with the Proposal in accordance with Appendix H, Section II and its supporting documents. The Concessionaire will be required to submit to the Department's Minority Affairs Division, Monthly Utilization Reports (MUR) reflecting ACDBE revenue and operational expenses, commencing 90 days after beneficial occupancy and monthly thereafter, on or before the 10th of every month.

14.02 COUNTING ACDBE PARTICIPATION TOWARD CONTRACT GOALS

1. When an ACDBE participates in a contract, only the value of the work actually performed by the ACDBE toward the ACDBE goal will be counted.

2. When an ACDBE performs as a participant in a joint venture, a portion of the total dollar value of the contract during the complete contract term, equal to the distinct clearly defined portion of the work of the contract that the ACDBE performs will be counted toward ACDBE goals as outlined in Appendix H.
3. Expenditures to an ACDBE contractor toward ACDBE goals will be counted only if the ACDBE is performing a commercially useful function as defined below:

- (a) An ACDBE performs a commercially useful function when it is responsible for execution of specific quantifiable work of the contract and is carrying out its responsibilities by actually performing, or managing, or supervising the specific identified work.

MDAD will determine whether an ACDBE is performing a commercially useful function by evaluating the specific duties outlined in the Joint Venture Agreement; the subcontract agreement or other agreements in accordance with industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and other relevant factors.

- (b) An ACDBE does not perform a commercially useful function if its role is limited to that of an extra participant in a financial or other transaction, contract, or project through which funds are passed in order to obtain the appearance of ACDBE participation.
- (c) If an ACDBE does not perform or exercise responsibility for at least their percentage of its participation or if the ACDBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that the ACDBE is not performing a commercially useful function.
- (d) When an ACDBE is presumed not to be performing a commercially useful function as provided in paragraph (c) of this section, the ACDBE may present evidence to rebut this presumption. MDAD will determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

4. MDAD's decision on commercially useful function matters are final.

14.03 ACDBE GOAL ACHIEVED THROUGH JOINT VENTURE ("JV") PARTNERING:

Concessionaires may decide to satisfy a part of the ACDBE goal by Joint Venturing with an ACDBE. The ACDBE partner must meet the eligibility standards set forth in 49 CFR Part 23. A "joint venture" or ("JV") shall mean and may be referred to as an "association" of two or more businesses acting as a concessionaire and performing or providing services on a contract, in which each joint venture or association partner combines property, capital, efforts, skill, and/or knowledge. The joint venture agreement must specify the following:

- (1) Each ACDBE joint venture ("JV") partner must be responsible for a clearly defined portion of the work to be performed. The work should be detailed separately from the work performed by the non-ACDBE JV partner.

The work should be submitted as part of this solicitation and annually thereafter to the Aviation Department's Minority Affairs Division. The work to be performed by the ACDBE joint venture partner should be store specific with regards to tasks and locations.

The ACDBE Joint Venture partner will be required to spend the minimum amount of aggregate time on-site, focused on the operation of the concession. Such "minimum amount of aggregate time" is defined as ten hours per week.

- (2) Each Joint Venture partner must submit a notarized Monthly Utilization Report and a notarized Monthly Report of ACDBE Joint Venture Activity providing details of how the performance objectives were achieved and providing documentation of that achievement on the form. This information should include, but not be limited to:
 - a. Details of training sessions, including class rosters and lesson plans.
 - b. Deliverables and work products.
 - c. Time sheets of partner employees used to fulfill objectives. Time sheets must accurately reflect hours worked and compensation earned.
 - d. Proof that employees of partners actually work for them (payroll, payroll tax returns and the like).
- (3) Each ACDBE partner must share in the ownership, control, management, and administrative responsibilities, risks and profits of the JV in direct proportion to its stated level of JV participation.
- (4) Each ACDBE JV partner must perform work that is commensurate with the Concession Agreement.

As described below, each Concessionaire must submit, as part of its Proposal, a plan for the achievement of the ACDBE goal, including Schedule of Participation and the Letter of Intent from ACDBE's who are Certified or have applied for Certification to the Miami-Dade County Department of Business Development as required by Airport Concession Disadvantaged Business Enterprise (ACDBE) Participation Plan.

Without limiting the requirements of the Agreement, the County will have the right to review and approve all agreements utilized for the achievement of these goals. Such agreements must be submitted with the Proposal.

14.04 CERTIFICATION-AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE): In order to participate as an ACDBE on this contract, an ACDBE must be certified or have applied for certification to the Miami-Dade County Department of Small Business Development or Florida Uniform Certification Program

(FLUCP) at the time of Proposal submittal, but the ACDBE firm must be fully certified on or before the award date.

Application for certification as an ACDBE may be obtained by contacting the Miami-Dade County Department of Small Business Development located at 111 NW 1st Street, Stephen P. Clark Center, 19th floor, Miami Florida 33128-1974 or by telephone at (305) 375-3111 or facsimile at (305) 375-3160, or visit their website at www.co.miamidade.fl.us/dsbd/.

The ACDBE Certification List is maintained and published at least every other week by the Department of Small Business Development and contains the names and addresses of currently certified Airport Concession Disadvantaged Business Enterprise (ACDBEs) certified by the agency.

The FLUCP Directory is available at <http://www.bipincwebapps.com/biznetflorida/>. The Directory lists the firm's name, address, phone number, date of the most recent certification, certifying agency and type of work the firm has been certified to perform. The FLUCP updates the data every 24 hours and revises the Directory regularly. The address for Florida UCP is:

Florida Department of Transportation,
Equal Opportunity Office
605 Suwannee Street, MS 65
Tallahassee, Florida 32399-0450
Tel: (850) 414-4747 Fax: (850) 414-4879

14.05 AFFIRMATIVE ACTION AND AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PROGRAMS: The Concessionaire acknowledges that the provisions of 14 CFR Part 152, Affirmative Action Employment Programs, and 49 CFR Part 23, Disadvantaged Business Enterprise Programs, are applicable to the activities of the Concessionaire under the terms of the Agreement, unless exempted by said regulations, and hereby agrees to comply with all requirements of the Department, the Federal Aviation Administration and the U.S. Department of Transportation.

These requirements may include, but not be limited to, the compliance with Airport Concession Disadvantaged Business Enterprise and/or Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if directed by the Department, the contracting of specified percentages of goods and services contracts to Airport Concession Disadvantaged Business Enterprises. In the event it has been determined, in accordance with applicable regulations, that the Concessionaire has defaulted in the requirement to comply with the provisions of this section and fails to comply with the sanctions and/or remedies then prescribed, the County shall have the right, upon written notice to the Concessionaire, to terminate this Agreement, pursuant to Default language referenced in the Agreement.

The Concessionaire shall include the following nondiscrimination language in concession and management related contracts with MDAD:

"This agreement is subject to the requirements of the US Department of Transportation's Regulations 49 CFR Part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or concession agreement, or subcontract, purchase or concession agreement, or other agreement covered by 49 CFR Part 23."

"The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements."

14.06 ACDBE MENTORING, ASSISTANCE AND TRAINING PROGRAM: Consistent with the goal of providing ACDBEs with hands-on participation and the responsibility for a clearly defined portion of the Airport Concession operations, subject to Section 5 "Airport Concession Disadvantaged Business Enterprise" hereof, each ACDBE shall have the duty and responsibility to operate certain areas of the concession(s) following a mentoring period, if needed, which shall include but not be limited to the following specific duties and responsibilities:

A. Shop Store Operations

- (1) Passenger profile analysis
- (2) Cash handling/sales audit
- (3) Enhancing sales
- (4) Selling to the customer
- (5) Staffing to meet customer levels
- (6) Opening and closing procedures

B. Personnel

- (1) Employment practices
- (2) Compliance with wage and hour laws
- (3) Compliance with County and Airport requirements
- (4) Designing compensation and benefits plans
- (5) Management and staff training to enhance product knowledge and customer service
- (6) Warehousing packaging and sales reporting of merchandise

C. Shop Design and Display

- (1) Retail layout
- (2) Merchandising techniques
- (3) Visual display techniques

D. Loss Prevention

- (1) External and internal theft
- (2) Shop security

E. Books, Records and Reports

- (1) The books of account and supporting records of the joint venture(s) and the sub-concessionaire(s) shall be maintained at the principal office and shall be open for inspection by the MDAD or the ACDBE sub-concessionaire(s) or Joint Venture(s), upon reasonable prior written notice, during business hours.
- (2) The books of account, for both financial and tax reporting purposes shall be maintained on the accrual method of accounting. The Concessionaire shall provide to the sub-concessionaire(s) or joint venture(s), within an agreed upon time after the end of each month during the term of this agreement, an unaudited operating (*i.e.*, income) statement for the preceding month and for the year-to-date.
- (3) Reports of the ACDBE Mentoring Program shall be submitted to the Department's Minority Affairs and Business Management Divisions, outlining the specific areas of training (*i.e.*, components covered, total number of hours of training, training material covered, etc.).

14.07 AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN: The Concessionaire shall contract with those firm(s) as are listed on the Concessionaire's ACDBE Participation Plan in the Proposal documents and approved by the Department, and shall thereafter neither (i) terminate such ACDBE firm(s), nor (ii) reduce the scope of the work to be performed, nor (iii) decrease the percentage of participation, nor (iv) decrease the dollar amount of participation by the ACDBE firm(s) without the prior written authorization of the Department.

The County shall monitor the compliance of the Concessionaire with the requirements of this provision during the term of this agreement.

The County shall have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records, records of expenditures, contracts between the Concessionaire and the ACDBE Participant, and other records pertaining to the ACDBE Participation Plan.

If at any time the County has reason to believe that the Concessionaires are in violation of this provision, the County may, in addition to pursuing any other available legal remedy,

impose sanctions which may include, but are not limited to, the termination or cancellation of the agreement in whole or in part, unless the Concessionaire demonstrates, within a reasonable time, its compliance with the terms of this provision. No such sanction shall be imposed by the County upon the Concessionaire except pursuant to a hearing conducted by the ACDBELO and/or Director.

14.08 COUNTING ACDBE PARTICIPATION TOWARD CONTRACT GOALS: When an ACDBE participates in a contract; only the value of the work actually performed by the ACDBE toward the ACDBE goal will be counted.

When a ACDBE performs as a participant in a joint venture, a portion of the total dollar value of the contract during the complete contract term, equal to the distinct clearly defined portion of the work of the contract that the ACDBE performs will be counted toward ACDBE goals as outlined in Appendix H "Airport Concession Disadvantage Business Enterprise Participation Plan/Provision".

Expenditures to an ACDBE contractor toward ACDBE goals will be counted only if the ACDBE is performing a commercially useful function as defined below:

- A. ACDBE performs a commercially useful function when it is responsible for execution of specific quantifiable work of the contract and is carrying out its responsibilities by actually performing, managing, or supervising the specific identified work.
- B. The Department will determine whether a ACDBE is performing a commercially useful function by evaluating the specific duties outlined in the Joint Venture License Agreement; the subcontract License or other Licenses in accordance with industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and other relevant factors.
- C. An ACDBE does not perform a commercially useful function if its role is limited to that of an extra participant in a financial or other transaction, contract, or project through which funds are passed in order to obtain the appearance of ACDBE participation.
- D. If an ACDBE does not perform or exercise responsibility for at least their percentage of its participation or if the ACDBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that the ACDBE is not performing a commercially useful function.
- E. When an ACDBE is presumed not to be performing a commercially useful function as provided in paragraph (c) of this Article, the ACDBE may present evidence to rebut this presumption. The Department will determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

The Department's decision on commercially useful function matters is final.

ARTICLE 15- RULES, REGULATIONS AND PERMITS

- 15.01 RULES AND REGULATIONS:** The Concessionaire shall comply and cause its Sub-Tenants to comply, with the Ordinances of the Department including the Rules and Regulations of the Department, Chapter 25, Code of Miami-Dade County, Florida, as the same may be amended from time to time, Operational Directives issued hereunder, all additional laws, statutes, ordinances, regulations and rules of the federal, State and County governments, and any and all plans and programs developed in compliance therewith, and any County Administrative Orders and resolutions of the Board of County Commissioners which may be applicable to its operations or activities under this Agreement.
- 15.02 VIOLATIONS OF RULES AND REGULATIONS:** The Concessionaire agrees to pay, on behalf of the Department, any penalty, assessment or fine issued against the Department, or to defend in the name of the Department any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the federal, State or County governments based in whole or substantial part upon a claim or allegation that the Concessionaire, its agents, employees, Sub-tenants or invitees, have violated any law, ordinance, regulation or rule described in **Sub-Article 15.01 "Rules and Regulations"** or any plan or program developed in compliance therewith. The Concessionaire further agrees that the substance of **Sub-Article 15.02 "Violations of Rules and Regulations"** and **Sub-Article 15.01 "Rules and Regulations"** shall be included in every Sub-lease and other agreements which the Concessionaire may enter into related to its activities under this Agreement and that any such Sub-lease and other agreement shall specifically provide that "Miami-Dade County, Florida is a third party beneficiary of this and related provisions." This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments, subletting or subleasing.
- 15.03 PERMITS AND LICENSES:** The Concessionaire shall and cause its Sub-tenants to obtain, pay for and maintain on a current basis and make available to the Department upon request, all permits and licenses as required for the performance of its services hereunder.

ARTICLE 16 – GOVERNING LAW

- 16.01 GOVERNING LAW; VENUE:** This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The venue of any action on this Agreement shall be laid in Miami-Dade County, Florida and any action to determine the rights or obligations of the parties hereto shall be brought in the courts of the State of Florida.
- 16.02 REGISTERED OFFICE/AGENT JURISDICTION:** The Concessionaire, if a corporation, shall designate a registered office and a registered agent, as required by Section 48.091, Florida Statutes, and such designations to be filed with the Florida Department of State in accordance with Section 607.034, Florida Statutes. If the Concessionaire is a natural person, he and his personal representative hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on the alleged breach of this Agreement. If Concessionaire is a joint

venture and not a corporation, the parties to the joint venture hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on the alleged breach of this Agreement.

ARTICLE 17 – TRUST AGREEMENT

- 17.01 INCORPORATION OF TRUST AGREEMENT BY REFERENCE:** Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that the provisions of the Amended and Restated Trust Agreement, dated as of the 15th day of December, 2002, as amended from time to time, by and between the County and JP Morgan Chase Bank, as Trustee, and Wachovia Bank, National Association, as Co-Trustee (the “Trust Agreement”), which Trust Agreement is incorporated herein by reference, shall prevail and govern in the event of any inconsistency with or ambiguity relating to the terms and conditions of this Agreement, including the rents, fees or charges required herein, and their modification or adjustment. A copy of the Trust Agreement may be examined by the Concessionaire at the offices of the Department during normal working hours.
- 17.02 ADJUSTMENT OF TERMS AND CONDITIONS:** If at any time during the Term or the Extensions thereto, as applicable, a court of competent jurisdiction shall determine that any of the terms and conditions of this Agreement, including the rentals, fees and charges required to be paid hereunder to the Department by the Concessionaire or by other Concessionaires under other agreements of the Department for the lease or use of locations used for similar purposes, are unjustly discriminatory, the Department, shall have the right to modify such terms and conditions and to increase or otherwise adjust the rentals fees and charges required to be paid under this Agreement in such a manner as the Department shall determine is necessary and reasonable so that terms and conditions and the rentals fees and charges payable by the Concessionaire and others shall not thereafter be unjustly discriminatory to any user of like locations and shall not result in any violation of the Trust Agreement or in any deficiency in revenues necessary to comply with the covenants of the Trust Agreement. In the event the Department has modified the terms and conditions of this Agreement, including any adjustment of the rentals, fees and charges required to be paid to the Department, pursuant to this provision, this Agreement shall be amended to incorporate such modification of the terms and conditions upon the issuance of written notice from the Department to the Concessionaire.
- 17.03 INSPECTIONS:** The authorized employees and representatives of the Department and of any applicable federal or state agency having jurisdiction hereof shall have the right of access to the Locations at all reasonable times for the purposes of inspection to determine compliance with the provisions of this Agreement or applicable law. The right of inspection shall impose no duty on the Department to inspect and shall impart no liability on the Department should it not make such inspection(s).

17.04 NOT USED

17.05 MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW: According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all Department contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit of any contract will be one quarter of one percent (.0025%) of the total contract amount.

Exception: The above application of one quarter of one percent (.0025%) fee assessment shall not apply to the following contracts: (a) contracts for legal services; (b) contracts for financial advisory services; (c) auditing contracts; (d) facility rentals and Licenses; (e) concessions and other rental Licenses; (f) insurance contracts; (g) revenue-generating contracts; (h) professional service Licenses under \$1,000; (i) management Licenses; (l) small purchase orders as defined in Miami-Dade County Administrative Order No. 3-2; (m) federal, state and local government-funded grants; and (n) interlocal Licenses. *Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (.0025%) in any exempted contract at the time of award.*

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all Department contracts including, but not limited to, those contracts specifically exempted above.

ARTICLE 18 – OTHER PROVISIONS

18.01 PAYMENT OF TAXES: The Concessionaire shall pay all taxes lawfully assessed against its interests in the Locations and its services hereunder, provided however, that the Concessionaire shall not be deemed to be in default of its obligations under this Agreement for failure to pay such taxes pending the outcome of any legal proceedings instituted in courts of competent jurisdiction to determine the validity of such taxes. Failure to pay same after the ultimate adverse conclusion of such contest shall constitute and Event of Default, pursuant to **Sub-Article 12.03 “Other Defaults”** hereof.

18.02 ALTERATIONS BY CONCESSIONAIRE: The Concessionaire shall not alter or modify the Locations, except in accordance with **Article 4 “Improvements to the Locations”** herein, without first obtaining written approval from the Department.

18.03 RIGHTS TO DEPARTMENT: All rights are reserved to the Department.

18.04 ADMINISTRATIVE MODIFICATIONS: It is understood and agreed to that the Department, upon written notice to the Concessionaire, shall have the right to modify administratively and to revise Articles and the Exhibits to this Agreement, including the provisions of **Sub-Article 1.05 “Addition, Deletion and Modification of Locations”**, **Sub-Article 18.02 “Alterations by Concessionaire”**, **Sub-Article, 21.02 “Right to Amend”**, and **Sub-Article 21.04 “Right to Modify”**.

- 18.05 SECURITY:** The Concessionaire acknowledges and accepts full responsibility for the security and protection of the Locations. The Concessionaire fully understands and acknowledges that any security measures deemed necessary by the Concessionaire for protection of the Locations shall be the sole responsibility of the Concessionaire and shall involve no cost to the Department.
- 18.06 RIGHTS OF DEPARTMENT AT AIRPORT:** The Department shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and locations at the Airport. The Department shall, in the exercise of such right, be free from any, and all liability to the Concessionaire for business damages occasioned during the making of such repairs, alterations and additions except those occasioned by the sole acts of negligence or intentional acts of the Department its employees, or agents.
- 18.07 SUSPENSION OF SERVICES:** If any strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against Management (Vendor's name) at the Airport, which results in the disruption, curtailment or discontinuance of services performed hereunder, the County shall have the right, during said period, to suspend the County's obligations under this Agreement and to cause the services required to be performed under this Agreement to be performed by others without any liability by the County to Management (Vendor's name). During such period, if the services are being provided by others, this Agreement shall be abated.
- 18.08 OTHER DEPARTMENT RIGHTS:** The Concessionaire shall be liable for any physical damage caused to the Locations by the Concessionaire, its employees, agents, contractors, subcontractors, suppliers, or its Sub-tenants. The liability shall encompass: (i) the Concessionaire's repair of the Locations, or if the Locations cannot be repaired, payment to the Department of the fair market value replacement cost of the Locations; and (ii) any other such damages to the Department or the Airport arising from the physical damage caused by the Concessionaire or its Sub-tenants and its employees, agents, contractors, subcontractors or suppliers. The Department may also initiate an action for specific performance and/or injunctive relief.
- 18.09 FEDERAL SUBORDINATION:** This Agreement shall be subordinate to the provisions of any existing or future agreements between the Department and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. All provisions of this Agreement shall be subordinate to the right of the United States of America to lease or otherwise assume control over the Airport, or any part thereof, during time of war or national emergency for military or naval use and any provisions of this Agreement inconsistent with the provisions of such lease to the United States of America shall be suspended.
- 18.10 NOTICES:** Any notices given under the provisions of this Agreement shall be in writing and shall be hand delivered or sent by facsimile transmission (providing evidence of receipt), nationally recognized overnight courier service, or Registered or Certified Mail,

Return Receipt Requested, to:

To the County: Director
(Mailing Address) Miami-Dade Aviation Department
Post Office Box 025504
Miami, Florida 33102-5504

or (physical address): Miami International Airport
Terminal Building
Director's Office
Concourse E-5th floor
Miami, FL 33122

To the Concessionaire: (Address Here)
with copies to: (Address Here)

or to such other respective addresses as the parties may designate to each other in writing from time to time. Notices by: (i) facsimile shall be deemed tendered on the date indicated on the facsimile confirmation receipt; (ii) nationally recognized overnight courier service shall be deemed tendered on the delivery date indicated on the courier service receipt; and (iii) Registered or Certified Mail shall be deemed tendered on the delivery date indicated on the Return Receipt from the United States Postal Service or on the express mail service receipt.

- 18.11 SEVERABILITY:** If any provision of this Agreement or the application thereof to either party to this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision, and to this end, the provisions of this Agreement shall be severable.
- 18.12 RIGHTS RESERVED TO DEPARTMENT:** All rights not specifically granted the Concessionaire by this Agreement are reserved to the Department.
- 18.13 DEPARTMENT LIEN:** The Department shall have a lien upon all personal property of the Concessionaire in the Locations to secure the payment to the Department of any unpaid monies accruing to the Department under the terms of this Agreement.
- 18.14 AUTHORIZED USES ONLY:** he Concessionaire shall not use or permit the use of the Locations or the Airport for any illegal or unauthorized purpose or for any purpose which would increase the premium rates paid by the Department on or invalidate any insurance policies of the Department or any policies of insurance written on behalf of the Concessionaire under this Agreement.
- 18.15 NO WAIVER:** There shall be no waiver of the right of the Department to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there be any waiver of any breach, default or non-performance hereof by the

Concessionaire unless such waiver is explicitly made in writing by the Department. Any previous waiver or course of dealing shall not affect the right of the Department to demand strict performance of the provisions, terms and covenants of this Agreement with performance hereof by the Concessionaire.

- 18.16 RIGHT TO REGULATE:** Nothing in this Agreement shall be construed to waive or limit the governmental authority of the Department, as a political subdivision of the State of Florida, to regulate the Concessionaire or its services.
- 18.17 INTENT OF AGREEMENT:** This Agreement is for the benefit of the parties only and does not: (a) grant rights to third party beneficiaries or to any other person; or (b) authorize non-parties to the Agreement to maintain an action for personal injuries, professional liability, or property damage pursuant to the terms or provisions of the Agreement.
- 18.18 MODIFICATIONS:** This Agreement may be modified and revised in writing and duly executed by the parties hereto, except as permitted pursuant to **Sub-Article 19.04 "Administrative Modifications"**, **Sub-Article 21.02 "Right to Amend"**, and **Sub-Article 21.04 "Right to Modify"**. Any oral representation or modification concerning this Agreement shall be of no force or effect. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless set forth in writing in accordance with this Agreement.
- 18.19 RADON DISCLOSURE:** In accordance with Section 404.056, Florida Statutes, the following disclosure is hereby made: **"Radon Gas: Radon is a naturally occurring radioactive gas. When accumulated in a building in sufficient quantities, it may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."**
- 18.20 TRADEMARKS AND LICENSES:** The Department may, from time to time, require the Concessionaire as part of its advertising and marketing program to utilize certain patents, copyrights, trademarks, trade names, logos, computer software and other intellectual property owned by the Department in the performance of this Agreement which patents, copyrights, trademarks, trade names, logos, computer software and intellectual property may have been created pursuant to the terms of this Agreement. Such permission, when granted, shall be evidenced by a nonexclusive license executed by the Concessionaire and the Department, on behalf of the Department granting the Concessionaire the right, license and privilege to use a specific patent, copyright, trademark, trade name, logo, computer software or other intellectual property without requiring payment of fees therefore. Failure of the parties to execute a formal license agreement shall not vest title or interest in such patent, copyright, trademark, trade name, logo computer software or intellectual property in the using party.
- 18.21 HEADINGS:** The headings of the various Articles and Sub-Articles of this Agreement, and its Table of Contents are for convenience and ease of reference only, and shall not be

construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

- 18.22 BINDING EFFECT:** The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. This provision shall not constitute a waiver of any conditions prohibiting assignment or subletting.
- 18.23 GOVERNMENTAL DEPARTMENT:** Nothing in this Agreement shall be construed to waive or limit the governmental authority of the County as a political subdivision of the State of Florida.
- 18.24 INDEPENDENT CONTRACTOR:** The Concessionaire shall perform all services described herein as an independent contractor and not as an officer, agent, servant, or employee of the Department. All personnel provided by the Concessionaire in the performance of this Agreement shall be considered to be, at all times, the sole employees of the Concessionaire under its sole discretion, and not employees or agents of the Department: Except as provided in § 2-11.1(s) of the Code, the Concessionaire represents and warrants: (i) it has not employed or retained any company or person other than a bona fide employee working solely for the Concessionaire to solicit or secure this Agreement; and (ii) it has not paid, or agreed to pay any company or other person any fee, commission, gift, or other consideration contingent upon the execution of this Agreement. A breach of this warranty makes this Agreement voidable by the Department without any liability to the Contractor for any reason.
- 18.25 OTHER LIENS:** Concessionaire shall not permit any mortgages, deeds of trust or similar liens to be imposed on the Locations, the leasehold, or the Furniture, Fixtures and Equipment or any portion thereof. Concessionaire or its Sub-Tenants shall not permit or suffer any liens, including mechanics', material men's and tax liens to be imposed upon the Locations, or any part thereof, without promptly discharging the same. Notwithstanding the foregoing, Concessionaire or its Sub-Tenants may in good faith contest any such lien if Concessionaire provides a bond in an amount and form acceptable to Department in order to clear the record of any such liens. Concessionaire further agrees that it shall not sell, convey, mortgage, grant, bargain, encumber, pledge, assign or otherwise transfer its leasehold interest in the Locations or any personal property or trade fixtures in the Locations, including any Furniture, Fixtures and Equipment or any part thereof or permit any of the foregoing to occur. Concessionaire shall assume the defense of and indemnify and hold harmless Department against any and all liens and charges of any and every nature and kind which may at any time be established against said Locations and improvements, or any part thereof, as a consequence of any act or omission of Concessionaire or its Sub-Tenants or as a consequence of the existence of Concessionaire's interest under this Agreement.

ARTICLE 19 - SUB-LEASES

19.01 ASSIGNMENT OF SUB-LEASES BY DEPARTMENT: In the event this Agreement is terminated prior to the completion of the Term or any Extensions if exercised, the Department shall have the following rights and obligations regarding the Sub-tenant Agreements then in effect:

- (a) in case of termination without cause by the Department or if the Concessionaire terminates with cause, the Department shall execute an Assignment Agreement as described below with respect to all Sub-lease agreements then in effect; and
- (b) in cases of termination with cause by the Department or if the Concessionaire terminates without cause, refer to **Sub-Article 12.07 "Termination for Abandonment"**, the Department reserves the right to not execute an Assignment Agreement to assume those Sub-tenant Agreements that fail to satisfy any of the following criteria:
 - (i) Sub-tenant is not currently in non-monetary default, beyond all applicable notice and cure periods;
 - (ii) Sub-tenant has no outstanding uncured material defaults and no material defaults, cured or otherwise, within one (1) year before the proposed date of assignment;
 - (iii) Sub-tenant has not had no more than three (3) accumulated defaults of any kind during the previous twelve (12) months under its Sub-lease agreement;
 - (iv) Sub-tenant is current regarding all payments of any kind for which it is responsible under its Sub-lease agreement; or
 - (v) Sub-tenant has no outstanding claims of default against the Concessionaire in its capacity as landlord under the Sub-lease agreement or has waived any such claims.

In addition to the foregoing, the Department has no obligation to assume any Sub-tenant Agreement which does not (i) conform to the requirements of this Agreement unless each non-conforming provision was explained to the Department and specifically approved prior to execution of the Sub-lease or even if not approved, the non-conforming provisions are not adverse to the Department's interests, as determined in the judgment of the Department, and (ii) the Concessionaire does not execute an Assignment Agreement under which the Concessionaire remains liable for and indemnifies and holds harmless the Department for any claims arising out of the performance of the Sub-lease agreement up to the effective date of the Assignment Agreement.

19.02 DEPARTMENT'S RIGHTS TO APPROVE SUB-LEASES: Concessionaire shall not sub-lease this Agreement or any of the rights and privileges hereunder, or contract for the performance of any of the services to be provided by the Concessionaire hereunder without the Department's prior written approval, which approval may be granted or withheld by Department in the exercise of its sole discretion within fourteen (14) days of receipt of said Sub-lease agreements.

19.03 CONCESSIONAIRE'S SUB-LEASE AGREEMENT REQUIREMENTS: The Concessionaire's Sub-lease agreement(s) must not extend beyond the Term or, if exercised, any Extended Term and must contain comparable terms and conditions, as may be applicable, to those contained herein.

Costs not directly related to a Location of a sub-tenant shall not be imposed upon that sub-tenant except for such costs required by the Department such as the marketing fee and/or common logistics fee.

19.04 SUB-TENANT MINIMUM QUALIFICATIONS REQUIREMENT: The Concessionaire must ensure that each Sub-tenant has a minimum of three (3) years continuous experience within the last ten (10) years in the ownership, management, or operations of a retail location with minimum gross sales of \$250,000 per location per year, per in-line unit, or \$150,000 per year per self contained location (known throughout the industry as retail merchandise units, kiosks, or carts).

ARTICLE 20 - WAIVER OF CLAIMS

20.01 The Concessionaire hereby waives any and all claims it now has or may hereafter have against the County and the Department, and against any member, including, without limitation, all members of the Board of County Commissioners, officers, agents or employees of each, for any loss of anticipated profits caused by any suit or proceeding attacking directly or indirectly the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement or any part thereof, or by judgment or award in any suit or proceeding declaring this Agreement null and void or voidable, or delaying the same or any part thereof from being carried out. The Concessionaire hereby further waives any and all claims for compensation for any and all loss or damage sustained by reason of any delay in making the Locations available to the Concessionaire or by reason of any defects or deficiencies in the Locations or in the terminal building including any defect or deficiency in the Locations or in the terminal building which substantially impedes the Concessionaire's or its Sub-tenants' ability to operate a concession at the Location(s) or because of any interruption in any of the services thereto, including, but not limited to, power, telephone, heating, air conditioning or water supply systems, drainage or sewage systems, and Concessionaire hereby expressly releases the County and Department from any and all demands, claims, actions, and causes of action arising from any of such causes.

ARTICLE 21 - REQUIRED, GENERAL AND MISCELLANEOUS PROVISIONS

21.01 AGREEMENTS WITH STATE OF FLORIDA AND MIAMI-DADE COUNTY: This Agreement shall be subject to all restrictions of record affecting the Airport and the use thereof, all federal, State, County laws, and regulations affecting the same, and shall be subject and subordinate to the provisions of any and all existing agreements between the Department, or the State of Florida, or their boards, agencies or commissions, and to any future agreement between or among the foregoing relative to the operation or maintenance of the Airport, the execution of which may be required as a condition precedent to the

expenditure of federal, State, County funds for the development of the Airport, or any part thereof. All provisions hereof shall be subordinate to the right of the United States to occupy or use the Airport, or any part thereof, during time of war or national emergency.

21.02 RIGHT TO AMEND: In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of its approval or to the obtaining of funds for improvements at the Airport, Concessionaire hereby consents to any and all such modifications and changes as may be reasonably required.

21.03 CONCESSIONAIRE COVENANTS AND ASSURANCES:

A. Covenants Against Discrimination:

1. Concessionaire on behalf of itself, its Sub-tenants, successors in interest and its assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Locations or the Airport; (2) that in the installation of any equipment at the Airport and the furnishing or services in connection therewith, no person on the grounds or race, color or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination; and (3) that Concessionaire shall operate at the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally assisted programs of the Department of Transportation-effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. Likewise, Concessionaire shall comply with laws of the State of Florida, prohibiting discrimination because of race, color, religion, sex, national origin, age, handicap or marital status. Should Concessionaire authorize another person or entity, with Department's prior written consent, to provide services or benefits in or in connection with its rights or obligations under this Agreement, Concessionaire shall obtain from such person or entity a written agreement pursuant to which such person or entity shall, with respect to the services or benefits which it is authorized to provide, undertake for itself the obligations contained in this paragraph. Concessionaire shall furnish the original or a true copy of such agreement to Department.
2. Concessionaire will provide and cause its Sub-tenants to provide all information and reports required by said Code of Federal Regulations, or by directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its locations as may be determined by Department or the Federal Aviation Administration to be pertinent to ascertain whether there has been compliance with said Regulations and directives. Where any information required of Concessionaire is in the exclusive possession of another who fails or refuses to furnish this information, Concessionaire shall so certify to Department

or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

3. In the event of a breach of any of the above nondiscrimination covenants, Department shall have the right to impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate. Such rights shall include the right to terminate this Agreement and to reenter and repossess the Locations and the improvements thereto, and hold the same as if this Agreement had never been made. The rights granted to Department by the foregoing sentence shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.
4. Concessionaire assures Department that no person shall be excluded on the grounds or race, creed, color, national origin or sex from participating in or receiving the services or benefits of any program or activity covered by Title 14, Code of Federal Regulations, Part 152, Subpart E, Federal Aviation Administration, Nondiscrimination in Airport Aid Program, and that it will be bound by and comply with all other applicable provisions of such Subpart E, as it may be amended from time to time. Concessionaire also assures Department that it will require its covered sub-organizations to provide assurances to the same effect and provide copies thereof to the Department.
5. Concessionaire further assures Department that it and its Sub-tenants will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted at or in connection with its operations at the Locations. Concessionaire also assures Department that it will require its contractors and sub-Concessionaires to provide assurances to the same effect and ensure that such assurances are included in contracts and Sub-lease agreements at all tiers which are entered into in connection with Concessionaire's services hereunder.
6. a) This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23, Subpart F. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F.
b) Concessionaire agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements.
7. Department may from time to time be required by the United States Government or one or more of its agencies, to adopt additional or amended provisions including nondiscrimination provisions concerning the use and operation of the

Airport, and Concessionaire agrees that it will adopt such requirements as part of this Agreement.

- 21.04 RIGHT TO MODIFY:** The parties hereto covenant and agree that, during the Term, or extension. If applicable, this Agreement may be unilaterally modified by the Department, upon advice of its legal counsel, in order to conform to judicial or Federal Trade Commission or FAA rulings or opinions. This Sub-Article shall not preclude Concessionaire from contesting said rulings or opinions, but the Concessionaire shall abide by the unilateral change while such a challenge is pending. Except as otherwise specifically provided in this Agreement, this Agreement may not be modified except by a written instrument signed by both parties.
- 21.05 TAX EXEMPT STATUS OF DEPARTMENT REVENUE BONDS:** The Concessionaire agrees to comply promptly with any applicable provisions of any federal tax statute, and all regulations or other binding authority promulgated or decided hereunder, as required to permit the Department's capital expansion projects to be planned and constructed by the Department with revenue bonds the interest on which is generally exempt from federal income taxation, other than any applicable individual or corporate alternative minimum taxes (and other than during any period while such revenue bonds are held by a "substantial user" of the projects financed by such revenue bonds or a "related person" to a "substantial user"), including, without limitation, the execution by the Concessionaire and delivery to the Department of an election not to claim depreciation or any investment credit with respect to any portion of such capital expansion projects or any other portion of the Airport System.
- 21.06 REMEDIES:** All remedies provided in this Agreement shall be deemed cumulative and additional, and not in lieu of or exclusive of each other or of any other remedy available at law or in equity arising hereunder.
- 21.07 WARRANTY OF CONCESSIONAIRE AS TO CONFLICTS OF INTEREST:** The Concessionaire represents and warrants to the Department that, except as may be disclosed in an Addendum hereto, no member, officer, employee or agent of Department has any interest, direct or indirect, in the business of the Concessionaire to be conducted hereunder, and that no such persons shall have any such interest at any time during the Term, the First Extended Term and/or the Second Extended Term, as applicable. .
- 21.08 REGULATIONS OF DEPARTMENT:** The rights and privileges granted to the Concessionaire hereunder and the occupancy and use by the Concessionaire and the Concessionaire's Sub-tenants of the Locations shall at all times be subject to reasonable rules and regulations of Department as the same are now or may hereafter be prescribed through the lawful exercise of its power, including, but not limited to, all applicable provisions of Department's Policy and Procedures Manual as the same may be amended from time to time.
- 21.09 INTEREST:** Any sums payable to the Department by the Concessionaire under any provisions of this Agreement, which may be amended from time to time, which are not

paid when due shall bear interest at the rate of (1 1/2%) per month (or, if less, the maximum rate of interest allowed by law) from the due date thereof until paid.

21.10 MISCELLANEOUS PROVISIONS: The Concessionaire, its Sub-tenants and its agents, contractors, sub-contractors and/or employees shall promptly observe and comply with applicable provisions of all federal, State, and local statutes, ordinances, regulations and rules which govern or apply to the Concessionaire or to its services or operations hereunder.

1. The Concessionaire shall, at its own cost and expense, procure and keep in force during the Term and any Extensions thereto if applicable, all necessary licenses, registrations, certificates, bonds, permits, and other authorizations as are required by law in order for the Concessionaire to provide its services hereunder and shall pay all taxes, (including sales and use taxes), assessments including, without limitation, storm water utility fees and impact fees which may be assessed, levied, exacted or imposed by all governmental authorities having jurisdiction on Concessionaire's property, on its services, on its Gross Revenues, on its income, on this Agreement and the fees payable to the Department hereunder, on the rights and privileges granted to the Concessionaire herein, on the Locations and on any and all equipment installed on the Locations and the Concessionaire shall make and file all applications, reports, and returns required in connection therewith.
2. The Concessionaire agrees to repair promptly, at its sole cost and expense and in a manner acceptable to the Department, any damage caused by the Concessionaire or any of its Sub-tenants, officers, agents, employees, contractors, subcontractors, licensees or invitees to the Airport or any equipment or property located thereon.
3. The Concessionaire is not authorized to act as the Department's agent hereunder and shall have no authority, express or implied, to act for or bind the Department hereunder and nothing contained in this Agreement shall be deemed or construed by the Department or the Concessionaire or by any third party to create the relationship of partnership or of joint venture. No provision of this Agreement shall be deemed to make the Department the joint employer of any employee of the Concessionaire.
4. The Department, through its designated agents, shall have the right during the Concessionaire's normal business hours (and at any time during an emergency) to inspect the Locations and the property of the Concessionaire located thereon, in order to enforce this Agreement, to enforce applicable laws and regulations, and to protect persons and property.
5. The Article and paragraph headings herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision of this Agreement.
6. Time is expressed to be the essence of this Agreement.

7. This Agreement will inure to the benefit of and shall be binding upon the parties hereto and their authorized successors and assigns.
8. If any covenant, condition or provision of this Agreement is held to be invalid by any court of competent jurisdiction, such holding shall not affect the validity of any other covenant, condition or provision contain herein.
9. Except as otherwise provide herein, if certain action may be taken only with the consent or approval of the Department or the County, or if a determination or judgment is to be made by the Department or the County, such consent or approval may be granted or withheld, or such determination or judgment shall be made, in the sole discretion of the Department or the County.
10. The County's Ethics Commission has also adopted rules delineating the responsibilities of lobbyists and County personnel in implementing the requirements of the lobbying section of the Conflict of Interest and Code of Ethics Ordinance. The Concessionaire shall comply with these requirements.

21.11 FORCE MAJEURE: Strictly in relation to the obligations of each party to the other under this Agreement, and not for any other purpose or for any benefit of a third party and each party shall be excused from the timely performance of their respective obligations or undertakings provided in this Agreement, if the performance of such obligations or undertakings is prevented or delayed, retarded or hindered by, (i) strikes, lockouts, boycotts, actions of labor unions, labor disputes, labor disruptions, work stoppages or slowdowns, unless involving employees of the Concessionaire, or (ii) embargo's, general shortages of labor, equipment, locations, materials or supplies in the open market, acts of God, acts of the public enemy, acts of governmental authority, including, without limitation, the FAA, the DOT, the TSA, the EPA, the DOJ, or civil and defense authorities, extreme weather conditions, war (declared or undeclared), invasion, insurrection, terrorism, riots, rebellion or sabotage.

21.12 ENTIRE AGREEMENT: This Agreement, together with the Exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and any prior agreements, representations or statements made with respect to such subject matter, whether oral or written, and any contemporaneous oral agreements, representations or statements with respect to such subject matter, are merged herein; provided, however, that Concessionaire hereby affirms the completeness and accuracy of the information provided by Concessionaire to Department in the Eligibility and Proposal Form, and in all attachments thereto and enclosures therewith, submitted by Concessionaire to Department in connection with the award of this Agreement.

{Remainder of page intentionally left blank}

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials as of the date first above written.

CONCESSIONAIRE

ATTEST:
Secretary _____
(Signature and Seal)

(Type Name & Title)

(Legal Name of Corporation)
By: _____
Concessionaire - Signature
Name: _____

(Type Name & Title)

INDIVIDUAL, PARTNERSHIP OR JOINT VENTURE

Legal Name
By: _____
Signature

(Type Name & Title)

Legal Name
By: _____
Signature

(Type Name & Title)

Name of Managing Joint Venturer:

Attest: _____
Witness: _____

By: _____
Signature of Authorized Representative of
the Joint Venture

Corporate Seal

(ATTACH ADDITIONAL SHEETS FOR EACH JOINT VENTURER, AS NEEDED)

(b) Displays, Fixtures, Signs, and Equipment as applicable purchased for direct use in the Location.

The Concessionaire shall document as per **Sub-Article 4.09 "Cost Documentation"** to the Department's satisfaction that it meets its capital investment goals confirming that these expenditures have actually been paid out. Non-receipted expenditures will not be accepted. The Department may require the Concessionaire to replace worn out outdated displays. If the approved total receipted amount is below the Concessionaire's own proposed minimum capital expenditure, 100% of the difference between these amounts must be paid to the Department at the completion of the installation. The Concessionaire will own and be responsible for all such equipment.

Additionally, the Concessionaire shall reimburse the Department for the implementation of the Bus Shelters program at the Airport upon the Effective Date of this Agreement. The cost of such investment is estimated to be \$480,000. The Department will allow the Concessionaire to deduct such amount as a credit out of any advertising revenues the Concessionaire obtains through the Displays in the Bus Shelters until that amount has been recouped by the Concessionaire, or for a period of five years, whichever occurs earlier. Thereafter, any revenues obtained through the Displays in the Bus Shelter shall be considered Gross Revenues as defined in this Agreement.

3.06 ANNUAL RENTAL: The Concessionaire shall be required to pay rent as of the date of Beneficial Occupancy at the prevailing Class VI Terminal rates for the lease of the Support Space and any administrative space identified in Exhibit A-2, prorated and payable in equal monthly installments in U.S. funds, on the first day of each and every month, in advance and without billing or demand, at the offices of the Department as set forth in **Article 3.17, "Address for Payments"**.

The Terminal Class VI rental rate is currently at \$61.90 per square foot and is based on rates in effect as of October 1, 2006, adjusted annual for CPI.

3.07 ASSIGNABLE CONTRACTS: In order to provide continuity to the Advertising Display Program, any and all advertising sales contracts that are in effect with the prior advertising concessionaire at MIA as of the Effective Date of this Agreement shall be assumed by the Concessionaire as part of this Agreement.

3.08 ANNUAL RENTAL RATE ADJUSTMENT: On October 1 of each year of the Agreement, the cost-based rental rates, pursuant to **Article 3.06, "Annual Rental"**, applicable to the Locations rented hereunder, shall be subject to recalculation and adjustment in accordance with the policies and formulae approved by the Board of County Commissioners, as may be amended from time to time. When such adjusted rental rates are established, this Agreement shall be considered and deemed to have been administratively amended to incorporate such adjusted rental rates, effective as of such October 1 date. Such adjusted rental rates shall be reflected by letter amendment. Payments for any retroactive rental adjustments shall be due upon billing by the Department and payable within ten calendar days of same.

3.09 COMMON WAREHOUSE LOGISTICS FEE: The actual costs incurred to rent any such off-Airport properties for storage and the actual costs incurred in the operation of the common logistical support service program (including the purchase or renting of any equipment needed to operate such program), as may be determined by the Concessionaire from time to time, shall be included in the Common Logistics Fee. The Common Logistics Fee shall be reimbursed to the Concessionaire by its Sub-tenants on a non-discriminatory basis for all similarly situated Sub-tenants. The Concessionaire shall not be entitled to charge Sub-tenants for any of the Concessionaire's internal administrative expenses in managing the common logistical support service program as part of the Common Logistics Fee. All funds received by Concessionaire as part of the Common Logistics Fee shall not be included in Concessionaire's Gross Revenues for any and all purposes of this Agreement, it being recognized by the Department that any such payments by Sub-tenants to the Concessionaire shall not be included in the calculation of the Percentage Fee, if any, due from Concessionaire to the Department as provided for in **Sub-Article 3.04 "Percentage Fee to the Department"**. The Department reserves the right to review the basis of the actual costs and allocation thereof should the Concessionaire elect to implement a common logistics support service program. The Department also reserves the right to either itself impose or require that the Concessionaire impose the Common Logistics Fee in a non-discriminatory manner within store categories.

3.10 NOT USED.

3.11 PERFORMANCE BOND FOR MAG RENT REQUIREMENTS: Within thirty (30) calendar days from the date of execution of the Agreement, the Concessionaire shall provide the Department a Performance Bond to guarantee payment of MAG and annual rent, if any, of Administrative office or support space. Concessionaire shall keep such Performance Bond in full force and effect during the Term and any Extension of this Agreement, as applicable, and thereafter, until all financial obligations, reports or other requirements of this Agreement are satisfied. The Performance Bond shall be a surety bond. In the alternative, an irrevocable letter of credit, or other form of security acceptable to the Department may be furnished. Any such form of security instrument shall be endorsed as to be readily negotiable by the Department for the payments required hereunder. The Performance Bond shall be effective for the current year of operation with automatic renewal for each of the remaining years under this Agreement, including any extensions naming the County as obligee and issued by a surety company or companies in such form as approved by the County Attorney. The Surety shall initially be in an amount equal to seventy-five percent (75%) of the MAG as provided for in Sub-Article 3.01, and any annual rent due as provided for in **Sub-Article 3.06, Annual Rental**, which is equal to \$ _____, and thereafter increased as necessary to reflect any increases in the MAG.

The Department may draw upon such payment security instrument, if the Concessionaire fails to pay any monies or perform any obligations required hereunder following applicable notice and cure periods specified herein. Provided Concessionaire is not in default and

fully complies with all the payment requirements of this Agreement, the bond will be returned to Concessionaire within one hundred eighty (180) calendar days after the end of the Term or any Extension of the Term.

- 3.12 TAXES:** The Concessionaire shall be solely responsible for the payment of all applicable sales, use or other taxes, levied upon the fees and other charges payable by the Concessionaire to the Department hereunder, whether or not the same shall have been billed or collected by the Department, together with any and all interest and penalties levied thereon. The Concessionaire hereby agrees to indemnify the Department and hold it harmless from and against all claims by any taxing authority that the amounts, if any, collected from the Concessionaire and remitted to the taxing authority by the Department, or the amounts, if any, paid directly by the Concessionaire to such taxing authority, were less than the total amount of taxes due, and for any sums including interests and penalties payable by the Department as a result thereof. The provisions of this paragraph shall survive the expiration or earlier termination of this Agreement.
- 3.13 REPORTS OF GROSS REVENUES:** On or before the fifteen (15th) calendar day following the end of each month throughout the Term of this Agreement, or any extension hereof, the Concessionaire shall furnish to the Department, a Statement of Monthly Gross Revenues, using Exhibit H "Monthly Report of Gross Revenues". The report shall report each Location under this Agreement, together with any percentage fee due to the Department pursuant to **Sub-Article 3.04 "Percentage Fee to the Department"**. The Concessionaire shall certify as to the accuracy of such Gross Revenues in such form as shall be prescribed by the Department. The Department may modify from time to time, the form of reporting upon not less than thirty (30) days written notice to the Concessionaire. The statement must be signed by an officer (if the Concessionaire is a corporation), partner (if a partnership), or owner (if a sole proprietorship) of the Concessionaire, and identify all Gross Revenues reported to the Concessionaire during such month. Failure to comply within fifteen (15) calendar days following the due date of the report shall result in a late fee penalty of \$50 per day, as provided in **Sub-Article 3.24 "Penalties"**.
- 3.14 OTHER REPORTS:** The Concessionaire shall provide a separate Bus Shelter Advertising Revenues Report during the time the Concessionaire is recouping its Capital Investment for the Bus Shelters as further detailed in sub-Article 3.05 "**Capital Investment**" above, but that that period shall not exceed five years from the Effective Date of this Agreement. The Concessionaire shall submit to the Department a monthly report with a schedule of all advertising contracts, which shall include each Location, advertiser, beginning and expiration date of each contract, and if different, the actual post start date and post end date. The Concessionaire shall not enter into any advertising contract with a term that extends beyond the termination date of this Agreement, without the prior written approval of the Department. The Department may request other reports within reason, and the Concessionaire shall supply such reports, reflecting financial data and operating statistics of the Concessionaires operation in a format and frequency specified by the Department.

The Concessionaire shall provide the Department with financial data and operating statistics in a format and frequency specified by the Department, and the Department shall provide no less than thirty (30) days written notice of the format and frequency required for said financial data and operating statistics.

- 3.15 LATE PAYMENT:** In the event the Concessionaire fails to make any payments as required to be paid under the provisions of this Agreement within ten (10) business days of the due date, delinquency charges established by the Board will be imposed. Such rate is 1½% delinquency charge per month.
- 3.16 DISHONORED CHECK OR DRAFT:** In the event the Concessionaire delivers a dishonored check or draft to the Department in payment of any obligation arising under this Agreement, the Concessionaire shall incur and pay a service fee of TWENTY-FIVE DOLLARS (\$25.00), if the face value of the dishonored check or draft is fifty dollars (\$50.00) or less, THIRTY DOLLARS (\$30.00) if the face value of the dishonored check or draft is more than fifty dollars (\$50.00) and less than three hundred dollars (\$300.00), or FORTY DOLLARS (\$40.00), if the face value of the dishonored check is three hundred dollars (\$300.00) or more, or five percent (5%) of the face value of such dishonored check or draft, whichever is greater, plus penalties imposed by law (Fla. Stat. 832.08 and Fla. Stat. 125.0105). Further, in such event, the Department may require that future payments required pursuant to this Agreement be made by cashier's checks or other means acceptable to the Department.
- 3.17 ADDRESS FOR PAYMENTS:** The Concessionaire shall pay all monies payable, as required by this Agreement, to the following:

In Person: Miami-Dade Aviation Department
Finance Division
4200 N.W. 36th Street
Building 5A, Suite 300

During normal business hours, 8:30 A.M. to 5:00 P.M., Monday through Friday

By Mail: Miami-Dade Aviation Department
Finance Division
P.O. Box 526624
Miami, Florida 33152-6624

By Express Mail: Miami-Dade Aviation Department
Finance Division
4200 N.W. 36th Street
Building 5A, Suite 300
Miami, Florida 33122

By Wire Transfer: In accordance with Wire Transfer instructions provided by MDAD's Finance Division, 305-876-7383.

- 3.18 REVENUE CONTROL PROCEDURES:** Notwithstanding anything to the contrary contained herein, the Concessionaire shall comply with such revenue control procedures as may be established from time to time by the Department. The Department shall provide the Concessionaire with at least thirty (30) days prior written notice together with a copy of such revenue control procedures prior to requiring the Concessionaire to implement any such revenue control procedures.
- 3.19 ANNUAL AUDIT:** Within ninety (90) calendar days of each anniversary of the Concession Effective Date of this Agreement and within ninety (90) calendar days following expiration or earlier termination of this Agreement, the Concessionaire shall, at its sole cost and expense, provide to the Department on an annual basis, an audited report of monthly Gross Revenues and percentage fees separately stating its and each Sub-tenants Gross Revenues, containing an opinion, prepared and attested to by an independent certified public accounting firm, licensed in the State of Florida. The audited report, as detailed in Exhibit G "Independent Auditor Report", shall include a schedule of monthly Gross Revenues and percentage fees paid to the Department under this Agreement, prepared in accordance with Generally Accepted Auditing Standards. The report shall also be accompanied by a management letter containing the findings discovered during the course of the examination, recommendations to improve accounting procedures, revenue and internal controls, as well as significant matters under this Agreement. In addition, the audit shall also include as a separate report, a comprehensive compliance review of procedures to determine whether the books of accounts, records and reports were kept in accordance with the terms of this Agreement for the period of examination. Each audit and examination shall cover the period of this Agreement. The last such report shall include the last day of operation. There shall be no changes in the scope of the reports and letters required hereunder without the specific prior written approval of the Department.
- 3.20 RIGHT TO AUDIT/INSPECT:** The Department and the auditors of the County shall have the right, without limitation, at any time during normal working hours, to enter into any locations on or off the Airport, which the Concessionaire may use as administrative, maintenance and operational locations, in connection with its operations pursuant to this Agreement, to: (1) verify, check and record data used in connection with operation of this Agreement; (2) inspect, review, verify and check all or any portion(s) of the procedures of the Concessionaire for recording or compiling Gross Revenues information and (3) audit, check, inspect and review all books of account, records, financial reports, financial statements, operating statements inventory records, and state sales tax returns, and work papers relating to operation of this Agreement, and other pertinent information as may be determined to be needed or desirable by the Department. Prior to entering any Locations located on the Airport, the Department shall give reasonable advance notice to the Concessionaire

The Department shall further have the right, upon reasonable written notice to the Concessionaire at the sole cost of the Department except as specified below, to examine or designate a representative to examine the books and records of the Concessionaire which relate to its operations on the Locations to determine the correctness of the percentage fees

paid by the Concessionaire to the Department for any or all of the Agreement periods immediately preceding such examination. At least ten (10) days prior written notice shall be provided by the Department to the Concessionaire to examine any such books and records which may be located in offices of the Concessionaire, which are not located in the Airport. If, as a result of such examination, it is established that the percentage fees for any period examined have been underpaid to the Department, the Concessionaire shall forthwith, upon written demand from the Department, pay the difference to the Department, together with interest thereon at the rate set forth in **Sub-Article 3.15 "Late Payment"** from the date such amount or amounts should have been paid.

Further, if such examination establishes that Concessionaire has underpaid percentage fees for any period examined by three percent (3%) or more, then the entire expense of such examination shall be borne by Concessionaire.

In the event of any conflict between any provisions of this Agreement and generally accepted accounting principles or generally accepted auditing standards, the provisions of this Agreement shall control even where this Agreement references such principles or standards. In particular, without limitation, the Concessionaire shall maintain all records required under this Agreement to the full extent required hereunder, even if some or all of such records would not be required under such general principals or standards.

In addition to the foregoing, the Department reserves the right to review any and all fees imposed by the Concessionaire to each Sub-Tenant and the basis of such fee and allocation to each Sub-Tenant.

3.21 RECORDS AND REPORTS: The Concessionaire shall, at all times during the term hereof and in accordance with applicable law, maintain at the Concessionaire's principal corporate office located in the United States and make available to the Department in Miami-Dade County, Florida, complete and accurate books and records of all receipts and disbursements from its operations on the Locations, in a form consistent with good accounting practice. In addition, Concessionaire shall cause to be installed for use at all times in each Location such devices and forms as are reasonably necessary to record properly, accurately and completely all Sub-tenant's advertising sales and services from each Location. The form of all such books of account records and reports shall be subject to the approval of the Department and/or the auditors of the County (one or more of the following: the designated external auditing firm or other certified public accounting firm selected by the Department, or the Audit and Management Services Department of the County) prior to commencement of operations hereunder.

The Concessionaire shall account or shall cause its Sub-Tenants to account for all revenues of any nature related to transactions in connection with this Agreement in a manner which segregates in detail those transactions from other transactions of the Concessionaire (and of the Sub-Tenants, as the case may be) and which supports the amounts reported to the Department in the Concessionaire's monthly schedules. At a minimum, the Concessionaire's accounting for such receipts shall include the following:

1. Concessionaire's bank account statements (separate bank accounts shall be maintained for receipts from Sub-Tenants' payments to the Concessionaire and no receipts from any other source shall be deposited in such accounts);
2. A compiled report of transactions by Location showing all Gross Revenues and all exclusions from Gross Revenues by category, which report shall be subtotaled by day and totaled by month. The monthly total shall correspond with the amounts reported to the Department on the Concessionaire's monthly "Revenue Reports"; and
3. Such other records, if any, which would normally be examined by an independent certified public accountant in performing an examination of the Concessionaire's Gross Revenues in accordance with generally accepted auditing standards and the provisions of this Agreement.

Such records may be in the form of (a) electronic media compatible with the computers available to the Department, or (b) a computer run hard copy. The Department may require other records necessary in its determination to enable the accurate audit of Concessionaire's Gross Revenues hereunder. Upon ten (10) business days written notice from the Department, all such books and records, including the general ledger and bank statements and all federal, state and local tax returns relating to Sub-Tenant's sales, shall be made available, either at the Locations, or at the Department's option, at the offices of the Department, for inspection by Department through its duly authorized representatives at any time for up to three (3) years subsequent to final termination of the period to be examined to which such books and records relate (and the Concessionaire shall not be obligated to retain such books and records subsequent to the termination of such three (3) year period); provided, however, that any such inspection on the Locations will be conducted during reasonable business hours and in such a manner and at such time as not to interfere unduly with the conduct of the Concessionaire's business.

3.22 ADDITIONAL FEES DUE: If the Department has paid any sum or has incurred any obligation or expense for which the Concessionaire agreed to pay or reimburse the Department, or if the Department is required or elects to pay any sum or incur any obligation or expense because of the failure, neglect or refusal of the Concessionaire to perform or fulfill any of the terms or conditions of this Agreement, then the same shall be deemed additional fees due and subject to an administrative fee of twenty-five percent (25%) of such payment, obligation, or expense.

3.23 UTILITIES: The cost of all utilities used or consumed on the Locations shall be borne by the Concessionaire; provided, however, except with respect to the Concessionaire's Office at the Airport. Unless the Locations are provided with separate electric, gas, and/or water meters, the Concessionaire agrees to pay for such utilities in the Locations as a monthly charge, plus any applicable taxes, upon billing by the Department, or utility companies. The Department encourages the Concessionaire to provide and install or cause the Sub-Tenants to provide and install meters for utilities used at the Concessionaire's or its Sub-Tenant's expense. If billed by the Department, the Department at its sole discretion, will base this monthly charge on (i) a survey of consumption by the Department and current

non-discriminatory rates charged others in the Terminal Building or (ii) at the option and expense of the Concessionaire on actual usage measured by temporary meters, arranged and paid for by the Concessionaire. This monthly charge may also be adjusted on a non-discriminatory basis and billed retroactively from time to time based on changes in consumption and rates. Concessionaire hereby agrees to pay the same within thirty (30) calendar days after it has received Department's invoice thereof. The Concessionaire shall pay for all other utilities used by it including telephones and telephone service hook-up, data lines and additional electrical and communications services required.

The Department shall have no obligation to provide additional utilities to the locations listed in **Sub-Article 1.03 "Locations"** and **Sub-Article 1.04 "Administrative Office and Support Space"**.

3.24 PENALTIES: If Concessionaire or its Sub-Tenants default under any of the covenants or terms and conditions enumerated herein, the Department may elect to impose the financial penalties described below, as a result of the violation(s), on a daily basis, in addition to any other penalties permissible by law and/or pursuant to the provisions of this Agreement, until said violations are remedied:

| <u>Violation</u> | <u>Fee</u> |
|---|----------------------------|
| Violation of Permitted Use of a Location | \$100 per day/per Location |
| Failure to Submit Required Documents and Reports | \$ 50 per day/per Location |
| Unauthorized Advertising | \$ 50 per day/per Location |
| Failure to maintain Locations clean and functioning | \$ 50 per day/per Location |
| Installation of Unapproved advertising in Locations | \$ 50 per day/per Location |
| Violation of other terms and conditions | \$75 per day/per Location |
| Failure to complete installation of the location as established in the Agreement | \$100 per day/per Location |

3.25 PAYMENT SECURITY: The Concessionaire shall provide the County with an irrevocable standby letter of credit in the format approved by the Department or cash for the payments required by this Sub-Article in an amount equal to twenty-five percent (25%) of the MAG amount provided in Sub-Article 3.01, and any annual rent due for Annual Rent provided for in Sub-Article 3.06, which is equal to \$_____. Thereafter, the amount shall be adjusted as necessary to reflect any increases in the MAG and annual rent. This requirement shall be met no later than thirty (30) days after the Date of Execution of the Agreement. The payment security shall be kept in full force throughout the Term and any Extension of this Agreement or extension thereof.

The Department may draw upon such payment security instrument if the Concessionaire fails to make payments secured by this Sub-Article. Upon notice of any such draw, Concessionaire shall immediately replace the payment security with a new payment security in the full amount of the payment security required hereunder. A failure to renew the payment security, or increase the amount of the payment security, if required pursuant hereto, shall (i) entitle the Department to draw down the full amount of such payment

174

security, and (ii) be a default of this Agreement entitling Department to all available remedies.

ARTICLE 4 – IMPROVEMENTS TO THE LOCATIONS

4.01 IMPROVEMENTS TO LOCATIONS: The Concessionaire shall be required to invest a minimum pursuant to **Sub-Article 3.05 “Capital Investment”**, for Approved Improvements for the design, engineering, construction, furniture, fixtures and equipment excluding interior signage and inventory for each Location listed in Exhibit A and any additional location taken by the Concessionaire pursuant to **Sub-Article 1.07(A) “Addition of Location”**. Notwithstanding the actual amount of design and engineering costs incurred with respect to improvements for a Location, the maximum proportion of such soft costs to be permitted to include as Approved Improvements shall be fifteen percent (15%). If a Location is not completed within the one hundred twenty (120) calendar days from the Turnover Date for such Location, a penalty may be imposed, pursuant to **Sub-Article 3.24 “Penalties”**, in addition to the commencement of the MAG. All improvements shall be subject to review and approval by the Department.

It is the intent of the parties that Approved Improvements may include but are not limited to the décor, remodeling of the wall and floor coverings, ceiling, lighting, millwork, HVAC, fire detection and fire suppression or such other improvements as are approved by the Department. Such improvements shall be shown in the design detail in the Final Plans; as such term is defined in **Sub-Article 4.02 “Design of Improvements”**.

Improvements not constituting Approved Improvements shall include improvements that (i) are non-fixed, (ii) have not been reimbursed by the Department pursuant to **Sub-Article 4.09 “Cost Documentation”**, and (iii) can be removed without damage to the premises. The Concessionaire is liable and shall indemnify the Department for any damage to the Locations which results from the removal of said improvements. This provision shall survive the termination or expiration of this Agreement.

Off-Airport properties used as storage space will not be considered as Locations, as stated in **Article 4 “Improvements to the Locations”** or as an extension of this Agreement, and costs incurred by either the Concessionaire or its Sub-tenants to provide such storage space shall not constitute Approved Improvements.

Within thirty days after the Turn Over, the Concessionaire shall provide or cause its Sub-Tenants to provide to the Department an irrevocable Letter(s) of Credit with automatic renewals, in a form acceptable to the Department, in an amount equal to one hundred percent (100%) of the projected improvement costs for the annual anticipated locations to be constructed. The Department upon issuance of a Certificate of Occupancy for the built-out Locations may release such letter of credit.

4.02 DESIGN OF IMPROVEMENTS: Planning and design must be in accordance with Exhibit O “Retail Concessions Design Guidelines”, Exhibit M “Tenant Airport Construction Non-Reimbursable Projects (TAC-N) Design and Construction Procedures”

or "Tenant Airport Construction Reimbursable Projects (TAC-R) Design and Construction Procedures", as applicable, the "MDAD Life Safety Master Plan" and the "MDAD Design Guidelines Manual" (www.miami-airport.com) as may be established for the Terminal Retail Program. As plans for the improvement of individual Locations or common area improvements are completed, the Concessionaire shall submit to the Department for review, approval or modification detailed final plans ("Final Plans") and specifications (including materials, colors, textures and fixtures), construction cost estimates and schedules for the construction of the improvements. The Final Plans shall be prepared by an architectural interior design and/or engineering firm registered in the State of Florida and in accordance with the Florida Building Code and all applicable State and local laws, ordinances, and regulations.

4.03 REPLACEMENT OF DISPLAYS BY CONCESSIONAIRE: The Department may require the Concessionaire to replace worn out or outdated displays at the end of the fifth year period. If the Department does require a replacement of displays as a condition, then the Concessionaire will submit a plan for its replacement of displays to the Department no later than ninety (90) days from the date of Department's notice exercising the option, and complete the replacement work within 30 days thereafter.

If the option period of this agreement is so extended, the Concessionaire will confirm its compliance with this Section by providing the Department, no later than ninety (90) calendar days after installation are completed, with a schedule of expenditures on Capital Investment actually paid for as part of the Replacement, along with copies of paid invoices or similar documents acceptable to the Department evidencing the amount Concessionaire has spent on the Capital Investment and a signed statement by Concessionaire certifying the schedule is true and correct and all amounts listed were actually paid by Concessionaire. The amount of such expenditures on the Capital Investment which are satisfactorily evidenced to the Department, shall be the "Replacement Cost"

If the amount of the Replacement Cost satisfactorily evidenced to the Department totals is less than the minimum required capital investment in the replacement, the Concessionaire will pay the Department ___% of the difference between the required investment and the amount actually expended and satisfactorily evidenced to the Department.

The replacement of each individual Location must be completed no later than 30 days after commencement of work on that Location, such that no individual Location is closed to revenue-producing advertising by reason of replacement for more than 30 days. If three or more Advertising Locations are closed to advertising for a period of more than 30 days by reason of any delay in completing replacement, the Concessionaire will pay liquidated damages in accordance with Section 3.24 "Liquidated Damages/Penalties".

4.04 PAYMENT FOR IMPROVEMENTS: In no event shall any work related to improvements constructed by, on behalf of the Concessionaire, or the Department's approval thereof, give rise to any lien on the Department's interest in the Locations or any obligation or liability on the part of the Department. The Concessionaire shall pay the entire cost of all improvements so that both the Department and Concessionaire's interests

in the Locations shall always be free of liens for labor or materials. If any lien or notice of contract relating to improvements constructed by, on behalf of, or under the Concessionaire is filed against the Locations, then Concessionaire shall discharge the same by payment or by filing any necessary bond within ten (10) days after Concessionaire has notice from any source of such lien.

- 4.05 CERTAIN CONSTRUCTION CONTRACT TERMS:** All contracts entered into by the Concessionaire and/or its Sub-Tenants for the construction of the Improvements shall require completion of the improvements within the schedules submitted pursuant to **Sub-Article 4.02 "Design of Improvements"** and shall contain reasonable and lawful provisions for the payment of actual or liquidated damages to the Department in the event the contractor fails to complete the construction on time. The Concessionaire agrees that it will use its best efforts and shall also require the Sub-Tenants to take all necessary action available under such construction contracts to enforce the timely completion of the work covered thereby.

Prior to the commencement of any installation work by the Concessionaire, the Concessionaire shall provide or cause to be provided to the Department copies of a fixed price contract or contracts for all work to be performed at the Locations. The work to be performed under such contract(s) shall be insured by a Exhibit B, "Surety Performance and Payment Bond" provided by Concessionaire to the Department in the form contained in Exhibit B "Surety Performance and Payment Bond" in the Concession Agreement. The Surety Performance and Payment bond shall be in full force throughout the term of the installation contract.

- 4.06 IMPROVEMENTS FREE AND CLEAR:** The improvements, upon completion, shall immediately become the property of the Department, free and clear of any liens or encumbrances whatsoever, other than the Department's obligation to reimburse the Concessionaire for the un-amortized value of the Approved Improvements as provided in this Agreement. The Concessionaire agrees that any contract for construction, alteration or repairing of the improvements or Locations or for the purchase of material to be used, or for work and labor to be performed, shall be in writing and shall contain provisions to protect the Department (and the Concessionaire for contracts entered into by Sub-tenants) from the claims of any laborers, subcontractors or material men against the locations or improvements.

- 4.07 OTHER REQUIREMENTS:** The Concessionaire shall or shall cause the Sub-Tenants to apply for and obtain a building permit from the Department for all appropriate inspections and a Certificate of Occupancy upon completion. Within sixty (60) calendar days following the completion of construction of the improvements, the Concessionaire shall furnish or shall cause the Sub-tenants to furnish to the Concessionaire and the Department one complete set each of legible prints (black line), photo mylars and 35 mm aperture card microfilm of construction drawings, and auto cad files revised to "as built", including all pertinent shop and working drawings, copies of all releases of all claims and a copy of the Certificate of Occupancy provided the Concessionaire does not disseminate such information, refer to Transportation Security Regulations (TSR), 49 C.F.R. 1520, et al.,

Protection of Sensitive Security Information.

No Facility will be allowed to open without obtaining a Temporary Certificate of Occupancy or a Certificate of Occupancy.

Any change in the Location, concept or tenant proposed in response to the Request for Proposals must be approved in writing by the Department. The sub-tenant occupying the Location submitted in response to the Request for Proposal shall be given notice of the proposed change in writing with a copy to the Department and an opportunity to respond in writing to the Department and have an opportunity to be heard by the Department.

4.08 REVIEW OF CONSTRUCTION: The Department shall have the right, but not obligation, to periodically observe the construction to ensure conformity with the Final Plans and any changes thereof requested by the Concessionaire or the Sub-Tenant and approved by the Department.

4.09 COST DOCUMENTATION: Within one hundred eighty (180) calendar days from the date of Beneficial Occupancy, specifically including those improvements described in **Sub-Articles 4.01 "Improvements to Locations"**, the Concessionaire shall submit to the Department a certified audit of the monies actually expended in the design and construction of the Approved Improvements by Location in accordance with the Final Plans, prepared by an independent certified public accounting firm ("Auditor"), approved in advance by the Department (the "Certified Audit"). The Concessionaire or the Sub-tenants, as the case may be, shall be responsible for documenting for the Auditor that the monies that were expended are true and correct. The costs of design and construction, in accordance with the Final Plans and any changes thereto requested by the Concessionaire or the Sub-tenants and approved by the Department, including the costs of required bonds, construction insurance and the construction audit, shall not include the cost of any other consultant or accountant fees, financing or legal fees and personal property of the Concessionaire or the Sub-tenants, as the case may be, as provided in **Sub-Article 4.01 "Improvements to Locations"**. The audit is to be given to the Department's Finance Manager. No non-receipted expenditures will be credited. Concessionaires not submitting certified audits within the allotted time may be billed a penalty of \$50.00 per day. Upon reconciliation, any difference due the Department shall also include an administrative fee of ten per cent (10%) of the monies due the Department on the build-out of the Locations. In the event of any disputes between the Department and the Concessionaire as to whether certain costs are to be included in the audit, said dispute shall be submitted to the consulting engineer named pursuant to the Trust Agreement, as defined in **Sub-Article 17.01 "Incorporation of Trust Agreement by Reference"**. The decision of said consulting engineer, acting in good faith, shall be final and binding upon the parties hereto.

The Department shall notify the Concessionaire in writing that it has approved or disapproved the certified costs for each Location and the common area improvements detailed in the Certified Audit within sixty (60) days from the date of its receipt of the Certified Audit. If the Concessionaire fails to submit the Certified Audit within the time prescribed above for any Location, then a penalty will be assessed as noted in Sub-Article

3.24 "Penalties". The Approved Improvement cost for purposes of calculating the County's obligation to reimburse the Concessionaire for un-amortized improvement costs for such Location pursuant to **Sub-Article 4.10 "Amortization Schedule"** shall equal the lesser of \$150 per square foot or the square footage rate of improvement costs for such Location certified by the Auditor.

If the approved total receipted amount is below the Concessionaire or its Sub-tenant's Capital Investment and is depicted as such in the results of the Certified Audit, the Concessionaire shall be required to pay to the Department the difference between the expended amount and the Capital Investment, within one hundred eighty (180) calendar days from the date of Beneficial Occupancy of the corresponding Location.

The Concessionaire shall be entitled to obtain reimbursement of such payments made to the Department from the applicable Sub-tenants who fail to spend the Capital Investment for their specific Locations.

4.10 AMORTIZATION SCHEDULE: The Concessionaire shall amortize its capital investment for a period not to exceed twenty four (24) months from the Effective Date of the Agreement, using the straight-line depreciation method. If, at any time during the term of the Agreement, excluding any extension, the Department requires the deletion and/or modification of any Location, the Department may designate new Locations at its sole discretion and reimburse the Concessionaire the unamortized balance of Approved Improvements for that Location.

Investment subject to such reimbursement shall include the following items only:

1. Directly contracted costs of construction.
2. Stores display more than \$500 per display, furniture, fixture, equipment and signage purchased and installed for direct use in the facility.
3. Design and engineering costs not to exceed fifteen percent (15%) of the total approved construction, installation, store displays, furniture, fixture, equipment and signage cost.

There will be no other reimbursement.

A certified audit of monies for the above expenditures performed at the expense of the Concessionaire will be required to confirm the Capital Investment within one hundred twenty (120) calendar days of Beneficial Occupancy for each Location. No non-receipted expenditures will be credited. If the approved total receipted amount is below the approved capital investment minimum, the Concessionaire will be required to pay the Department the difference between the Capital Investment amount and the actual receipted expenditure within ninety (90) calendar days after billing by the Department.

Concessionaires not submitting a certified audit within the allotted time may be billed a penalty of \$50.00 per day. Upon reconciliation, any difference due the Department shall also include an administrative fee of 25% of the monies due the Department on the build-out of the Locations.

Prior to the commencement of any construction installation or work by the Concessionaire, the Concessionaire shall provide or cause to be provided to the Department copies of a fixed price contract or contracts for all work to be performed at the Locations. The work to be performed under such contract(s) shall be insured by a Performance and Payment Bond provided by Concessionaire to the Department in the form contained in Exhibit B "Surety Performance and Payment Bond" in the Agreement. The Surety Performance and Payment Bond shall be in full force throughout the term of the installation.

- 4.11 CONSTRUCTION PERMIT FEE:** The Concessionaire shall pay a permit fee to the Department for improvements which would customarily be paid to the County's Building Department as a condition to issuance of a permit. The permit fee payable by the Concessionaire to the Department is an amount equal to one per cent (1%) of the construction cost of the improvements. Such fee shall be used to reimburse the Department its costs of maintaining on-site Building Department staff to review Concessionaire's and Sub-tenant's plans/specifications. Such fee shall be non-refundable. The Concessionaire shall be entitled to require the Sub-tenants to pay their proportionate share for the budgeted construction hard costs for the improvements to be made by the Sub-tenants in each Location.
- 4.12 CONSTRUCTION SERVICES:** The Concessionaire shall provide at a minimum, but not limited to, the following design and construction services:

1) Concessionaire Improvements

Pursuant to the terms of this Agreement, the Concessionaire shall construct certain improvements. The Department shall provide the Concessionaire with the scope of such improvements and within a reasonable time period to be mutually agreed to by the Concessionaire and the Department, the Concessionaire shall provide the Department with a preliminary estimate of hard and soft costs for such improvements. Once the Department and the Concessionaire have mutually agreed on the scope of the improvements and the preliminary estimates, the Concessionaire shall proceed to design and construct the improvements in accordance with the provisions of this Agreement.

2) Design and Construction Coordination

a. Concessionaire shall:

1. Be responsible for construction management and coordination of all improvements to the Locations and administrative support space including those of Sub-Tenants.

2. Coordinate meetings with Sub-Tenants and Sub-Tenant's architects, if applicable, MDAD's architects, consultants and others, to review procedures, scheduling site surveys and develop build-out schedules.
3. Coordinate the processing and review of improvement submittals. Design and construction shall be in accordance with the MDAD Design Guidelines Manual, Life Safety Master Plan, MDAD Retail Concessions Design Guidelines, Florida Building Code and the TAC-N Procedures, as well as all other applicable codes and regulations.
4. Provide Sub-Tenants, if applicable, with required information such as, but not limited to, Leasehold Outline or As-Built drawings provided by the Department's Technical Support Division.
5. Provide and coordinate access to Location as necessary.
6. Purchase materials and services, and coordinate the fabrication and installation of the concessionaire development requirement, whereby such elements are the designated responsibility of the Concessionaire, if so implemented.

3) Construction

Concessionaire shall:

1. Attend or cause Sub-Tenants to attend pre-construction meetings, construction meetings, coordinate construction with Sub-Tenants if applicable, monitor schedule, and coordinate locations development with the Department as required, pursuant to the TAC-N procedures.
2. Adhere to and or cause Sub-Tenants to adhere to MDAD's TAC-N Design and Construction procedures and requirements.
3. Ascertain that MDAD's TAC-N or TAC-R Design and Construction procedures and requirements, as applicable, are adhered to by all.
4. Monitor and coordinate the construction start, project timetable schedule and completion date for all Locations, including those of any Sub-Tenants.
5. Monitor and report to the Department on on-site activities and progress for improvement work. The Architect/Engineer of record is responsible for day-to-day field observation of all shell and core Locations including, but not limited to, inspections, delivery, coordination and reporting.
6. Monitor construction progress with regard to the schedule and procedures established and make recommendations to the Department for maintaining and improving construction progress as necessary.
7. Establish a uniform system for the timely processing and control of drawings.
8. Review status of drawings with contractor(s) and architect(s) at progress meetings.
9. Review and advise the Department on all changes to the work with regard to cost and impact on the project pro-forma and construction schedule.

**BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA**

By: _____
County Mayor

Approved for Form
and Legal Sufficiency

Attest: Harvey Ruvim, Clerk

Assistant County Attorney

By: _____
Deputy Clerk

Resolution No.: _____

Date: _____

2/8

EXHIBIT A
ADVERTISING LOCATIONS

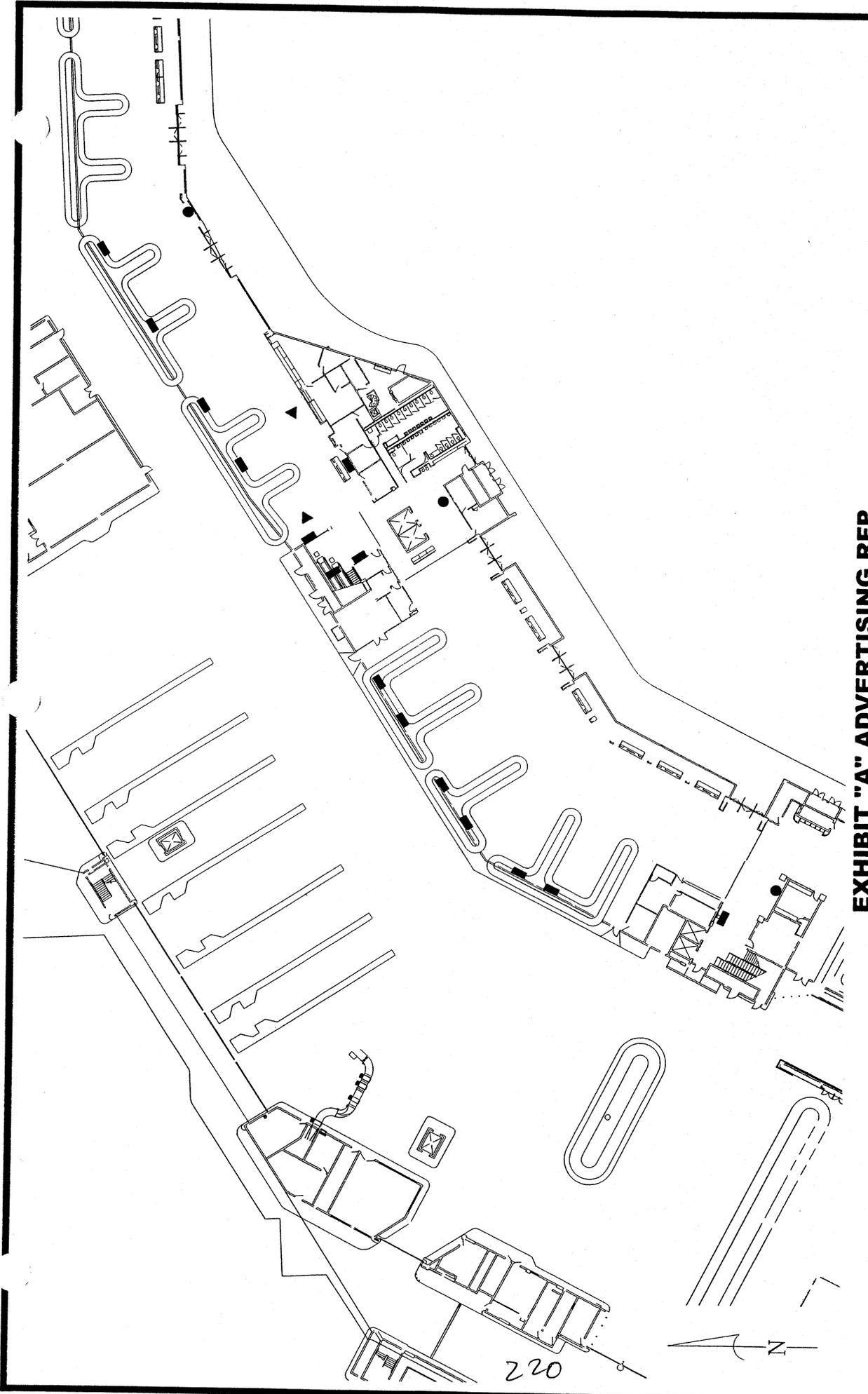
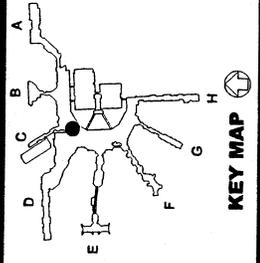


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL C & D
 First Level
 OCTOBER 2007**

LEGEND

-  BACKLIGHTS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS



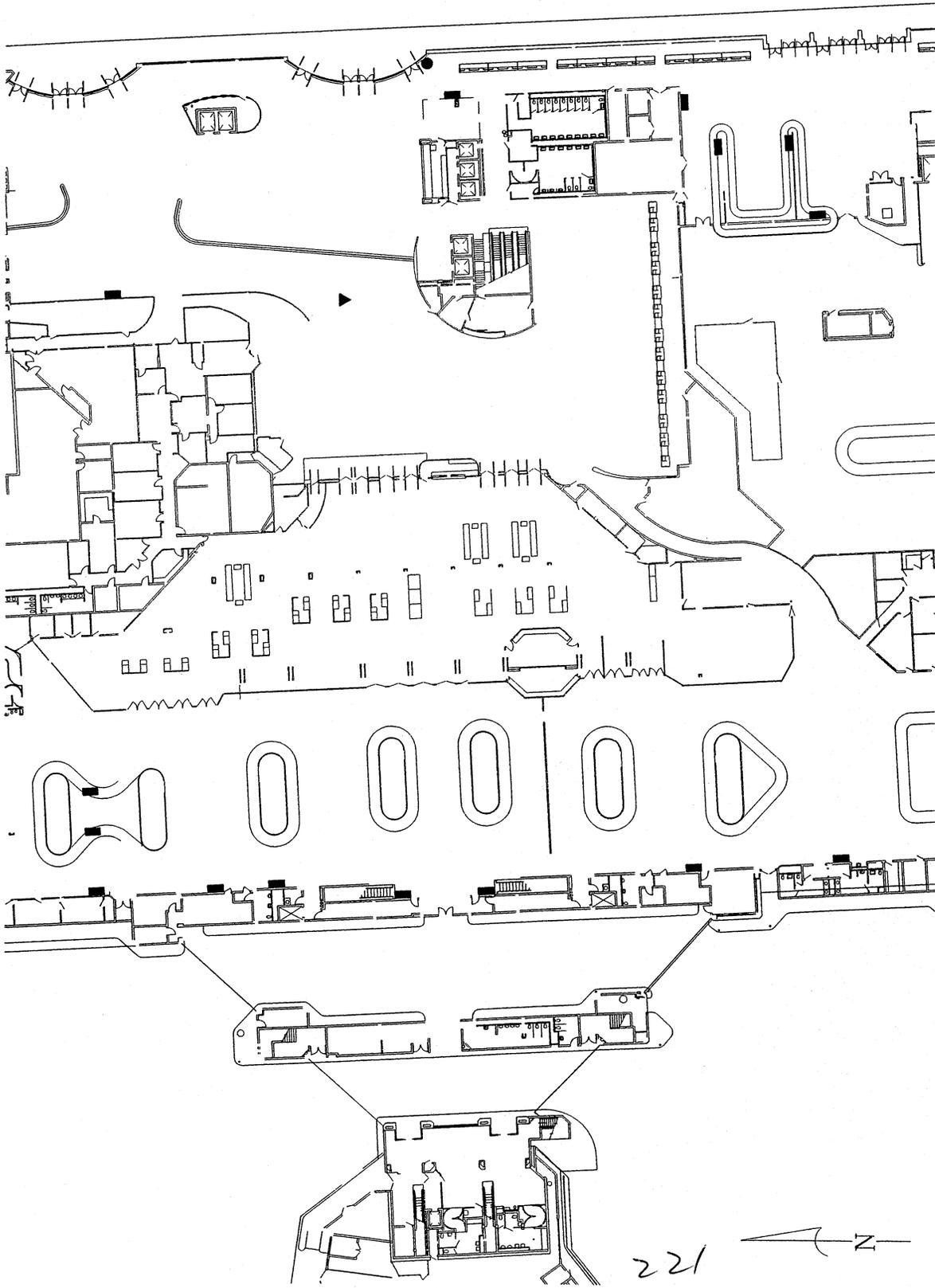


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS**

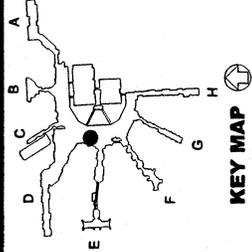
TERMINAL E

First Level

OCTOBER 2007

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



KEY MAP

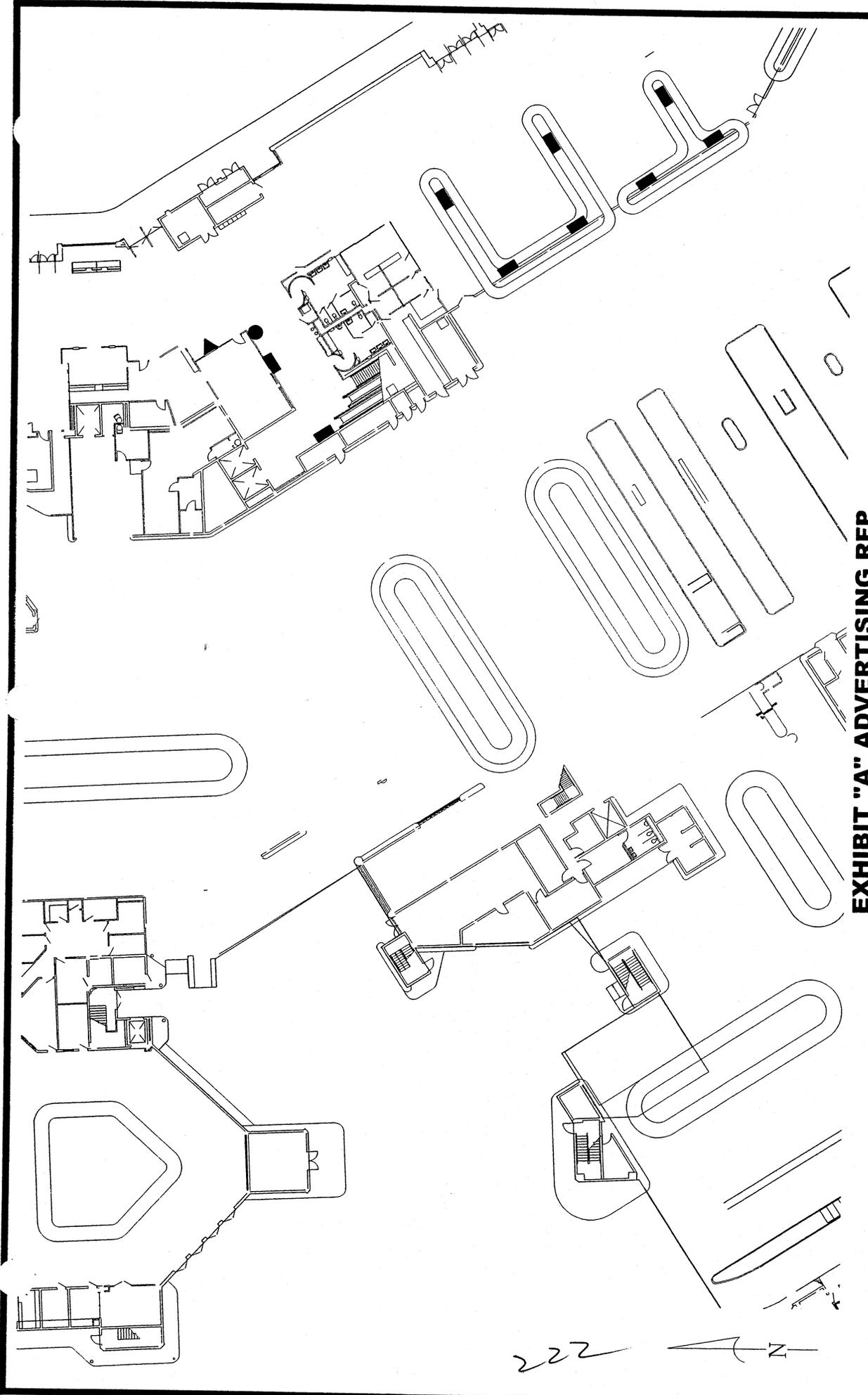
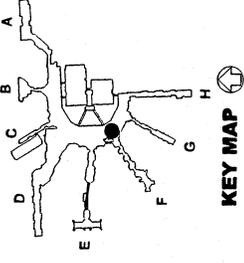


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL F
 First Level
 OCTOBER 2007**

LEGEND

-  BACKLITS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS



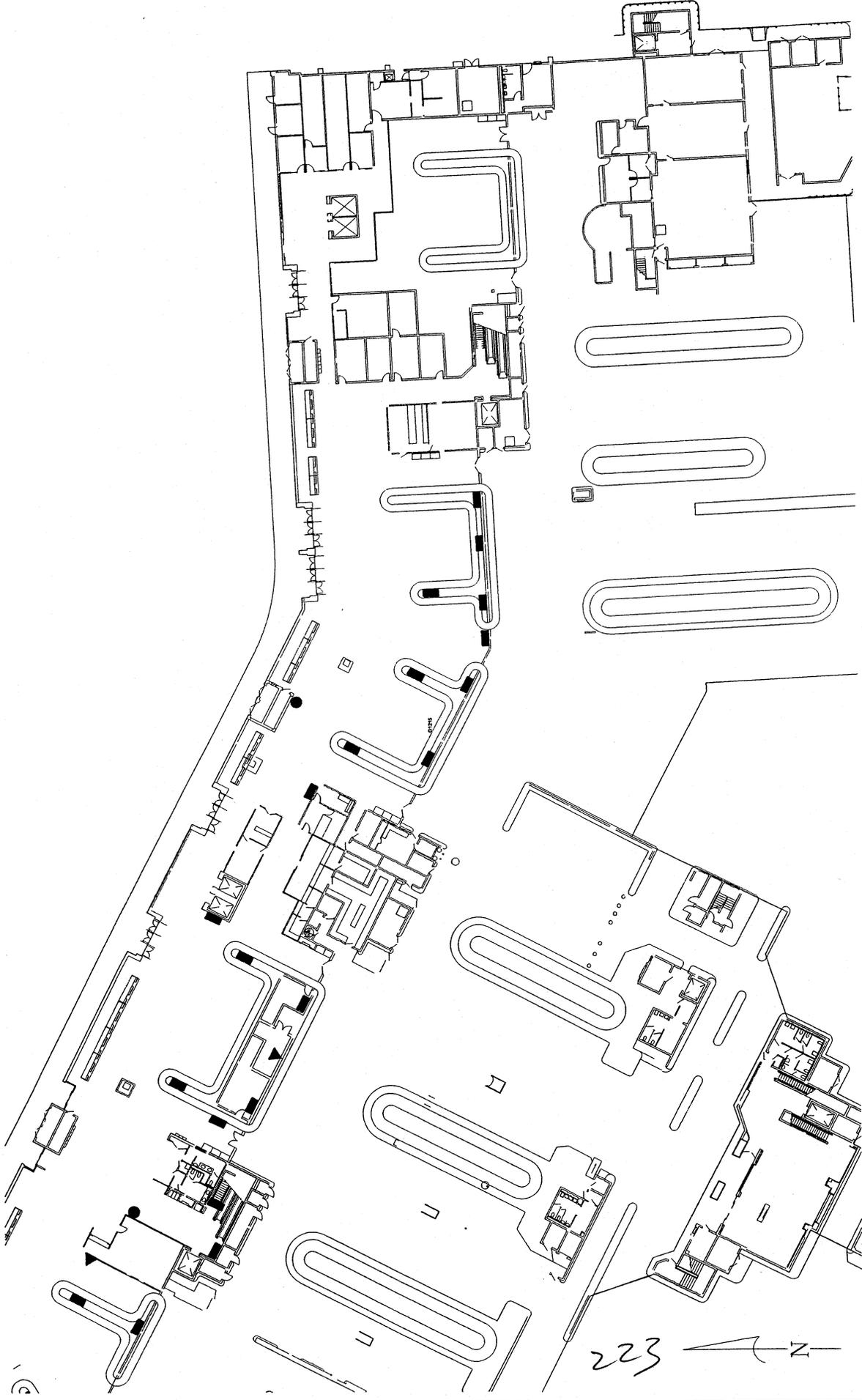
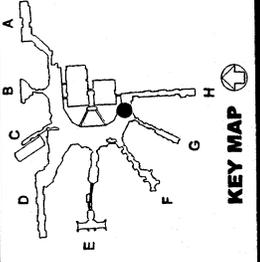


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL G & H
 First Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



KEY MAP



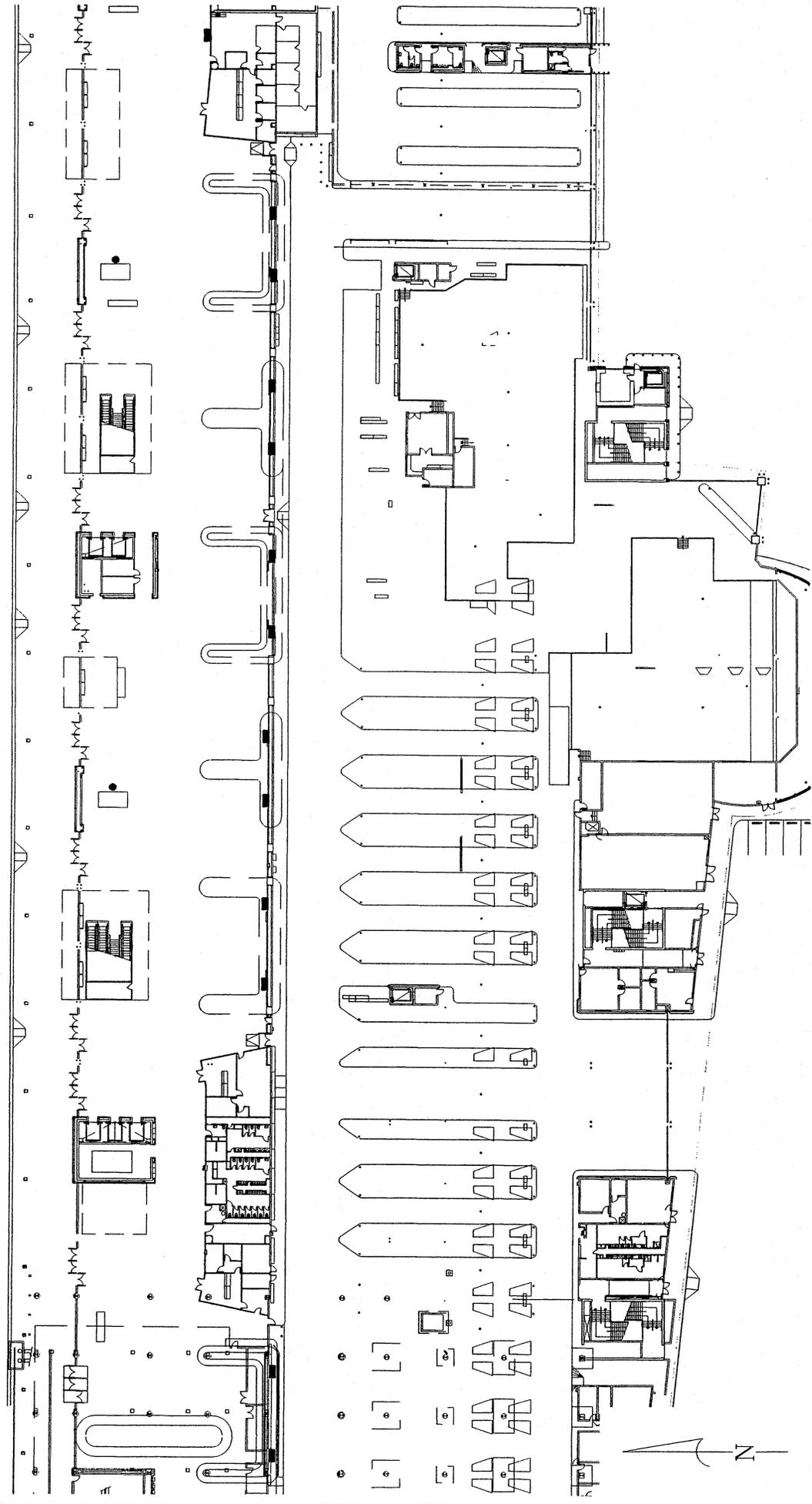
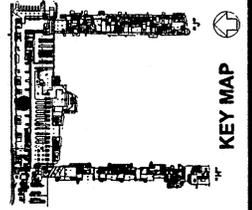


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 SOUTH TERMINAL
 First Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS

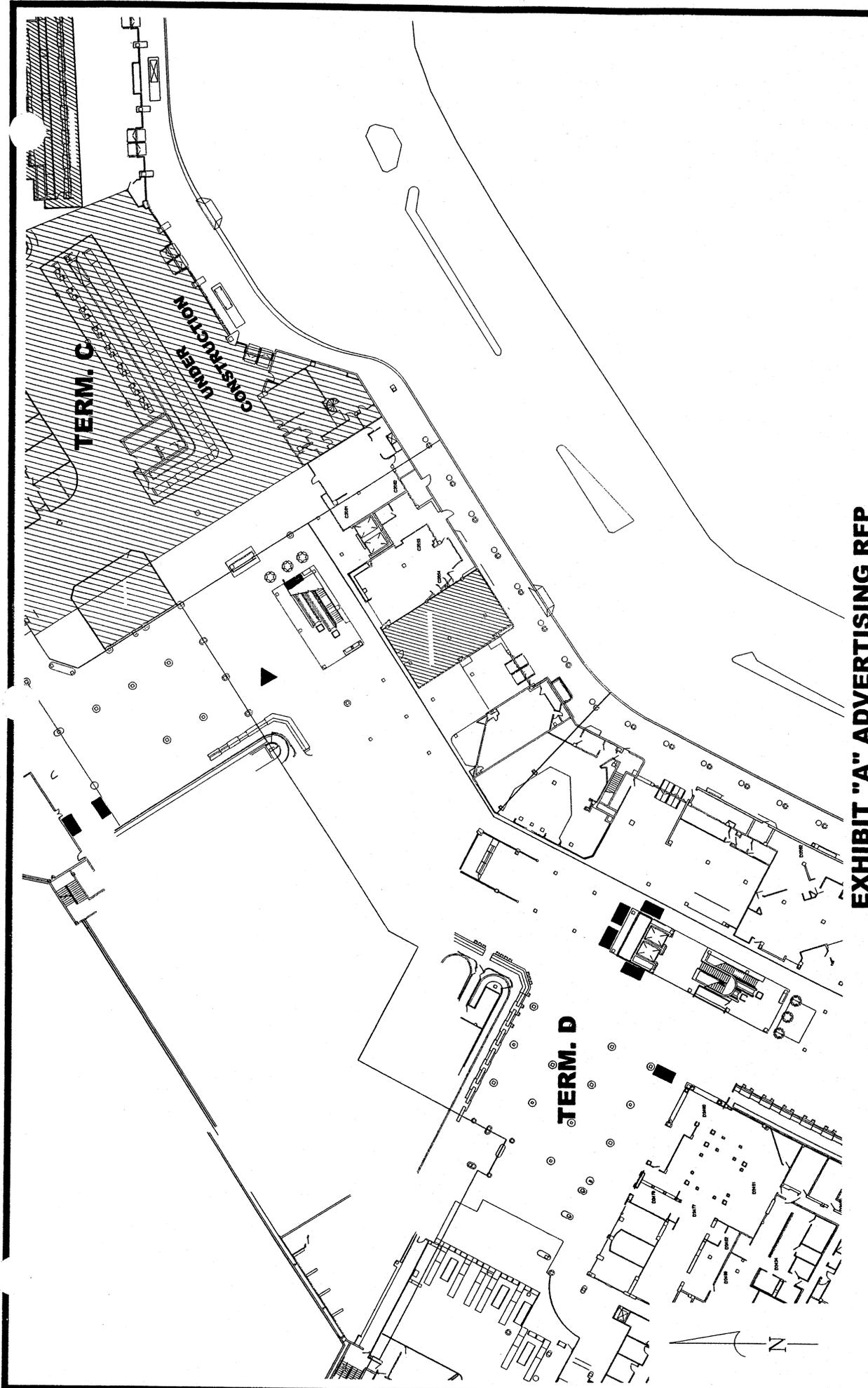


KEY MAP



TECHNICAL SUPPORT DIVISION

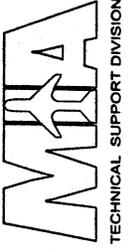
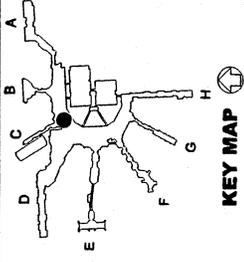
224



- LEGEND**
- BACKLITS
 - FLOOR EXHIBITS
 - HOTEL RESERVATION BOARD
 - ▼ WRAPS

EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL C & D
 Second Level
 OCTOBER 2007**



522

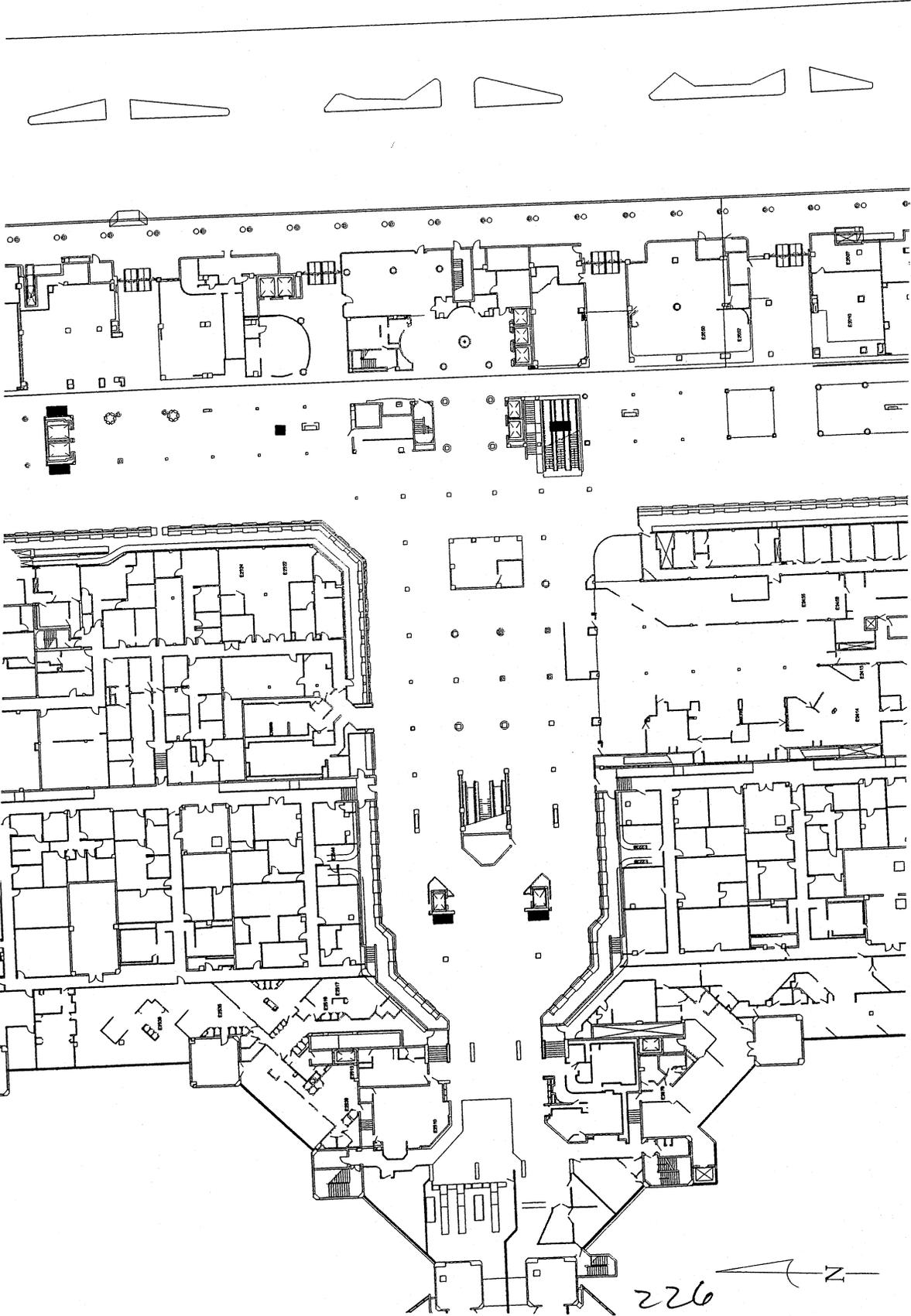
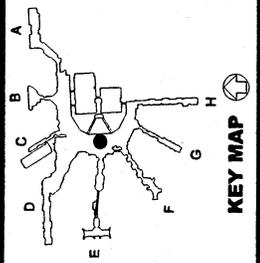


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL E
 Second Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



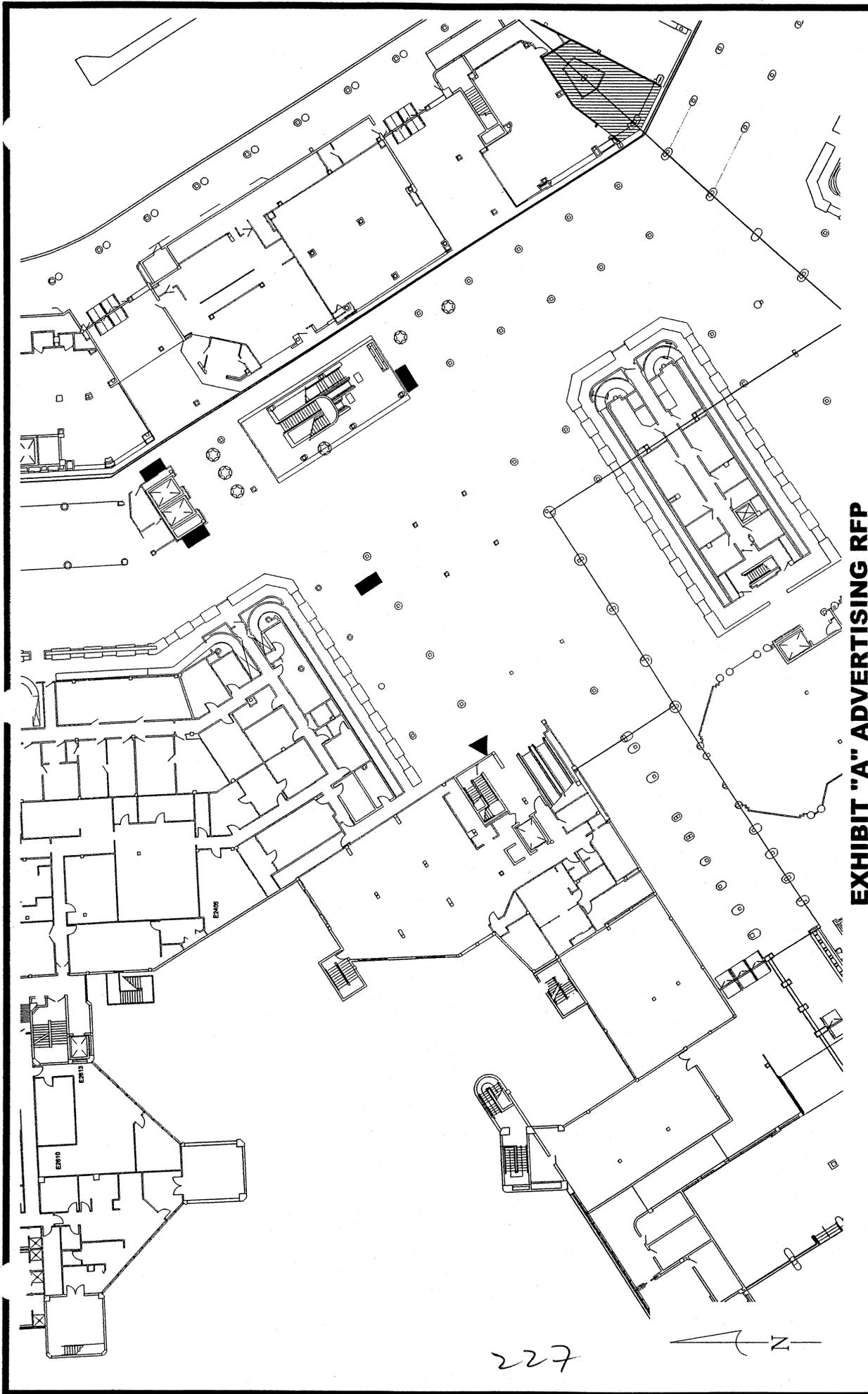


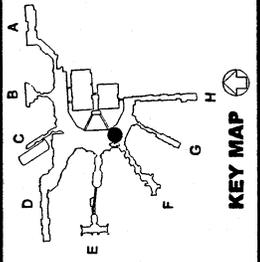
EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS**

**TERMINAL F
Second Level
OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



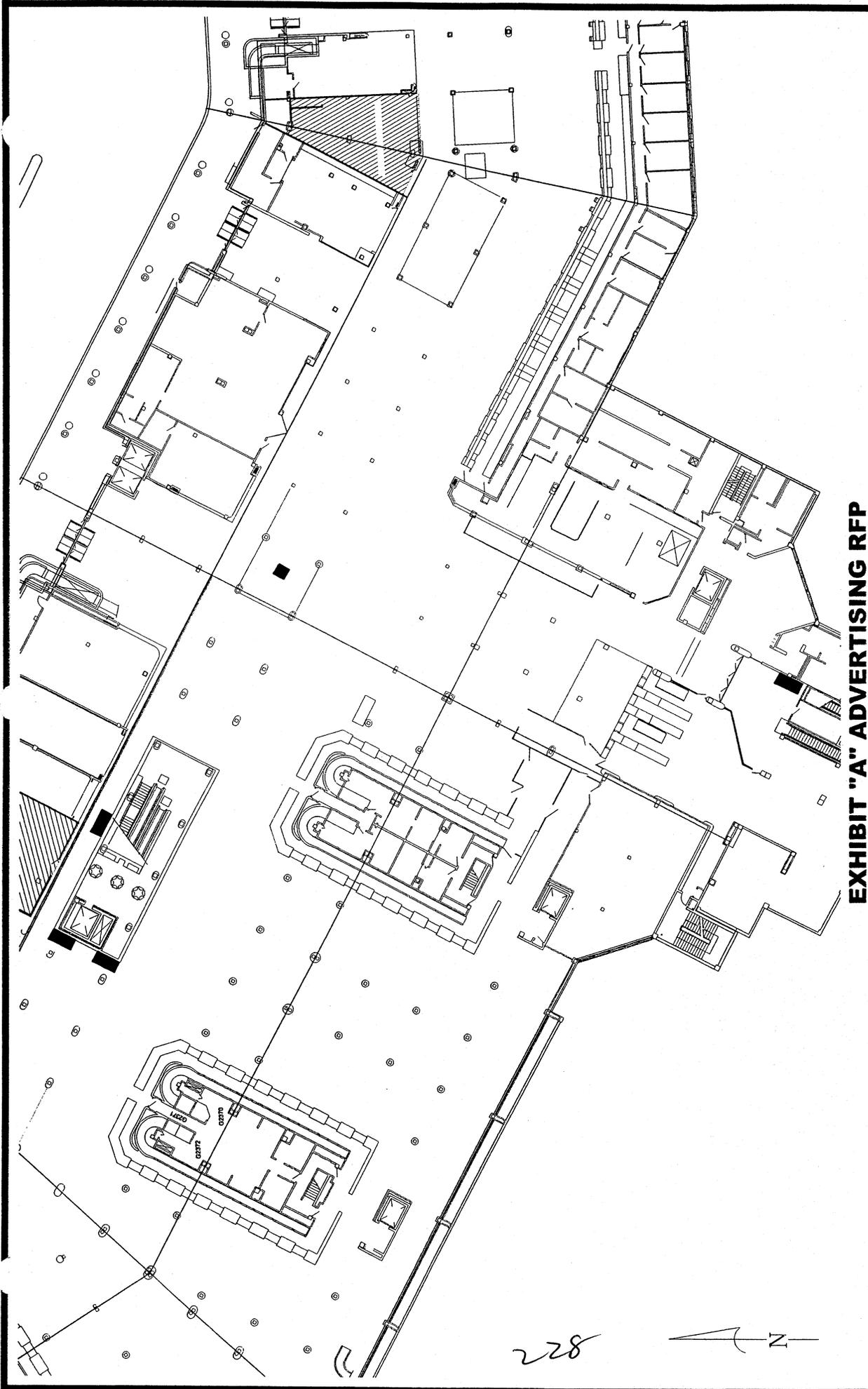
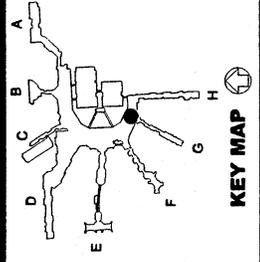
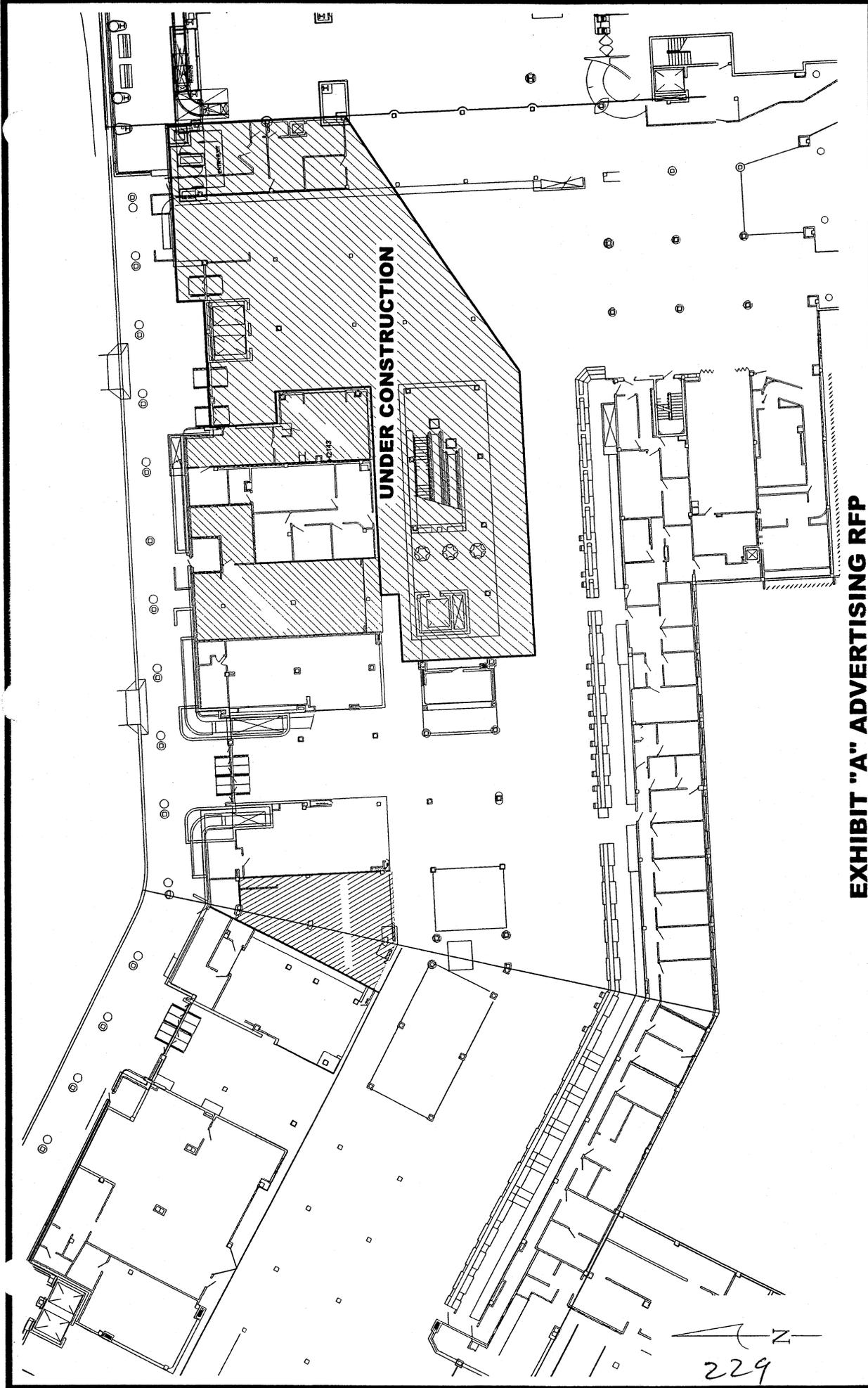


EXHIBIT "A" ADVERTISING RFP

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 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL G
 Second Level
 OCTOBER 2007**

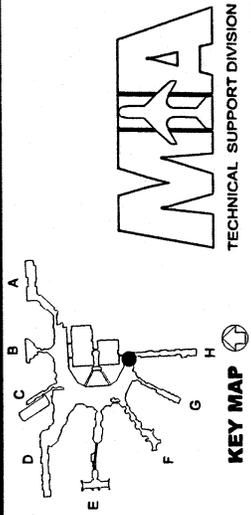
- LEGEND**
- BACKLITS
 - FLOOR EXHIBITS
 - HOTEL RESERVATION BOARD
 - ▲ WRAPS





UNDER CONSTRUCTION

229



MIA
TECHNICAL SUPPORT DIVISION

KEY MAP

EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS**

**TERMINAL H
Second Level
OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- WRAPS

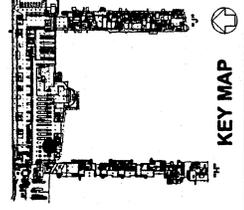
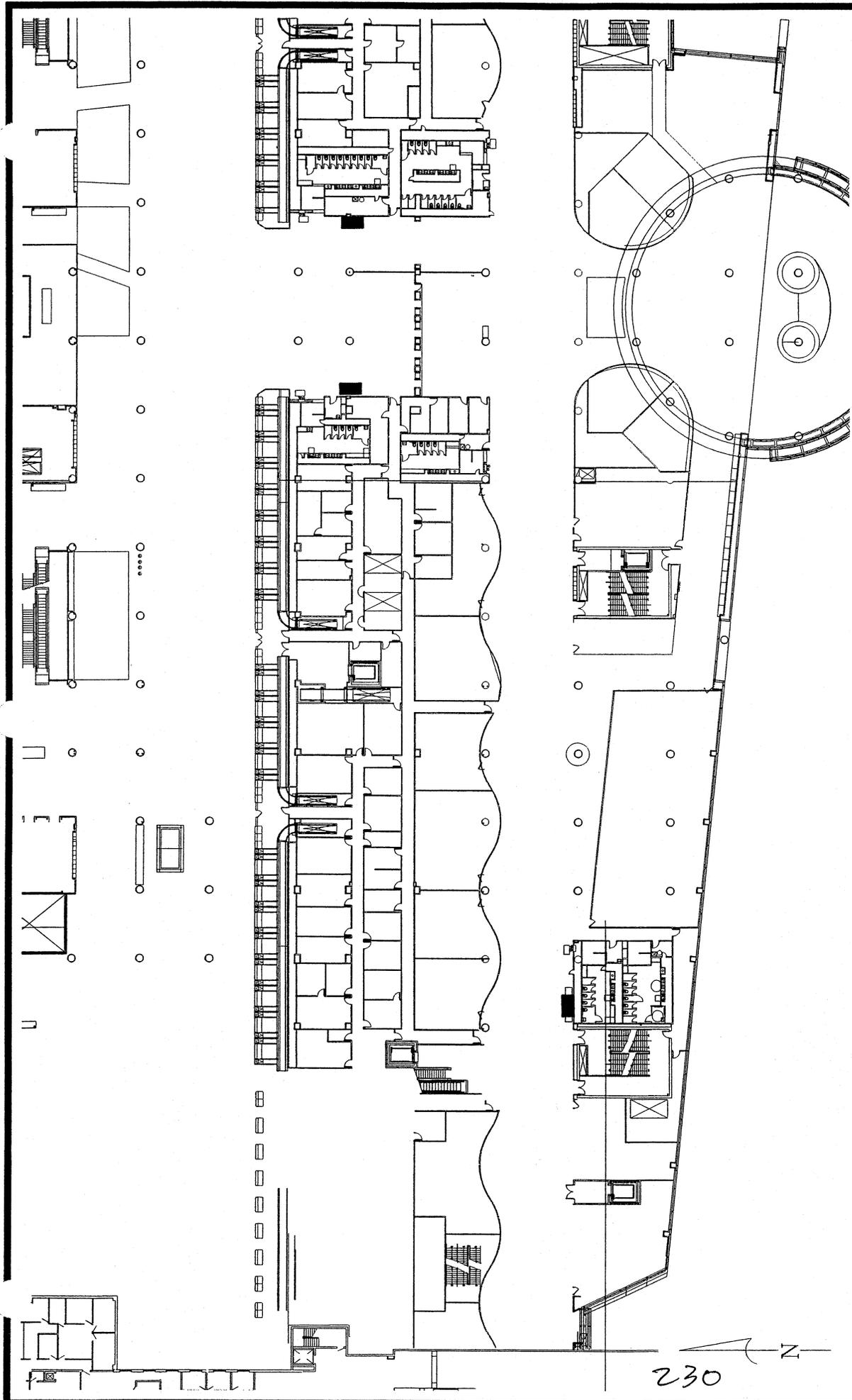
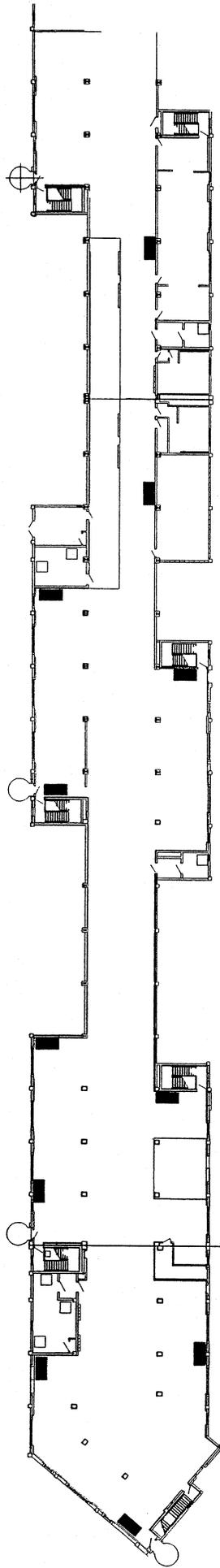


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 SOUTH TERMINAL
 Second Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



231

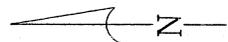
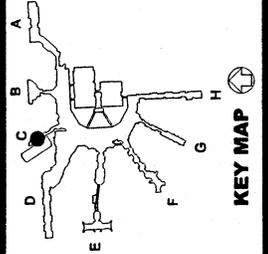


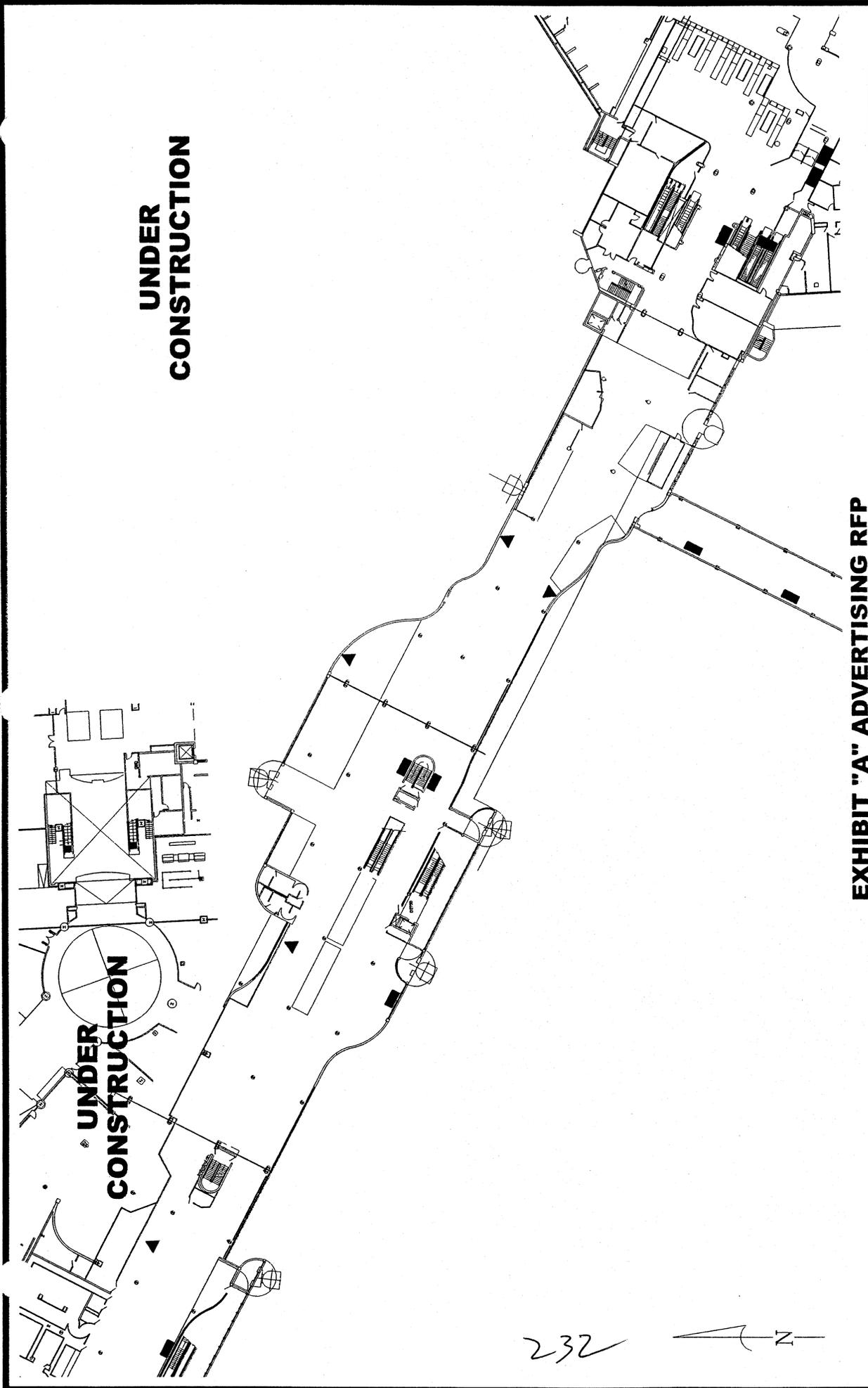
EXHIBIT "A" ADVERTISING RFP

MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS
CONCOURSE C
Second Level
OCTOBER 2007

LEGEND

-  BACKLITS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS





**UNDER
CONSTRUCTION**

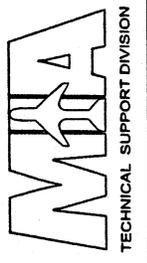
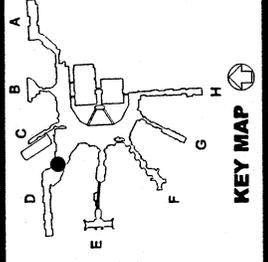
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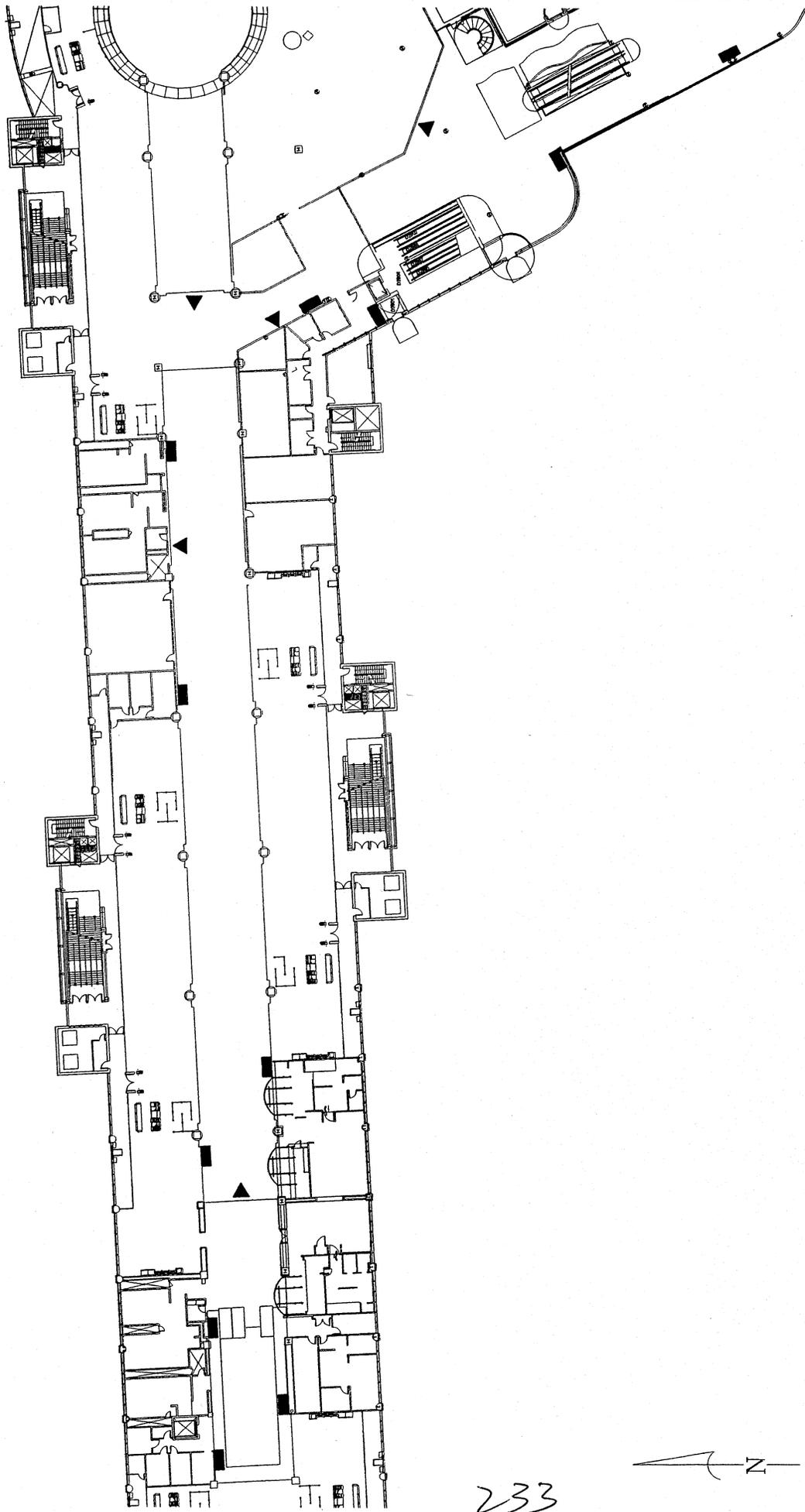
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**MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS
CONCOURSE D
Second Level
OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



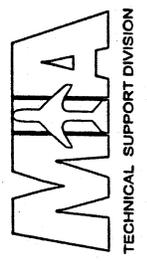
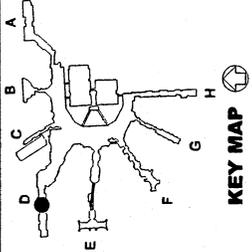


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EXHIBIT "A" ADVERTISING RFP
MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS
CONCOURSE D
Second Level
OCTOBER 2007

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



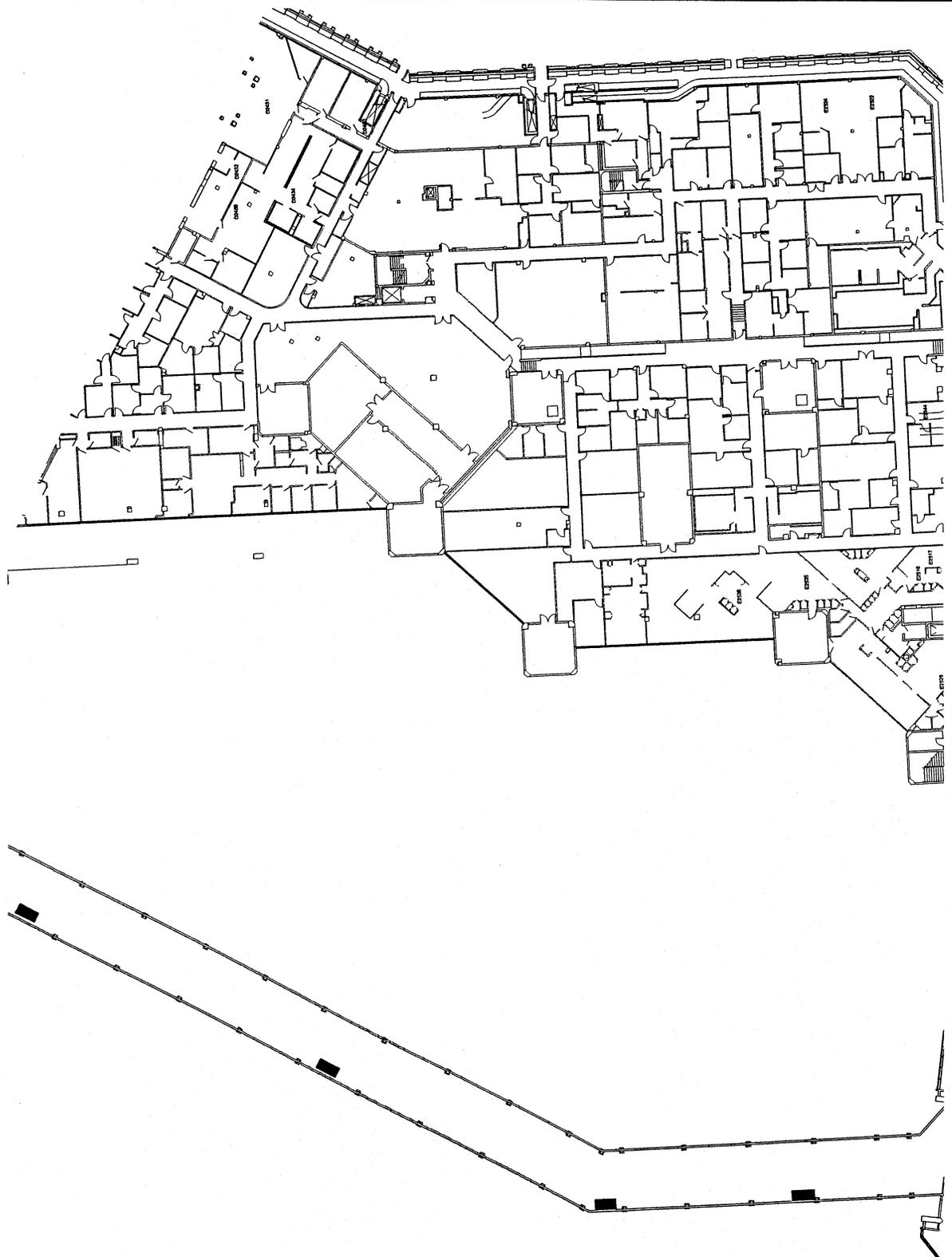


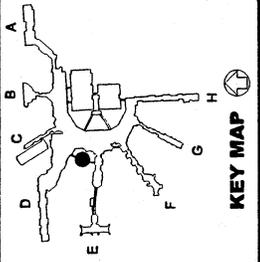
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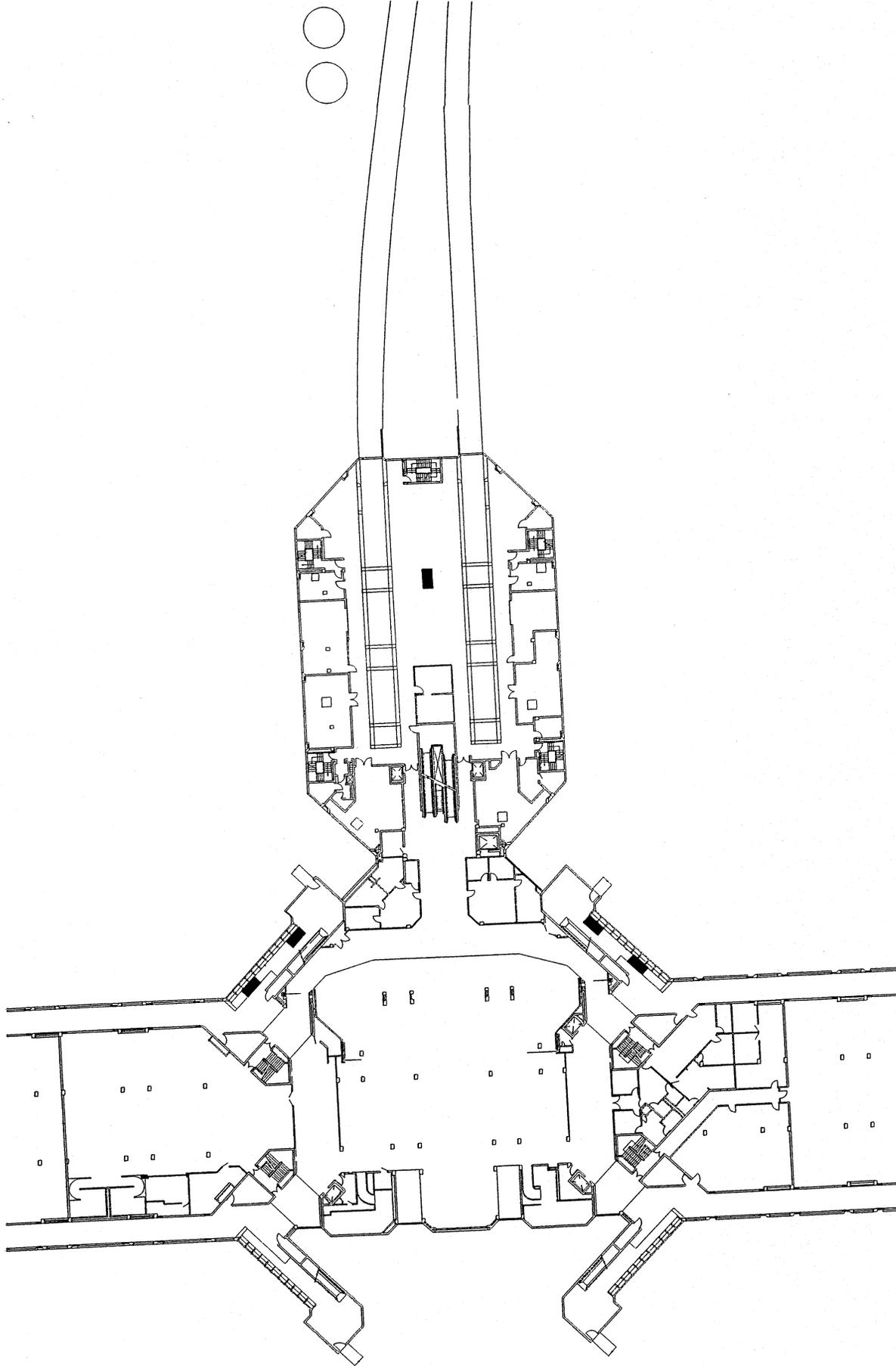
**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 CONNECTOR D-E
 Second Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▼ WRAPS

234





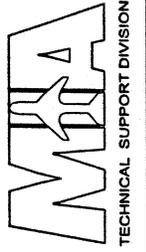
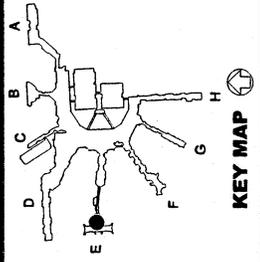
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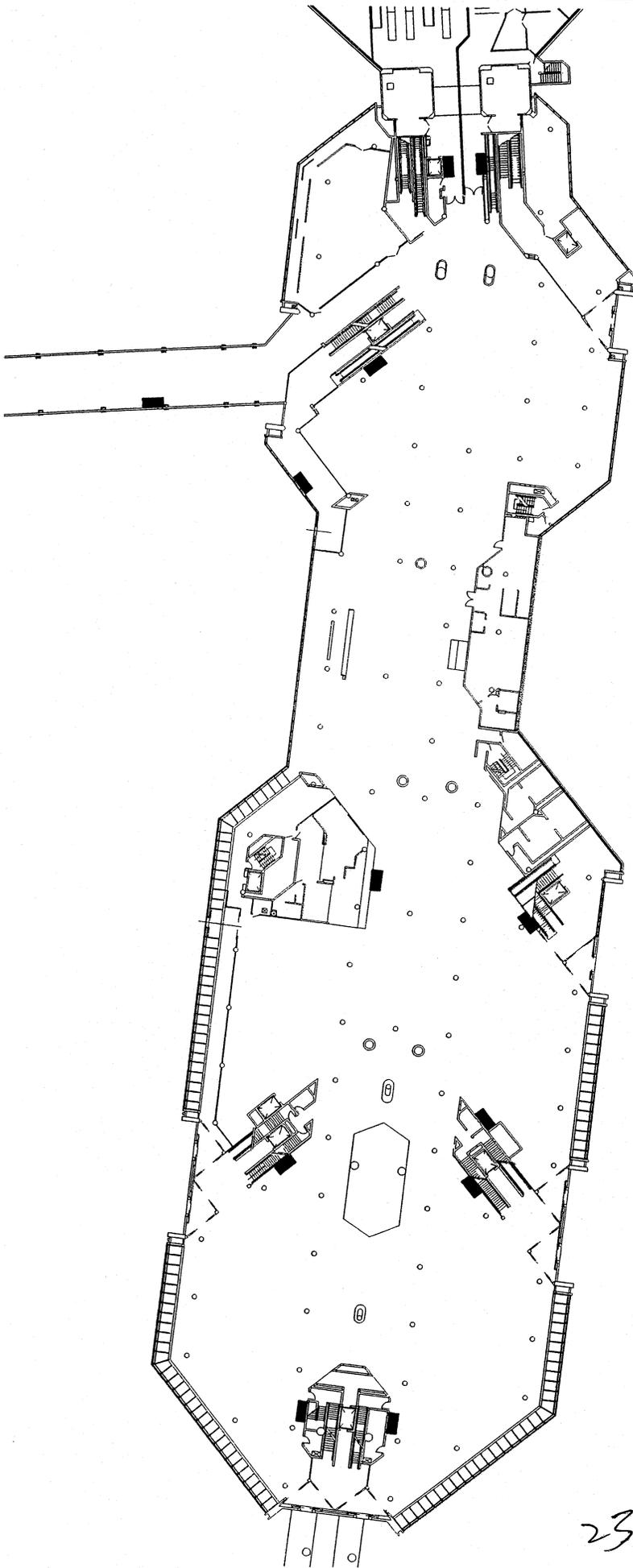
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**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 SATELLITE E
 Second Level
 OCTOBER 2007**

LEGEND

-  BACKLITS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS





23.6

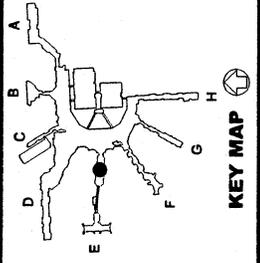


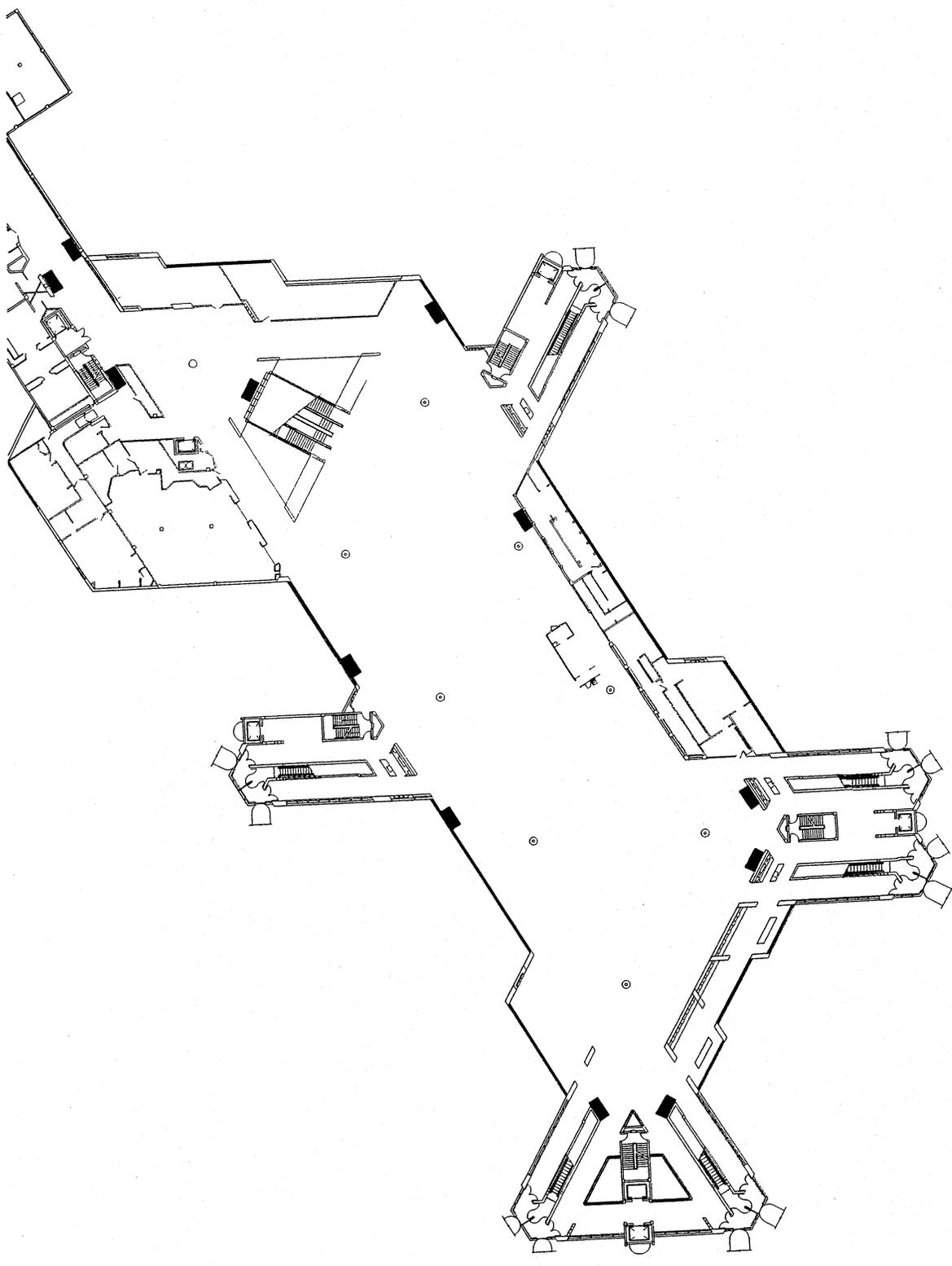
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**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 CONCOURSE E
 Second Level
 OCTOBER 2007**

LEGEND

-  BACKLITS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS





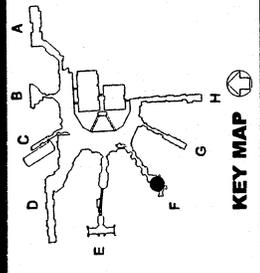
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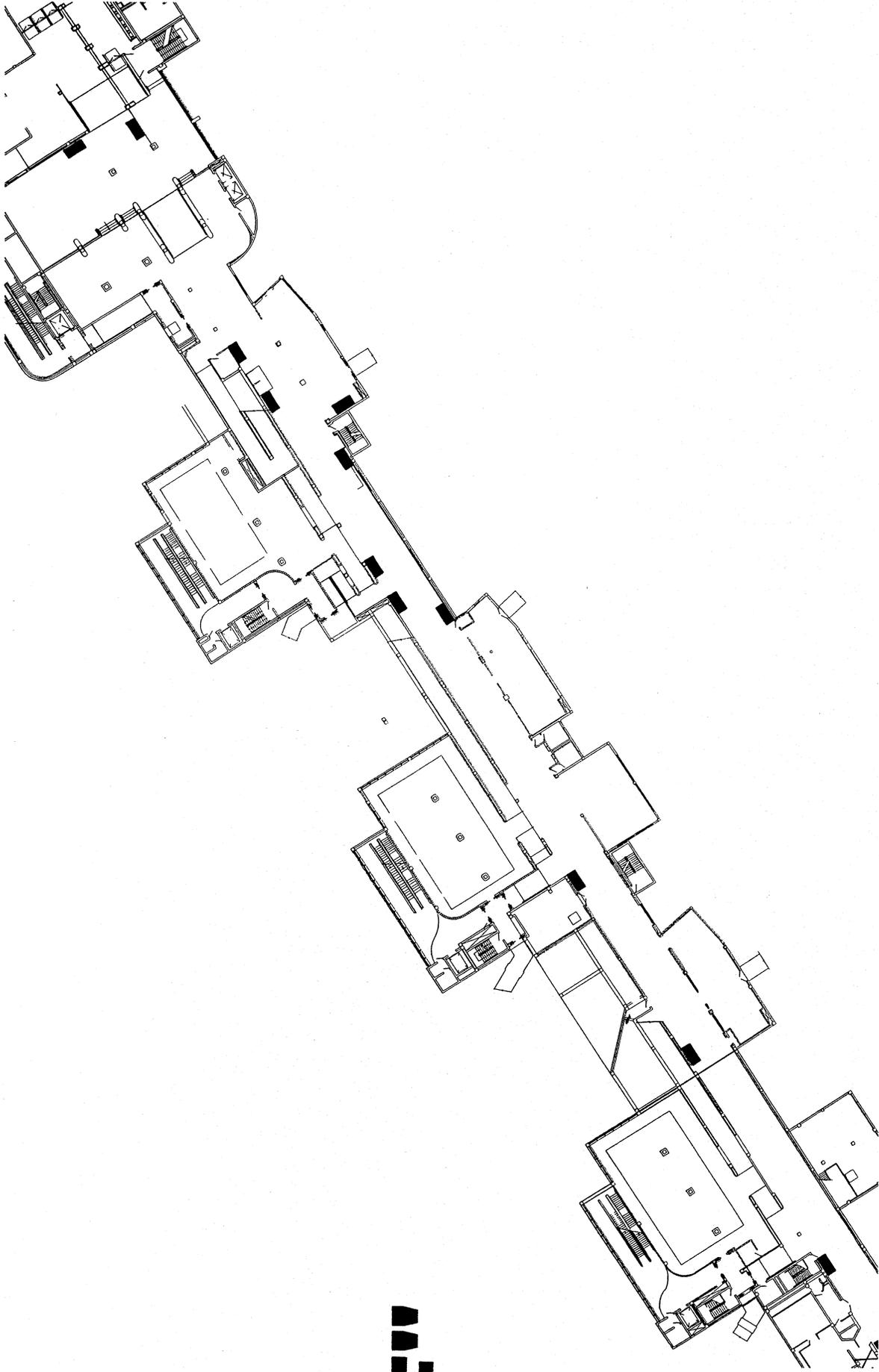
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**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 CONCOURSE F
 Second Level
 OCTOBER 2007**

LEGEND

-  BACKLIGHTS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS





F

238

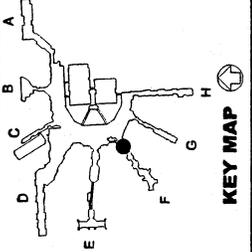


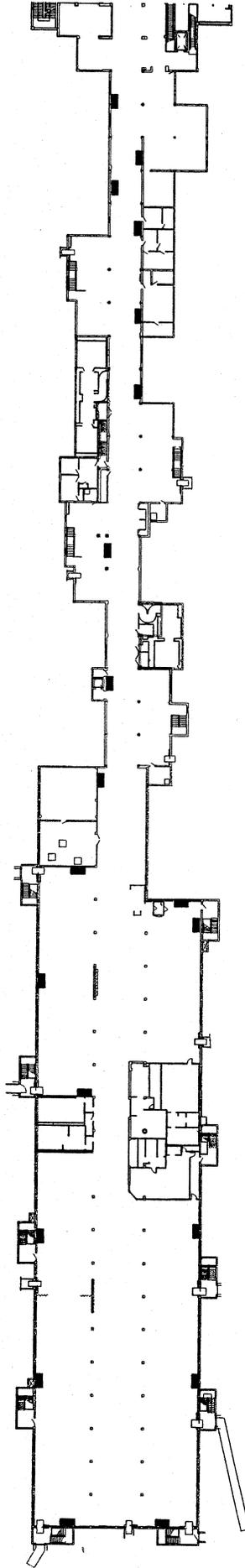
EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 CONCOURSE F
 Second Level
 OCTOBER 2007**

LEGEND

-  BACKLITS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS





239

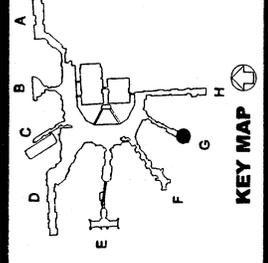


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 CONCOURSE G
 Second Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



KEY MAP



TECHNICAL SUPPORT DIVISION

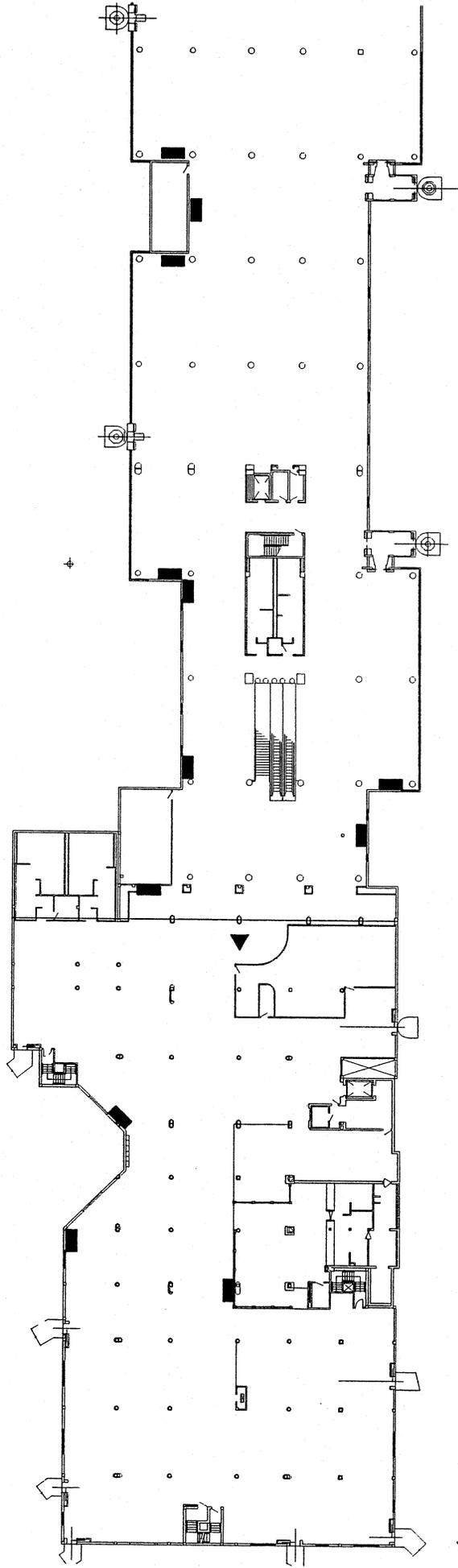
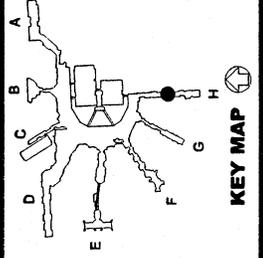


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 CONCOURSE H
 Second Level
 OCTOBER 2007**

LEGEND

-  BACKLITS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS



TECHNICAL SUPPORT DIVISION

KEY MAP

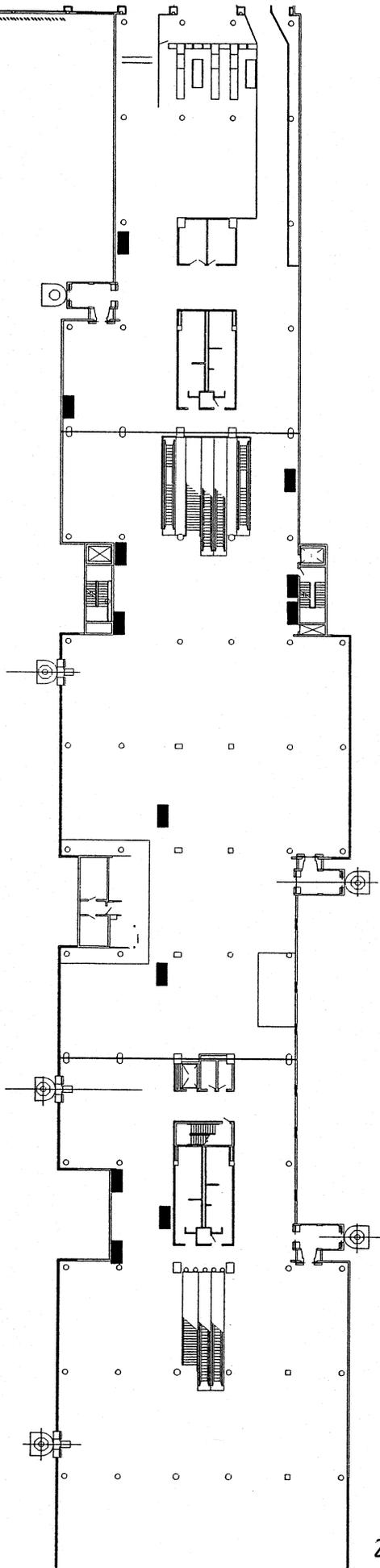
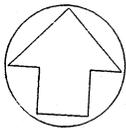
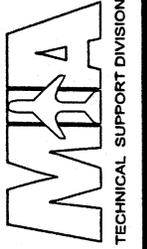
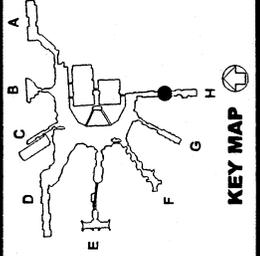


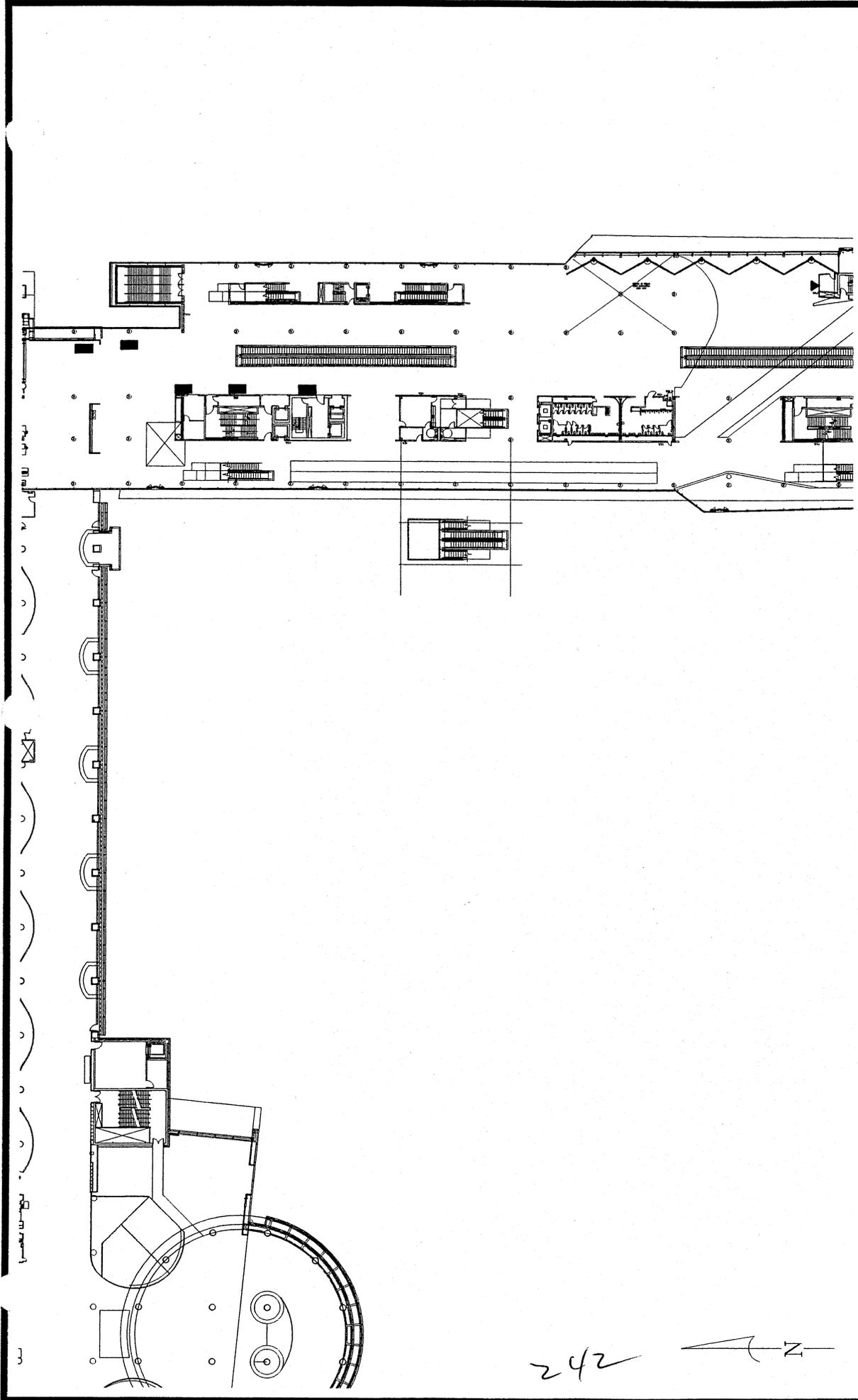
EXHIBIT "A" ADVERTISING RFP

MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS
CONCOURSE H
Second Level
OCTOBER 2007

LEGEND

-  BACKLITS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS





242

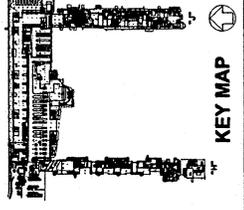


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 CONCOURSE J
 Second Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



KEY MAP



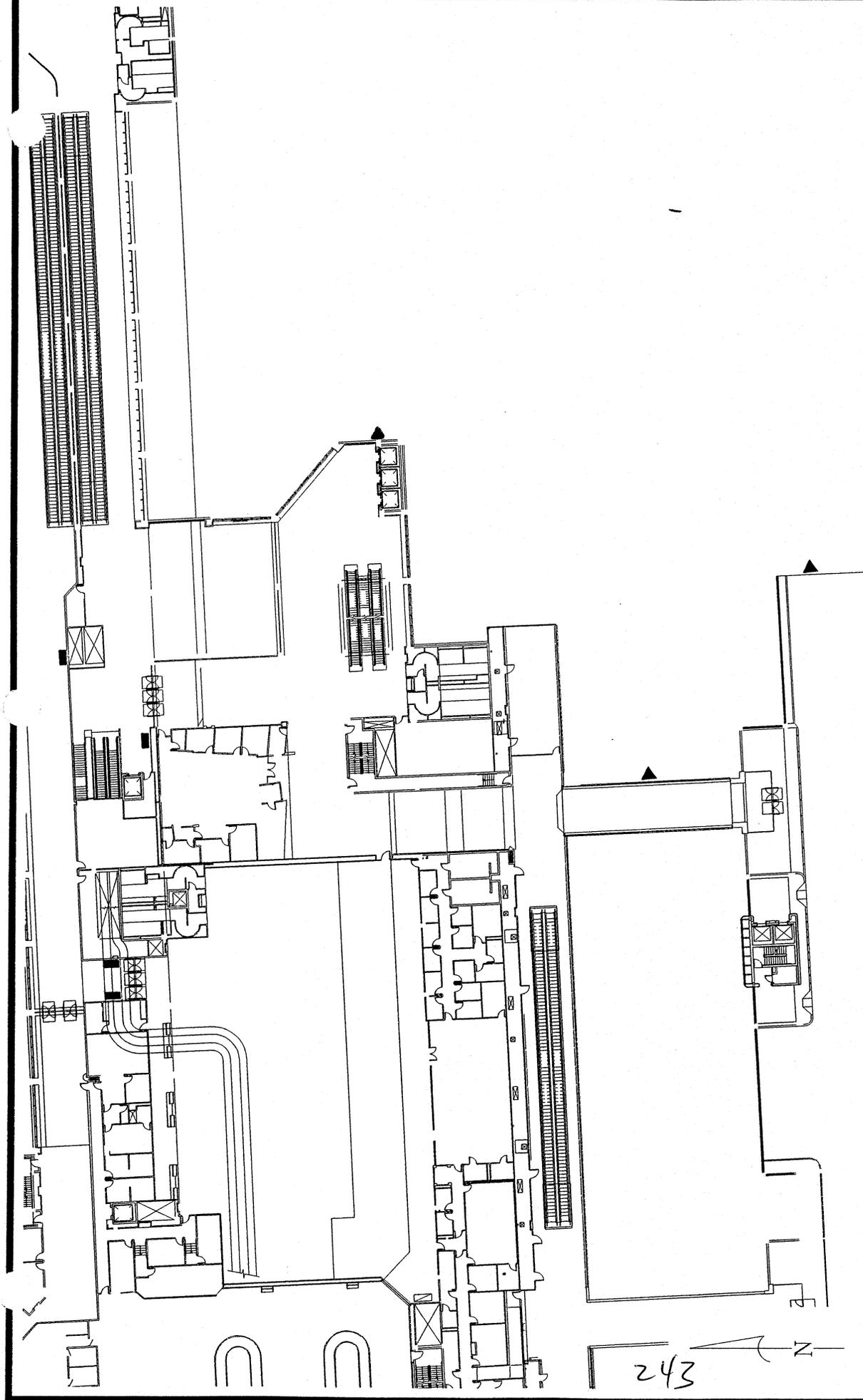
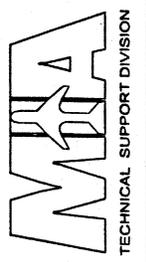
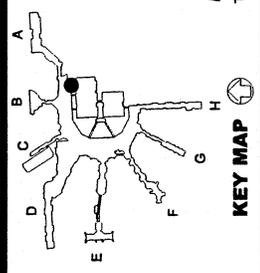


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL A
 Third Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



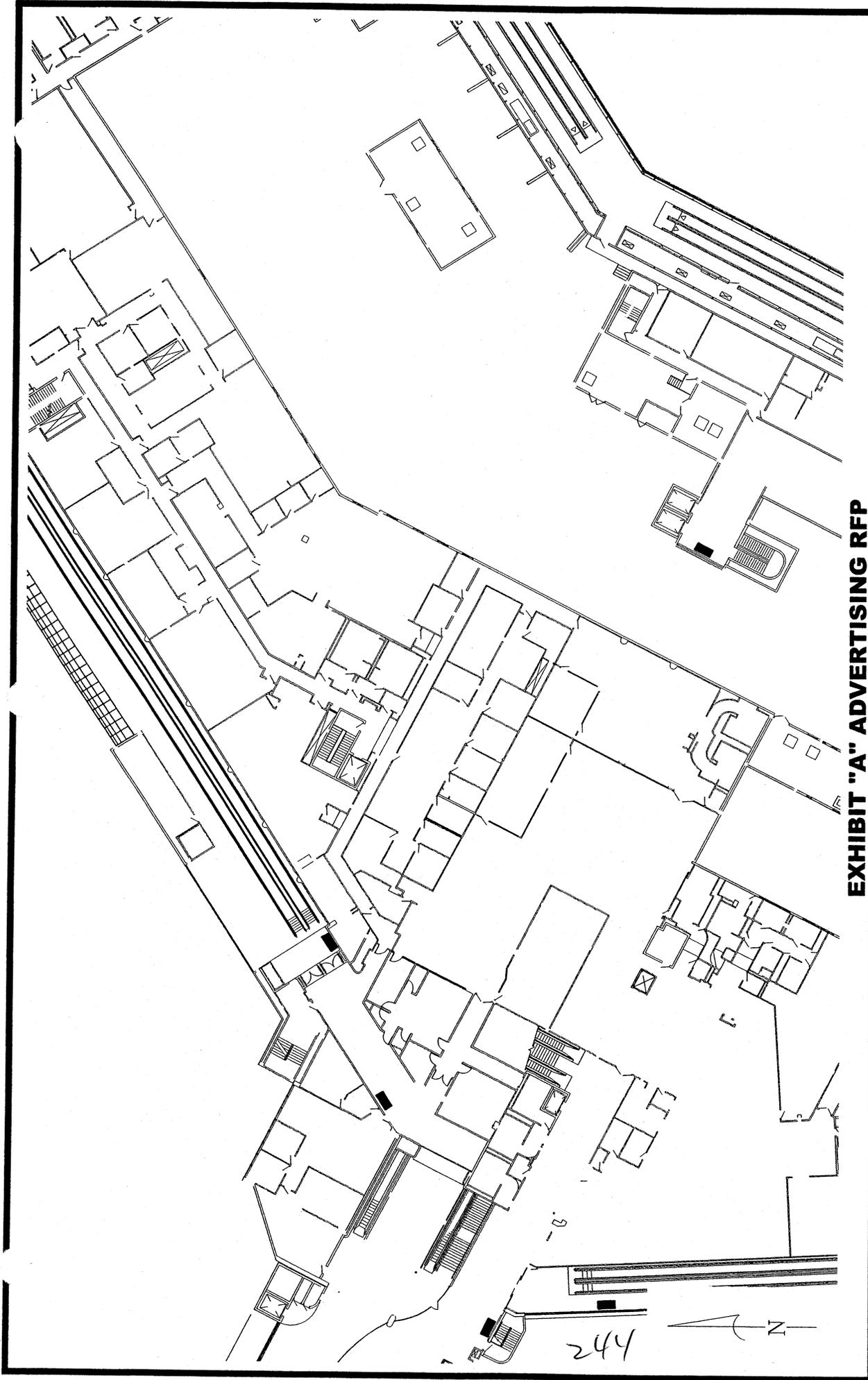
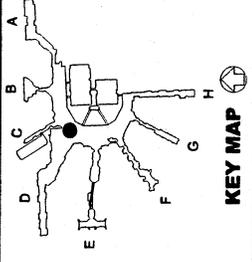


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL D
 Third Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



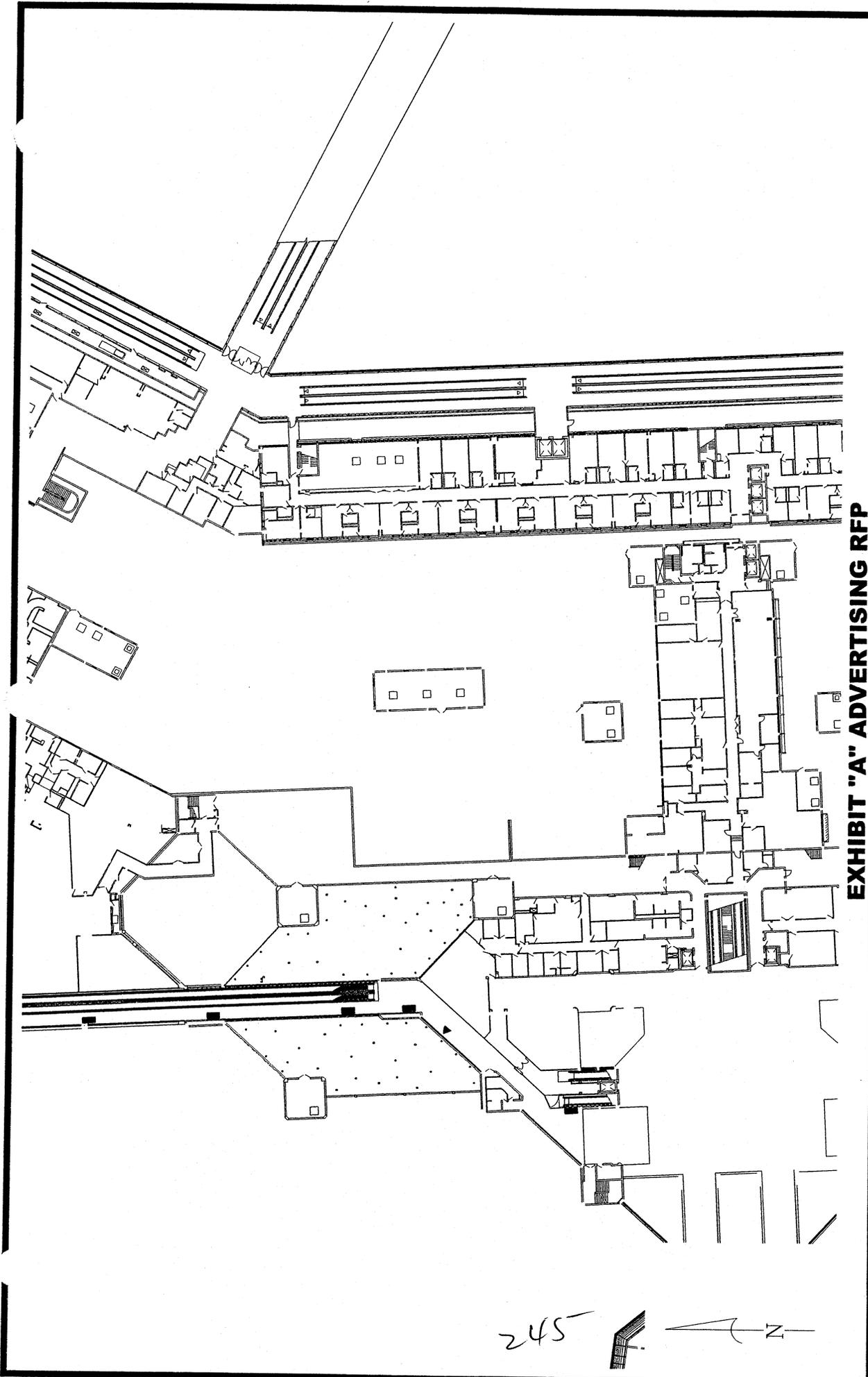
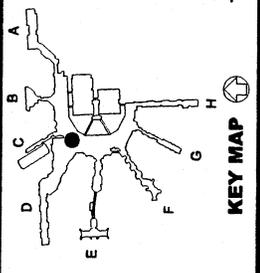


EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL E
 Third Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



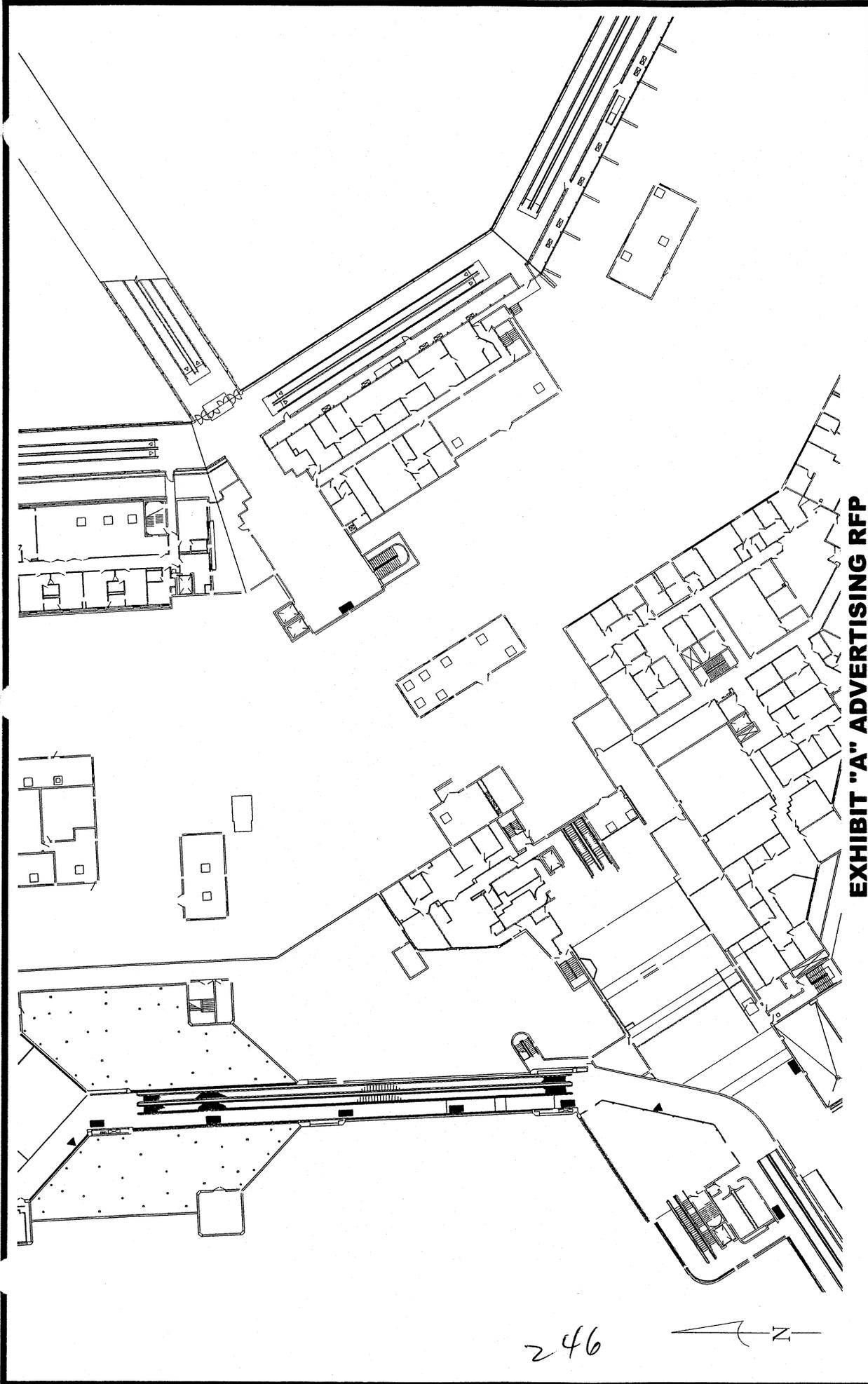


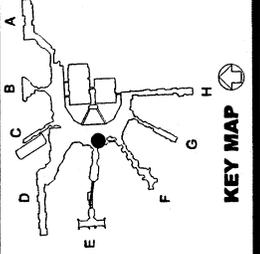
EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL E & F
 Third Level**

OCTOBER 2007

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



TECHNICAL SUPPORT DIVISION
KEY MAP

FLAMINGO GARAGE

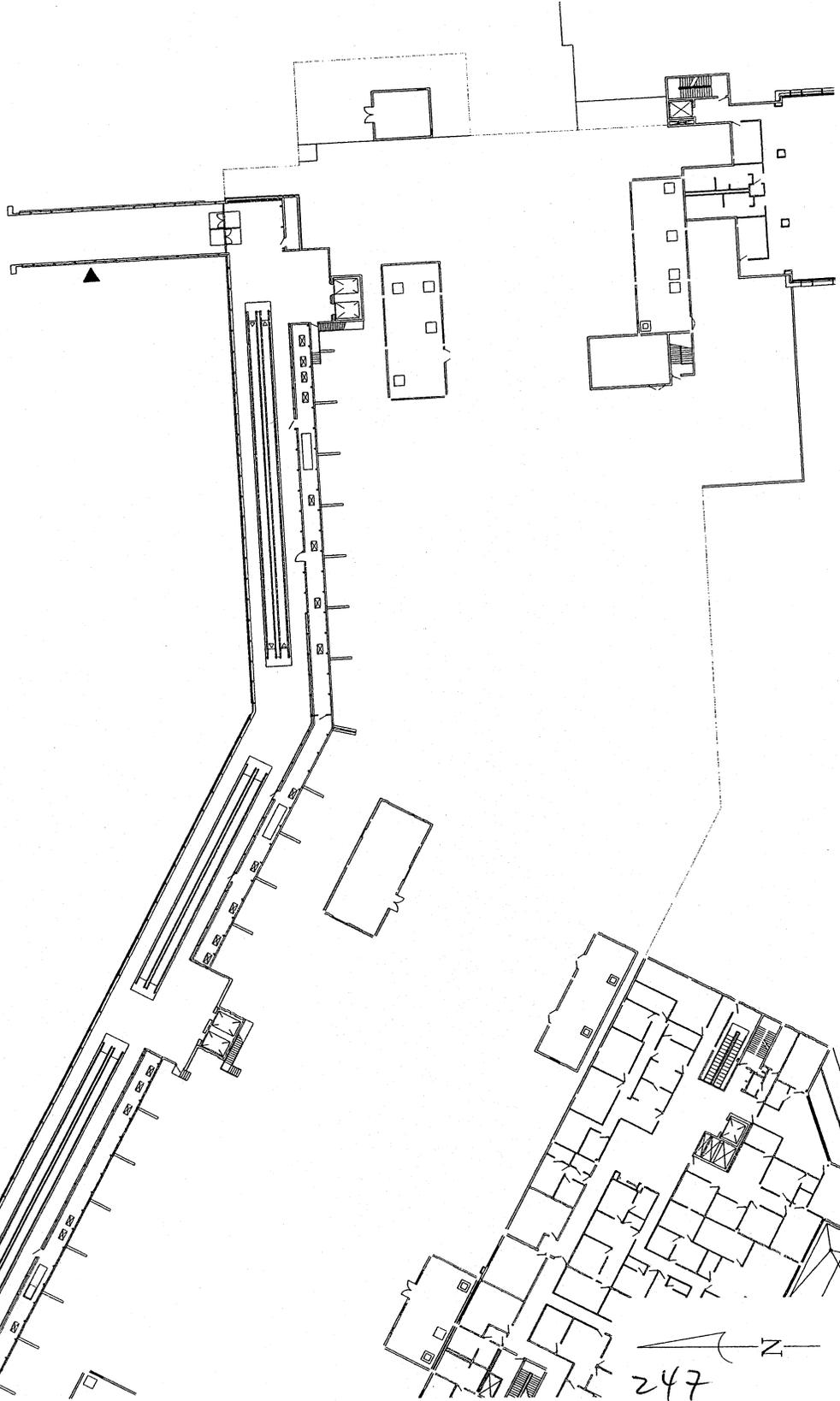
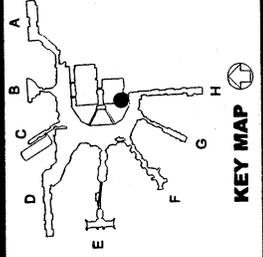


EXHIBIT "A" ADVERTISING RFP

MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS
TERMINAL H
Third Level
OCTOBER 2007

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- WRAPS



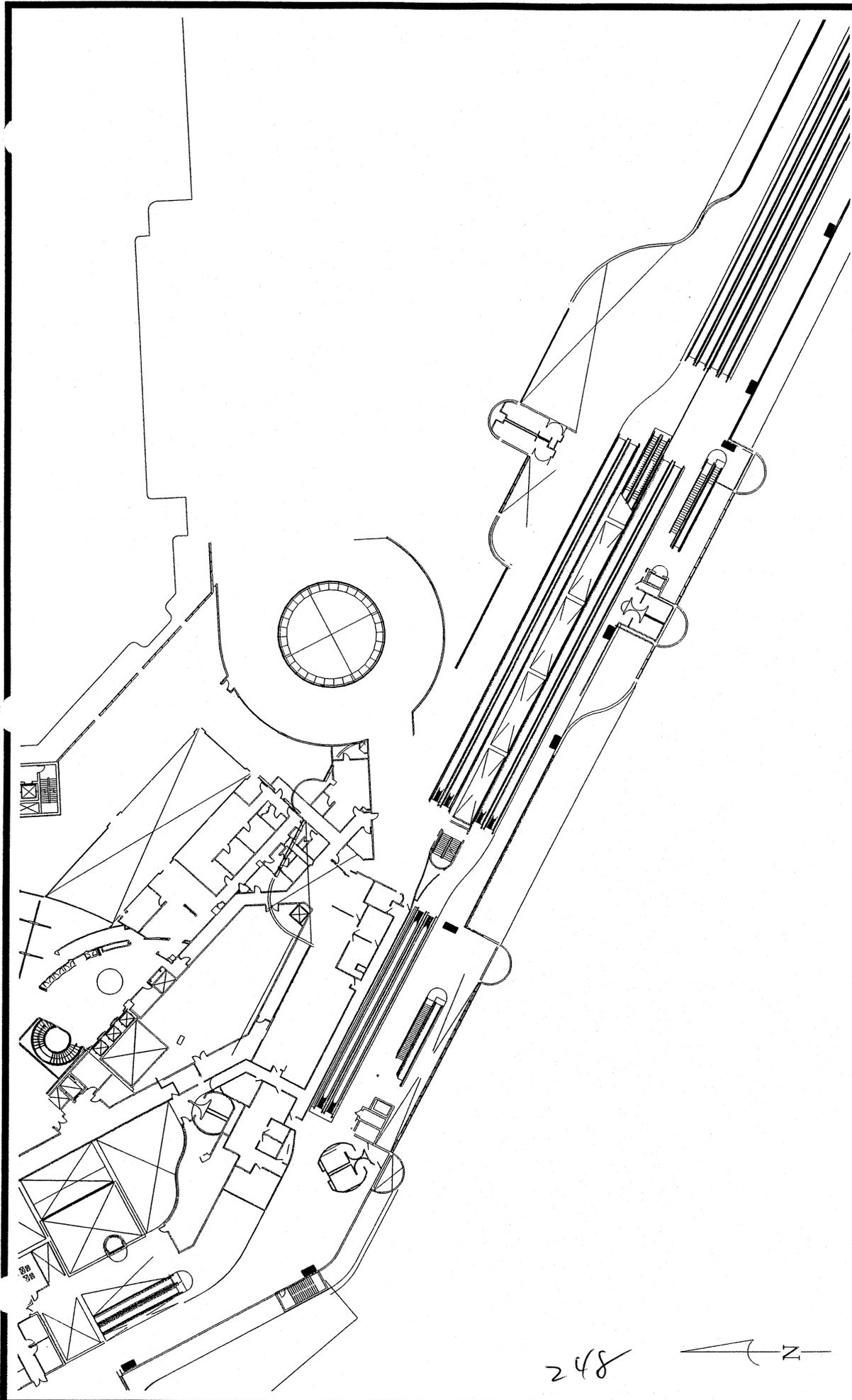
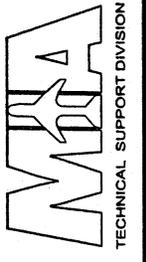
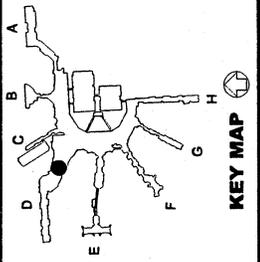


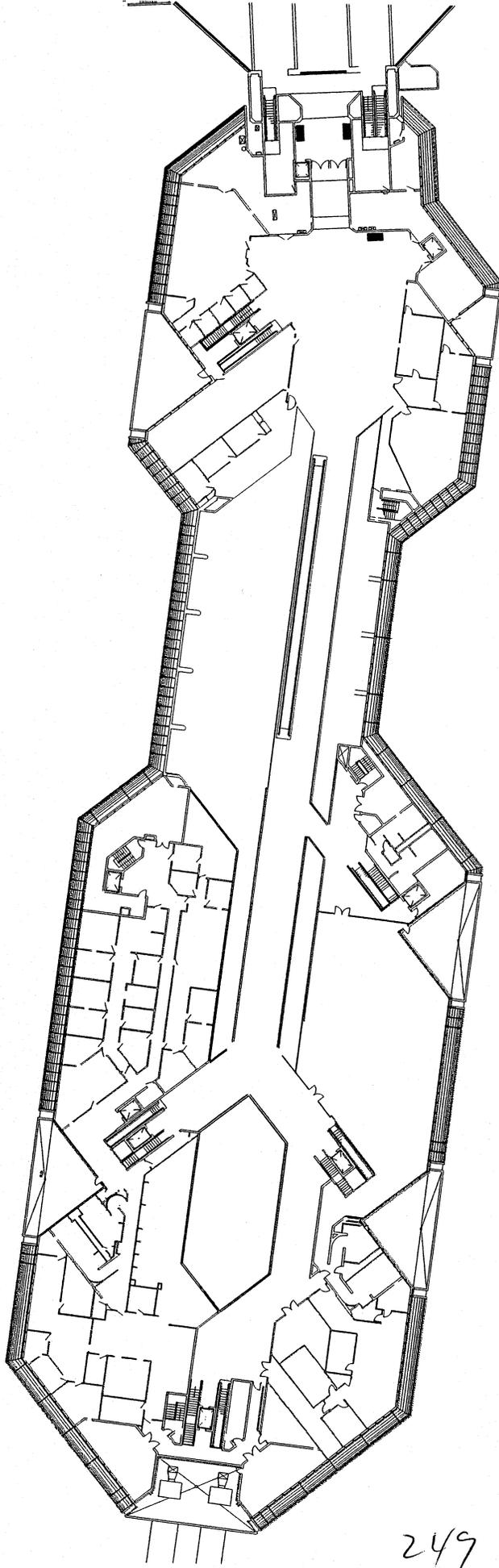
EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 CONCOURSE D
 Third Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS





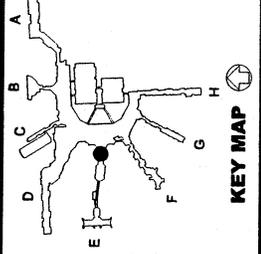
249

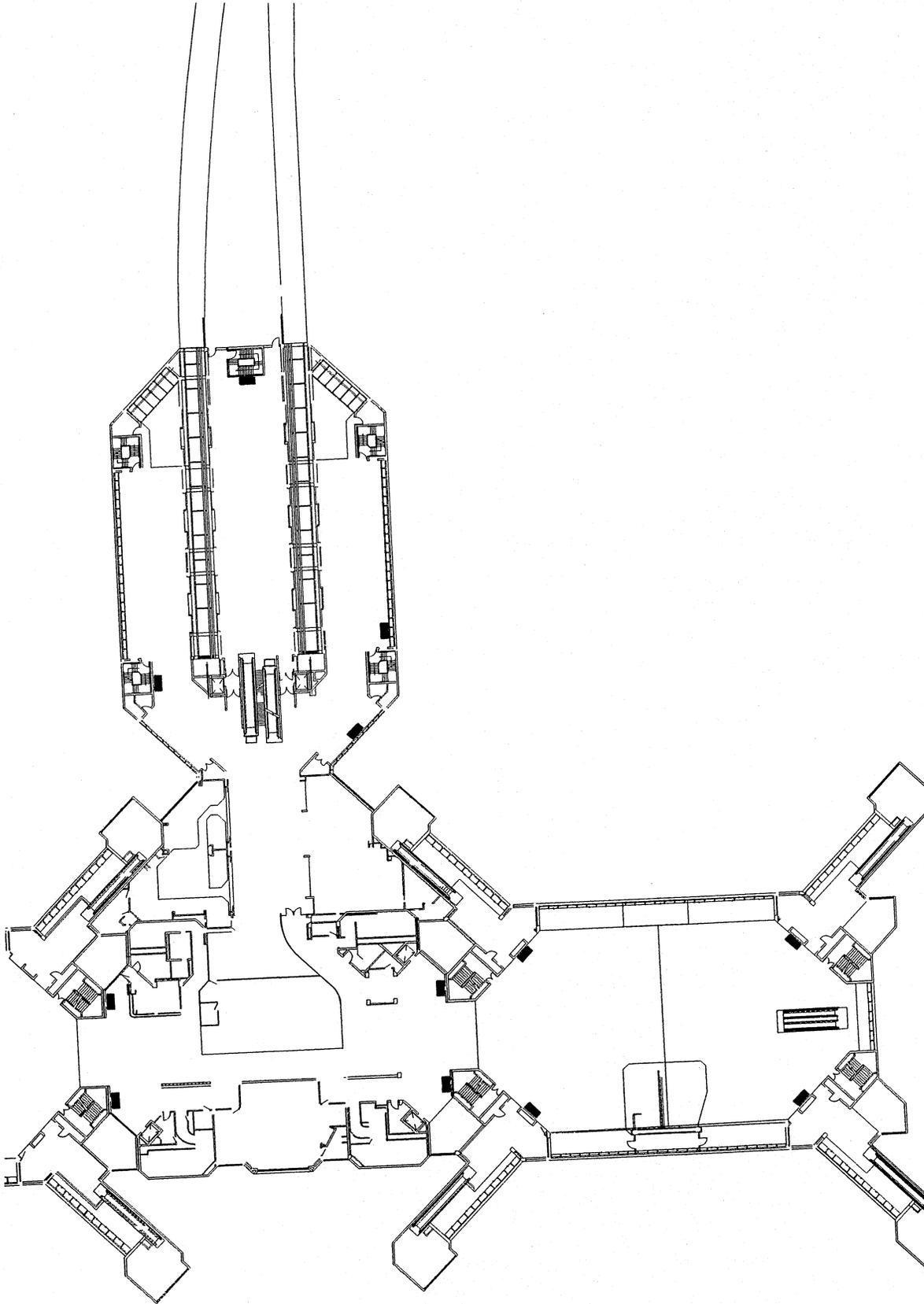


EXHIBIT "A" ADVERTISING RFP
MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS
CONCOURSE E
Third Level
OCTOBER 2007

LEGEND

-  BACKLITS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS





250

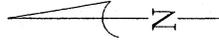
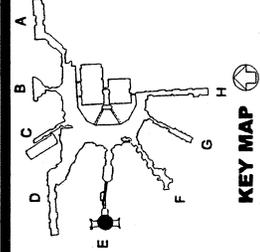


EXHIBIT "A" ADVERTISING RFP

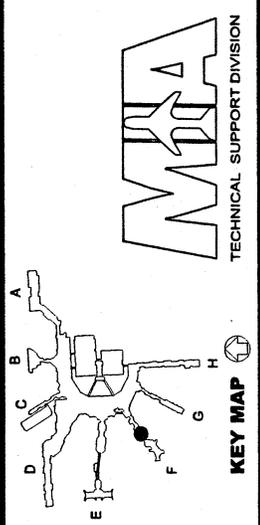
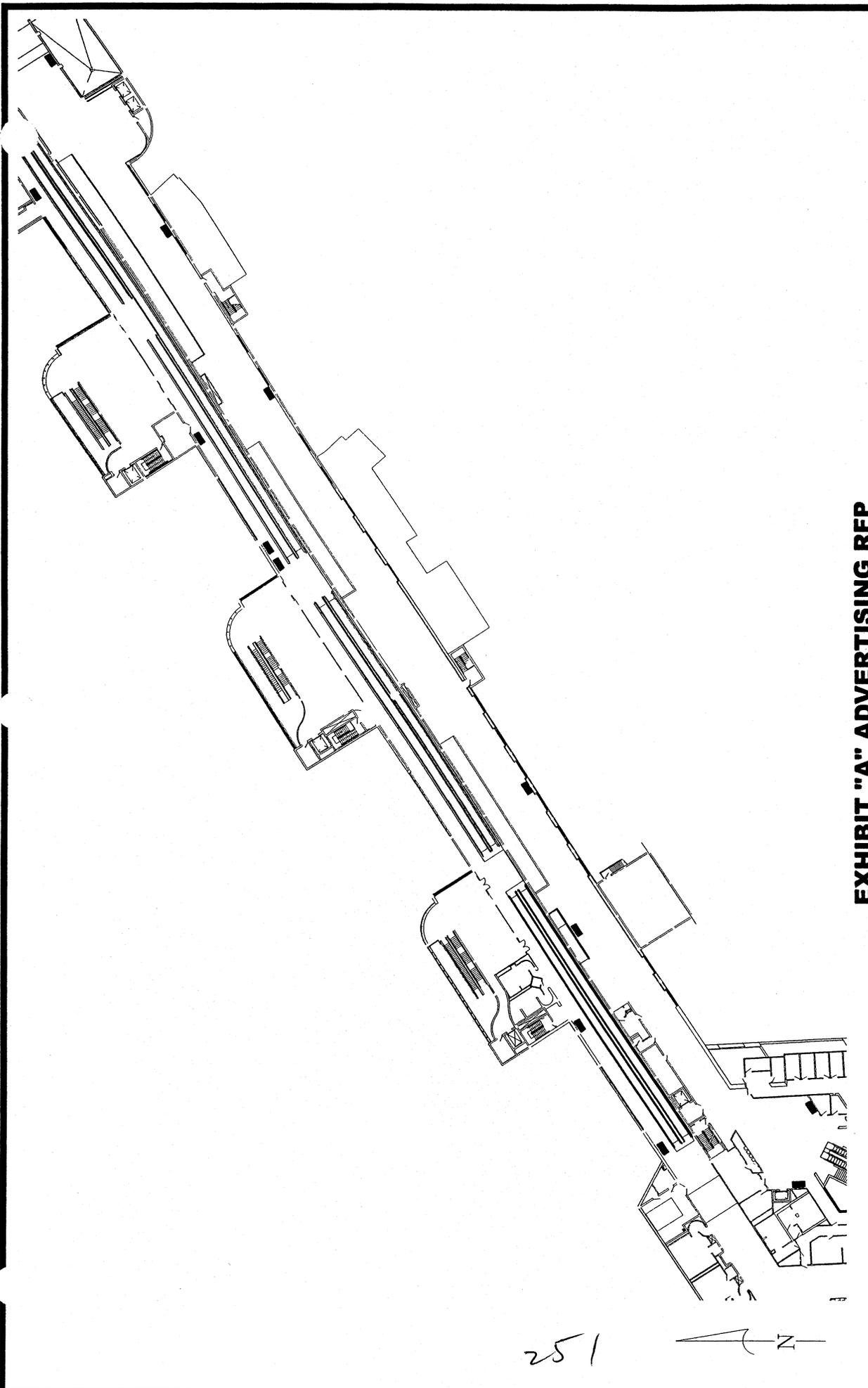
**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 SATELLITE E
 Third Level
 OCTOBER 2007**

LEGEND

-  BACKLITS
-  FLOOR EXHIBITS
-  HOTEL RESERVATION BOARD
-  WRAPS



TECHNICAL SUPPORT DIVISION



MIA
TECHNICAL SUPPORT DIVISION

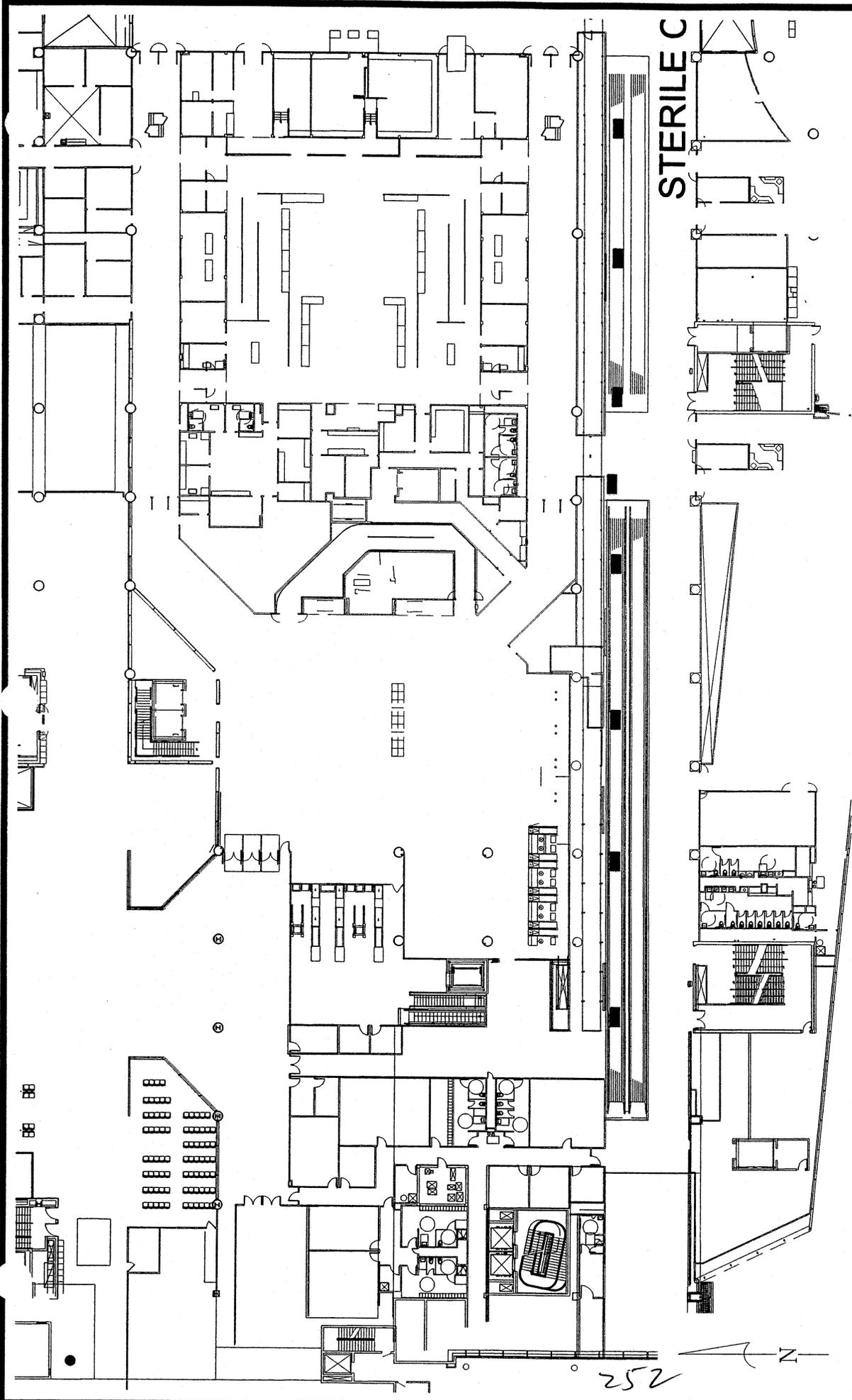
KEY MAP

EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS
CONCOURSE F
Third Level
OCTOBER 2007**

LEGEND

- BACKLIGHTS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



STERILE C

EXHIBIT "A" ADVERTISING RFP

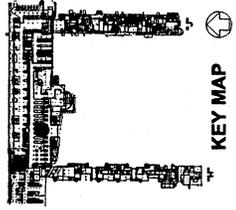
**MIAMI DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
ADVERTISING LOCATIONS**

**TERMINAL J
Third Level**

OCTOBER 2007

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- WRAPS



KEY MAP



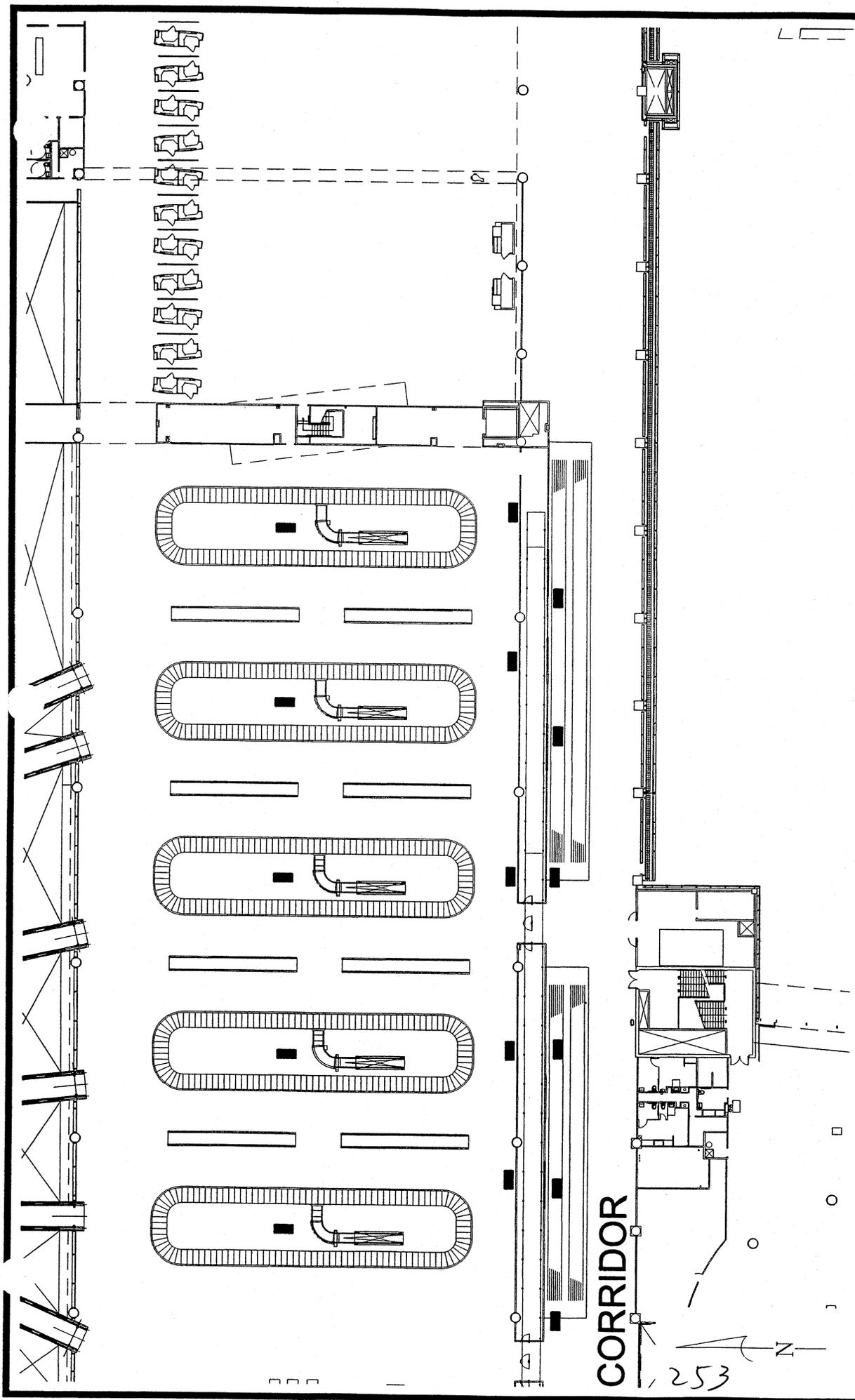
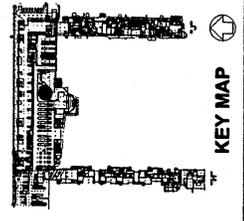


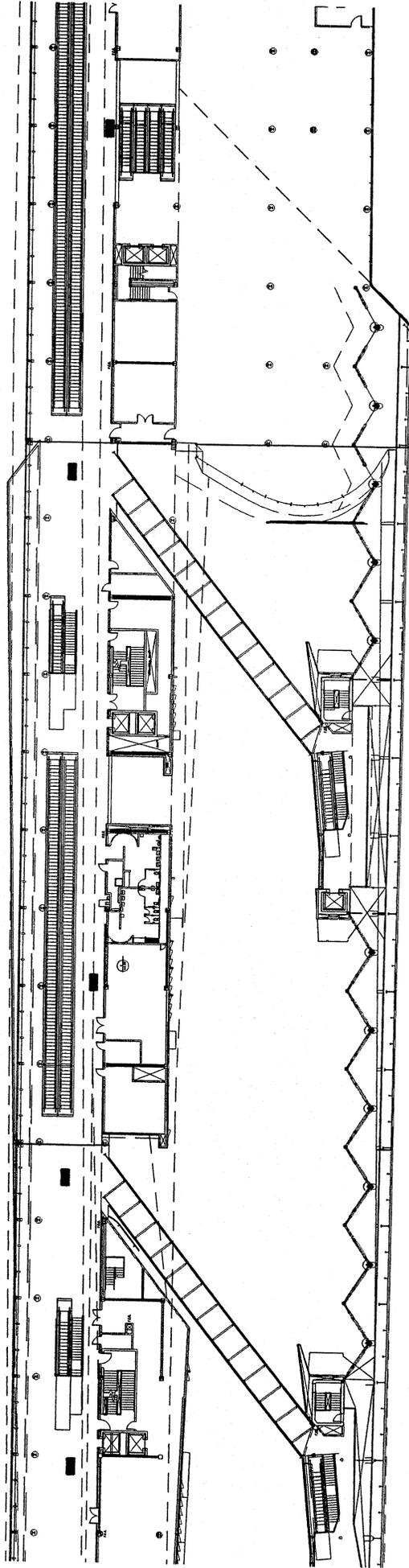
EXHIBIT "A" ADVERTISING RFP

MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 TERMINAL J
 Third Level
 OCTOBER 2007

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS





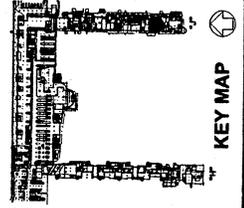
254

EXHIBIT "A" ADVERTISING RFP

**MIAMI DADE AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT
 ADVERTISING LOCATIONS
 CONCOURSE J
 Third Level
 OCTOBER 2007**

LEGEND

- BACKLITS
- FLOOR EXHIBITS
- HOTEL RESERVATION BOARD
- ▲ WRAPS



KEY MAP

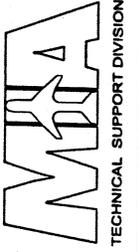


EXHIBIT A1
SUMMARY OF INVENTORY



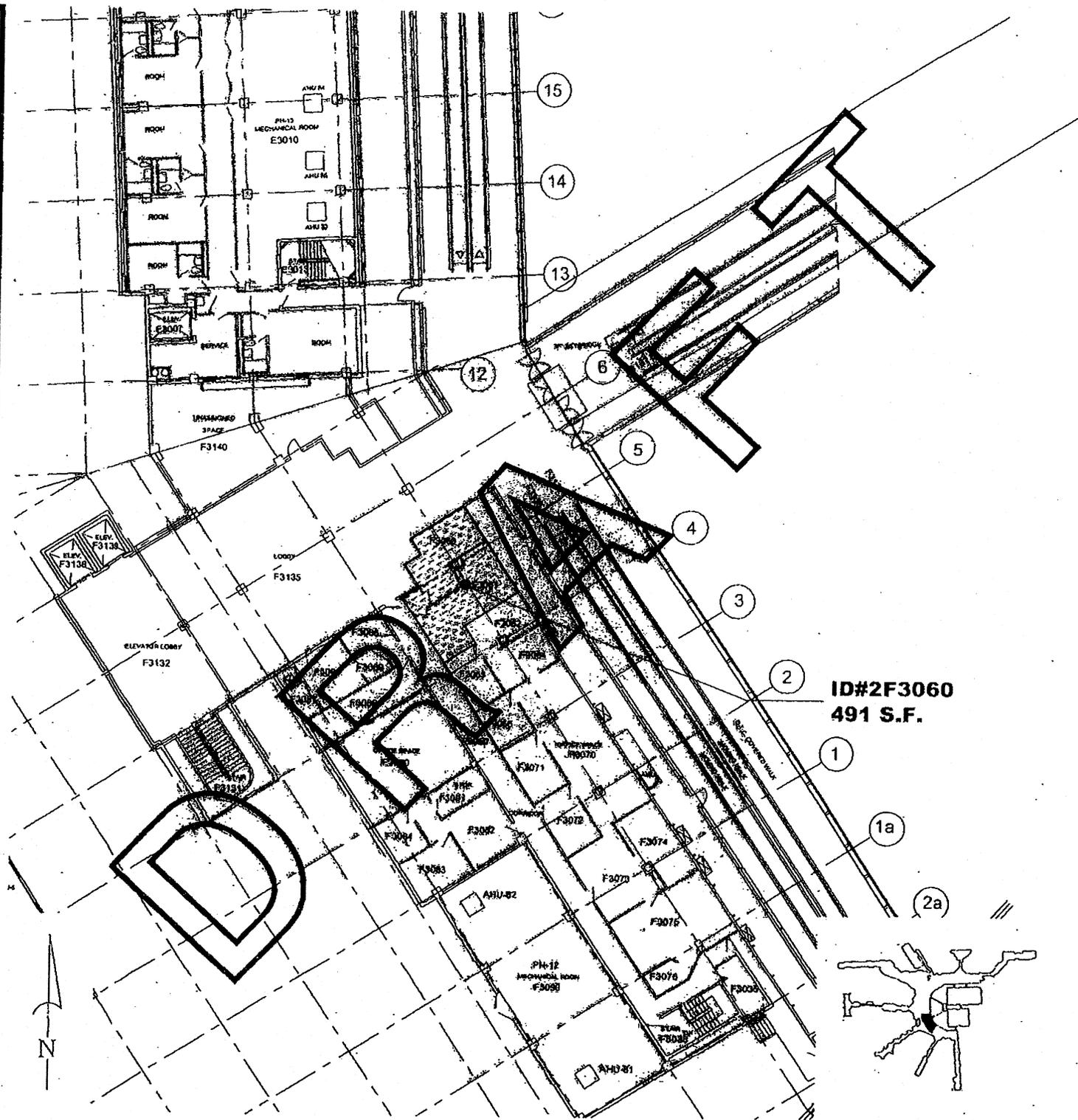
**MIAMI DADE AVIATION DEPARTMENT
ADVERTISING PROGRAM
EXISTING SUMMARY OF INVENTORY *
(Including South Terminal)**

| | |
|--|------------------|
| BACKLITS (62 X43) | 196 units |
| BAG DECK BACKLIT | 20 units |
| DBL. BACKLITS (123 X 42) | 30 units |
| BAG DECK DOUBLE BACKLIT (124X44) | 4 units |
| SPECTACULARS (6 X 20) | 1 unit |
| GIANT SPECTACULAR (7 X 11) | 13 units |
| SPECTACULAR (6 X 6) | 2 units |
| CEILING MOUNTED (71 X 29) | 6 units |
| ESCALATOR SPECT. (124 X 44) | 3 units |
| BAGDECK SPECT. (71 X 29) | 2 units |
| WALL WRAPS LOCATIONS (INT) | 26 wraps |
| WALL WRAPS (EXT) | 5 wraps |
| HOTEL RESERVATION BOARDS | 10 units |
| FLOOR EXHIBITS LOCATIONS | 1 |
| ADVERTISING BACKLIT ON PHONE BOARDS | |

* Locations may vary due to construction

256

EXHIBIT A2
ADMINISTRATIVE OFFICE
AND SUPPORT SPACE



**ID#2F3060
491 S.F.**

TERMINAL F - THIRD FLOOR

KEY MAP

| CODE: | SPACE CLASS | SQ. FT. |
|---|------------------|-----------------|
|  | A/C Office space | 491 |
| | | 491 |
| SCALE: 1/32" = 1'-0" | EFS #: M5091T3 | DATE: 7/31/2006 |

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A2
**MIAMI DADE AVIATION
DEPARTMENT**

258

EXHIBIT B

**SURETY PERFORMANCE AND
PAYMENT BOND
(CONSTRUCTION)**

EXHIBIT B

SURETY PERFORMANCE AND PAYMENT BOND

By this Bond, We, [CONCESSIONAIRE], as Principal, whose principal business address is [INSERT ADDRESS], as Developer under the contract dated _____, 200 , between Principal and Miami-Dade County for the development of the [IMPROVEMENTS] (hereinafter referred to as "Concession Agreement") the terms of which Concession Agreement are incorporated by reference in its entirety into this Bond, and We, _____, as Co-Principal, whose principal business address is _____, as Contractor under the contract dated _____, 200 , between Co-Principal and [CONCESSIONAIRE], for the construction of the [IMPROVEMENTS] (hereinafter referred to as "Construction Contract") the terms of which Construction Contract are incorporated by reference in its entirety into this Bond and _____, a corporation, whose principal business address is _____ as Surety, are bound to Miami-Dade County (hereinafter referred to as "County") in the sum of _____ (U.S. dollars) \$ _____, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal or Co-Principal:

1. Performs all the work under the Construction Contract, including but not limited to guarantees, warranties and the curing of latent defects, said Construction Contract being made a part of this bond by reference, and in the times and in the manner prescribed in the Construction Contract, including any and all damages for delay; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal or Co-Principal with labor, materials, or supplies, used directly or indirectly by Principal or Co-Principal in the prosecution of the work provided for in the Construction Contract; and
3. Pays County all losses, damages, including damages for delay, expenses, costs and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal or Co-Principal under the Construction Contract, including but not limited to a failure to honor all guarantees and warranties or to cure latent defects in its work or materials within 5 years after completion of the work under the Construction Contract; and
4. Performs the guarantee of all work and materials furnished under the Construction Contract for the time specified in the Construction Contract, including all warranties and curing all latent defects within 5 years after completion of the work under the Construction Contract; then this bond is void; otherwise it remains in full force.

If no specific periods of warranty are stated in the Construction Contract for any particular item or work, material or equipment, the warranty shall be deemed to be a period of one (1) year from the date of final acceptance by the County. This Bond does not limit the County's ability to pursue suits directly with the Principal or Co-Principal seeking damages for latent defects in

SURETY PERFORMANCE AND PAYMENT BOND (Cont'd)

materials or workmanship, such actions being subject to the limitations found in Section 95.11, Florida Statutes.

Any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Construction Contract or the changes does not affect Surety's obligation under this Bond.

IN WITNESS WHEREOF, the above bounden parties have caused this Bond to be executed by their appropriate officials as of the _____ day of _____, 20 __.

CONCESSIONAIRE

[CONCESSIONAIRE]

BY:

(President) (Managing Partner or Joint Venturer)

CONTRACTOR

(Contractor Name)

BY:

(President) (Managing Partner or Joint Venturer)

(SEAL)

SURETY PERFORMANCE AND PAYMENT BOND (Cont'd)

COUNTERSIGNED BY RESIDENT
FLORIDA AGENT OF SURETY:

SURETY:

(Copy of Agent's current
Identification Card as issued by
State of Florida Insurance Commissioner must be attached) By: _____

Attorney-in-Fact

(CORPORATE SEAL)

(Power of Attorney must be attached)

EXHIBIT C

MAG PERFORMANCE BOND

Bond No. _____

PERFORMANCE BOND FOR MAG REQUIREMENTS

KNOW ALL MEN BY THESE PRESENTS, that we, _____
_____ as Principal, and _____

licensed to do business in the State of Florida as Surety, are held and firmly bound unto Miami-Dade County (Obligee), in the penal sum of _____, \$ _____ (words and figures) of the Minimum Annual Guarantee as required in Section 3.01 of the Concession Agreement entitled "Minimum Annual Guarantee", for the payment of which sum well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, and successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas by Concession Agreement dated _____, Obligee has granted unto said Principal the right to operate an _____ at Miami International Airport and more fully described in said Concession Agreement for a term as set forth in said Agreement, a copy of which is attached, which Agreement is made a part hereof and incorporated herein by reference.

NOW, THEREFORE, if Principal, its executors, administrators, successors and assigns shall promptly and faithfully perform the Concession Agreement, according to the terms, stipulations of conditions thereof, then this obligation shall become, null and void; otherwise to remain in full force and effect.

Provided, however, this bond shall be in full force and effect for the term commencing _____ and ending _____ but may be renewed annually thereafter by the principal with written consent of the Surety by issuing a Continuation Certificate no later than thirty (30) days prior to the renewal date.

Provided further, however, that regardless of the number of years this bond may be in force, the aggregate liability of the Surety shall not be cumulative and is limited to the stated penal sum.

Provided further, however, that in the event the bond is not renewed, the liability of the Surety shall be limited to the actual damages sustained by the Obligee due to lack of performance of the Principal during the effective term of the bond. The Surety shall not be held liable for any contract period beyond which it consents to in writing, as defined in the Concession Agreement in Section 3.01 "Minimum Annual Guarantee", and Section 3.11 "Performance Bond for MAG Requirements".

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals, this ____ day of _____ the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

In The Presence Of:

_____ (Seal)

Witness

By: _____

Witness:

Surety: _____

_____ (Seal)

By: _____

264

**EXHIBIT D
AFFIDAVITS**

**TO BE PROVIDED BY THE
SUCCESSFUL PROPOSER**

EXHIBIT E
SCOPE OF SERVICES

266

EXHIBIT E

SCOPE OF SERVICES

The Department is offering advertising locations to be financed, designed, developed, furnished, installed, maintained and operated by the Concessionaire to ensure implementation of a comprehensive, successful, dynamic, creative and profitable Advertising Display Program at Miami International Airport.

The Concessionaire will need to take into consideration the unique environment of an Airport with its challenges and constraints; while marketing and offering advertising and revenue initiatives opportunities at the Airport on a local, national and international level.

Advertising Program

The advertising Locations for the Concessionaire's development at Miami International Airport include, but are not limited to surrounding buildings and improvements, the terminal, concourses, bag claim facilities, limited outdoors opportunities such as cargo area, and the parking garages.

The following traditional and non-traditional advertisings are currently permitted: backlit displays, hotel reservation and information boards, wall wraps, directories, advertising on ticket counter monitors, FIDS, GIDS, BIDS, dominance campaigns, luggage carts, cable advertising (CNN monitors) and floor exhibits. The Department is also interested in developing a webpage advertising program and an Airport Magazine. The percentage for these two concepts will be agreed upon initiation. The Department will consider incorporating other such advertising concepts, as may be suggested by the Concessionaire with the Department's written permission.

The Concessionaire shall have a sales organization capable of actively soliciting and selling advertising and revenue initiative programs, on a local, regional, national, and international level. The Concessionaire shall promote Miami by highlighting regional products and tourism opportunities and the region's role as a gateway for international commerce.

In the instance that the Department is presented with an advertising opportunity, it will offer this opportunity to the Concessionaire, who will have the first right to refusal. If a response is not received within seven days from the notice, MDAD may decide to pursue the opportunity on its own. In addition to the services being provided at Miami International Airport locations at MDAD's General Aviation's Airports may be added during the term of the Agreement.

The Concessionaire shall comply with the Department's "Tenant Handbook" Exhibit J, and the "Standards of Operations", Exhibit L; the "MIA Terminal Standards" available on www.miami-airport.com; and all

revisions to these documents promulgated from time to time by the Department at its sole discretion.

Advertising and Capital Investment Plan

Thirty (30) days after the Effective Date of the Agreement, the Concessionaire shall submit an updated Advertising and Capital Investment Plan for the Advertising program at MIA. The Department shall review such updated Plan and send back any comments within fourteen (14) days. The Concessionaire shall have fourteen (14) days thereafter to submit its revised Plan to the Department.

After the Department approves the Advertising and Capital Investment Plan, the Concessionaire shall install a Minimum Acceptable Program of 25% of all approved Locations within 90 days from the date the Department approves the plan. The Minimum Acceptable Program will include high visibility locations. Within that 90 Days period the Concessionaire must have removed existing fixtures and have installed the new fixtures in those locations. The Department will be responsible for storage of the fixtures that have been removed.

The remainder of the approved Advertising Program and Capital Investment Plan must be installed at all available Locations within 180 Days from the approved date, unless specifically otherwise approved in writing by the Department. Advertising may remain until removed.

The Concessionaire shall make a capital investment for all Advertising and Revenue Initiative program Displays, and pay for installation of all advertising and/or revenue initiative program display hardware and supporting electrical connections, in accordance with the Retail Concessions Design Guidelines. The Concessionaire is also responsible for removing inventory, existing and future or any agreed equipment, fixture or modifications necessary to support the revenue initiative program.

Provision for Inventory and Displays

The Concessionaire shall provide and install all new equipment, for the Locations approved by the Department as stated in Exhibit A, or as may be amended by the Department through an administrative written notice to the Concessionaire.

Inventory and Displays Current Inventory

- Outdoor Program: One banner in the Terminal A, one banner in the Flamingo Parking Garage and two sky bridge between the parking garages and the Terminal Building at A and at H.
- Summary of Inventory (Refer to Exhibit A-1 Summary of Inventory and Exhibit A, Advertising Locations).

- A minimum of ten (10) Hotel Reservation and Information Boards throughout the Airport. The Department will provide three Hotel Reservation and Information Boards in the South Terminal (two on the first floor of Terminal H and Terminal J and one in the third floor in the area outside the International arrival meeter/greeter area). The Concessionaire will be required to provide the other Hotel Reservation and Information Boards. The Concessionaire may submit new design subject to MDAD approval. Any needed infrastructure work, including telephone service to these boards, as well as maintenance of these boards is the responsibility of the Concessionaire. The existing Reservation boards will remain in the place until the new reservation boards are installed to ensure advertising continuity.
- A minimum of five (5) brochure rack Displays may be built in close proximity to MIA's planned five main information counters. The Concessionaire shall provide the brochure racks. Appendix M "Information Counter Proposed Design", generating element of the program is an example of the proposed design for the Information Counters. The brochure rack should be consistent with the materials and design of the Information Counters.
- The Bus Shelters Program includes ten (10) advertising units installed in the Bus Shelters to serve as pick up/drop off points for rental cars, off Airport parking and hotel shuttles. The Bus Shelters are located in the Upper Vehicle Drive of Miami International Airport.

The Department will select at least ten (10) standard backlit displays from Locations in Exhibit A for direct Department use.

Advertising Display Specifications

Displays must not compete with way finding, amenity or informational signage, as determined by the Department. They are not to be mounted in a manner that might limit passenger's use and access to way finding, amenity or informational signage. All Displays must be warranted by the Concessionaire to comply with the Americans with Disabilities Act (ADA) pursuant to Sub-article 7.02 "Americans with Disabilities Act Requirements" of the Form of Agreement.

There shall never be any unlighted terminal backlit advertising display. All Locations must be sold with a paid advertisement or filled with an approved Public Service Announcement (PSA), or Department's advertisement.

All Displays are to be cleaned as needed, checked, and stocked no less than weekly. A stocking schedule must be submitted to the Department. The Department may require a more frequent stocking schedule if the racks are empty too often.

The Hotel Reservations and Information boards are to include provisions for general ground transportation information, and a built-in map of the area. On Airport Rental Car companies operating through the Airports will be offered phone service to their facilities located off airport at no cost, unless otherwise specified by the Department. The Concessionaire may solicit these and all off-airport Rental Car companies, for paid advertising on the Reservation Board.

Staffing and Maintenance

The Concessionaire will carry on its business diligently twenty – four (24) hours per day and three hundred sixty five (365) day per year.

The Concessionaire shall employ at all times a sufficient number of personnel necessary to assure prompt, courteous and efficient service. Advertising staff shall be properly trained and attired, and must wear identification “badges” in accordance with MIA requirements.

The Concessionaire must provide a local airport service manager, a maintenance contact and a phone number, which they or their substitute can be reached at all times. Maintenance personnel are to be available for emergency contact 24 hours a day, 365 days a year. The Concessionaire shall respond to Department’s emergency requests within 24 hours and within 48 hours for other requests unless otherwise directed by the Department.

Concessionaire must provide on-site staff during the week to inspect clean and maintain advertising display/fixtures. All fixtures and advertising copy must be inspected and cleaned once a week. Damaged fixtures, lamps and faded or torn copies or display units must be repaired or replaced within 24 hours of being identified.

The Concessionaire understands and agrees that its operation under this Agreement is a service to airline passengers and the users of the Airport and that the Concessionaire shall conduct its operation in a first-class, businesslike, efficient, courteous, and accommodating manner.

Rate Card

A rate sheet detailing proposed prices for all advertising locations including package promotions must be submitted annually, or whenever such rates are adjusted, and approved by the Department prior to advertising the rate card.

EXHIBIT F
CALCULATION OF MONTHLY
SALES TAXES

Exhibit F

Calculation of Monthly Sales Taxes

The following is the criteria established for the calculation of sales taxes for display areas considered real estate property. This criteria applies to the wall space square footage to which displays are affixed and to the square footage of a floor display area. Sales Taxes will be calculated monthly only on sold displays.

Criteria:

- A) Number of total devices sold by category.
- B) Convert display measures from inches to square feet. (Inches/12=Sq. Ft.).
- C) Multiply the total square feet by the Terminal Rental rate, Class VI (Sq. Ft. X Rate).
- D) Divide the total of point C) by twelve (12) months. (Dollars/12).
- E) The sum will represent the Taxable Rental amount which will be multiplied by the applicable Tax Rate. (Dollar (\$) x Percent (%) = Tax due).
- F) Result = Sales Tax due for the month.

Advertising posted in luggage carts will not be subject to sales tax.

**The following Exhibits can be obtained by
visiting our Website at:**

www.miami-airport.com/html/business_opportunities.html

- Exhibit G:** Independent Audit Report
- Exhibit H:** Monthly Report of Gross Revenues
- Exhibit I:** List of Prohibited Items
- Exhibit J:** Tenant Handbook
- Exhibit K:** Not Used
- Exhibit L:** Standard of Operations
- Exhibit M:** Tenant Airport Construction-Non-Reimbursable Procedures (TAC-N)
Tenant Airport Construction Reimbursable Procedures (TAC-R)
- Exhibit N:** Retail Concessions Design Guidelines (North, Central, South Terminals)