Memorandum

MIAMI-DADE COUNTY

Date: June 11, 2009

ASC
Agenda Item No.
3(F)

To: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Request to Advertise Request for Proposals for Luggage Wrapping Services at Miami International Airport (MIA) RFP No. MDAD-01-09

RECOMMENDATION
It is recommended that the Board approve the advertisement of a Request for Proposals (RFP) for the Luggage Wrapping Services at Miami International Airport (MIA). A copy of the RFP is attached in a substantially completed form.

SCOPE
MIA is located primarily within Commission District Six.

FISCAL IMPACT/FUNDING SOURCE
This is a revenue-generating contract for Miami-Dade County. See Payments to the County on page 2.

TRACK RECORD/MONITOR
Not applicable as this is a Request to Advertise. The Miami-Dade Aviation Department (MDAD) Project Manager will be Adrian Songer, Property Manager for Commercial Operations.

BACKGROUND
The County, represented by MDAD, is seeking qualified firms to propose on the RFP. This RFP will result in the selection of one successful proposer, who shall provide equipment installation, operation, and maintenance of luggage-wrapping machines in strategically located areas throughout the MIA terminal. The successful proposer must provide re-wrapping free of charge to passengers whose luggage has been opened and inspected by the TSA.

PROJECT: Luggage Wrapping Services at MIA

PROJECT NO.: RFP No. MDAD-01-09

TERM OF AGREEMENT: The term of the agreement issued as a result of this solicitation shall be for five (5) years with one (1) two-year extension at the sole discretion of MDAD.

COST ESTIMATE: N/A

PAYMENTS TO THE COUNTY: This project is revenue-generating with payments to the County outlined below.

PAYMENTS TO THE COUNTY:

A. Minimum Annual Guarantee (MAG): The proposer shall pay a MAG of at least Six Hundred Ninety Thousand

Dollars ($690,000) inclusive of the annual rent (excluding support space).

The successful proposer shall pay the MAG in twelve (12) equal monthly payments, "Minimum Monthly Guarantee". For each year after the first year, the MAG will be adjusted by the Consumer Price Index.

B. Percentage Fee to the County: The proposer shall pay at least twenty-five percent (25%) of its monthly gross revenues or the minimum monthly guarantee, whichever is greater.

C. Annual Rental: The successful proposer shall pay the prevailing Class VI terminal rates for the lease of the locations occupied by the luggage-wrapping machines (approximately two-square-feet per location) upon beneficial occupancy. The terminal Class VI rental rate is currently at $65.69 per square foot and is based on rates in effect as of October 1, 2008, and adjusted annually. Support space shall be available for rent at current applicable rates.

D. Payments to the County shall be made in accordance with the terms stated in the agreement. All payments to the County shall be made on a timely basis, or the County shall initiate termination for default as stated in the Agreement.

MINIMUM QUALIFICATIONS EXCEED LEGAL REQUIREMENTS: N/A

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

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

ACDBE GOAL: 30%

USING AGENCY: Miami-Dade Aviation Department

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: May 5, 2009

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

SUBJECT: Agenda Item No.

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 Mayor'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 Agenda Item No.
Veto _____
Override _____

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR DESIGNEE TO ADVERTISE A REQUEST FOR PROPOSALS (RFP NO. MDAD-01-09) TO SELECT A FIRM TO PROVIDE EQUIPMENT, INSTALLATION, OPERATION AND MAINTENANCE FOR LUGGAGE WRAPPING SERVICES AT MIAMI INTERNATIONAL AIRPORT

WHEREAS, this 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 County Mayor or designee, to advertise in local publications for responses to the Request for Proposals (RFP No. MDAD-01-09), attached hereto in a substantially completed form, so as to obtain a qualified firm to provide equipment installation, operation and maintenance of luggage wrapping machines to be located at Miami International Airport ("MIA"). This Request for Proposals will result in the selection of one (1) successful proposer, who shall place luggage wrapping machines in strategically located areas throughout the MIA Terminal Building. Upon evaluation and selection of the highest ranked responsive and responsible proposer, the County Mayor or designee may proceed to negotiate a contract with said proposer for submission to the Board 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:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of May, 2009. 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.

Cynji A. Lee

REQUEST FOR PROPOSALS

FOR

LUGGAGE WRAPPING SERVICES AT MIAMI INTERNATIONAL AIRPORT

RFP No. MDAD-01-09

PRE-PROPOSAL CONFERENCE TO BE HELD ON

_____ at A.M./ P.M.

(LOCAL TIME)

Location/Conference Room ____

ISSUING DEPARTMENT:
MIAMI-DADE AVIATION DEPARTMENT
CONTRACTS ADMINISTRATION DIVISION

Contracting Officer: Pedro J. Betancourt
Telephone: (305) 876-7345
Facsimile: (305) 876-8068
Email: pjbetancourt@miami-airport.com

PROPOSALS ARE DUE AT THE ADDRESS SHOWN BELOW
NO LATER THAN

at _____(LOCAL TIME) ("PROPOSAL DUE DATE AND 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.

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Attachments to the RFP document:

Appendix A: Questionnaire and Minimum Qualification Requirements Form

Appendix B: Price Proposal Form

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Appendix D: Lobbyist Registration for Oral Presentation Affidavit

Appendix E-1: Single Form Execution Affidavits

- Public Entity Crimes Affidavit
- Criminal Record Affidavit
- Disclosure of Ownership Affidavit

Appendix E-2: Condition of Award Requirements

- Affirmation of Vendor Affidavits
- 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

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*** Condition of Award**

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:

a) The term "**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.

b) The term "**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.

c) The term "**Airport**" or **"MIA"** shall mean Miami International Airport and any facilities controlled by MDAD.

d) The term **"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".

e) The term "Aviation Director" or "Director" shall mean the Director of the Miami-Dade Aviation Department or his or her designee.

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

g) 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.

h) 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.

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

j) The term **"Concessionaire"** shall mean the person, firm, or entity that enters into the Agreement with the County as a result of this Solicitation.

k) 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.

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

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

n) The term **"Date of Execution"** shall mean the day upon which the Agreement is executed by the County Manager of Miami-Dade County or designee, after attestation by the Clerk of the Board.

o) 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. MDAD may only exercise such rights through the specific positions listed in the Solicitation or Contract documents.

p) The term **"Effective Date"** shall mean ten (10) days after the date of execution.

q) The term "Exhibit" shall mean all documents attached to the Lease and Concession Agreement.

r) The term "**Location(s), Facility(ies),** and **Premises**" shall mean the areas which are used by the Concessionaire for actual placement and operation of Luggage Wrapping Machines as defined in Exhibit A.

s) "**Luggage Wrapping Machines"** or "**Machines"** shall mean the equipment used by the Successful Proposer to perform its services, pursuant to the Scope of Services.

t) "**Minimum Monthly Guarantee"** or **"MMG"** shall mean the proration of the Minimum Annual Guarantee which is payable in twelve equal monthly installments.

u) 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.

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

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

x) The term **"Proposer"** or **"Respondent"**, **"Submitter"**, **"Vendor"**, or **"Bidder"** shall mean the person, firm, entity or organization submitting a response to this Solicitation.

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

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

aa) The terms "**Subcontractor/Subconsultant**" shall mean any person, firm, entity or organization, 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.

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

cc) 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.

dd) The word **"Terminal"** or **"Terminal Building"** 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.

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

ff) The term **"Turnover Date"** shall mean the date approved by the Department for the Concessionaire to commence construction of a Location.

gg) The terms "**Work**", **"Services"**, **"Program"**, **"Project**" or "**Engagement"** shall mean all matters and things that will be required to be done by the Successful Proposer in accordance with the Scope of Services and the terms and conditions of this Solicitation and the Agreement.

Note: **Additional Terms are included in Section 6 of this RFP in the Form of Agreement. It is incumbent on Proposers to carefully consult all terms as set forth in the Form of Agreement.**

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

1.1 INTRODUCTION/BACKGROUND

The County (the "County"), as represented by MDAD, requires the services of one (1) qualified firm to provide Luggage Wrapping Services at MIA.

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, MIA 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 sectors, such as tourism, the cruise industry, 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 maintains one of the highest international to domestic passenger ratios of any US airport.

MIA offers an extensive air service network stretching to nearly 150 destinations on four continents. Air service is provided by a total of 69 scheduled and 18 charter carriers.

Following are "Facts at a Glance" information regarding the MDAD, as of February 2009:

Miami-Dade Airports:

- 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 $25.6 billion. The Airport and related aviation industries contribute 272,400 direct/indirect jobs in South Florida.

MIA Rankings for 2007:

U.S. Airport Rankings
1st in the U.S - International Freight
3rd in the U.S. - International Passengers
3rd in the U.S. - Total Freight
3rd in the U.S. - Total Cargo (Freight + Mail)
19th in the U.S. - Total Passengers
19th in the U.S. - Total Number of Operations

MIA World Airport Rankings

8th International Freight
9th Total Cargo (Freight + Mail)
10th Total Freight
27th Total Number of Operations
29th Total Passengers
30thInternational Passengers

MIA (Year 2008 Figures)

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

MIA Personnel:

MDAD and Other:	35,522

MIA Hotel:

Miami International Airport Hotel has 260 rooms.

MIA Flight Operations: (2008)

Domestic	201,915
International	168,966
Total:	370,881

MIA Passengers: (2008)

Domestic	17.9 million

International	16.1 million
Total:	34.0 million
Weekday Daily Average:	92,022passengers
Weekend Daily Average:	100,608 passengers
Weekly Average:	664,862 passengers

MIA Freight: (2008)

International	1,701,877 U.S. Tons
Domestic	243,002 U.S. Tons
Total:	1,944,879 U.S. Tons

MIA Carriers: (02/09)

U.S.	39	Scheduled	66
International	47	Charter	20
Total	86		86

Number of Destinations: (1st Q'09)

	Non-Stop	One Stop
Domestic	44	11
International	72	09
Total	116	20

Number of Ticketing Positions: 451

Number of gates: 101* 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.

Fourth Runway: One of the major projects of the CIP was the construction of MIA's Fourth Runway. Operational in September 2003, the 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: Extending from MIA's Central, South and North Terminal will add over 4 million square feet to MIA's existing 3.5 million square feet of space. The South Terminal opening added 1.7 million square feet to MIA.

The North Terminal will encompass more than 3.2 million square feet upon its phased completion in 2011. At that point, the North and South Terminals will have a total of 130 gates, with 100 international gates and 30 domestic 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, with 41 common-use cargo positions and 23 leased cargo positions.

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: Construction is currently underway on the East Segment of the NW 25th Viaduct Project. The limits for the East segment of the project are from SR826 to NW67th Avenue. The FDOT project includes the reconstruction/widening of NW 25th Street and the construction of a viaduct from just east of SR826 to NW 68th Avenue where it curves south terminating at NW 22nd Street, adjacent to the MIA Westside cargo area.

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

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

The **North Terminal** is currently under construction. The North Terminal will be opened in phases with an expected completion in 2011. Approximately 65% of the passenger traffic will utilize the North Terminal.

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

The **Central Terminal** has a majority of the retail space located on the pre-security portion of the Terminal.

Existing concessions include duty free stores, news/gifts stores, specialty retail stores and food and beverage establishments totaling 73,000 square

feet.

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

The **South Terminal** is home to the *Star* Alliance and *Skyteam* Alliance which include *United Airlines, U.S. Airways, Delta Airlines* and their code share and marketing Alliance partners. Approximately 22% of all passenger traffic is expected to flow through the South Terminal with 24 airlines planned to occupy the Terminal.

The South Terminal was opened in September 2007 and offers a vast and exquisite mix of food and beverages establishments, retails stores and duty free stores. Some of the brands available in the South Terminals are: *Nathan's Famous, Starbucks, ILLY, Bongos* (Bar), *Haagen Dazs* (yogurt/pastry), (café/bar), *McDonalds, Gilbert's foodbar* (Latin), *Island Chicken Grill* (Caribbean) and *Famous Famiglia Pizzeria* (Italian), Duty Free Americas, Navarro, Hugo Boss, Rosetta Stone, Sunglass Hut.

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

The County, represented by MDAD is seeking proposals from interested parties to provide Luggage Wrapping Services at MIA. The "Successful Proposer" shall provide, install, operate, and maintain luggage wrapping and all other necessary/appurtenant machines ("Machines") for the provision of luggage services at MIA. In addition, Locations may be added at other facilities controlled by MDAD during the Term of any Agreement issued as a result of this RFP. This RFP will result in the selection of one successful proposer, who shall place luggage wrapping machines in strategically located areas throughout the Terminal Building. The Successful Proposer must provide re-wrapping free of charge to passengers whose luggage has been opened and inspected by the TSA. The Machines shall be new and maintained in an operational condition and in service three hundred sixty-five (365) days a year. The Successful Proposer shall not provide any other service except luggage wrapping at MIA, unless specifically permitted in writing.

TRANSITION PLAN

The Successful Proposer will submit a Transition Plan including a timeline schedule to the Department, within twenty (20) days of the Date of Execution to ensure a smooth transition from the incumbent.

LOCATIONS

The Successful Proposer shall operate Machines at those Locations referenced in Exhibit A of the Agreement, and as may be added/deleted or modified by the Department from time to time, and shall use and occupy those Locations solely for the purpose of operating luggage wrapping machines as described herein and for no other business or purpose whatsoever.

The anticipated number of Locations are as stated below:

Terminal Building – Second level – 19 Locations

Curbside Locations – Second level – 4 Locations

Additionally, there will be Locations allocated for the re-wrapping stations.

The Department shall approve a final plan for the Locations of all Machines. Changes cannot be made to the Locations without the written approval of the Department. The Successful Proposer can propose different or new Locations to MDAD for review.

REWRAPPING SERVICES POST TSA INSPECTION

The Successful Proposer must, at the time of award, have the ability to rewrap bags previously wrapped but subsequently opened by TSA. This requirement is outlined in detail at Appendix M, Section 3.1 and Section 5 below.

EQUIPMENT SPECIFICATIONS

The Department supports the use of recyclable plastic materials. The plastic used must be resilient; however, its use cannot impede or interfere with the operation of the baggage conveyor system operation. Luggage must not be compressed in a way to cause the luggage to deform and impede an easy handling of the same by the Airlines. Proposers must provide specifications as part of their proposal, which shall be reviewed by the Evaluation/Selection Committee as part of the Technical Information, on the type of Machines they will use.

- Machines shall meet all Federal, State and County codes, requirements and regulations.
- Requested maximum size of the Machines: 5' (feet) height (including any advertisement sign), 3' (feet) width and 6' (feet) depth. The Department may at its discretion consider machines that are of a different size.
- The information requested shall include all reporting functionalities and capabilities (e.g. paper trail, electronic monitoring, certification from Machine manufacturer that revenue calculating devices in the Machines are tamperproof, etc).
- The Machine shall be easy to relocate, and be able to operate with power or battery. The Machine shall be provided with an emergency button to bring the machine to stop in case of an emergency, as well as a mechanism to turn on/off the Machines by the Successful Proposer.
- Machines with credit cards capabilities are permissible.
- Successful Proposer may be required, at its own expense, to install protective devices against burglary or vandalism, and machines should be capable of accepting such protective devices.
- Machines will not have any cavities or openings in which to conceal weapons of any kind.

EQUIPMENT OPERATION

Luggage Wrapping Machines shall be used to wrap or enclose baggage/luggage in a plastic material for the purpose of protecting/sealing it against damage and vandalism. Use of straps, belts or cords is prohibited.

During the term of the Agreement, the Successful Proposer will be required to demonstrate without notice the operational process at any given Location. The purpose is to demonstrate that the wrapping operation does not affect the current and future TSA technology nor interfere with TSA operations.

Machines shall be covered and stored at the Locations at all time whenever not in use, unless otherwise advised by the Department.

Any and all information the Successful Proposer intends to place on Machines shall be submitted to the Department for approval prior to installation. Once the Department approves the information to be displayed on the Machines, changes to this information cannot be made without written approval from the Department.

The Successful Proposer must provide on-site staff during the week to inspect clean and maintain machines.

GENERAL MANAGER

The Successful 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.

STAFFING AND MAINTENANCE

The Successful Proposer shall employ at all times a sufficient number of personnel necessary to assure prompt, courteous and efficient service. For more information refer to Exhibit L, "Standard of Operations" and Exhibit J "Tenant Handbook". Luggage wrapping staff and employees shall be properly trained and attired, and must wear company issued identification badges and the Airport Identification badge in accordance with MIA requirements. Personnel shall not engage in any "pressure-sales" or soliciting tactics for any services offered at MIA.

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, business like, efficient, courteous, and accommodating manner.

The Successful Proposer may be required to present a waiver to TSA and have its employees working in the TSA areas to sign a liability release and/or other documentation required by TSA.

PRICING

A price sheet detailing proposed prices for all services must be submitted annually or whenever the Successful Proposer would like to modify them. All prices and subsequent changes must be approved by the Department prior to implementation. Prices for the first year of operation must be submitted for approval prior to contract execution.

Prices must be visible on the Machines. A sample of the sign and sign holder needs to be submitted to the Department for approval prior to implementation.

UTILITIES

The cost of all utilities used or consumed in the Locations shall be borne by the Successful Proposer. The Successful 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 Successful Proposer on actual usage measured by temporary meters, arranged and paid for by the Successful Proposer.

Utilities including electric and telecommunications, as necessary, must be pulled by the Successful Proposer from the nearest junction box in accordance with MDAD requirements.

SIGNAGE

Any and all signage must have prior approval from the Department and is subject to the terms and conditions of the Agreement. Moving or flashing signs are prohibited.

AMERICANS DISABILITY ACT REQUIREMENTS

Successful Proposer shall comply with all ADA requirements in the operation of luggage wrapping.

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.

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 Lease and Concession Agreement.)

CUSTOMER SERVICES

Staff interacting with customers must be able to communicate well in English and must be trained in customer service, quality assurance, sensitivity and awareness regarding individuals with disabilities.

SECURITY REQUIREMENTS

The Successful Proposer shall provide necessary security measures at the Locations to protect the customer and MDAD.

The Successful Proposer must comply with all Security Directives and all

regulations. Failure to carry out all Security Directives and regulations will result in termination of the Agreement.

The Successful Proposer may be required to sign an affidavit with TSA attesting to its Agreement to be subject to any direct enforcement action taken by TSA against the Successful Proposer or its employees and to accept and adhere to any amendment that may be subsequently implemented through the Airport's security program or aircraft/air carrier security program, prior to commencement of operations.

Additional security requirements which constitute conditions of award are specified in Appendix M, Section 3.1 and 5 below. Nothing contained in this Section shall limit the ability of the Department, County, State, or Federal Government to enforce any existing or future directive, policy, rule, regulation, law, or statute related to security against the Successful Proposer. The Successful Proposer agrees that it will comply with same at its sole cost and expense.

INSTALLATION MAINTENANCE

The Successful Proposer shall be responsible for all permitting and installation requirements for any new dedicated electrical outlets; and for all maintenance and repairs associated with the Luggage Wrapping Machines, at the Successful Proposer's sole cost and expense. The Successful Proposer shall perform the installations pursuant to TAC-N procedures, Exhibit F. Electrical cords if used, must be covered and not create a tripping hazard or other safety hazard.

If the re wrapping services are performed in the TSA area, it is the Successful Proposer's responsibility to install the electrical outlets and maintain and operate the Machines at all times.

PAYMENTS TO THE COUNTY

A. Minimum Annual Guarantee (MAG): As consideration for the privilege to engage in business at MIA, the Proposer shall propose to pay a MAG of at least Six Hundred Ninety Thousand Dollars ($690,000) inclusive of the Location Annual Rent (excluding support space).

B. Percentage Fee to the County: The Proposer shall propose to pay at least twenty-five percent (25%) of its Monthly Gross Revenues or the MMG, whichever is greater.

C. Annual Rental: The Successful Proposer shall pay the prevailing Class VI terminal rates (the "Annual Rent"), for the lease of the Location spaces occupied by the Luggage Wrapping Machines (approximately Twenty-four (24) square feet per Location), upon Beneficial Occupancy of the location. The terminal Class VI rental rate is currently at $65.69 per square foot and

is based on rates in effect as of October 1, 2008 and adjusted annually. Support space shall be available for rent at current applicable rates.

D. Payments to the County shall be made in accordance with the terms stated in the Agreement. All payments to the County shall be made on a timely basis; or the County shall initiate termination proceedings for payment default as stated in the Agreement.

REPORTING

The Successful Proposer shall provide an electronic record of all transactions by Location and by Machine, for accounting and auditing purposes, on a monthly basis and also, upon request by the Department. The Machines must generate printed revenue reports as requested by the Department. The manufacturer of the Machine must provide a certificate verifying that the revenue mechanism creating the reports is tamperproof. Machines or any part of the Machines cannot be replaced without the written permission of the Department, and any replacement or parts of Machines shall at all times meet the requirement above. The Department reserves the right to inspect the Machines and to audit the Successful Proposer on a random basis without notice to the Successful Proposer and to oversee all collections made by Successful Proposer from Machines. Any evidence of tampering may lead to termination of the Agreement. Only a certified company technician may have access to the Machine's accounting system and must notify the Department before servicing or repairing any part of the machine that produces access to the accounting system. A copy of the monthly transaction report or similar information will need to be submitted with the Successful Proposer's monthly payment for verification.

TERM

The term of the Agreement issued as a result of this RFP shall be for five (5) years with one (1), two (2) year option to extend. The term shall start on the Effective Date of the Agreement.

1.3 MINIMUM QUALIFICATION REQUIREMENTS

The Proposer must provide evidence 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, installed, maintained, and operated luggage wrapping services in International Airports.

2. The Proposer must submit documentation to evidence gross revenues totaling **no less than $700,000 per year** derived from luggage wrapping services revenues.

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 **$50.00 (non-refundable) check or money order** payable to: MDAD.

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) 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. One (1) PDF version of Part A Technical Proposal must be submitted in a CD format. **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 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 ½" 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 price 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 Form

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

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) Proof of Minimum Qualifications

The Proposer shall verify its ability to satisfy all of the minimum qualification requirements (see Appendix A "Questionnaire and Minimum Qualification Requirements Form"). A Proposer who does not meet the minimum qualification requirements may be found non-responsible.

e) 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.

4) The Proposer shall provide luggage wrapping machines specifications and capability related to the Services described in Section 1.2, Scope of Services. (e.g. operation, software/hardware information, material, etc.).

5) The Proposer shall provide a Managing, Operating and Maintenance Plan as outlined in **Appendix J**.

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.

f) 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 which substantiates the required experience.

4) Past Performance: List all contracts which the Proposer has performed for the 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 the 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 including, but not limited, to: the General Manager 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, (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) 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 ten (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.

7) 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 the County (including Miami-Dade Aviation), (b) directly or indirectly receives or received revenues from the 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.

8) 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.

g) 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.

All Proposers must provide information on:

- The percentage of equity of any partnerships formed
- Equity shares should be specified on the form and on additional sheets, if necessary.

Failure to provide the required documentation may result in the Proposer being found non-responsible at the discretion of the County.

1) Capital Investment:

Proposer shall submit a Financial Plan, which will indicate:

- the source of funding to be used for start up costs and capital improvements, and
- the amount of working capital and reserves the Proposer determines will be required to maintain operations.

Additional information will include, but not be limited to,

- estimated costs for improvements and
- 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 financial statements for the last **three** 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 **three (3)** 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 that 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 such as the financial relationship and responsibilities to subsidiary or related companies for both the parent and subsidiary. State whether the parent company guarantees the Minimum Annual Guarantee and the 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 Form

Appendix B: Price Proposal Form

Appendix C: Acknowledgement of Addenda

Appendix D: Lobbyist Registration for Oral Presentation

Appendix E-1: Single Form Execution Affidavits

- Public Entity Crimes Affidavit
- Criminal Record Affidavit
- Disclosure of Ownership Affidavit

Appendix E-2: Condition of Award Requirements

- Affirmation of Vendor Affidavits
- 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 I: Forms required by ACDBE Program
Appendix M: Corporate Security Action Plan[1]

C. PRICE PROPOSAL FORM - (Part B)

The Proposer must submit the executed Price Proposal Form (**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 FORM**", together with the Proposer's name, RFP Number and RFP title. The Proposer may submit the separate sealed Price Proposal Form 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 Form. Proposers cannot qualify, place conditions or additional terms with the Price Proposal Form. Proposers who place qualifications,

[1] The Successful Proposer must, at the time of award, have the ability to rewrap bags previously wrapped but subsequently opened by TSA

Submission of the CSAP Package is a condition of award and not a requirement of proposal submission. The CSAP Package will not be considered in the evaluation process and will not be opened as part of the proposal evaluation or presented to the Selection Committee.

Nonetheless Proposers are encouraged to submit the CSAP Package in order to facilitate the review process; MDAD staff may therefore open this envelope and conduct a preliminary review of the CSAP Package, but such review shall not be presented to the Selection Committee. The Proposers will be allowed to cure deficiencies in the CSAP Package once submitted, however, such deficiencies may delay the review process.

The CSAP Package must be submitted to MDAD by the highest ranked responsive and responsible Proposer within seven (7) days after the County Manager recommends award of the proposal to such proposer or recommends that a negotiation committee be formed to negotiate with such proposer.

The CSAP Package should be submitted in a sealed separate envelope stamped "Confidential".

Proposers may also recommend a process, to perform post TSA inspection bag re-wrapping services outside the TSA inspection area. If submitted, such process must be provided at the same time as the CSAP Package.

conditions or additional terms with the Price Proposal Form 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 OBLIGATION OF PROPOSER

The Proposer is obliged 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.

The Proposer is obliged 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. 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.

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 Department of Business Development 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 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.

The Contracting Officer for this RFP is:

Name:	**Pedro J. Betancourt**
Title:	**Aviation Sr. Procurement Contract 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) 876-7345**
Facsimile:	**(305) 876-8068**
Email:	**pjbetancourt@miami-airport.com**

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 Qualification Requirements Form",** 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 prepared on the form attached hereto, **Appendix G,** duly executed by the Proposer as Principal and having a Surety thereon meeting the requirements set forth in **Sub-article 3.1** of the 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 Guaranty 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 forty – five (45) calendar 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, or (c) provide a Performance Bond as required by **Sub-article 3.1** of the 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 addressed 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.

2.14 VENDOR REGISTRATION

To be recommended for award the County requires that Proposers complete a Miami-Dade County Vendor Registration Package. Effective June 1, 2008, a new Vendor Registration Package, including a Uniform Affidavit Packet (Affidavit form), must be completed by Proposers and returned to the Department of Procurement Management (DPM), Vendor Assistance Unit, within seven (7) calendar days of notification of the intent to recommend for award. In the event the Vendor Registration Package is not properly completed and returned within the specified time, the County may in its sole discretion, award to the next ranked Proposer. The Proposer is responsible for obtaining the Vendor Registration Package, including all affidavits by downloading from the DPM website at www.miamidade.gov or from the Vendor Assistance Unit at 111 N.W. 1st Street, 13th Floor, Miami, FL 33128, (305) 375-5773.

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. 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.

B. CONDITION OF AWARD REQUIREMENTS

1. The following documents are condition of award requirements and may be submitted with the Proposal. If a Proposer does not submit said condition of award documents with its Proposal, the Proposer should state in its Proposal when such documents will be provided, which shall be no later than within seven (7) calendar days of notification of the intent to recommend for award, unless otherwise specified.

a) Affirmation of Vendor Affidavits

Pursuant to Section 2-8.1 of the Code of Miami-Dade County, effective June 1, 2008, vendors (Proposers) are required to complete a *new* Vendor Registration Package, including a Uniform Affidavit Packet (Vendor Affidavits Form), before being awarded a new contract. The Successful Proposer affirms that the Vendor Affidavits Form submitted with the Vendor Registration Package is current, complete and accurate for each affidavit listed therein.

b) 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.

c) 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.

2. 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. Corporate Security Action Plan

The Successful Proposer must, at the time of award, have the ability to rewrap bags previously wrapped but subsequently opened by TSA.

Submission of the CSAP Package is a condition of award and not a requirement of proposal submission. The CSAP Package will not be considered in the evaluation process and will not be opened as part of the proposal evaluation or presented to the Selection Committee.

Nonetheless Proposers are encouraged to submit the CSAP Package in order to facilitate the review process; MDAD staff may therefore open this envelope and conduct a preliminary review of the CSAP Package, but such review shall not be presented to the Selection Committee. The Proposers will be allowed to cure deficiencies in the CSAP Package once submitted, however, such deficiencies may delay the review process.

The CSAP Package must be submitted to MDAD by the highest ranked responsive and responsible Proposer within seven (7) days after the County Manager recommends award of the proposal to such proposer or recommends that a negotiation committee be formed to negotiate with such proposer.

The CSAP Package should be submitted in a sealed separate envelope stamped "Confidential".

Proposers may also recommend a process to perform post TSA inspection bag re-wrapping services outside the TSA inspection area. If submitted, such process must be provided at the same time as the CSAP Package.

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, 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, 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 H**). The Proposer shall comply with these requirements.

3.3 INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL (IPSIG) 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, the 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 Board 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. **Pursuant to Appendix M, Proposers shall submit a CSAP Package as a condition of award. Such information is confidential and exempt from public access and disclosure pursuant to Fla. Stat. Sec. 281.301. Therefore, the CSAP Package should be submitted in a sealed separate envelope stamped "confidential".**

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.

3.11 COLLUSION AFFIDAVIT

A firm recommended for award as a result of a competitive solicitation for any County purchase of supplies, materials and services (including professional services, other than professional architectural, engineering and other services subject to Sec. 2-10.4 and Sec. 287.055 Fla Stats.) purchase, lease, permit, concession or management agreement shall, in accordance with the Code of Miami-Dade County Sections 2-8.1.1 and 10-33.1 shall submit an affidavit under the penalty of perjury, on a form provided by the County: stating either that the firm is not related to any of the other parties proposing in the competitive solicitation or identifying all related parties, as defined in this Section, which proposed in the solicitation; and attesting that the firm's proposal is genuine and not sham or collusive or made in the interest or on behalf of any person not therein named, and that the firm has not, directly or indirectly, induced or solicited any other proposer to put in a sham proposal, or any other person, firm, or

corporation to refrain from proposing, and that the proposer has not in any manner sought by collusion to secure to the proposer an advantage over any other proposer. In the event a recommended firm identifies related parties in the competitive solicitation its bid shall be presumed to be collusive and the recommended firm shall be ineligible for award unless that presumption is rebutted in accordance with the provisions of Sec. 2-8.1.1. Any person or entity that fails to submit the required affidavit shall be ineligible for contract award.

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 this Solicitation, 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 thirty percent (30%) percent of gross revenues for this Solicitation.** 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 I, 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 I.**

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.

3. 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 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 MDAD'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 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 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 (SBD) 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 (SBD) 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.miami-dade.fl.us/DBD/.

The ACDBE Certification List is maintained and published at least every other week by the Department of Small Business Development (SBD) 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 Concessionaire, 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 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 lease agreement, or subcontract, purchase or lease 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."*

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-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 Successful Proposer 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.).

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 experience, qualifications, 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, or any other matter bearing on the Proposer's ability to effectively and diligently carry out the work required in this Proposal, the Committee may also, 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. If the Committee deems that a Proposer is non-responsive it may either (1) decline to evaluate that proposal, or (2) evaluate that proposal, giving such scores as each member of the Committee feels are reflective of the lack of responsibility.

A determination by the Committee that a Proposer is responsible shall not be binding, on the County, and the County reserves the right to deem the Proposer non-responsible irrespective of prior action by the Committee.

5.3 EVALUATION PROCESS

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 five hundred (500) 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. Different members of the Committee may weight the various Criteria differently.

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 responsive responsible Proposal.

TECHNICAL PROPOSAL EVALUATION

Criteria	Maximum Points
1) Financial Capacity to Perform/Financing	150
2) Experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP	100
3) Managing, Operating and Maintenance Plan	100
4) Equipment Design and Function	100
5) ACBDE Plan and Participation	50
Technical Proposal Maximum Points	**500**

PRICE PROPOSAL EVALUATION

Criteria	Maximum Pts.
1) MAG proposed	300
2) Percentage Fee Proposed	200
Financial Proposal Maximum Points	**500**

TOTAL MAXIMUM EVALUATION POINTS 1000

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 500 points per each voting Evaluation/Selection Committee member, which will be comprised of a maximum of 300 points for the Minimum Annual Guarantee ("MAG') proposed and a maximum of 200 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 300 points assigned to the MAG criterion.

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 300 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 200 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 200 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.

Where the proposing entity is a joint venture, that joint venture must demonstrate that it meets the above requirements, irrespective of whether some or all of the constituent parts of such entity would otherwise qualify for local preference.

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 is the awarding authority may be waived upon approval of the Board. 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 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. While each initial offer should contain the Proposer's best terms from a monetary and technical standpoint, the Negotiation Committee reserves the right to negotiate to better the terms than those provided by the Proposer.

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 Successful 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 forty-five (45) calendar days after such Agreement is presented to the Successful Proposer and submit proof, in a form acceptable to the Department, that the Proposer is able, post TSA inspection, to rewrap bags previously opened by TSA, which proof

may include, but is not necessarily limited to, TSA's approval of Proposer, its employees, or practices. Upon notification of award recommendation, the Successful 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, proof of ability to re-wrap bags post TSA inspection, 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.

The Successful Proposer within forty-five (45) days of presentation of a contract for execution must provide evidence, in a form acceptable to the Department, that the Proposer is able, post TSA inspection, to rewrap bags previously opened by TSA, which proof may include, but is not necessarily limited to, TSA's approval of Proposer, its employees, or practices. The Department, at its discretion, may extend such deadlines. No extension shall be considered effective unless made in writing by the Director.

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 Implementing 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.

Award Amount	Filing Fee
$ 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.

LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(To be completed by the Proposer)

ALL INFORMATION REQUESTED ON THIS FORM MUST BE FURNISHED AND SUBMITTED BY PROPOSER. STATEMENTS MUST BE COMPLETE, ACCURATE, IN THE FORM 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 FORM 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

_____

LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(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

_____

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

LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(To be completed by the Proposer)

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: _____

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(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.

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LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(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: _____

LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(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 _____

LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(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.

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LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(To be completed by the Proposer)

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.

MINIMUM QUALIFICATION REQUIREMENTS

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.

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

1. The Firm 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, installed, maintained, and operated luggage wrapping services in International Airports.

2. The Proposer must submit documentation to evidence gross revenues totaling no less than $700,000 per year derived from luggage wrapping services revenues.

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LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(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)	☐ Financing ☐ Designing ☐ Installing ☐ Maintaining		
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)	☐ Financing ☐ Designing ☐ Installing ☐ Maintaining		
Gross Revenue			
Reference Name and Telephone number			
Reason Contract Ended			

LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(To be completed by the Proposer)

Contract Name			
Contract Amount		Time Period	
Type of Service			
Service Included (Check all that apply)	□ Financing □ Designing □ Installing □ Maintaining		
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)	□ Financing □ Designing □ Installing □ Maintaining		
Gross Revenue			
Reference Name and Telephone number			
Reason Contract Ended			

LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(To be completed by the Proposer)

Contract Name			
Contract Amount		Time Period	
Type of Service			
Service Included (Check all that apply)	□ Financing □ Designing □ Installing □ Maintaining		
Gross Revenue			
Funding Source			
Reference Name and Telephone number			
Reason Contract Ended			

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LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(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: _____ Attest: _____
President Secretary

_____ _____
(Print Name) (Print Name)

(CORPORATE SEAL)

Proposer (If Partnership)

_____
Name of Partnership

Partner Partner

By: By:
Name:_____ Name: _____
Print Name Print Name

_____ _____
Signature Signature

_____ _____
Witness Witness

LUGGAGE WRAPPING SERVICES AT MIA
QUESTIONNAIRE & MINIMUM QUALIFICATION REQUIREMENTS FORM

(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 – LUGGAGE WRAPPING SERVICES

Price Proposal Form

(To be filled out by Proposer)

Print Name of Proposer: _____

Print Name of Authorized Representative: _____

Signature of Authorized Representative of Proposer: _____

Date: _____

The Luggage Wrapping Concessionaire shall pay to the Department a Minimum Annual Guarantee which includes the Annual Rent for the Locations (Support Space not included) or a Percentage Fee whichever is greater. The Annual Rent amount is set by the County, subject to increase/decrease, (as is the square footage). The Proposer shall propose its Minimum Annual Guarantee and the 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) Annual Rent*

2) Minimum Annual Guarantee $_____
In numbers

Minimum Annual Guarantee _____
In words

3) Percentage Fee: _____%_____
In numbers

Percentage Fee: _____
In words

Note: Minimum acceptable Minimum Annual Guarantee is $690,000 (Six Hundred Ninety Thousand Dollars). Minimum acceptable Percentage Fee is twenty-five percent (25%) of the Monthly Gross Revenues.

Annual Rent amount is currently $65.69 per square foot for the lease of the Locations in Exhibit A.

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 or the Percentage Fee whichever is greater are 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

(CORP. SEAL)

Dated _____

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

_____
Notary Public

My commission Expires on:

_____

(NOTARY SEAL)

APPENDIX C

ACKNOWLEDGEMENT OF ADDENDA

APPENDIX C
ACKNOWLEDGEMENT OF ADDENDA

RFP TITLE: Luggage Wrapping Services **RFP NO. MDAD-01-09**

Directions: Complete Part I or Part II, Whichever Applies

Part I: Listed below are the dates of issue for each addendum received in connection with this RFP:

Addendum # 1 Date _____, 200____

Addendum # 2 Date _____, 200____

Addendum # 3 Date _____, 200____

Addendum # 4 Date _____, 200____

Addendum # 5 Date _____, 200____

Addendum # 6 Date _____, 200____

Addendum # 7 Date _____, 200____

Addendum # 8 Date _____, 200____

Addendum # 9 Date _____, 200____

Part II _____ **No Addendum was received in connection with this RFP**

_____ **Date**

Proposer (Name) _____

Proposer (Signature _____

APPENDIX D

AFFIDAVIT OF MIAMI-DADE COUNTY LOBBYIST REGISTRATION FOR ORAL PRESENTATION

APPENDIX D

AFFIDAVIT OF MIAMI-DADE COUNTY
LOBBYIST REGISTRATION FOR ORAL PRESENTATION

(1)ProjectTitle: _____ Project No.: _____
(2) Department: _____
(3) Firm/Proposer's Name: _____
Address: _____ Zip: _____
Business Telephone: (____) _____

(4) List All Members of the Presentation Team Who Will Be Participating in the Oral Presentation:

NAME	TITLE	EMPLOYED BY	TEL. NO.

(ATTACH ADDITIONAL SHEET IF NECESSARY)

The individuals named above are Registered and the Registration Fee is not required for the Oral Presentation ONLY. 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 must be listed on an affidavit provided by the County. 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 additional team members added after submittal of the proposal with the Clerk of the Board at least **two (2) days prior to the oral presentation**. Any person not listed on the revised affidavit may not participate in the oral presentation.

Other than for the oral presentation, Proposers who wish to address the county commission, a county board or county committee concerning any action, decision or recommendation of county personnel regarding this solicitation MUST register with the Clerk of the Board (Form BCCFORM2DOC) and pay all applicable fees.

I do solemnly swear that all the foregoing facts are true and correct and I have read or am familiar with the provisions of Section 2-11.1(s) of the Code of Miami-Dade County as amended.

Signature of Authorized Representative: _____
Title: _____
STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____,
by _____, a _____, who is
(Individual, Officer, Partner or Agent) (Sole Proprietor, Corporation or Partnership)
personally known to me or who has produced _____ as identification and
who did/did not take an oath.

_____
Signature of person taking acknowledgement)

_____
(Name of Acknowledger typed, printed or stamped)

_____ _____
(Title or Rank) (Serial Number, if any)

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 Management Services.]**

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.

MIAMI-DADE COUNTY WORK HISTORY DISCLOSURE

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 _____

_____

_____

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

(2)

_____ $_____ $_____ _____%

Name of Dept. & Summary of Services Performed _____

_____

_____

Litigation Arising out of Contract _____

_____

(3)

_____ $_____ $_____ _____%

Name of Dept. & Summary of Services Performed _____

_____

Litigation Arising out of Contract _____

_____

_____

(ADD EXTRA SHEET(S) IF NEEDED.)

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? _____

_____

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.

_____ Notary Stamp or Seal:
(Signature of Notary)

_____
(Print Name)

Notary Commission Number: _____

My Commission Expires: _____

APPENDIX E-2

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION VENDOR AFFIRMATION AND COLLUSION AFFIDAVITS AND CONDITION OF AWARD REQUIREMENTS

APPENDIX E-2

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT
SINGLE EXECUTION VENDOR AFFIRMATION AND COLLUSION AFFIDAVITS AND CONDITION OF AWARD REQUIREMENTS

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

- Affirmation of Vendor Affidavits
- Collusion Affidavit
- 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 VENDOR AFFIRMATION AND COLLUSION AFFIDAVITS

Affirmation of Vendor Affidavits

In accordance with Ordinance 07-143 amending Section 2-8.1 of the Code of Miami-Dade County, effective June 1, 2008, vendors are required to complete a *new* Vendor Registration Package, including a Uniform Affidavit Packet (Vendor Affidavits Form), before being awarded a new contract. The undersigned affirms that the Vendor Affidavits Form submitted with the Vendor Registration Package is current, complete and accurate for each affidavit listed below.

Contract No. _____ **Federal Employer Identification No. (FEIN):** _____

Contract Title: _____

Affidavits and Legislation/Governing Body

1.	***Miami-Dade County Ownership Disclosure*** *Sec. 2-8.1 of the County Code*	6.	***Miami-Dade County Vendor Obligation to County*** *Sec. 2-8.1 of the County Code*
2.	***Miami-Dade County Employment Disclosure*** *County Ordinance No. 90-133, amending Section 2.8-1(d)(2) of the County Code*	7.	***Miami-Dade County Code of Business Ethics*** *Article 1, Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and County Ordinance No. 00-1 amending Section 2-11.1 (c) of the County Code*
3.	***Miami-Dade County Employment Drug-free Workplace Certification*** *Sec. 2-8.1.2(b) of the County Code*	8.	***Miami-Dade County Family Leave*** *Article V of Chapter 11 of the County Code*
4.	***Miami-Dade County Disability Non-Discrimination*** *Article 1, Section 2.8.1.6 Resolution R182-00 amending R-385-95*	9.	***Miami-Dade County Living Wage*** *Sec. 2-8.9 of the County Code* **(If applicable)**
5.	***Miami-Dade County Debarment Disclosure*** *Section 10-38 of the County Code*	10.	***Miami-Dade County Domestic Leave and Reporting*** *Article 8, Section 11A-60, 11A-67 of the County Code*

COLLUSION AFFIDAVIT

(Code of Miami-Dade County Section 2-8.1.1 and 10-33.1) (Ordinance No. 08-113)

I, being duly first sworn, hereby state that the bidder of this contract:

☐ is not related to any of the other parties bidding in the competitive solicitation, and that the contractor's proposal is genuine and not sham or collusive or made in the interest or on behalf of any person not therein named, and that the contractor has not, directly or indirectly, induced or solicited any other proposer to put in a sham proposal, or any other person, firm, or corporation to refrain from proposing, and that the proposer has not in any manner sought by collusion to secure to the proposer an advantage over any other proposer.

OR

☐ is related to the following parties who bid in the solicitation which are identified and listed below:

_____ _____

_____ _____

_____ _____

Note: Any person or entity that fails to submit this executed affidavit shall be ineligible for contract award. In the event a recommended contractor identifies related parties in the competitive solicitation its bid shall be presumed to be collusive and the recommended contractor shall be ineligible for award unless that presumption is rebutted by presentation of evidence as to the extent of ownership, control and management of such related parties in the preparation and submittal of such bids or proposals. Related parties shall mean bidders or proposers or the principals, corporate officers, and managers thereof which have a direct or indirect ownership interest in another bidder or proposer for the same agreement or in which a parent company or the principals thereof of one (1) bidder or proposer have a direct or indirect ownership interest in another bidder or proposer for the same agreement. Bids or proposals found to be collusive shall be rejected.

_____ _____

Printed Name of Affiant Printed Title of Affiant

_____ _____

Signature of Affiant Name of Firm

_____ _____

Date Address of Firm (include State, Zip Code)

Notary Public Information

Notary Public – State of _____ **County of** _____

Subscribed and sworn to (or affirmed) before me this _____ **day of,** _____ **20**____

by _____ **He or she is personally known to me** ☐ **or has produced I.D.** ☐

Type of identification produced _____

_____ _____ _____

Signature of Notary Public **Serial Number** **Print or Stamp of Notary Public**

_____ _____

Expiration Date **Notary Public Seal**

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**	

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

8
0

_____ _____ _____ _____

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

APPENDIX F
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) (*now known as Local Business Tax).* (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 _____ Notary Seal
(State)

APPENDIX G

PROPOSAL GUARANTY BOND

APPENDIX G

LUGGAGE WRAPPING SERVICES AT MIA

REQUEST FOR PROPOSAL

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 **Ten Thousand Dollars ($10,000.00)** 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 _____, 2009, for the Luggage Wrapping Services at MIA Concession Agreement, RFP No. MDAD–01-09. After award of any agreement to the Successful Proposer, the Proposal Guaranty of such Proposer will be held pending receipt of the executed Lease and Concession Agreement (Agreement) and evidence of insurance as required by the Agreement. If a Successful Proposer fails to (a) execute the Agreement within ten (10) calendar days after such Agreement is presented to the Successful Proposer, as required by the RFP, or (b) provide evidence of insurance prior to commencing any operations under this Agreement, as required by Article 11 of the Agreement, or (c) provide a Minimum Annual Guarantee (MAG) Performance Bond as required by Sub-Article 3.11 of the Agreement, or (d) begin operations as required by the Agreement, the Proposal Guaranty may be forfeited to the County as liquidated damages to compensate the County for the delay and administrative services resulting from such failures.

IN WITNESS WHEREOF, the above bound parties have caused this Proposal Bond to be executed by their appropriate officials as of the_____ day of _____, 2009.

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

LOBBYING RULES

APPENDIX H
LOBBYING RULES

1.1 Purpose and Scope of Lobbying Rules

a) The following rules delineate the responsibilities of lobbyists and County personnel lin 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 forseeably 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

e) 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

f) 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 forseeably 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 1rst 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 1rst 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 forseeably 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 H

LOBBYING RULES

APPENDIX H
LOBBYING RULES

1.1 Purpose and Scope of Lobbying Rules

a) The following rules delineate the responsibilities of lobbyists and County personnel lin 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 forseeably 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

e) 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

f) 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 forseeably 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 1rst 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 1rst 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 forseeably 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 I
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, Kirbati, 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.

APPENDIX I
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) Executed ACDBE Utilization Form (ACDBE APPENDIX 1); executed Schedule of Participation (ACDBE APPENDIX 2) and executed 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: **Subcontract or Joint Venture Agreements** 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) Executed ACDBE Utilization Form (ACDBE APPENDIX 1);
   2) An executed Schedule of Participation (ACDBE APPENDIX 2);
   3) Executed Letter of Intent (ACDBE APPENDIX 3);
   4) ACDBE Certification or applied for ACDBE Certification to the Miami-Dade County, Department of Small Business Development (SBD) (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) Executed ACDBE Utilization Form (ACDBE APPENDIX 1);
   2) An executed Schedule of Participation (ACDBE APPENDIX 2);
   3) Executed Letter of Intent (ACDBE APPENDIX 3);
   4) Executed Partnership, 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, Department of Small Business Development (SBD) Phone: (305) 375-3111 or the Florida Unified Certification Program (FLUCP) at (850) 414-4747 or their website address http://www.bipincwebapps.com/biznetflorida/;
   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) Executed ACDBE Utilization Form (ACDBE APPENDIX 1);
   2) An executed Schedule of Participation (ACDBE APPENDIX 2);
   3) Executed 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 subcontracted;
5) ACDBE Certification or applied for ACDBE Certification to the Miami-Dade County Department of Small Business Development (SBD) 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.

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 it's 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.

c) 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.

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.

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.

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.

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: _____ Title: _____
(Signature)

_____ Date: _____
(Print Name)

SCHEDULE OF PARTICIPATION BY ACDBE FIRMS

Listed below is the information pertaining to "certified" ACDBE firms who will be participating in this contract.

NAME OF ACDBE FIRMS	DESCRIPTION OF SERVICES	% OF BID/PROPOSAL

120

Form to be completed and signed by the Bidder/Proposer. I certify that the representation contained in this Schedule of Participation are to the best of my knowledge true and accurate.

Signature of Proposer **Date**

Print Name **Title** **Company Name**

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)			
(B)			
(C)			

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

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 $ _____

AIRPOR T 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 Openin Date

123

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: _____

Additional page (s) may be used if needed.

Monthly Report Of ACDBE Joint Venture Activity

Joint Venture Partner: _____

Reporting Month: _____

Function	Date Performed	Location	# of Hours Per Employee	# of Hours Extended	Attach Support Documentation	JV Partner Signature
		Total				

I attest that the above information is accurate and complete.

_____ _____

For Joint Venture Partner (ACDBE), Please Print and Sign Date

_____ _____

For Joint Venture (Prime), Please Print and Sign Date

Sworn before me: This _____ day of _____ 20 _____

Notary Public: _____

Additional page (s) may be used if needed.

Revised 11/22/06

AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE

JOINT VENTURE GUIDANCE

U.S. Department of Transportation
Federal Aviation Administration

APPENDIX 8

AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE
JOINT VENTURE GUIDANCE
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ACDBE JOINT VENTURE GUIDANCE

Section 1 – General

1.0 What is the purpose of this Joint Venture Guidance?

The purpose of this joint venture (JV) guidance is to provide information and direction to airports, Airport Concessionaire Disadvantaged Business Enterprise (ACDBE) program staff, ACDBEs and various stakeholders on the structure, implementation, and counting of joint venture arrangements in the ACDBE Program.

The Federal Aviation Administration (FAA) is responsible for overseeing airport compliance with the ACDBE program found in 49 CFR Part 23. Airports have a vested interest in ensuring that the appropriate ACDBE participation is counted and that there is effective structuring and monitoring of joint ventures and joint venture participation by ACDBEs in the concession activities of airports. FAA and the Department of Transportation (the Department) support and provide guidance to airports, ACDBEs, and various stakeholders to effectively administer their overall ACDBE program.

In developing this guidance, the views of various stakeholders were solicited and considered. Whenever possible, FAA considered the representations made by stakeholders regarding "usual practices" or "standard practices." However, it should be noted that accommodation for certain practices was not possible where the practice conflicted with requirements of the regulation and/or objectives of the program. Some business, accounting, and tax practices that may be completely legitimate in the business world between two or more firms may not be appropriate under the Department's ACDBE regulation, 49 CFR Part 23, which was revised and updated in the Federal Register on March 22, 2005.

1.1 Why is Joint Venture Guidance necessary?

The preamble to 49 CFR Part 23 states "We have become aware that some concessions joint ventures indeed do not involve an ACDBE performing an independent part of the work; some of these have been the focus of fraud investigations by the Department's Office of Inspector General and other law enforcement organizations. If the ACDBE participant is not required to perform independently a distinct portion of the joint venture's work, it becomes very easy for a prime concessionaire seeking to circumvent ACDBE requirements by having an ACDBE silent partner on its payroll. We believe that changing this provision would adversely affect the integrity of the program. Because joint ventures have become a problematic part of the ACDBE program, the Department is drafting additional guidance on the subject."

Airports, ACDBEs, consultants and other stakeholders are obligated to develop, approve, monitor, and count ACDBE participation in joint venture agreements in accordance with current rules and guidelines. However, as noted above, joint ventures present unique challenges in the Part 23 concessions program. The Department is concerned that airport owners/operators, ACDBEs, non-ACDBEs, and consultants may be interpreting and applying the current regulations in an inconsistent as well as an incorrect manner. Many have requested guidance to assist them in implementing the ACDBE program. This guidance is designed to assist in the effective structuring, monitoring and counting of joint ventures and joint venture participation by ACDBEs in the concessions activities of airports receiving Federal financial assistance from the Airport Improvement Program of the FAA. This guidance does not implement new regulations or requirements but merely clarifies existing requirements.

1.2 What does 49 CFR Part 23 say about joint ventures as an option for ACDBE participation?

The Department's revised final rule for 49 CFR Part 23 (Participation of Disadvantaged Business Enterprises in Airport Concessions) was issued on March 22, 2005, making the rule parallel in many respects to the Department's DBE regulation for federally-assisted contracts. The preamble states, in part, that the "objectives of this program are very similar to those stated for Part 26. Extensive information has been developed over the years . . . that supports the proposition that there is not a level playing field for small disadvantaged businesses in the U.S. The legislative history of the original ACDBE statute itself shows that Congress was very

concerned that DBE firms had fair (i.e., nondiscriminatory) access to concession opportunities." The program requires goal-setting by airports to obtain ACDBE participation. These goals can be met in a variety of ways, including direct ownership arrangements by ACDBE firms in airport concessions as well as through the purchase of goods and services by concessionaires from ACDBE vendors The airport owner or operator must require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs, including joint ventures and franchises.

Some stakeholders may have interpreted this to mean that all direct ownership arrangements, including joint ventures, are equally effective in achieving meaningful ACDBE participation and that one method should not be preferred over another. In fact, each opportunity represents unique challenges and one method may be better suited for a particular structure than another.

It should be noted that, prior to considering the best structure for participation, airports are encouraged to carefully evaluate (on a case-by-case basis) proposed bid requests, requests for proposals, and other types of solicitations to ensure that it is practical for ACDBE participation to be met in a reasonable manner.

49 CFR § 23.25(e)(1)(iv) states as follows:

> *The administrative procedures applicable to contract goals in part 26, § 26.51–53, apply with respect to concession-specific goals.*

49 CFR § 26.51(e)(2) states as follows:

> *You are not required to set a contract goal on every DOT-assisted contract. You are not required to set each contract goal at the same percentage level as the overall goal. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by your overall goal, you must set contract goals so that they will cumulatively result in meeting any portion of your overall goal you do not project being able to meet through the use of race-neutral means.*

Airports are encouraged to consider, in the development and implementation of their ACDBE plan, the best method of ACDBE participation, including the potential for "unbundling" contracts to create separate and smaller opportunities for direct contracting, thus creating an environment where small and disadvantaged firms could be more competitive. In some instances, a joint venture scenario may be difficult to implement while a subcontract or other arrangement may be a better vehicle to achieve ACDBE participation. In other cases, a joint venture may represent the best opportunity for implementing a workable arrangement. We encourage airports to promote joint venture opportunities whereby ACDBEs would partner with former ACDBEs (e.g., those which have exceeded PNW and/or size standards). This may create a more even bargaining position and may also provide a much needed transitional role for the former ACDBE. Of course, there would be no ACDBE credit given for the former ACDBE, only for the currently certified ACDBE participant in the joint venture. The former ACDBE might serve as a mentor to a less experienced ACDBE. The initial determination by the airport as to the best form of business structure (i.e., JV, subcontract, management contract, etc.) identified in its solicitation for requests and/or proposals from interested parties may reduce difficulties in counting ACDBE participation for accomplishment reporting purposes.

Section 2 – Definitions

2.1 What is a joint venture?

For purposes of the ACDBE program, a joint venture is defined as an "association of an ACDBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the ACDBE is responsible for a distinct, clearly defined portion of the work of the contract and whose shares in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest." Much of the remainder of this document will be directed toward further explaining many of the components of this "joint venture" definition.

2.2 What does an "association" of an ACDBE firm and one or more other firms mean?

In accordance with the objectives of the ACDBE regulations, joint ventures are intended to have **a business structure set forth in a signed written agreement** that **clearly and specifically** defines the participation of each party in the contribution of property, capital, efforts, skills and knowledge.

Any legal structure that meets federal and state legal requirements may be used to form a joint venture provided that, for purposes of counting ACDBE participation, the requirements of 49 CFR Part 23 are met. The joint venture should operate in accordance with a written agreement. Please note that any business structure that meets the Part 23 definition of "joint venture" will be considered a joint venture for purposes of counting ACDBE participation, regardless of the name attributed to the business structure in the written agreement.

Some of the important components that should be included in the written agreement are noted below:

- **Identification of the participants in the Joint Venture.** The JV participants must be firms, including sole proprietorships, not individuals. In addition, the ACDBE participant must be certified as an ACDBE in the type of business operated by the joint venture, and in the State where the airport is located, in order for the participation to count towards ACDBE goals.
- **Identification of the single, for-profit business enterprise to be undertaken by the joint venture.** See Section 2.3 for further explanation.
- **Term of the joint venture agreement and factors effecting the term** (e.g., concession contract extensions or termination, sale of interest, etc.).
- **Capital to be contributed by each party** (initial contributions and future needs should be addressed).
- **Accounting methods and distribution of profits/losses.**
- **Management of the joint venture's business,** including overall management (e.g., participation on a management committee or management board) and day-to-day management responsibilities.

- **Administrative matters,** including joint venture office locations, recordkeeping requirements, identification of an auditor, fiscal year, addresses for notices, transfer of interests, etc.
- **Dissolution,** including events/conditions upon which the joint venture may be dissolved and terminated, and assets distributed.

2.3 May a "single, for-profit business enterprise" have more than one contract or business location at an airport.

While a joint venture must be a single business entity, it may have more than one contract with a given airport or more than one business location at the airport. It is the joint venture as an entity, and not the individual participants in the joint venture, that should have the contractual relationship(s) with the airport. The specifics of the participation in each contract should be clearly stated in the joint venture agreement to enable the airport to separately monitor all of the elements of the joint venture entity's participation in each. The participants in the joint venture which are requesting ACDBE credit should be required to disclose any other business relationships currently in existence between or among the parties (e.g., joint ventures at other airports). In the event that other relationships exist, the airport and/or Unified Certification Program (UCP) should review the ACDBE participants' eligibility for certification, to ensure continuing independence and control of the ACDBE firm in the operation of its business.

2.4 What does "the parties combine their property, capital, efforts, skills and knowledge" mean?

Each party in a joint venture should bring real and substantial value to the joint venture enterprise. The parties should each contribute both tangible and intangible assets. If property is contributed, the joint venture agreement should clearly state at the outset its value; which is usually assessed based on liquidation value, replacement cost, or "value in use" methods. The parties should contribute capital commensurate with their ownership interest, knowledge and skills relative to the portion of the joint venture's business for which they are responsible, and efforts to the success of the venture. The skill set (a combination of experience, core competencies, unique talent, etc.) provided by each party should add value to the joint venture relationship that is objectively apparent. This skill set should be specifically addressed in the

joint venture agreement, and verified by the airport during its initial review and periodically thereafter.

2.5 What does "the ACDBE is responsible for a distinct, clearly defined portion of the work of the contract" mean?

In this context, "distinct" means separate and distinguishable from the work of the non-ACDBE. "Clearly defined" means that there is no guesswork involved in determining the nature of the work assigned to the ACDBE. In order to be considered a distinct, clearly defined portion of the work, it is necessary to fully understand exactly what the work will entail, including an estimate of the time and resource requirements for each major task. For example, if the ACDBE's portion of the work is only described as "advise about " or "participate in" a portion of the work, the work would likely not be considered distinct or clearly defined because it is not clear what work the ACDBE will accomplish. Much more detail would be necessary in order to determine the portion of the work to be attributed to the ACDBE. Of course, the work of the contract also includes the role of the ACDBE in the overall management of the business (e.g., as a participant on a management committee or some other governing board) as well as participation in the day-to-day management of the business.

2.6 What does "whose shares in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest" mean?

The ACDBE's participation in each of these five areas should be proportionate to the claimed ownership. This is further discussed in Section 3.2.

Section 3 – Joint Venture Review

3.1 What reviews should the airport make?

The airport should review the joint venture agreement and supporting documents submitted by a joint venture entity to determine whether, in fact, the arrangement meets all the requirements of the regulation (49 CFR Parts 23 and 26) and what portion(s), if any, is eligible to be counted towards ACDBE participation. Pursuant to 49 CFR § 26.109, all participants in the DBE program, including, but not limited to, DBE firms and applicants for DBE certification, are required to cooperate fully and promptly with recipient certification reviews, investigations, and

other requests for information. Based on the review, the airport will assign a value to the ACDBE participation which may be counted towards the ACDBE goal provided that the joint venture operates in accordance with the submitted agreement. (See Attachment 3 – JV Review Process for a flowchart describing the recommended process for the review.) The airport should provide a written letter outlining any areas of concern and allow a reasonable amount of time for the applicant to respond and/or make reasonable adjustments where applicable. In accordance with 49 CFR § 23.29, airports must implement appropriate mechanisms to ensure compliance with the requirements of this part by all participants in the program. An airport must include in its concession program the specific provisions to be inserted into concession agreements and management contracts, the enforcement mechanisms, and other means to be used to ensure continued compliance. These provisions must include a monitoring and enforcement mechanism to verify that the work committed to ACDBEs is actually performed by the ACDBEs. In order to make this evaluation, the airport should review the entire set of circumstances involved in performing the contract and not rely on a single factor for making a compliance determination. The airport's ACDBE program should describe in detail the level of effort and resources devoted to consistent monitoring and enforcement.

3.2 How does the airport determine if the ACDBE's capital contribution, control, management, risks, and profits are commensurate with its ownership interest in the joint venture?

An airport is responsible for reviewing joint venture agreements to ensure that capital contribution, control, management, risks, profits, ownership, and work to be performed by the ACDBE are clearly addressed. The parties involved in the joint venture and seeking to count ACDBE participation towards the ACDBE goal for the contract have the obligation to demonstrate to the airport that the ACDBE capital contribution, control, management, risks, and profits are commensurate with its ownership interest. (We recommend that, as with respect to other certification and counting matters, airports apply a "preponderance of the evidence" standard in evaluating whether the joint venture has made this demonstration.) The airport may follow up with questions and request written explanations. The airport may require the joint venture to submit information, including a summary of the agreement and supporting documentation, for review. (A sample form that may be used to accomplish this is included as Attachment 1.) The firm seeking to count ACDBE participation in a joint venture has the burden of demonstrating to the airport, by a preponderance of the evidence, that it meets the

requirements of the regulation with respect to being an eligible joint venture for counting purposes.

The following are tips for reviewing the various required areas for participation:

- **Capital contribution** – The capital to be contributed by each party should be clearly specified in the joint venture agreement. The agreement should specify the initial capital contributions to be made by each party and how future capital contributions will be allocated. The ACDBE's portion of the initial and future capital contributions should be equal to its ownership percentage. A subsequent section of this guidance will discuss issues relating to **how** the capital is contributed (i.e., cash contributions or financing provided by the non-ACDBE joint venture participant).
- **Control** – The ACDBE participant(s) in the joint venture should have control in proportion to their ownership interest and proportionate control of the governance of the joint venture. Each joint venture partner should assume full responsibility for executing each element of the work assigned to it. Usually, a joint venture will have a management committee (referred to by various names, including "Executive Committee" or "Board") that controls the overall business. The ACDBE participant(s) is usually a minority participant, owning less than 50% of the business. In this case, the ACDBE(s) can be out-voted on most of the business decisions made by the committee. This really means that for the most part, the joint venture is controlled by the party owning 51% or more of the business, usually not the ACDBE. However, the agreement should provide for control by the ACDBE of the activities for which it is responsible. This can be accomplished through direct control of their assigned role or establishment of a separate management committee or subcommittee in which the ACDBE has majority vote for issues involving facilities or responsibilities which it controls. In addition, there should be some major decisions requiring a unanimous vote to substantiate some level of control attributable to the ACDBE (e.g., items related to expansion, borrowing, lending money, etc.).
- **Management** – The ACDBE participant must share in the management of the joint venture. The agreement should address the issue of the overall management, or governance, of the business of the joint venture and the day-to-day management of the joint venture's operation. The ACDBE participant should participate in the overall management, decision making, and day-to-day operations, including decisions

on the hiring and firing of management personnel (and if appropriate non-management personnel) for the joint venture to be eligible for ACDBE credit. This can be accomplished through a "Management Committee," as described under "control," though this is not the only acceptable mechanism. Under a management committee structure, the committee is responsible for managing and directing the business of the joint venture. Each participant is represented on the management committee and votes according to its ownership interest in the venture. Each participant on the management committee not only has a right, but an obligation to receive and consider the views of the ACDBE participant. The agreement should specify the frequency of the management committee meetings, and formal agendas and meeting minutes should be prepared. In addition, the agreement should provide for the day-to-day management of the joint venture and specify the roles and responsibilities of each participant. The issue of day-to-day roles and responsibilities assigned to the ACDBE participant is further discussed in Section 4.

- **Risks** – Each of the participants in the joint venture must share in the risks of the business in proportion to their ownership interest. These risks include financial, legal, operational, etc. The agreement should include provisions for proportional sharing in profits as well as losses (see section 3.4). However, a monthly distribution of actual profits or monthly payment of a management fee, as defined in the agreement, consistent with industry standards, is permissible.
- **Profits** – Each of the participants must also share in the profits and losses in proportion to the ownership interest. Accounting methods and the timing of distribution should be included in the agreement and reviewed for reasonableness by the airport. There should be no provisions in the agreement which have the effect of creating separate profit centers to siphon profits before each participant's share is calculated. For example, requirements to purchase goods and/or services from one of the participants that results in controlling profits remaining for distribution to the joint venture participants are not acceptable. However, purchasing goods and/or services from one of the participants may be acceptable if the terms are spelled out and the cost of the goods reflects the actual cost of the product plus any processing/handling costs and reasonable overhead expenses. Airports should carefully examine all accounting mechanisms to ensure that the distribution process is reasonable.

3.3 Can the non-ACDBE joint venture participant loan capital to the ACDBE joint venture participant?

Yes, with some restrictions and adequate documentation of the loan agreement. The airport should review the loan agreement (and related financial documents) to ensure that the arrangement does not limit the ACDBEs participation in the venture (e.g., by limiting risk, control, etc.).

The agreement should specify the amount of capital to be contributed by each joint venture participant. Capital contributions may include, for example, capital investment in facilities, inventory, security deposit, assets, working capital and first month's rent. It is preferable that each participant provides its own capital contributions or obtains a loan from an independent third-party source. To assist the ACDBE with third-party sourcing for capital, the non-ACDBE participant may provide and is encouraged to support the ACDBE participant with technical assistance in preparing financial reports and presentations to commercial banks and financial institutions for the purpose of obtaining financing. We realize that it may not be possible in some cases for small ACDBE firms to obtain independent financing given the unique nature of the airport environment. In this case, the non-ACDBE participant may provide financing to the ACDBE participant upon the following conditions:

- The terms and conditions of such a loan should be comparable to prevailing market conditions offered by commercial lenders for similar type projects (e.g., in terms of such factors as duration, rate, fees, etc.).
- The loan should be evidenced by a promissory note or loan agreement clearly stating the terms and conditions of the loan, including: due date and payment method, interest rate, prepayment, defaults, and collateral.
- The note should be a full recourse note. The note should be personally guaranteed by the ACDBE and/or secured by assets outside of the ownership interest or future profits of the joint venture. Otherwise the business risk is reduced or eliminated for the ACDBE.
- The loan should not be for 100% of the capital requirement. The ACDBE should invest capital from its own resources or through a third-party arms-length loan at market conditions. Generally, 10%–20% of the capital required (including all

capital contributions made to the joint venture, e.g., start-up capital, pre-opening expenses, facility construction, operating capital, reinvestment, etc.) is recommended as a benchmark to be provided by the ACDBE from its own resources or through a third-party as previously referenced.

- The term of the loan should not be longer than the term of the contract under which the joint venture operates (excluding options or extensions).
- There must not be provisions in the loan agreement which have the effect of limiting the ACDBEs ability to control its business or independently perform its designated role in the joint venture's business. Of course, this does not preclude a lender from including provisions in a loan agreement designed to preserve property that may have been pledged as collateral.

Some hold the view that the ACDBE participant should never borrow from the non-ACDBE participant as it leads to questions of independence and control by the ACDBE. However, we realize that the lack of access to capital is a real and substantial barrier to ACDBE participation in airport concessions. It may be difficult to obtain a loan for a joint venture business where the loan applicant has limited control over the business. Prohibiting such loans may limit the ability of ACDBEs to participate in joint venture businesses. However, in the event that it is necessary for the ACDBE to obtain a loan from the non-ACDBE joint venture participant, airports should ensure that the overall loan arrangement is consistent with the principle that the ACDBE participant brings his or her own property, capital, efforts, skills, and knowledge to the firm. Specifically, the financial arrangement should not be structured in a way that negatively affects the ACDBE's ownership and control under the DBE regulations. In addition, there should be safeguards that explicitly state that disagreements over operating the business should not be a basis for adverse action or penalties under the loan agreement.

3.4 How should profits and losses be calculated and divided?

The joint venture agreement should provide details on how profits and losses will be calculated and divided between the participants. The profit or loss of the joint venture should be distributed between the participants in proportion to their interest in the joint venture. Any funds or other forms of payment (including draws) that are taken from the joint venture assets, profits, distributions, etc., should be documented and accounted for in order for the airport to determine the amount of benefit each participant has received from the business during the year. The joint venture agreement should specify the timing of the distributions. We do not view as consistent with the regulatory requirement for commensurate sharing of risks and profits any provision in an agreement that calls for a party: (1) to be entitled to a distribution of money regardless of the profitability of the joint venture, or (2) to have a debt that is a portion of a joint venture participant's risk in the joint venture forgiven by another party.

3.5 Are service and management fees acceptable?

Yes, subject to some restrictions. The joint venture agreement should state, if applicable, "management fees" or "service/administrative fees" to be paid to the various participants, dependent upon a participant's contribution to the "indirect" management of the operation (i.e., corporate overhead or corporate support services). The fees charged should be reasonable, and not used as a method of draining profits of the joint venture to the benefit of a particular participant. In addition, management fees are not to be used in place of a "draw" arrangement. Service and management fees should represent a recovery of costs and not profit to the non-ACDBE if it is the provider of the service. The agreement should specifically address how the costs for such services are derived, the ability of the ACDBE to participate in the selection of the service provider, and a vehicle for monitoring and/or auditing such costs.

3.6 Can the ACDBE or joint venture purchase inventory, supplies, services, etc., from the non-ACDBE?

The agreement should not mandate that the ACDBE participant or joint venture purchase inventory, supplies, or services from the non-ACDBE participant. The ACDBE should always have the option of obtaining goods and services on an arms-length, market price basis from any

source. However, a joint venture agreement may allow such purchases from a non-ACDBE participant. This may be advantageous when, for example, the non-ACDBE participant can obtain the goods or services at a lower rate/price than the ACDBE participant. In such a case, however, we believe it would be inconsistent with the nature of a joint venture as defined in Part 23 for the non-ACDBE to charge a markup for these goods and services. The joint venture agreement should specifically address how the costs for such products and services are derived and provide a vehicle for monitoring and/or auditing such costs.

Unless the operation is a franchise, the ACDBE participant or joint venture should have the option to purchase products and services from an unrelated third party on a market price/arms-length basis. In the case of a franchise, the joint venture should have the same option providing it does not conflict with the franchise agreement requirements.

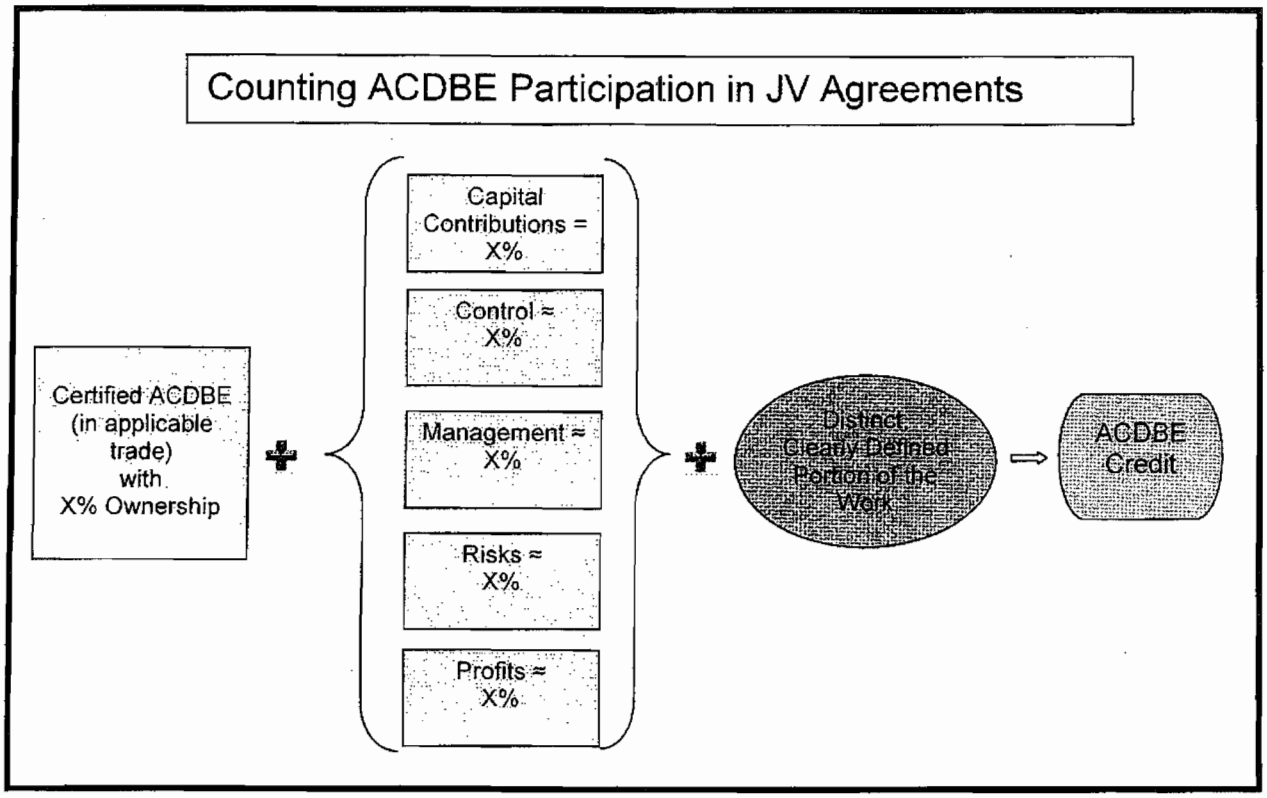
Section 4 – Counting ACDBE joint venture participation towards ACDBE goals

4.1 How is ACDBE participation in a joint venture counted towards ACDBE goals?

49 CFR § *23.55(d)* states as follows:

> *When an ACDBE performs as a participant in a joint venture, count a portion of the gross receipts equal to the distinct, clearly defined portion of the work of the concession that the ACDBE performs with its own forces toward ACDBE goals.*

The definition of a joint venture states that the ACDBEs share in the capital contribution, control, management, risks, and profits of the joint venture is commensurate with its ownership interest. Therefore, before the airport considers the ACDBE credit to be given, the airport will have a good idea of the credit that is desired, since it should be commensurate with ownership percentage. For example, if the ACDBE ownership in a joint venture is stated as 25%, it is likely that the joint venture participants are seeking to count the ACDBE participation at 25%. The airport should look at the roles and responsibilities of the ACDBE and determine if the claimed ownership appears reasonably proportionate to the "distinct, clearly defined portion of the work performed by the ACDBE." (Note: The phrase "with its own forces" is addressed in the following section.) Some slight variations may occur due to the fact that the measurement is somewhat subjective in certain categories (e.g., overall management and portion of the work). The key factor is the reasonableness of the claimed participation after reviewing all of the elements of the joint venture.



As illustrated in the chart above, the review of joint venture agreements is comprised of: (1) confirming that the ACDBE participant is a certified ACDBE in the applicable trade; (2) making a determination that the agreement meets the definition of a joint venture under the regulation, and; (3) determining the appropriate credit based on the "distinct, clearly defined portion of the work performed by the ACDBE." Once the airport has reviewed the joint venture agreement to ensure that it meets the definition of a joint venture in accordance with the regulation (i.e., in terms of the various areas being commensurate with ownership interest) the airport should proceed to a review of the distinct, clearly defined portion of the work assigned to the ACDBE in order to determine how to count ACDBE participation towards the ACDBE goal.

The following are tips for accomplishing this review:

1. <u>The assigned role of the ACDBE should be distinct and clearly defined.</u> Analyze the written description of the roles and responsibilities of each participant. The description of the work to be performed by the ACDBE should be clear. Descriptions that are vague are not acceptable. For example, phrases such as "participate in the budgeting process," "assist with

hiring," "work with managers to improve customer service" do not alone provide any basis for awarding credit since none of these represent a "distinct, clearly defined" portion of the work. ACDBE credit should not be given for tasks which are vaguely worded and cannot be monitored.

2. A comprehensive role in the complete operation of a separate location under the contract is easier to count.

The preamble to 49 CFR Part 23, revised in 2005, states as follows:

> *"As a policy matter, we believe it is preferable for ACDBE joint venture participants to actually have a defined role in the revenue-generating activities of the business (e.g., the joint venture runs four food service locations in the airport, and the ACDBE is directly responsible for one of them). There is a greater likelihood of confusion, counting, and other administrative difficulties, as well as of abuse, when ACDBE participation is claimed for joint ventures in which the ACDBE participant has only a vaguely defined role in the entity as a whole."*

Clearly, joint ventures structured so that the ACDBE actually has a role in the operation of the business are preferable for counting purposes to those in which the ACDBE is assigned a vague role in the overall operation. The determination of credit is much simpler and easier to document in such a case. In addition, monitoring the participation also becomes less cumbersome. In the event that an operating role is assigned, credit can be counted at the level of gross receipts earned by the operations managed by the ACDBE. This is not to say that managerial or "back office" functions cannot be credited. However, if the role of the ACDBE participant can't be quantified or qualified, it can't be counted.

3. Roles, especially minor roles, relating to the performance of an activity in support of the overall operation may present challenges. In the event that the ACDBE is assigned a distinct, clearly defined role that does not involve managing a revenue-generating activity, but is rather a task for which gross revenues cannot be directly correlated, it is difficult to determine the credit to be assigned. If the role assigned involves activities that occur on an ongoing basis, and with regard to a core function, crediting participation is easier. However, if the role of the ACDBE occurs on an "as-needed" basis and is a minor function, it is very difficult to predict, in advance, the level of the ACDBE participation and therefore difficult

to determine credit for ACDBE participation at time of review. The ACDBE must perform a commercially useful function. Assuming that the role assigned is one that is required on an ongoing, predictable basis, it will be necessary to determine how much credit, if any, should be assigned to the role. In order to make a determination, the airport should have an understanding of the tasks involved in managing and operating the business as well as the level of difficulty and relative importance of each task. The airport should break down the business into major components and determine if the claimed ownership percentage would reasonably appear to correspond with the assigned task(s). It is the obligation of the firm seeking ACDBE credit to clearly present the information necessary and provide additional information and/or documentation as requested for a determination to be made. If the airport cannot make a reasonable judgment that the ACDBE performs a distinct, clearly defined portion of the work proportionate to its ownership interest, it may reject the joint venture for ACDBE credit or count a smaller percentage than claimed toward ACDBE participation. Please note once again that if the role of the ACDBE participant in the joint venture operation can't be quantified, it can't be counted.

4.2 How can the value of the ACDBE role be determined?

There are a number of steps that should be taken to assist in determining the value of ACDBE participation.

First, the airport may examine the typical business practice of each of the firms participating in the joint venture to determine if their assigned roles appear logical. For example, if the non-ACDBE firm is a retail firm with operations at 50 other airports and the ACDBE firm has 5 years of experience operating a candy store in the local mall, it would seem unreasonable to assign the buying of merchandise to the ACDBE participant since the larger firm would almost certainly have greater skills, knowledge and purchasing power than the ACDBE.

The airport may also look at how the non-ACDBE participant performs the role(s) assigned to the ACDBE operator at its other operations. For example, if the ACDBE is assigned to recruit minority employees, the airport should request information regarding how this is performed at other locations in which the non-ACDBE operates without an ACDBE

participant and request documentation regarding the cost (and the value) of performing that task without the ACDBE participant. Further, the airport could develop a chart of tasks to provide a framework for assigning credit. Attachment 2 will provide examples of how this may be accomplished. Since each business operation is unique and often complex, the value of specific tasks may vary from operation to operation. The role of each participant should be evaluated in the light of the specific business opportunity being performed. Ultimately, it is the joint venture participants who should provide information which would lead a reasonable person to conclude that the roles of each party justify the claimed ACDBE participation credit.

4.3 What does "performs with its own forces" mean?

If persons employed directly by the ACDBE perform the tasks associated with its participation in the joint venture, then the ACDBE is clearly performing that work with its own forces. For purposes of counting ACDBE joint venture participation, however, we view work performed by employees of the joint venture entity or a non-ACDBE participant in the joint venture as performed by the ACDBE's "own forces" IF the ACDBE has the power to control those employees with respect to the performance of the ACDBE's role.

Ideally, the "distinct clearly defined" portion of the work performed by the ACDBE participant in a joint venture would be performed by the ACDBE's own employees. This provides a clearer view of the management and control over the element of work attributed to the ACDBE. However, in some circumstances it may be advantageous for the joint venture or the non-ACDBE to employ the staff in order to provide comparable compensation and benefits to all employees. In the event that some employees are employees of the joint venture or the non-ACDBE, the ACDBE portion of the work can be considered as being performed "with its own forces" if the ACDBE has the power to control staff with regard to the performance of the work for which the ACDBE is responsible, analogous to the utilization of contract employees.

There should be a higher burden of proof that the ACDBE controls the employees performing its designated portion of the work in instances when the employees are employees of the joint venture and an even higher burden of proof when the employees are employees of the non-ACDBE. Conversely, simply having the employees on the payroll of the ACDBE firm does not

remove the burden of proving that the ACDBE actually controls those employees. There should exist a reporting relationship between the staff responsible for the ACDBE portion of the work and the ACDBE. The ACDBE should have the power to hire and fire staff responsible for performing its share of the work without the approval of the non-ACDBE participant. One factor to be considered in evaluating the amount of participation to be counted is the evaluation of resources necessary to perform the ACDBE's assigned role. For example, if the joint venture employs 5 managers, 2 administrative/support staff members and 100 hourly employees, and the ACDBE has no employees reporting to it in the performance of its assigned role, then it would be very difficult to show that the role is a substantial one and, therefore, little, if any, credit might be counted towards ACDBE participation.

4.4 What if the level of participation by the ACDBE changes?

If it is determined that the ACDBE has not performed its role in accordance with the joint venture agreement in a given year, and has in fact participated less than expected, participation may be counted at less than originally approved for that year. In the event that the reduced level of participation is planned to continue, the airport should request that the joint venture participants amend their agreement to reflect the new level of participation.

If it is determined that the ACDBE has not performed its role in accordance with the joint venture agreement in a given year, and has in fact participated more than expected, participation may be counted at the originally approved level, but not higher. In the event that the increased level of participation is planned to continue, the airport should request that the joint venture participants amend their agreement to reflect the new, ongoing level of participation.

Section 5 – Monitoring ACDBE participation in joint ventures

5.1 What is needed in terms of monitoring the joint venture?

It is the responsibility of the airport to monitor the operation of the joint venture to ensure that the joint venture is operating as intended and approved, and that the ACDBE participant's participation is real and meaningful. Should the airport find that this is not the case, the airport could find the joint venture in default of its contract. In addition, if the ACDBE is found to have

relinquished an element of control in the joint venture, the airport should immediately review the firm's certification eligibility or refer the matter to the certifying authority, and where appropriate, initiate decertification of the firm in accordance with § 26.87. The airport should develop a formal monitoring program that includes, at a minimum, the following elements:

- Annual verification of the status of the ACDBEs certification eligibility
- Periodic (not less than annual) review of the managing entity's meeting minutes and reports
- On-site visits to the operation
- Periodic interviews with the joint venture participants, managers, and employees
- Review of any documentation, including financial reports and agreements, necessary to ensure compliance with the agreement

5.2 What is included in the airport's agreement with the joint venture?

In addition to the items specifically stated in 49 CFR § 23.9, the airport should include in its agreement with the joint venture firm a requirement for regular or periodic submission of reports and other forms of communications between the non-ACDBE participant and the ACDBE participant. The agreement should require the joint venture to submit agendas, minutes, and attendance rosters from the managing entity's meetings; financial reports; and other information deemed appropriate by the airport. The agreement with the joint venture should also provide for sanctions for failing to operate in accordance with the joint venture agreement. The sanctions should be similar to those imposed for other defaults under the contract.

5.3 What annual updates and changes are required?

There are no annual updates required for joint venture agreements. However, changes to the agreement should be submitted for review prior to implementation. Also, once certified, the ACDBE participant in the joint venture must comply with 49 CFR Part 23, including but not limited to § 23.31. These requirements include annually submitting an affidavit or declaration that there have been no changes in the ACDBE participant's circumstances affecting its certification eligibility. At any time there is a change in circumstances affecting the ACDBE participant's ability to meet size, disadvantaged status, ownership or control requirements, or a

material change in the information provided in the application, the ACDBE participant must submit this information to the airport. Similarly, proposed material changes in the joint venture agreement, including management responsibilities among the participants, ownership, or control, should be submitted to the airport. In such cases, the airport should review and respond to the proposed changes within a reasonable period of time.

Section 6 – Additional information

6.1 Can a joint venture be certified as an ACDBE?

No. Joint venture entities, themselves, are not certified as ACDBEs. In order to count towards ACDBE participation, one or more of the **joint venture participants** must be a certified ACDBE. Even if the joint venture is more than 51% owned by an ACDBE firm, it is not certified as an ACDBE because, by definition, a joint venture is an association of firms, not individuals. The regulation states as follows:

> *§ 26.73(e) An eligible DBE firm must be owned by individuals who are socially and economically disadvantaged. Except as provided in this paragraph, a firm that is not owned by such individuals, but instead is owned by another firm -- even a DBE firm -- cannot be an eligible DBE.*

Therefore, a joint venture cannot be certified as an ACDBE.

With regard to certification, the regulation provides for an exception to the above as follows:

> *§ 26.73(e)(1) If socially and economically disadvantaged individuals own and control a firm through a parent or holding company, established for tax, capitalization or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, you may certify the subsidiary if it otherwise meets all requirements of this subpart. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.*

However, this would not apply to joint ventures since the ACDBE participant in a joint venture must be certified in order to count towards ACDBE participation in a joint venture and holding companies are not certified; only the subsidiary can be certified. Therefore, a holding company cannot be an ACDBE participant in a joint venture.

6.2 Does the ACDBE participant in a joint venture have to be certified in a specific type of work?

Yes. ACDBE firms must be certified in the type of work to be undertaken by the joint venture (e.g., an ACDBE participant in a retail joint venture must be a certified as an ACDBE retail operator). An ACDBE firm is required to share in the management and control of the operation. In order to do so, the ACDBE should be capable of participating at this level. In addition, the ACDBE should have involvement in the broader areas of the operation which would enable them to gain operating experience for the purpose of competing independently for operations in the future. The implementation of joint ventures which promote participation in the provision of services not related to the overall management of the operation does not support the objectives of the program. Certified firms may request that a trade be added to their certification.

49 CFR Part 23 states as follows:

> *§ 23.31(a) As a recipient, you must use, except as provided in this subpart, the procedures and standards of part 26, §§ 26.61–91 for certification of ACDBEs to participate in your concessions program. Your ACDBE program must incorporate the use of these standards and procedures and must provide that certification decisions for ACDBEs will be made by the Unified Certification Program (UCP) in your state (see part 26, § 26.81).*

49 CFR Part 26 states as follows:

> *§ 26.71(n) You must grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm need demonstrate to you only that its socially and economically disadvantaged owners are able to control the firm with respect to that type of work. You may not, in this situation, require that the firm be recertified or submit a new application for certification, but you must verify the disadvantaged owner's control of the firm in the additional type of work.*

In an effort to ensure that appropriate time is allowed for firms to be certified as ACDBEs, airports should set their deadlines and requirements keeping this in mind. Non-ACDBE joint venture participants and potential ACDBE joint venture participants should be cautious about investing capital in a project before the appropriate certification is issued by the certifying agency and the joint venture agreement is approved for counting by the airport. In the event that the potential ACDBE participant is not certified or the joint venture is not approved for counting,

and as a result, the joint venture is not executed, the return of capital is a business/contract issue between the parties and not subject to reimbursement by or assistance from the airport.

A stated overarching objective of the DBE and ACDBE programs is to ensure that only firms that fully meet the eligibility standards are permitted to participate in the program (see § 23.1 and § 26.1). Airports should be cautious when reviewing joint venture agreements to ensure that the ACDBE's participation in the joint venture does not result in the sacrifice of independence or loss of control of the ACDBE. If the ACDBE loses its independence or control over its business as a result of the joint venture, the ACDBEs certification eligibility is compromised. Any suspected loss of control or independence should be referred to the certifying agency, which shall institute decertification proceedings, if appropriate, consistent with § 26.87.

6.3 Should the joint venture agreement provide for the dissolution of the joint venture in the event that the ACDBE participant ceases to be an eligible ACDBE?

No. 49 CFR Part 23 states as follows:

> *§ 23.39 (e) When you remove a concessionaire's eligibility after the concessionaire has entered a concession agreement, because the firm exceeded the small business size standard or because an owner has exceeded the personal net worth standard, and the firm in all other respects remains an eligible ACDBE, you may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. However, you must not count the concessionaire's participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification (e.g. , in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).*

Given the fact that the participation of the ACDBE would continue to count in the above circumstance, the agreement should not permit the dissolution of the joint venture agreement in this event. However, if the ACDBE is decertified for reasons which prevent the counting of participation in the joint venture, such as sale of the majority interest in the company or fraud, it is reasonable to allow a provision for dissolution or the buyout of the ACDBE participant. Resolution of this issue would be handled between the parties.

6.4 Is the airport subject to enforcement of interpretations presented in this guidance for existing joint ventures? Is the guidance retroactive?

Yes, the airport is subject to enforcement of interpretations presented in this guidance. This guidance seeks to clarify many of the issues surrounding ACDBE participation in airport concession joint venture agreements. Airports are instructed to review existing concession joint ventures for which ACDBE participation is counted towards goals to ensure compliance with this guidance. With regard to credit for ACDBE participation, the FAA will not penalize airports for past misinterpretations, nor will adjustments to past accomplishment reports be required. However, future counting of ACDBE participation in existing joint venture agreements should be determined in light of this guidance. Future annual concession accomplishment reports should reflect the appropriate credit. This will require a re-evaluation of joint venture agreements currently operating to determine the appropriate level of ACDBE participation which should be counted. If there is a small difference, airports are encouraged to pursue an increase in the ACDBE role. If there is a significant difference as a result of this re-evaluation, airports are encouraged to look for other sources or methods for increasing participation (e.g., new opportunities and/or ACDBE goods and services). Airports are advised to evaluate their entire program and find avenues and opportunities for achieving their overall goal. This may or may not include the renegotiation of the ACDBE role in joint venture agreements already in place. Past mis-counting of ACDBE participation in joint venture agreements, except in cases of intentional misrepresentation, should not be a reason for an airport to find the joint venture in default of the concessions agreement or lease, nor should it be a reason to for the non-ACDBE to find the ACDBE in default of the joint venture agreement.

6.5 What enforcement mechanisms are available to the Department in the event of noncompliance or misconduct?

The same compliance and enforcement and compliance mechanisms apply under Part 23 as under Part 26. Under 49 CFR § 26.105, airports are subject to sanctions under FAA statutes and regulations if they fail to comply with DBE regulations. Under 49 CFR § 26.107, businesses working in the DBE or ACDBE program who engage in misconduct may be subject to suspension or debarment, enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, or criminal prosecution. The Department of Transportation's Office of Inspector General (OIG) makes investigating and prosecuting DBE fraud a priority. The OIG, working with U.S. attorneys' offices, has helped to create successful criminal prosecutions for fraudulent conduct in the DBE and ACDBE programs. Anyone who becomes aware of fraud, waste, or abuse in these programs should inform OIG as well as FAA officials.

Attachment 1

Model ACDBE Joint Venture Information
(to be submitted with joint venture agreement for review)

The Department recommends that airport sponsors request the following information from participants in prospective ACDBE joint ventures. The Department believes that this information will assist sponsors in evaluating joint venture proposals. The following form is a model that sponsors may wish to use in obtaining this information, but use of the model form is not mandatory.

****

1. Name of Joint Venture:

2. Name, address and phone number of joint venture contact person:

3. Firms participating in joint venture (use additional pages if necessary):

   Name of firm:
   Address:
   Phone Number:
   Contact name/phone number:
   % ownership: %
   ACDBE: ☐yes ☐ no Certifying agency:
   Date of Certification:
   Type of work for which certification was granted:

   Name of firm:
   Address:
   Phone Number:
   Contact name/phone number:
   % ownership: %
   ACDBE: ☐yes ☐ no Certifying agency:
   Date of Certification:
   Type of work for which certification was granted:

4. ACDBE initial capital contribution: $ %

5. Future capital contributions (explain requirements):

6. Source of funds for the ACDBE capital contribution:

7. Describe the portion of the work or elements of the business controlled by the ACDBE:

8. Describe the portion of the work or elements of the business controlled by the non-ACDBE:

9. Describe the ACDBE's involvement in the overall management of the joint venture (e.g., participation on a management committee or managing board, voting rights, etc.)

10. Describe the ACDBE's share in the profits of the joint venture:

11. Describe the ACDBE's share in the risks of the joint venture:

12. Describe the roles and responsibilities of each joint venture participant with respect to managing the joint venture (use additional sheets if necessary):

    a. ACDBE joint venture participant:
    b. Non- ACDBE joint venture participant:

13. Describe the roles and responsibilities of each joint venture participant with respect to operation of the joint venture (use additional sheets if necessary):

    a. ACDBE joint venture participant:
    b. Non- ACDBE joint venture participant:

14. Which firm will be responsible for accounting functions relative to the joint venture's business?

15. Explain what authority each party will have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties?

16. Please provide information relating to the approximate **number** of management, administrative, support and non-management employees that will be required to operate the business and indicate whether they will be employees of the ACDBE, non-ACDBE or joint venture.

	Non-ACDBE Firm	ACDBE Firm	Joint Venture
Management			
Administrative			
Support			
Hourly Employees			

17. Please provide the name of the person who will be responsible for hiring employees for the joint venture. Who will they be employed by?

18. Are any of the proposed joint venture employees currently employees of any of the joint venture partners? ☐ yes ☐ no
    If yes, please list the number and positions and indicate which firm currently employs the individual(s).

19. Attach a copy of the proposed joint venture agreement, promissory note or loan agreement (if applicable), and any and all written agreements between the joint venture partners.

20. List all other business relationships between the joint venture participants, including other joint venture agreements in which the parties are jointly involved.

Attachment 2

Samples
Joint Venture - ACDBE Portion of the Work

Each joint venture agreement submitted for ACDBE credit must be reviewed and analyzed in order to determine the amount of ACDBE credit to be given, if any, for the ACDBE participation in the business. It is critical that the reviewer gain a clear understanding of the ACDBE role in relation to the entire operation of the total business. Once that is accomplished and it has been determined that ACDBE participation will be counted toward the ACDBE goal, the business must be monitored to ensure that it is operating as represented in the joint venture agreement and as approved for counting. The following will provide some examples of possible ways to analyze the value of the portion of the work assigned to the ACDBE. These examples are not meant to provide a comprehensive guide for establishing values since each business and each agreement may have unique characteristics. Rather, these examples are provided to establish potential thought processes for analyzing participation.

Example 1

The ACDBE ownership of a retail joint venture is stated as 20%. The ACDBE shares in the capital contribution, control, overall management (through participation on the management committee), risks, and profits of the joint venture commensurate with its stated ownership interest. The ACDBE assigned role in the business includes "participation in" and "assistance with" various activities which routinely occur in the day-to-day operation of the business. These roles may be valued as part of the overall management of the business, but should not be valued in terms of performing a **distinct, clearly defined portion of the work,** since the extent of this participation is unknown and is neither distinct nor clearly-defined.

Now, let us assume that the ACDBE partner is also assigned the role of [illegible] vendors to be utilized by the business and recruiting minority employees for the business.

The major day-to-day activities performed by the business are determined to be approximately:

Operations (1/3 of the business effort)	Product (1/3 of the business effort)	Administration/ Corp Support (1/3 of the business effort)
Human Resources (Supervise on-site operations staff, hire/fire staff, scheduling, training, etc.)	Purchasing	Accounting/Payroll/ Taxes
Loss Prevention	Inventory Management	Legal Services
Safety/Security	Pricing	Business Development/ Landlord Relations
Cash Management (check-out, banking)	Décor/Display	Human Resources/ Training Programs
Day-to-Day Landlord Relations	Product Assortment (retail)/Menu Development (food)	Policies/Procedures
Maintenance/Cleaning	Negotiation of Special Programs, Rebates, Display Allowances, etc.	Other Corporate Support
Budgeting/Monitoring Performance	Budgeting/Monitoring Performance	Budgeting/Monitoring Performance

The ACDBE roles of recruiting minority employees and finding DBE vendors are activities included under broader categories - Human Resources (under the "Operations" category of the business) and Purchasing (under the "Product" category of the business). There are numerous daily activities involved in the subcategories of "Human Resources" and "Purchasing." All of "Operations" is about 1/3 of the business effort in this example and all of "Product" is also about 1/3 of the business effort. Human Resources is only one task within the "Operations" category and purchasing is only one task within the "Product"

category. Recruiting minority employees and finding minority vendors are small tasks within the broader subcategories. In addition, it is difficult, if not impossible, to quantify the value of these tasks in terms of their impact on gross receipts. In fact, it is likely that this portion of the work is negligible since neither of these activities actually involves management of a function or control of a result (i.e., DBE vendors may be located, however the level of purchasing to be accomplished from these vendors, their product placement within the facility, prices to be paid for merchandise, etc. are outside of the control of the ACDBE; minority employees may be recruited, however their hiring, training, management and retention are outside of the ACDBE's control). In this instance, an airport would not have sufficient data to approve the joint venture for counting towards ACDBE participation because the portion of the work to be performed by the ACDBE is very difficult to quantify. In this instance, the airport should request that the joint venture participants clarify the role of the ACDBE in order to understand the nature and extent of the ACDBE's role.

Conversely, assume that all other factors are the same as described above (i.e., the ownership is stated as 20% and capital contributions, management, etc, are commensurate), except that the ACDBE independently performs all functions in the "Operations" category. In this case, it could reasonably be determined that the ACDBE performs at least 33% of the work for its 20% ownership share. However, because the definition states that the ACDBE shares in the capital contribution, control, management, risks, and profits of the joint venture commensurate with its ownership interest, a joint venture where the ACDBE's contributions are not proportionate do not meet the definition of a joint venture under the regulation. In this instance, the participation could be counted at 20%, not a greater percentage which might be indicated by the portion of the work performed by the ACDBE.

Example 2

In this example, a joint venture between a non-ACDBE and an ACDBE operates a news/gift concession at an airport. The ACDBE is reported to have a 15% share in the ownership of the joint venture. The ACDBE has contributed capital from its own funds in proportion to its stated ownership. The ACDBE participates on a management committee and there are a number of business decisions requiring unanimous consent. The ACDBE's share of the profits and risks of the joint venture are proportionate to its stated ownership interest. There are management fees paid to the non-ACDBE partner, however, they are calculated as a reimbursement of costs incurred to perform support functions and are not a profit center. Up to this point, the joint venture agreement appears to comply with the regulation and this guidance. The ACDBE is assigned the following activities:

1) Supervise the Manager in developing the annual budget of the Joint Venture
2) Evaluate day-to-day operations and make recommendations to improve efficiencies
3) Sourcing and recruitment of personnel
4) Supervise employee training and development
5) Develop marketing and promotional concepts
6) Assist and advise regarding the needs of the local community
7) Identify potential DBE vendors
8) Monitor store compliance with other income programs

Given the description of the various activities above, it is not possible to ascertain exactly what portion of the work will be performed by the ACDBE. In order to assign any credit for the ACDBE role, additional information is needed for each of the assigned roles as follows:

1) Supervise the Manager in developing the annual budget of the Joint Venture

   Who does the Manager report to for other functions? What control does the ACDBE have over the budget? While budgeting is important, it is only an annual budget and the description does not really indicate a very active role. How much time will be spent on this? Exactly what will the ACDBE do?

2) Evaluate day-to-day operations and make recommendations to improve efficiencies

Without further explanation this appears to be is a relatively meaningless role. What happens to the evaluations and recommendations once they are made? How often does this occur? Who actually does it? This seems to apply more to the overall management of the business. There is no supporting evidence to indicate that it is a distinct, clearly defined role.

3) Sourcing and recruitment of personnel

What exactly does this activity entail? Is the ACDBE actually responsible for hiring? How often does this occur and what is the level of effort expended to accomplish this? Does on-site staff participate? If so, to what extent?

4) Supervise employee training and development

Who will the ACDBE supervise? What level of effort is required for this activity? How much time is involved? Describe the nature of the training and development to be supervised.

5) Develop marketing and promotional concepts

Is the ACDBE solely responsible for marketing? What level of effort is required? How much time is involved? What is the budget for this? Are employees involved? If so, to whom do they report?

6) Assist and advise regarding the needs of the local community

An "assist" role does not appear to represent a "distinct, clearly defined" portion of the work. What is meant by the "needs of the local community?" Describe what the needs of the community might be. This seems to be a minor role in the overall scope of the operations.

7) Identify potential DBE vendors

What happens after the vendors are identified? Who has control over determining if they are used? Who negotiates with them and determines if goods or services will be purchased? What does this represent in dollars compared to the total purchases made?

8) Monitor store compliance with other income programs

This is, again, very unclear. What happens after monitoring? Who determines what compliance is necessary? What happens in the event of non-compliance? How often

is this monitoring done? How long does it take? How is it accomplished in other operations? How important is this in the scope of the operation?

As you can see, before any credit is assigned for ACDBE participation, there are a number of questions to be answered and issues to be resolved. Until the ACDBE is assigned a "distinct, clearly defined" portion of the work to perform, no credit can be given.

Example 3

A joint venture between a non-ACDBE and an ACDBE operates a food/beverage concession consisting of 8 locations at an airport. The ACDBE is reported to have a 35% share in the ownership of the joint venture. The ACDBE has contributed its proportionate share of the capital obtained through a combination of its own funds (15% of the required investment) and a loan from the non-ACDBE (85% of the required investment). A loan agreement has not been supplied. The ACDBE participates on a management committee and certain business decisions require unanimous consent. The ACDBE shares in the profits and risks of the joint venture in proportion to its stated ownership interest. There are no management fees paid to either party. The following is the description of the ACDBE role in the operation of the business as supplied in the joint venture agreement:

1) [ACDBE] company will have primary responsibility for the operation of gourmet coffee locations in Terminals 1, 2 and 3
2) [ACDBE] company will employ staff to manage and operate said locations in accordance with the lease agreement and direction provided by the Management Committee
3) [ACDBE] company will attend and participate in weekly manager's meetings
4) [ACDBE] company will attend and participate in monthly meetings of the Management Committee

Given the above situation, the airport should request the following information in order to assess the credit to be counted towards ACDBE participation for this joint venture:

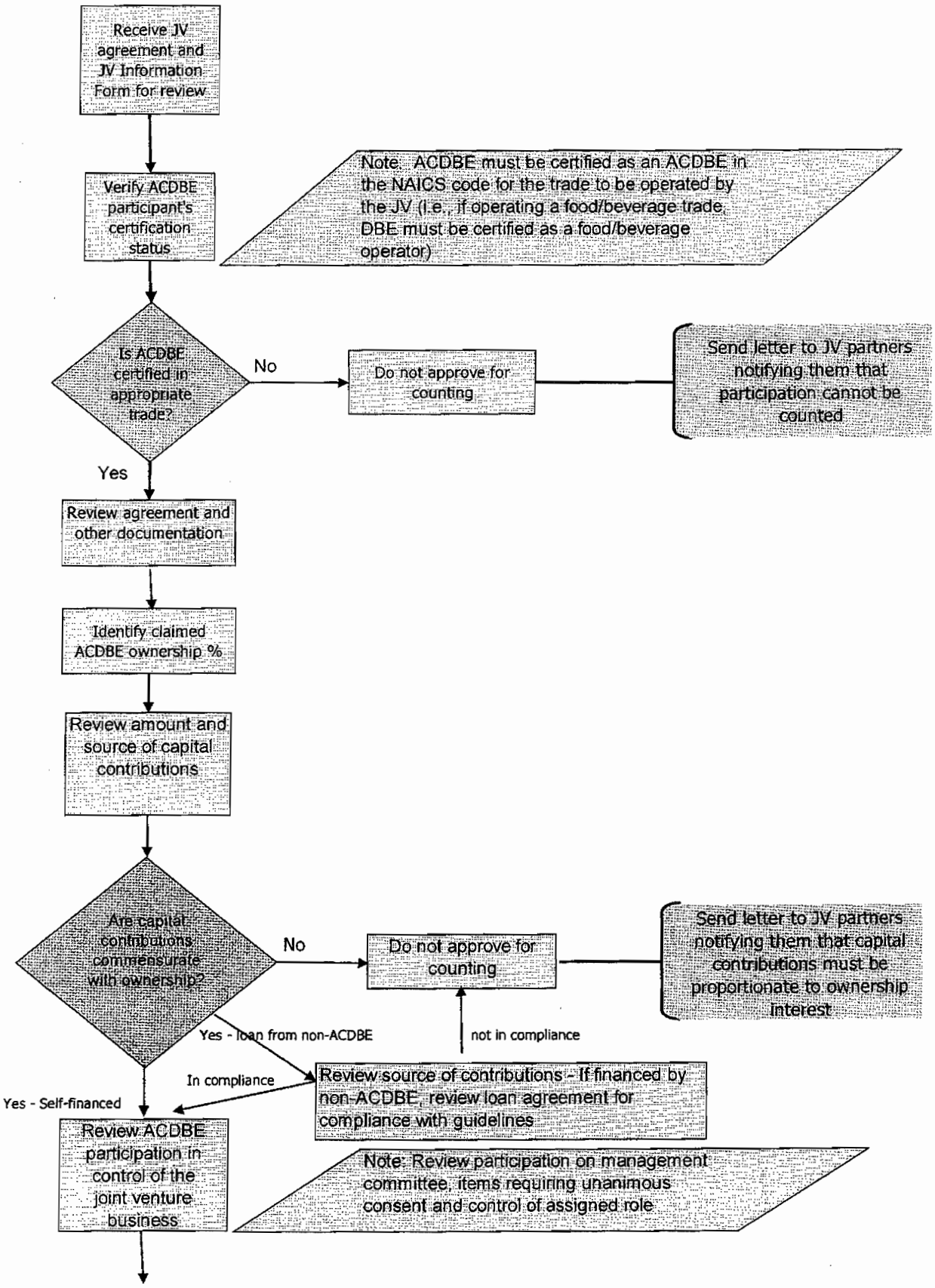
1) A copy of the proposed loan agreement in order to ensure that the loan provides information detailed in Section 3.3 of the joint venture guidance

2) A clear explanation of what "primary responsibility" actually means

3) An estimate of gross receipts to be earned by the ACDBE operated locations compared to total gross receipts

While there are questions to be answered in order to determine the credit to be counted for this joint venture, the fact that the ACDBE firm will be assigned specific units to operate will provide a more objective basis for establishing credit.

JV REVIEW PROCESS



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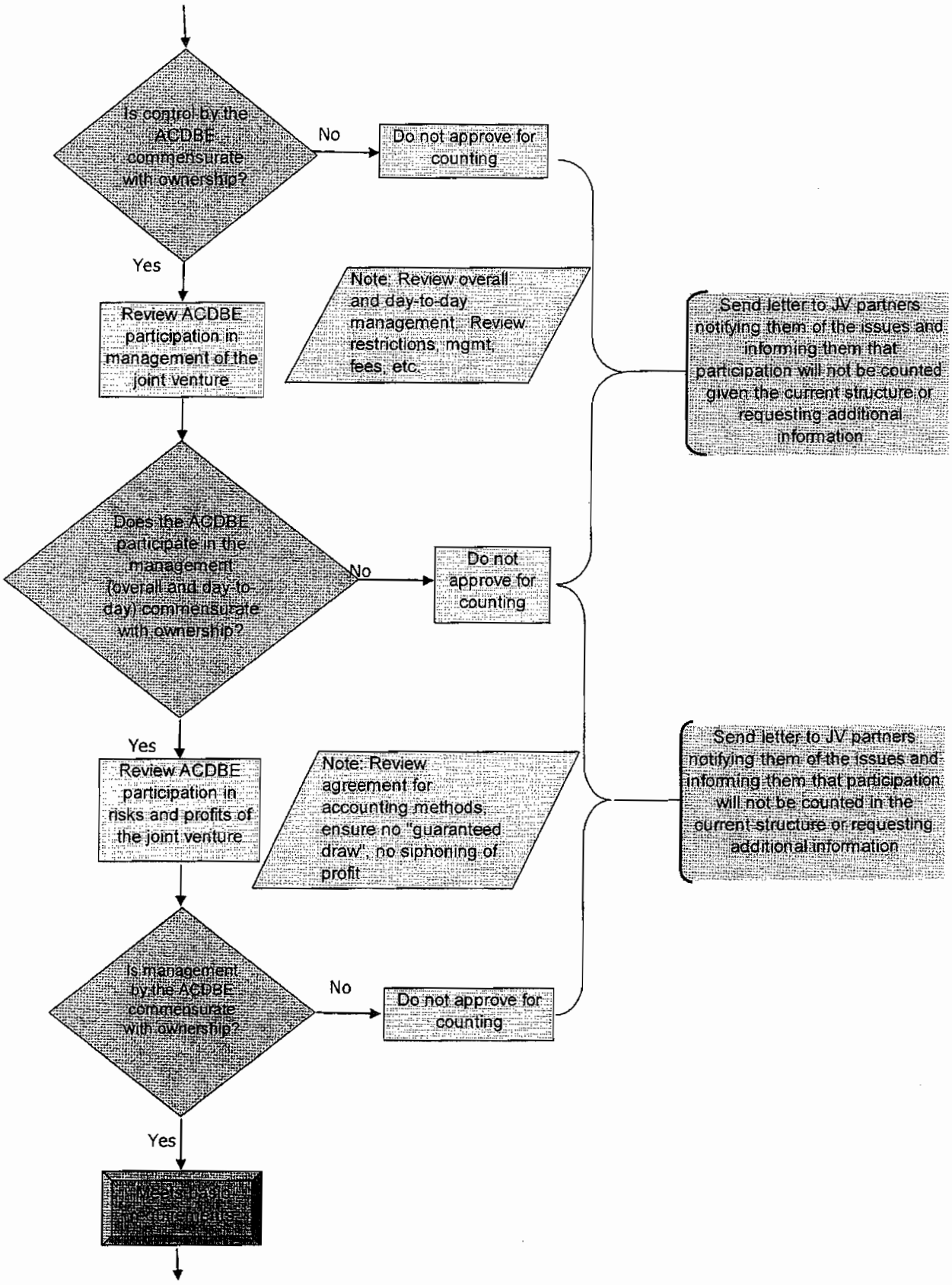
Is control by the ACDBE commensurate with ownership?
No
Do not approve for counting
Yes
Review ACDBE participation in management of the joint venture
Note: Review overall and day-to-day management. Review restrictions, mgmt. fees, etc.
Send letter to JV partners notifying them of the issues and informing them that participation will not be counted given the current structure or requesting additional information
Does the ACDBE participate in the management (overall and day-to-day) commensurate with ownership?
No
Do not approve for counting
Yes
Review ACDBE participation in risks and profits of the joint venture
Note: Review agreement for accounting methods, ensure no "guaranteed draw", no siphoning of profit
Send letter to JV partners notifying them of the issues and informing them that participation will not be counted in the current structure or requesting additional information
Is management by the ACDBE commensurate with ownership?
No
Do not approve for counting
Yes

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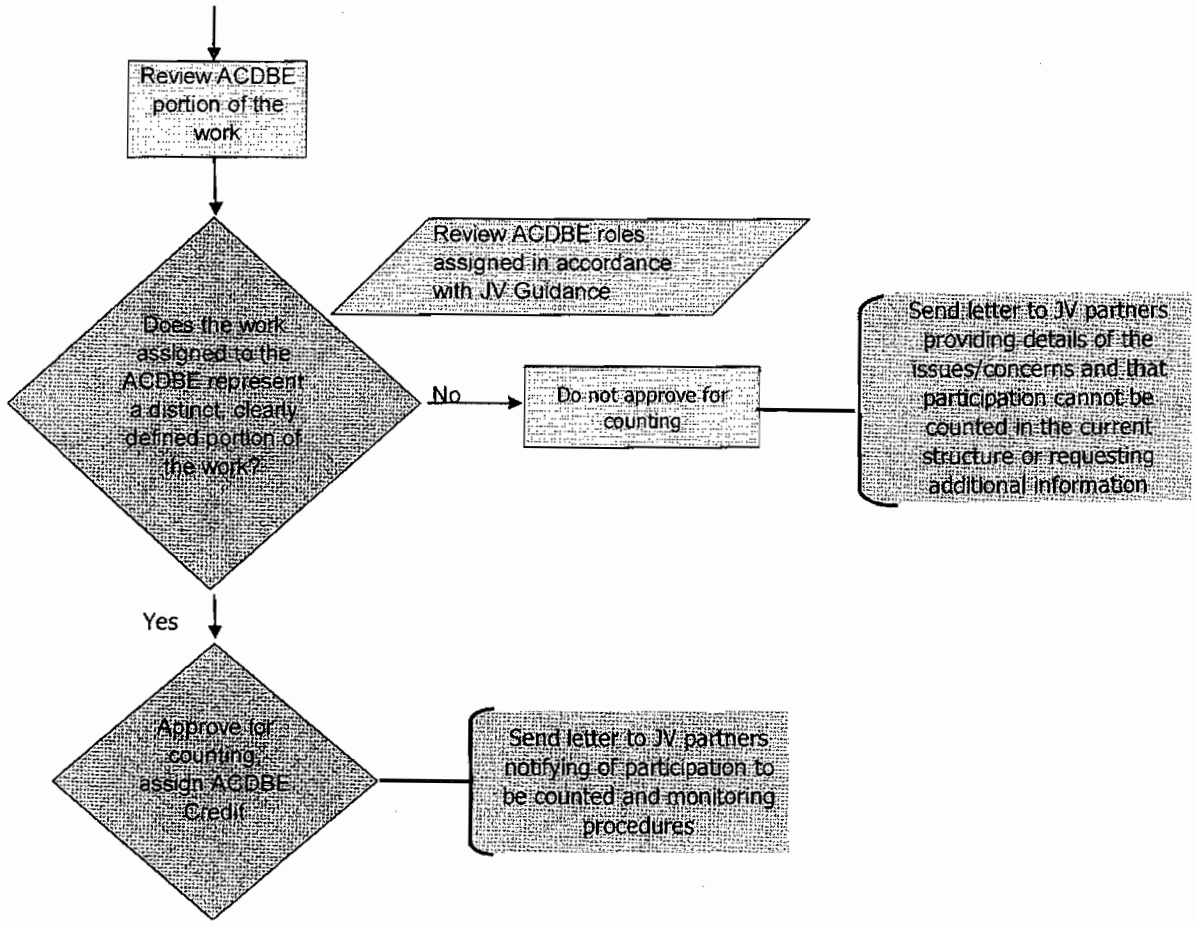
Review ACDBE portion of the work
Review ACDBE roles assigned in accordance with JV Guidance
Does the work assigned to the ACDBE represent a distinct, clearly defined portion of the work?
No
Do not approve for counting
Send letter to JV partners providing details of the issues/concerns and that participation cannot be counted in the current structure or requesting additional information
Yes
Approve for counting, assign ACDBE Credit
Send letter to JV partners notifying of participation to be counted and monitoring procedures

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APPENDIX J

Managing, Operating and Maintenance Plan

MANAGING, OPERATING AND MAINTENANCE PLAN

1) Provide Proposer's Management Plan including managing, operating and/or maintaining the Luggage Wrapping Services , considering the requirements in the Scope of Services (Section 1.02 of this RFP). Describe the management concepts and operation strategies. Indicate years of experience in property management, including the locations managed both presently and in recent years. Provide sales, and number of locations managed. Identify the elements from past experience that may be applicable to working at this Airport.

2) Staffing plan: Provide the following details relating to the Proposer's staffing to meet its management, and operations obligations:

   a) Organizational chart specific to MIA operations, also noting decision-making responsibilities. Resumes of key staff members should be provided.
   b) Describe the proposed staffing requirements with a summary of the duties for management/supervisory positions in detail.
   c) Staffing level and schedule to illustrate coverage of operating hours.
   d) Specifically point out any activities that will be performed off-site (i.e. at a corporate headquarters or regional office) or by a third party provider.

3) Sales and Revenue/Financial Projections: Proposers should provide a realistic estimate of the expected annual gross revenues to be derived from the proposed operations. Major assumptions used in developing the sales projections should also be clearly stated.

4) Describe Proposer's labor and training practices: Provide the following information regarding the labor and training practices which will be used at MIA regarding Proposer's own organization, as well as similar information for any proposed sub-tenants with whom Proposer already has agreements in principle or commitment letters:

   a) Provide employee handbook, if any.
   b) Briefly describe recruiting techniques and sources of management and non-management labor.
   c) Briefly describe any motivation programs or incentives Proposer has in place for its employees and discuss if they will be extended to the sub-tenants employees if applicable.

5) Customer Service Philosophy and Programs – the Proposer shall provide:

   a) Customer service training program or any training or education programs that the Proposer will offer.

b) A description of the goals and objectives with regard to customer service.
c) The proposed customer service survey program, frequency of use, data analysis methodology, and sample summary reports, and finally a proposed customer service plan.
d) Speed of service standards.
e) Customer service policies and quality assurance procedures.
f) Customer complaint/comment policies (how they will be received, how they will be addressed, etc.).

6) Property Management Plan: Describe Proposer's opinion as to the day to day property management approach and how the Proposer intends to implement it in this program, as well as the following:

a) Sales reporting program
b) Procedures to evaluate unit productivity.

7) Submit the proposed facility maintenance plan indicating the method and frequency by which Proposer intends to maintain all Locations and the administrative support space in a first class manner.

a) Describe Proposer's policy for cleaning/maintenance/repairs and replacement of equipment.
b) Provide a plan to handle concession servicing including delivery, storage, trash removal (including the handling of confidential information), and recycling.

Note: After Proposal submission, but prior to the award of any contract issued as a result of this RFP, the Proposer has a continuing obligation to advise the Department of any changes, intended or otherwise, to the Key Personnel identified in it s Proposal.

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Appendix K
RFP - MDAD 01-09

Concourse	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
A	0	0	0	0	0	0	
B	0	0	0	0	0	0	
C	181,840	123,303	18,405	79,363	200,245	202,666	402,
D	1,559,916	1,427,681	579,267	662,706	2,139,183	2,090,387	4,229,
E	533,445	731,837	1,066,712	889,267	1,600,157	1,621,104	3,221,
F	18,120	16,550	365,961	346,045	384,081	362,595	746,
G	120,069	117,542	34,582	53,254	154,651	170,796	325,
H	348,192	334,795	123,677	121,797	471,869	456,592	928,
J	206,771	199,178	527,154	538,491	733,925	737,669	1,471,
XXX	1,153	936	289	472	1,442	1,408	2,
TOTAL	2,969,506	2,951,822	2,716,047	2,691,395	5,685,553	5,643,217	11,328,

MONTH	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
OCT	705,077	689,395	617,735	606,589	1,322,812	1,295,984	2,618,
NOV	721,115	721,215	643,916	645,421	1,365,031	1,366,636	2,731,
DEC	803,804	742,278	718,414	742,055	1,522,218	1,484,333	3,006,
JAN	739,510	798,934	735,982	697,330	1,475,492	1,496,264	2,971,
TOTAL	2,969,506	2,951,822	2,716,047	2,691,395	5,685,553	5,643,217	11,328,

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MONTH	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
Concourse A							
TOTAL	0	0	0	0	0	0	
Concourse B		**Inactive Terminal/Concourse**					
TOTAL	0	0	0	0	0	0	
Concourse C							
OCT	46,544	24,940	4,670	26,765	51,214	51,705	102,
NOV	45,596	33,548	3,176	19,119	48,772	52,667	101,
DEC	45,014	28,971	5,770	18,547	50,784	47,518	98,
JAN	44,686	35,844	4,789	14,932	49,475	50,776	100,
TOTAL	181,840	123,303	18,405	79,363	200,245	202,666	402,
Concourse D							
OCT	396,837	340,957	113,494	150,388	510,331	491,345	1,001
NOV	377,890	345,159	140,794	160,545	518,684	505,704	1,024
DEC	409,509	356,143	157,294	183,668	566,803	539,811	1,106
JAN	375,680	385,422	167,685	168,105	543,365	553,527	1,096
TOTAL	1,559,916	1,427,681	579,267	662,706	2,139,183	2,090,387	4,229

Miami-Dade County Aviation Department
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MONTH	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
Concourse E							
OCT	117,737	187,862	264,854	196,684	382,591	384,546	767
NOV	129,274	177,156	255,562	216,545	384,836	393,701	778
DEC	155,268	185,667	264,884	238,193	420,152	423,860	844
JAN	131,166	181,152	281,412	237,845	412,578	418,997	831
TOTAL	533,445	731,837	1,066,712	889,267	1,600,157	1,621,104	3,221
Concouse F							
OCT	4,558	3,370	82,708	76,902	87,266	80,272	167
NOV	4,783	4,331	86,930	82,006	91,713	86,337	178
DEC	4,440	4,353	103,908	96,165	108,348	100,518	208
JAN	4,339	4,496	92,415	90,972	96,754	95,468	192
TOTAL	18,120	16,550	365,961	346,045	384,081	362,595	746

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MONTH	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
Concourse G							
OCT	23,193	22,540	8,417	10,422	31,610	32,962	64
NOV	26,391	26,328	8,061	11,655	34,452	37,983	72
DEC	33,235	30,565	10,316	22,767	43,551	53,332	96
JAN	37,250	38,109	7,788	8,410	45,038	46,519	91
TOTAL	120,069	117,542	34,582	53,254	154,651	170,796	325
Concourse H							
OCT	80,869	75,154	28,436	27,628	109,305	102,782	212
NOV	84,313	83,072	27,187	29,428	111,500	112,500	224
DEC	95,402	84,274	33,359	32,934	128,761	117,208	245
JAN	87,608	92,295	34,695	31,807	122,303	124,102	246
TOTAL	348,192	334,795	123,677	121,797	471,869	456,592	928

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	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
Concourse J							
OCT	35,227	34,417	115,121	117,707	150,348	152,124	302,
NOV	52,465	51,248	122,186	126,070	174,651	177,318	351,
DEC	60,702	52,185	142,855	149,761	203,557	201,946	405,
JAN	58,377	61,328	146,992	144,953	205,369	206,281	411,
TOTAL	206,771	199,178	527,154	538,491	733,925	737,669	1,471,
Concourse X & XX							
OCT	112	155	35	93	147	248	
NOV	403	373	20	53	423	426	
DEC	234	120	28	20	262	140	
JAN	404	288	206	306	610	594	1,
TOTAL	1,153	936	289	472	1,442	1,408	2,

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Appendix K
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Concourse	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
A	117,722	105,421	115,207	122,089	232,929	227,510	460,439
B	0	0	0	0	0	0	0
C	825,162	560,047	84,011	325,356	909,173	885,403	1,794,576
D	4,075,928	3,922,180	2,043,132	2,186,405	6,119,060	6,108,585	12,227,645
E	1,796,236	2,399,971	2,841,354	2,254,233	4,637,590	4,654,204	9,291,794
F	64,204	60,308	1,104,929	1,083,232	1,169,133	1,143,540	2,312,673
G	549,670	546,094	111,005	150,605	660,675	696,699	1,357,374
H	946,689	933,474	320,904	334,389	1,267,593	1,267,863	2,535,456
J	543,322	536,940	1,486,459	1,510,039	2,029,781	2,046,979	4,076,760
XXX	3,610	3,283	886	1,334	4,496	4,617	9,113
TOTAL	8,922,543	9,067,718	8,107,887	7,967,682	17,030,430	17,035,400	34,065,830

MONTH	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
OCT	716,684	714,282	625,616	608,062	1,342,300	1,322,344	2,664,644
NOV	746,878	734,397	632,310	638,498	1,379,188	1,372,895	2,752,083
DEC	796,435	747,810	680,918	717,423	1,477,353	1,465,233	2,942,586
JAN	753,977	809,584	736,089	680,436	1,490,066	1,490,020	2,980,086
FEB	736,617	732,152	612,969	607,197	1,349,586	1,339,349	2,688,935
MAR	824,198	852,798	712,642	707,826	1,536,840	1,560,624	3,097,464
APRIL	742,772	782,613	649,884	585,845	1,392,656	1,368,458	2,761,114
MAY	769,041	788,314	624,233	645,965	1,393,274	1,434,279	2,827,553
JUNE	746,594	747,322	666,161	707,851	1,412,755	1,455,173	2,867,928
JULY	778,097	770,960	798,873	761,607	1,576,970	1,532,567	3,109,537
AUG	717,892	773,673	794,686	731,737	1,512,578	1,505,410	3,017,988
SEPT	593,358	613,813	573,506	575,235	1,166,864	1,189,048	2,355,912
TOTAL	8,922,543	9,067,718	8,107,887	7,967,682	17,030,430	17,035,400	34,065,830

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Concourse A

MONTH	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
OCT	108,522	97,572	106,055	112,166	214,577	209,738	424,315
NOV	9,200	7,849	9,152	9,923	18,352	17,772	36,124
TOTAL	117,722	105,421	115,207	122,089	232,929	227,510	460,439

MONTH	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
Concourse C							
OCT	68,838	43,927	6,759	31,350	75,597	75,277	150,874
NOV	84,864	54,679	7,901	34,821	92,765	89,500	182,265
DEC	84,224	57,931	6,653	27,268	90,877	85,199	176,076
JAN	87,844	66,616	4,763	26,415	92,607	93,031	185,638
FEB	85,152	49,060	3,710	28,021	88,862	77,081	165,943
MAR	85,720	57,645	3,282	30,189	89,002	87,834	176,836
APRIL	67,991	50,064	12,229	24,775	80,220	74,839	155,059
MAY	53,243	45,115	14,383	19,427	67,626	64,542	132,168
JUNE	54,456	34,307	6,201	24,616	60,657	58,923	119,580
JULY	59,139	36,205	6,919	30,094	66,058	66,299	132,357
AUG	56,651	34,747	7,885	27,636	64,536	62,383	126,919
SEPT	37,040	29,751	3,326	20,744	40,366	50,495	90,861
TOTAL	825,162	560,047	84,011	325,356	909,173	885,403	1,794,576
Concourse D							
OCT	263,004	292,397	183,106	154,532	446,110	446,929	893,039
NOV	315,175	312,649	177,203	174,284	492,378	486,933	979,311
DEC	330,384	306,632	174,109	196,810	504,493	503,442	1,007,935
JAN	292,338	304,243	204,454	189,939	496,792	494,182	990,974
FEB	270,358	275,923	171,034	163,636	441,392	439,559	880,951
MAR	316,381	330,664	196,572	190,735	512,953	521,399	1,034,352
APRIL	343,038	337,466	156,852	158,849	499,890	496,315	996,205
MAY	421,935	379,557	136,117	176,754	558,052	556,311	1,114,363
JUNE	402,068	354,629	157,776	206,588	559,844	561,217	1,121,061
JULY	411,488	363,911	191,903	224,270	603,391	588,181	1,191,572
AUG	376,169	364,548	184,559	205,802	560,728	570,350	1,131,078

SEPT	333,590	299,561	109,447	144,206	443,037	443,767	886,804
TOTAL	4,075,928	3,922,180	2,043,132	2,186,405	6,119,060	6,108,585	12,227,645

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MONTH	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
Concourse E							
OCT	118,003	127,171	130,114	114,986	248,117	242,157	490,274
NOV	154,284	183,472	201,166	172,573	355,450	356,045	711,495
DEC	181,754	202,532	216,568	192,869	398,322	395,401	793,723
JAN	183,825	239,748	245,171	193,886	428,996	433,634	862,630
FEB	183,157	217,815	203,397	180,138	386,554	397,953	784,507
MAR	199,566	240,308	239,307	206,539	438,873	446,847	885,720
APRIL	147,544	206,661	237,596	174,765	385,140	381,426	766,566
MAY	132,248	202,126	249,302	195,781	381,550	397,907	779,457
JUNE	128,988	200,164	262,030	209,668	391,018	409,832	800,850
JULY	139,526	208,507	296,245	220,636	435,771	429,143	864,914
AUG	126,059	208,520	309,369	210,478	435,428	418,998	854,426
SEPT	101,282	162,947	251,089	181,914	352,371	344,861	697,232
TOTAL	1,796,236	2,399,971	2,841,354	2,254,233	4,637,590	4,654,204	9,291,794
Concouse F							
OCT	11,841	10,999	101,864	98,372	113,705	109,371	223,076
NOV	7,855	7,477	93,276	98,301	101,131	105,778	206,909
DEC	4,572	4,261	102,753	104,958	107,325	109,219	216,544
JAN	4,521	4,154	98,093	94,079	102,614	98,233	200,847
FEB	4,354	3,892	82,183	78,343	86,537	82,235	168,772
MAR	4,739	4,429	95,411	93,694	100,150	98,123	198,273
APRIL	4,384	4,360	88,749	80,500	93,133	84,860	177,993
MAY	4,427	4,389	77,505	87,864	81,932	92,253	174,185
JUNE	4,336	4,289	82,811	84,355	87,147	88,644	175,791
JULY	4,462	4,384	105,774	86,166	110,236	90,550	200,786
AUG	4,538	4,305	103,562	95,588	108,100	99,893	207,993
SEPT	4,175	3,369	72,948	81,012	77,123	84,381	161,504
TOTAL	64,204	60,308	1,104,929	1,083,232	1,169,133	1,143,540	2,312,673

bt 1

Miami-Dade County Aviation Department
Miami International Airport
Passenger Traffic
October 2007 to September 2008 (FY 2008)

MONTH	Domestic Arrival	Domestic Departure	Int'l. Arrival	Int'l. Departure	Total Arrival	Total Departure(EP's)	Total Pax
Concourse G							
OCT	57,925	57,184	6,553	5,550	64,478	62,734	127,212
NOV	72,769	69,348	10,116	8,573	82,885	77,921	160,806
DEC	83,782	77,010	4,303	9,620	88,085	86,630	174,715
JAN	56,572	58,272	4,446	5,570	61,018	63,842	124,860
FEB	49,015	48,179	2,790	5,865	51,805	54,044	105,849
MAR	55,635	55,551	12,782	17,196	68,417	72,747	141,164
APRIL	40,563	43,014	11,688	14,392	52,251	57,406	109,657
MAY	32,885	33,789	11,303	15,146	44,188	48,935	93,123
JUNE	28,662	28,639	10,678	19,385	39,340	48,024	87,364
JULY	27,559	28,906	14,040	20,814	41,599	49,720	91,319
AUG	25,529	27,208	15,981	20,268	41,510	47,476	88,986
SEPT	18,774	18,994	6,325	8,226	25,099	27,220	52,319
TOTAL	549,670	546,094	111,005	150,605	660,675	696,699	1,357,374
Concourse H							
OCT	62,423	59,958	26,890	24,462	89,313	84,420	173,733
NOV	55,011	52,588	29,314	28,970	84,325	81,558	165,883
DEC	58,135	51,362	33,445	37,229	91,580	88,591	180,171
JAN	76,232	83,469	31,260	31,166	107,492	114,635	222,127
FEB	91,848	86,684	28,787	26,943	120,635	113,627	234,262
MAR	101,905	102,052	23,337	24,363	125,242	126,415	251,657
APRIL	91,688	92,169	20,145	20,173	111,833	112,342	224,175
MAY	83,328	82,278	17,428	20,973	100,756	103,251	204,007
JUNE	84,963	82,661	19,118	21,038	104,081	103,699	207,780
JULY	91,247	85,546	35,515	34,565	126,762	120,111	246,873
AUG	85,554	89,620	32,840	35,531	118,394	125,151	243,545
SEPT	64,355	65,087	22,825	28,976	87,180	94,063	181,243
TOTAL	946,689	933,474	320,904	334,389	1,267,593	1,267,863	2,535,456

Miami-Dade County Aviation Department
Miami International Airport
Passenger Traffic
October 2007 to September 2008 (FY 2008)

Concourse J

OCT	25,575	24,479	64,238	66,622	89,813	91,101	180,914
NOV	47,141	45,750	104,119	111,022	151,260	156,772	308,032
DEC	53,109	47,710	143,023	148,649	196,132	196,359	392,491
JAN	51,705	52,514	147,532	138,630	199,237	191,144	390,381
FEB	52,457	50,328	121,025	124,231	173,482	174,559	348,041
MAR	59,990	61,760	141,883	145,088	201,873	206,848	408,721
APRIL	47,422	48,690	122,581	112,362	170,003	161,052	331,055
MAY	40,962	41,049	118,163	130,011	159,125	171,060	330,185
JUNE	43,109	42,623	127,505	141,951	170,614	184,574	355,188
JULY	44,662	43,484	148,440	145,055	193,102	188,539	381,641
AUG	43,226	44,667	140,457	136,266	183,683	180,933	364,616
SEPT	33,964	33,886	107,493	110,152	141,457	144,038	285,495
TOTAL	543,322	536,940	1,486,459	1,510,039	2,029,781	2,046,979	4,076,760

Concourse X & XX

OCT	553	595	37	22	590	617	1,207
NOV	579	585	63	31	642	616	1,258
DEC	475	372	64	20	539	392	931
JAN	940	568	370	751	1,310	1,319	2,629
FEB	276	271	43	20	319	291	610
MAR	262	389	68	22	330	411	741
APRIL	142	189	44	29	186	218	404
MAY	13	11	32	9	45	20	65
JUNE	12	10	42	250	54	260	314
JULY	14	17	37	7	51	24	75
AUG	166	58	33	168	199	226	425
SEPT	178	218	53	5	231	223	454
TOTAL	3,610	3,283	886	1,334	4,496	4,617	9,113

Miami International Airport

Passenger Traffic
Six Years Actuals and Projections
Sources: Actual History & Jacobs Projections

Appendix L
RFP- MDAD 01-09

		OCT	NOV	DEC	JAN	FEB	MAR	APRIL	MAY	JUNE	JULY	AUG	SEPT	TOTAL
Departure														
FY 05	% of Tol	7.3%	7.7%	7.9%	9.2%	7.9%	9.7%	8.9%	8.7%	8.6%	9.1%	8.2%	6.8%	100%
ACTUALS	DOM	609,843	647,619	660,670	768,852	663,197	811,626	744,966	731,624	721,491	760,653	686,197	566,341	8,373,079
	% of Tol	7.1%	7.8%	9.8%	8.7%	7.6%	9.1%	7.6%	8.1%	8.9%	9.8%	8.6%	6.9%	100%
	INTL	499,455	551,259	693,907	614,745	534,353	643,335	538,141	575,630	626,608	692,471	610,987	489,285	7,070,176
		1,109,298	1,198,878	1,354,577	1,383,597	1,197,550	1,454,961	1,283,107	1,307,254	1,348,099	1,453,124	1,297,184	1,055,626	15,443,255
Departure														
FY 06	% of Tol	6.4%	7.8%	8.2%	9.3%	8.2%	9.7%	9.4%	8.9%	8.7%	8.9%	8.0%	6.5%	100%
ACTUALS	DOM	569,109	686,958	728,860	821,216	724,740	860,587	832,300	788,573	769,770	784,572	708,852	578,548	8,854,085
	% of Tol	6.5%	7.7%	9.8%	8.7%	7.5%	8.6%	8.3%	8.3%	9.1%	9.7%	8.8%	7.1%	100%
	INTL	469,940	552,447	705,993	624,851	538,174	620,637	594,325	596,757	654,680	700,427	633,087	509,637	7,200,955
	TOTAL	1,039,049	1,239,405	1,434,853	1,446,067	1,262,914	1,481,224	1,426,625	1,385,330	1,424,450	1,484,999	1,341,939	1,088,185	16,055,040
			2,278,454	3,713,307	5,159,374	6,422,288	7,903,512	9,330,137	10,715,467	12,139,917	13,624,916	14,966,855	16,055,040	
Departure														
FY 07	% of Tol	7.3%	7.8%	8.3%	8.9%	7.9%	9.4%	9.0%	8.6%	8.4%	8.8%	8.6%	7.1%	100%
ACTUALS	DOM	662,922	706,111	756,123	812,842	721,009	851,449	821,138	782,291	765,508	798,734	780,746	643,478	9,102,351
	% of Tol	7.0%	7.8%	9.1%	8.4%	7.3%	8.4%	7.9%	8.2%	8.9%	9.9%	9.4%	7.7%	100%
	INTL	525,267	588,209	686,461	627,548	547,422	632,761	596,519	614,898	665,833	741,888	707,763	578,495	7,513,064
	TOTAL	1,188,189	1,294,320	1,442,584	1,440,390	1,268,431	1,484,210	1,417,657	1,397,189	1,431,341	1,540,622	1,488,509	1,221,973	16,615,415
			2,482,509	3,925,093	5,365,483	6,633,914	8,118,124	9,535,781	10,932,970	12,364,311	13,904,933	15,393,442	16,615,415	
Departure														
FY 08	% of Tol	7.9%	8.1%	8.2%	8.9%	8.1%	9.4%	8.6%	8.7%	8.2%	8.5%	8.5%	6.8%	100%
ACTUALS	DOM	714,282	734,397	747,810	809,584	732,152	852,798	782,613	788,314	747,322	770,960	773,673	613,813	9,067,718
	% of Tol	7.6%	8.0%	9.0%	8.5%	7.6%	8.9%	7.4%	8.1%	8.9%	9.6%	9.2%	7.2%	100%
	INTL	608,062	638,498	717,423	680,436	607,197	707,826	585,845	645,965	707,851	761,607	731,737	575,235	7,967,682
	TOTAL	1,322,344	1,372,895	1,465,233	1,490,020	1,339,349	1,560,624	1,368,458	1,434,279	1,455,173	1,532,567	1,505,410	1,189,048	17,035,400
			2,695,239	4,160,472	5,650,492	6,989,841	8,550,465	9,918,923	11,353,202	12,808,375	14,340,942	15,846,352	17,035,400	
DEPT - Proj.														
FY 09	% of Tol	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Jacobs	DOM	0	0	0	0	0	0	0	0	0	0	0	0	0
	% of Tol	0.0%	0.0%	0.0%	0.0%	8.6%	8.1%	7.6%	7.5%	8.7%	9.8%	9.5%	6.8%	67%
	INTL	0	0	0	0	-164	0	0	0	0	0	0	0	-164
	TOTAL	0	0	0	0	-164	0	0	0	0	0	0	0	-164
			0	0	0	-164	-164	-164	-164	-164	-164	-164	-164	
DEPT - Proj.														
FY 10	% of Tol	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Jacobs	DOM	0	0	0	0	0	0	0	0	0	0	0	0	0
	% of Tol	0.0%	0.0%	0.0%	0.0%	8.6%	8.1%	7.6%	7.5%	8.7%	9.8%	9.5%	6.8%	67%
	INTL	0	0	0	0	-164	0	0	0	0	0	0	0	-164
	TOTAL	0	0	0	0	-164	0	0	0	0	0	0	0	-164
			0	0	0	-164	-164	-164	-164	-164	-164	-164	-164	

Corporate Security Action Plan (CSAP) Package
Appendix M

Part A – Description of Corporate Security Action Plan
Part B – Recommended Alternative Process
Part C – Procedures for obtaining proof of ability to re-wrap luggage post TSA inspection.

The CSAP Package should be submitted in a sealed separate envelope clearly stamped "Confidential".

Submission of the CSAP Package is a condition of award and not a requirement of proposal submission. The CSAP Package will not be considered in the evaluation process and will not be opened as part of the proposal evaluation or presented to the Selection Committee.

Nonetheless Proposers are encouraged to submit the CSAP Package in order to facilitate the review process; MDAD staff may therefore open this envelope and conduct a preliminary review of the CSAP Package, but such review shall not be presented to the Selection Committee. The Proposers will be allowed to cure deficiencies in the CSAP Package once submitted, however, such deficiencies may delay the review process.

The CSAP Package must be submitted to MDAD by the highest ranked responsive and responsible Proposer within seven (7) days after the County Manager recommends award of the proposal to such proposer or recommends that a negotiation committee be formed to negotiate with such proposer.

APPENDIX M – Part A

CORPORATE SECURITY ACTION PLAN AT MIAMI INTERNATIONAL AIRPORT

MDAD is requiring that all entities that have employees who access the Airside Operations (AOA) /Security Identification Display Area (SIDA) or restricted areas of MIA or leasehold borders the AOA submit to MDAD a Corporate Security Action Plan.

The plan should identify specifically how each company is going to handle security items such as, but not limited to: internal security, control and accountability of employees, operations security, compliance with policies and procedures, self monitoring and enforcement procedures.

The plan should be in the format below and include details of how you comply with the following areas:

- **ID Badge Issuance, control, accountability, retrieval**
  Background checks by employers
  Full disclosure of relevant employee history
- **Visitor Control Procedures for each leasehold property by identified property number**.
- **Physical security of leasehold space (building, office, ticket counter, curbside, baggage make-up, interior/exterior loading bridge doors, etc.)**
- **Lock and Key Control Procedures for Baggage Conveyor Systems for Terminal Partners who use or maintain this system.**
- **Individual Employee Security Responsibilities**
  Notification of rules and regulations
  Assurance of compliance
  Employee integrity compliance
  Full access control compliance in the Terminal, AOA, Leasehold areas etc.
  Proper ID Badge Display
  Proper Challenge Procedures
- **Identification**
  ID badge displayed clearly
  Challenge any and all unidentified individuals
- **Coordination and Control Security issues with your service providers sub-contractors', vendors, etc.**
- **Internal Audits/Self Inspections of concerned Employees, Facilities and Equipment.**
- **Maps and/or Diagrams of all assigned properties**.

The above list is provided as a starting point and is not meant to be all inclusive. Each of you may have specific issues or areas in your business operation that should be included in your Corporate Security Action Plan.

[1]

[1] The above is an excerpt of MDAD – Notice from Security and Safety #01-33 of 10/31/01, #99-33 of 09/7/99 and #99-41 of 09/29/99

APPENDIX M – Part B

ALTERNATIVE PROCESS

Proposers may recommend a process, to perform post TSA inspection bag re-wrapping services outside the TSA inspection area. If submitted, such process must be provided at the same time as the CSAP.

APPENDIX M – PART C

PROCEDURES FOR OBTAINING PROOF OF ABILITY TO RE-WRAP LUGGAGE POST TSA INSPECTION

The Department anticipates using the following process to facilitate the review of documents submitted in response to Appendix M regarding the provision of re-wrapping services post TSA inspection. The process is subject to change at any time during this RFP process. In case of a change, the Department will notify the Proposers.

1) Proposers submit the CSAP Package which includes:
   a) One original copy of the Corporate Security Action Plan (CSAP) to the Aviation Department as described in Part A.*
   b) A statement indicating that the Successful Proposer is committed to strictly complying and operating in accordance with the existing bag wrapping security plan and protocols contained in the Airport's Approved Security Plan.
   c) Recommend a process to perform post TSA inspection bag re-wrapping services outside the TSA inspection areas as provided in Part B.**

2) The Aviation Department will review the CSAP Package.
3) Submittal of CSAP Package to TSA for its concurrence, if required.
4) The Aviation Department will transmit a response to the Successful Proposer.

*Submission of the CSAP is a condition of award and not a requirement of proposal submission.

** Submission of a Recommended Alternative Process pursuant to Part B is optional.

FORM OF LEASE AND CONCESSION

AGREEMENT

BY AND BETWEEN

MIAMI-DADE COUNTY, FLORIDA

AND

CONCESSIONAIRE

FOR LUGGAGE WRAPPING SERVICES

AT

MIAMI INTERNATIONAL AIRPORT

DRAFT

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Exhibit B: Surety Performance and Payment Bond
Exhibit C: Support Space

Exhibit D: MAG Performance Bond
Exhibit E: Retail Concessions Design Guidelines
Exhibit F: Tenant Airport Construction Non-Reimbursable Procedures (TAC-N)
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Exhibit G: Independent Audit Report
Exhibit H: Monthly Report of Gross Revenues
Exhibit I: List of Prohibited Items
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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 terms **"Agreement"** or **"Contract"** shall mean this Lease and Concession Agreement including all exhibits and attachments thereto and a part thereof entered into by the County and the Concessionaire.

The term **"Airport"** or **"MIA"** shall mean Miami International Airport and any facilities controlled by MDAD.

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 "**ACDBELO"** shall mean Airport Concession Disadvantaged Business Enterprise Liaison Officer, Associate Aviation Director, Minority Affairs Division, Miami-Dade County Aviation Department.

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

The term **"Beneficial Occupancy"** shall mean the date the Location is turned over by the Department to the Concessionaires for business, or when a Permit or 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 re-location, 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 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 **"Concessionaire"** shall mean the person, firm, or entity that enters into this Lease and 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 Manager of Miami-Dade County or designee, after attestation by the Clerk of the Board.

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. MDAD may only exercise such rights through the specific positions listed in the Solicitation or Contract documents.

The term **"Effective Date"** shall mean the ten (10) day after the Date of Execution.

The term " **Enplanement"** shall mean airline passenger(s) who departs MIA from the North Terminal, Central or South Terminal to a destination including International and Domestic travelers.

The term **"Gross Revenues",** as used in this Agreement, shall mean all monies paid or payable to or consideration of determinable value received by the Concessionaire in operation under the Agreement, regardless of when or where the order therefore is received, or the goods delivered, or services rendered, whether paid or unpaid, whether on a cash, credit or rebate basis or in consideration of any other thing of value; provided, however, that the term "Gross Revenues" shall not include: (i) any refund given to the customer because of a customer satisfaction issue which must be documented and auditable, or (ii) promotional discount and coupon offers issued to customers as a result of a Departmental approved marketing plan, or (iii) any sums collected for any federal, state, County and municipal taxes imposed by law upon the sale of merchandise or services.

The term **"Location (s), Facilitie(s),** and **Premises"** shall mean the areas which are used by the Concessionaire for actual placement and operation of Luggage Wrapping Machines, as defined in Exhibit A.

The term "**Luggage Wrapping Machines"** or "**Machines"** shall mean the equipment used by the Successful Proposer to perform its services, pursuant to the Scope of Services.

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

The term **"Minimum Monthly Guarantee"** or **"MMG"** shall mean as ascribed in Article 3.01.

The term "**North Terminal**" shall mean the area of the Terminal Building and concourses, within the north part of the terminal area, landside or airside 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 this 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 E.

The term **"Scope of Services"** shall mean as reflected in the RFP, Section 1.2, and attached to this Agreement as Exhibit K.

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 Miami Dade County, Florida. (Ord. No. 79-35 paragraph 2, 6-5-79)

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

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 Successful Proposer.

The term **"Term"** shall mean as ascribed to in Article 1.01.

The term "**Termina**l" or **"Terminal Building"** 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 of a Location.

The terms "**Work", "Services", "Program", "Project**" or "**Engagement"** shall mean all matters and things that will be required by the Concessionaire in accordance with the Scope of Services and the terms and conditions of this Agreement.

FORM OF LEASE AND CONCESSION AGREEMENT FOR A NON-EXCLUSIVE LUGGAGE WRAPPING SERVICES AT MIAMI INTERNATIONAL AIRPORT

THIS LEASE AND 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 create a Luggage Wrapping Services program in conjunction with the development program for the North, and South Terminal projects; and

WHEREAS, the Luggage Wrapping Services program is designed to provide a locally, nationally, and internationally recognized themed tenant base; and

WHEREAS, the Luggage Wrapping Services program will provide the airline passengers and Airport patrons with a high level of service, and project a positive image of the Airport, Department, and the County to visitors, as further described herein; and

WHEREAS, Request for Proposal, RFP No. MDAD-01-09 was issued by the Department and in response to the Request for Proposal, the County received proposals and an award has been made to the Concessionaire,

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

ARTICLE 1 – TERM, EXTENSION AND LOCATIONS

1.01 TERM: The Department hereby leases to the Concessionaire the Locations, Exhibit A, commencing upon the Effective Date of this Agreement; and shall expire at 11:59 O'clock P.M. on the five (5) year unless sooner terminated. In no event shall this Agreement afford Concessionaire or any other party any right to use or occupy the Locations (or any part thereof) after the expiration, or termination of this Agreement.

1.02 EXTENSION: At the sole discretion of the Department, the initial five (5) year Term may be extended for a maximum of one 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 sixty days (60) 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" Agreement beyond applicable grace and cure periods, the Department shall not exercise its rights to extend the Agreement.

1.03 LOCATIONS: The Department hereby identifies to the Concessionaire the Locations as depicted in **Exhibit A "Locations"**.

1.04 SUPPORT SPACE: The Department shall offer the Concessionaire administrative and support space, if needed; at the current terminal rates in place, which are subject to change. The Locations are depicted in **Exhibit C "Support Space**."

1.05 ADDITION, DELETION, RELOCATION AND ALTERNATIVE LOCATIONS:

The Department may add, delete, relocate or provide alternate Locations by providing to the Concessionaire an administratively revised Exhibit A. The Department reserves the right, without limitation, at all times during the Term of this Agreement and any extension thereof, following thirty days advance written notice to the Concessionaire, to require the addition, removal, or change of Location. In the event the Department requires a change of Location, the Concessionaire shall return the original Location to its original condition as it was at the Effective Date. If an alternate Location is requested by the Department, the Department will bear the cost of providing electrical outlet power at the alternate Location. If an alternate Location is requested by the Concessionaire, the Concessionaire will bear the cost of providing electrical power at the alternate Location.

The Concessionaire may request to add, remove or change a Location; however, the Concessionaire must obtain written approval from the Department.

ADMINISTRATIVE REVISIONS: This Agreement shall be administratively revised to reflect any additions, deletions, relocations, 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 "Support Space"** and total payments due to the Department in accordance with Article 3, Rentals, Payments and Reports and Article 2 Use of Locations.

1.06 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 at the Airport during the Term of this Agreement.

1.07 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 successor profitability of such Proposal. The

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.

1.08 CAPITAL IMPROVEMENT PROGRAM: The Capital Improvement Program 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 and any demolition of existing Locations.

1.09 REQUEST FOR PROPOSAL INCORPORATED: The Concessionaire acknowledges that it has submitted to the County a Proposal, in response to the Request for Proposal, 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 LEASE AND 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 Locations as referenced in **Exhibit A, "Locations"** shall be used solely for its assigned and approved purpose unless otherwise modified pursuant to Sub-Article 2.03 "Concessionaire Services and Sales Rights". The Concessionaire shall use the Locations for the installation, management and operation of Luggage Wrapping Services. The Concessionaire shall not use or permit the use of the Locations for any purpose other than as set forth in this Agreement.

Furthermore, the Concessionaire shall provide, install, maintain and operate luggage wrapping machines to re-wrap luggage.

The Concessionaire agrees during the term of this Agreement, at its own costs to maintain, use and operate the Locations and all improvements including a clean, sanitary condition and to be in compliance with any and all present and future laws, ordinances and regulations relating to public health, safety or welfare.

2.03 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 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 the sale or service of the unapproved product immediately, upon written notice from the Department. Failure by Concessionaire to discontinue such sales within 24 hours shall subject the Concessionaire to penalties pursuant to Sub-Article 3.22 "Penalties".

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

2.05 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 further submission of plans.

2.06 PROHIBITED ACTIVITIES: Without limiting any other provision herein, Concessionaire 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 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

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 , 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 to perform its maintenance and repair obligations under this Agreement, Concessionaire shall not gain access to the roof of the 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 MIA, Concessionaire shall pay the Department a Minimum Annual Guarantee of $\$\_\_\_$, inclusive of the Annual Rental of the Locations pursuant to Sub-Article 3.06 Annual Rental.

The Minimum Annual Guarantee "MAG" payment shall commence on Beneficial Occupancy and shall be in U.S. funds, prorated and payable in twelve equal monthly payments "Minimum Monthly Guarantee" "MMG" on or before the first day of each month, in advance, without billing or demand, plus applicable taxes as may be required by law.

After the first year, on the anniversary of the Effective Date, and every year thereafter, during the term of the Agreement including any extensions thereto, the MAG will be adjusted in accordance with Sub-Article 3.03 "Recalculations of Minimum Annual Guarantee".

3.02 NO NEGOTIATIONS OR ADMINISTRATIVE MODIFICATIONS: The Concessionaire understands and agrees, 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 20.11 "Force Majeure". The County shall not 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. If the Concessionaire's Locations are so damaged by an event as defined in Sub-Article 20.11 "Force Majeure" to significantly impact the Concessionaire's operations for a period in excess of seventy two (72) hours, the Department shall provide a proportionate abatement of the MAG for that portion of the Locations rendered unusable for that period of time that the County is unable to make repairs required by Sub-Article 6.01 "Department Services".

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.

3.04 PERCENTAGE FEE TO THE DEPARTMENT: The Concessionaire shall pay the Department the percentage fee of _____ (%)_for luggage wrapping activities gross revenue, or the Minimum Monthly Guarantee; whichever is greater. The monthly percentage fee shall be due on the fifteenth (15th) day of the month following the month during which the monthly gross revenues were received or accrued. Percentage fees are non-taxable.

Monthly Percentage Fee payments to the Department payable on any unreported Gross Revenues, as determined by the annual audit required pursuant to Sub-Article 3.17 "Annual Audit", are considered as having been due on the tenth (10th) day of the month during which the unreported Gross Revenues were received or accrued.

3.05 NOT USED.

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 Locations identified in Exhibit A. The amount is to be included in the MAG calculation and will be, 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 3.15, Address for Payments.

The Terminal Class VI rental rate for Locations in Exhibit A is $65.69 per square foot based on rates in effect as of October 1, 2008, plus any applicable taxes.

The Concessionaire shall be required to pay rent as of the date of Beneficial Occupancy at the corresponding Terminal rates for the lease of the Support Space identified in Exhibit C. The amount will be 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 3.15, Address for Payments.

3.07 NOT USED

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, 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 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 the MAG and annual rent, and 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 (which includes the Annual Rent for the Locations) provided for in Sub-Article 3.01, and any annual rent due for the Support Space as provided for in Sub-Article 3.06, Annual Rental, which is equal to $_____ Thereafter, the Performance Bond shall be increased as necessary to reflect any increases in the MAG and Annual Rent for the Administrative Office and Support Space.

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 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.

3.10 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.

3.11 REPORTS OF GROSS REVENUES: On or before the fifteenth (15th) calendar day following the end of each month throughout Term of this Agreement, or any extension hereof, the Concessionaire shall furnish to the Department, a statement of monthly gross revenues, using Exhibit I "Monthly Report of Gross Revenues". The statement 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 3.22 "Penalties".

3.12 OTHER REPORTS: 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.

3.13 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. The delinquency charges per month will at 1½% rate.

3.14 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), and FORTY DOLLARS ($40.00) 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) if the face value of the dishonored check is three hundred dollars ($300.00) or more,. 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.

3.15 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.

3.16 **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.

3.17 **ANNUAL AUDIT:** Within ninety (90) calendar days of each anniversary of the 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 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's 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.

3.18 **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 3.13 "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.

3.19 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. 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 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 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;
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, 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.

3.20 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.

3.21 UTILITIES: The cost of all utilities used or consumed on the Locations shall be borne by the Concessionaire; except with respect to the Concessionaire's Support Space as per Sub-Article 1.04, Support Space. 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 meters for utilities used at the Concessionaire'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 "Support Space".

3.22 PENALTIES: If Concessionaire is at fault under any of the covenants or terms and conditions of this Agreement , the Department shall 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:

Violation	Fee
Violation of Permitted Use of a Location	$100 per day/per Location
Failure to Maintain Required Hours of Operation	$ 50 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 Location clean	$ 50 per day/per Location
Failure to maintain Competitive Pricing or to conduct the surveys as required	$ 50 per day/per Location
Installation of Unapproved Items in Locations	$ 50 per day/per Location
Violation of other terms and conditions	$75 per day/per Location

The foregoing is due and payable from the Concessionaire.

3.23 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 (which include the Annual rental for the Locations) provided in Sub-Article 3.01, and if any annual rent due for the Administrative Office or Support Space 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 as per the above. 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 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 security, and (ii) be a default of this Agreement entitling Department to all available remedies. Provided Concessionaire is not in default and fully complies with all the payment requirements pursuant to this Article of the Agreement, the surety will be returned to the Concessionaire within one hundred eighty (180) calendar days after the end of the Term or any Extension of the Term.

ARTICLE 4 – IMPROVEMENTS TO THE LOCATIONS

4.01 IMPROVEMENTS TO LOCATIONS: Any and all improvements to Locations will be performed in accordance with the "Tenant Airport Construction – Non Reimbursable Procedures TAC-N" Exhibit F.

4.02 DESIGN OF IMPROVEMENTS: Any design and construction specifications and documents must be reviewed and approved in writing by the Department.

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Furthermore, planning and design must be in accordance with "Retail Concessions Design Guidelines" Exhibit E, "Tenant Airport Construction Non-Reimbursable Projects (TAC-N) Design and Construction Procedures" Exhibit F or "Tenant Airport Construction Reimbursable Projects (TAC-R) Design and Construction Procedures" Exhibit K, 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.

4.03 CERTAIN CONSTRUCTION CONTRACT TERMS: All contracts entered into by the Concessionaire 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 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, surety performance and payment bond provided by Concessionaire to the Department in the form contained in Exhibit B "Surety Performance and Payment Bond" of the Agreement. The Surety Performance and Payment Bond shall be in full force throughout the term of the contract for the construction of the improvements.

4.04 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.. 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 from the claims of any laborers, subcontractors or material men against the Locations or improvements.

4.05 OTHER REQUIREMENTS: The Concessionaire shall apply for and obtain a building permit from the Department for all appropriate inspections and a Certificate of Occupancy upon completion. Within **sixty (60) Days** following the completion of construction of the improvements, the Concessionaire shall furnish the Department one complete set each of legible prints (black line) of construction drawings, one copy of construction drawings and construction project drawings in electronic file format and in full compliance with Autodesk's DWG file format and standard revised to "as built". Based upon submission date, the AutoCad.dwg must be in the latest version,, MDAD will not accept the submission of any AutoCAD drawing deliverable which contains references to external source drawing files. 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.

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4.06 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 and approved by the Department.

4.07 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 plans/specifications. Such fee shall be non-refundable.

4.08 CONSTRUCTION SERVICES: The Concessionaire shall provide at a minimum, but not limited to, the following design and construction services:

1) Concessionaire 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.
2. 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 and coordinate access to Location's as necessary.

3) Construction

Concessionaire shall:

1. Attend pre-construction meetings, construction meetings, coordinate construction , and monitor schedule with the Department as required, pursuant to the TAC-N procedures.

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2. 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.
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.
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 Exhibit J "Tenant Handbook", Exhibit L "Standards of Operations";and "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. 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 Department shall provide the Concessionaire with reasonable prior written notice when possible, 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 "Standards of Operation". The Concessionaire shall 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 "Standards of Operation", 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 3.22 Penalties.

5.02 COMPETITIVE PRICING POLICY: A price sheet detailing proposed prices for all services must be submitted annually or whenever the Concessionaire would like to modify them. All prices and subsequent changes must be approved by the Department prior implementation. Prices for the first year of operation must be submitted for approval prior to Date of Execution.

Any request for an increase in prices, must be accompanied by a competitive pricing survey of at least three (3) Airports of similar size demonstrating that the proposed pricing is consistent with the request.

Prices must be visible on the machines. A sample of the sign and sign holder needs to be submitted to the Department for approval prior to implementation.

The Concessionaire who are not in compliance with the provisions of this Sub-article shall be given seven (7) days to bring all charges or pricing into compliance. Failure to do so shall subject the Concessionaire to penalties pursuant to Sub-article 3.22 "Penalties".

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, and further provided that the Concessionaire shall 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, 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.

B. The Department will provide air conditioning and electrical service as presently existing for the Locations, such electrical services shall be billed to the Concession. 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 meters for utilities used at the Concessionaire'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 as seth forth in Sub-Article 20.11 "Force Majeure". If the Concessionaire's Locations are of such a condition as to significantly impact the Concessionaire'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, 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 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.

1. The Concessionaire hereby confirms that it has made its own investigation of all the costs of doing business under this Agreement, and 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 Locations.

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 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:

(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 (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).

ARTICLE 8 – MAINTENANCE

8.01 CLEANING: The Concessionaire shall, at its cost and expense, 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 **Standards of Operation, Exhibit L** the Concessionaire will be so advised and shall take immediate corrective action. Failure to take immediate corrective action shall result in penalties being assessed pursuant to Sub-Article 3.22 "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 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. Any trash left or stored in any area visible to the public or edible items not properly contained shall result in penalties being assessed pursuant to Sub-Article 3.22 "Penalties".

The Department reserves the right to back charge the Concessionaire for waste disposal at 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 storefronts of the 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 specifically as a result of their operation shall remain with the Concessionaire. 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 their original 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 the Concessionaire shall be required to be present, except in the case of real or perceived emergencies. 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 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 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. It shall be billed to and paid by the Concessionaire, in addition to any penalties imposed by the Department pursuant to Sub-Article 3.22 "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 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 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 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.

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 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 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. 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"). 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 REQUIRED OF CONCESSIONAIRE: Prior to execution of this Agreement by the County and commencement of the Term of this Agreement, the Concessionaire shall obtain all insurance required under this Article and submit it to the Department, c/o Risk Management, P.O. Box 025504, Miami, Florida 33102-5504 for approval. All insurance shall be maintained throughout the Term and any Extensions of this Agreement.

The limits for each type of insurance may be revised by the Department upon review and approval of the Concessionaire's operations. Additional types of insurance coverage or increased limits may be required if, upon review of the operations, the Department determines that such coverage is necessary or desirable.

Certificate(s) of insurance from the Concessionaire must show coverage has been obtained that meets the requirements as outlined below during the operational phase of this Agreement:

A. Workers' Compensation as required by Chapter 440, Florida Statutes.

B. 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 per occurrence for Bodily Injury and Property Damage combined. This policy shall include Miami-Dade County as an additional insured with respect to this coverage.

The Commercial General Liability Insurance coverage shall include those classifications, as listed in Standard Liability Insurance Manuals, which are applicable to the operations of the Concessionaire in the performance of this Agreement.

C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with this Agreement in an amount not less than $500,000* per occurrence for Bodily Injury and Property Damage combined.

*Under no circumstances is the Concessionaire allowed on the Airside Operation Area (AOA) without increasing automobile

coverage to $5,000,000 as approved by the Department's Risk Management Office.

11.02 CERTIFICATE OF CONTINUITY: All insurance policies required herein shall be issued by 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.

11.03 INSURANCE COMPANY RATING REQUIREMENTS: The Concessionaire 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 Concessionaire 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.

11.04 CONCESSIONAIRE LIABLE: Compliance with the foregoing requirements as to the carrying of insurance shall not relieve the Concessionaire from liability under any other portion of this Contract.

11.05 CANCELLATION OF INSURANCE OR BONDS: Cancellation of any insurance or bonds, or non-payment by the Concessionaire 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 Department 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 Concessionaire.

11.06 RIGHT TO EXAMINE: The Concessionaire 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 Concessionaire 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.

The Department 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 Concessionaire agrees to permit such inspection at the offices of the Department.

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 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;

(C) 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;

(D) Abandonment or discontinuance of operations by Concessionaire of its business by any act(s) of Concessionaire;

(E) Any persistent violation on the part of Concessionaire, its agents or employees of the traffic rules and regulations of the County at Airport or disregard of the safety of persons using the Airport, ;

(F) 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 is caused by strike, lockout, or bona fide labor dispute;

(G) Failure by Concessionaire to maintain its equipment in a manner satisfactory to the Department;

(H) The Concessionaire has failed to obtain the approval of the Department where required by this Agreement;

(I) The Concessionaire has failed to provide adequate assurances as required under Sub-Article 12.09 "Adequate Assurances";

(J) The Concessionaire has failed to comply with any provision of Sub-Article 14.07 "Airport Concession Disadvantaged Business Enterprise Participation Plan";

(K) The Concessionaire has failed in a representation or warranty stated herein; or

(L) The Concessionaire shall be required to present a waiver to TSA and have its employees working in the TSA areas to sign a liability release and/or other documentation required by TSA.

(M) The Concessionaire has failed to sign an affidavit, if required to do so, attesting to its agreement to be subject to any direct enforcement action taken by TSA against the Concessionaire or its employees and to accept and adhere to any amendment that may be subsequently implemented through the Airport's security program or aircraft/air carrier security program.

(N) The Concessionaire has failed to comply with all Security Directives and all regulations. Failure to carry out all Security Directives and regulations may result in termination of the Agreement.

12.02 PAYMENT DEFAULT: Failure of the Concessionaire to make MAG/MMG payments and Percentage Fee payments or any other charges required to be paid herein when due and failure 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.

The notice of default shall specify the Termination Date by when the Concessionaire shall discontinue the services.

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 non-curable 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, 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 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 at the Locations for the purposes authorized in Article 2 "Use of Locations".

12.07 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 (ii) 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 the 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 Aviation 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 Aviation 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 a 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: The Department has established an ACDBE goal of **thirty percent (30%)** of gross revenues in connection with this Agreement. The ACDBE goal can be achieved either through the Concessionaire being an ACDBE itself, a partner or joint venture, or subcontracting a percentage of gross revenues.

The Concessionaire will be required to submit to the Department's Minority Affairs Division, Monthly Utilization Reports (MUR) reflecting ACDBE-revenue and, Monthly Activity Report, commencing on or before the twentieth (20) day of every month.

14.02 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 I "Airport Concession Disadvantage Business Enterprise Participation Plan/Provision" and ACDBE Joint Venture Guidance by the U.S. Department of Transportation, Federal Aviation Administration (USDOT – FAA). ACDBE, Appendix 8.

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, managing, or supervising the specific identified work.

B 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 Agreement's in accordance with industry practices.

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 seventy (70) percent 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 (D) of this Section, the ACDBE may present evidence to rebut this presumption. MDAD will determine whether the firm is performing a commercially useful function given the type of work involved and normal industry practices.

MDAD's decision on commercially useful function matters is final.

14.03 ACDBE GOAL ACHIEVED THROUGH JOINT VENTURE ("JV") PARTNERING: Concessionaire may satisfy a part of the ACDBE goal by Joint Venturing with an ACDBE as detailed in ACDBE Joint Venture Guidance by the U.S. DOT – FAA ACDBE Appendix 8, The Joint Venture Solicitation must specify the following:

A. 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.

B. 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 including tasks and Locations; or a distinct element of work must be specified.

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 (10) hours per week.

Each Joint Venture partner must submit the Monthly Utilization Reports (MURs), 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 ACDBE Joint Venture Guidance Appendix 8. This information should include, but not be limited to:

Details of training sessions, including class rosters and lesson plans.

1. Deliverables and work products.
2. Time sheets of partner employees used to fulfill objectives. Time sheets must accurately reflect hours worked and compensation earned.
3. Proof that employees of partners actually work for them (payroll, payroll tax returns, and the like).

C. 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.

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

As described below, each ACDBE 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 certified ACDBE's, or who have applied for certification through the Miami-Dade County Department of Small Business Development (SBD) or the Florida Unified Certification Program, as required by the Airport Concession Disadvantaged Business Enterprise Participation Plan (ACDBE).

Without limiting the requirements of the Agreement, the Department will have the right to review and approve all agreements utilized for the achievement of these goals.

14.04 CERTIFICATION-AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE): ACDBE firms must maintain their certification throughout the term of this Agreement.

14.05 AFFIRMATIVE ACTION AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAMS: The Concessionaire acknowledges that the provisions of 14 CFR Part 152, Affirmative Action Employment Programs, and 49 CFR Part 23,Airport Concession 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 U.S. DOT - FAA.

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 MDAD, 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 article 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 the default language referenced in the Agreement.

The Concessionaire shall include the following nondiscrimination language in concession and management contracts with MDAD to include the following paragraph which is an assurance and clarification clause requested by the DOT and approved by the Aviation Director:

This agreement is subject to the requirements of the U.S. 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, 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 statements in further agreements.

14.06 ACDBE MENTORING, ASSISTANCE AND TRAINING PROGRAM: Consistent with the goal of providing ACDBE's with hands-on participation and the responsibility for a clearly defined portion of the Airport Concession operations, subject to **Sub-Article 14.07 "Airport Concession Disadvantaged Business Enterprise Participation Plan",** 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:

1. Store Operations
   a. Passenger profile analysis
   b. Cash handling/sales audit
   c. Enhancing sales
   d. Selling to the customer
   e. Staffing to meet customer levels
   f. Opening and closing procedures

2. Personnel
   a. Employment practices
   b. Compliance with wage and hour laws
   c. Compliance with County and Airport requirements

d. Designing compensation and benefits plans
e. Management and staff training to enhance product knowledge and customer service
f. Warehousing, packaging and sales reporting of merchandise

3. Design and Display
   a. Retail layout
   b. Merchandising techniques
   c. Visual display techniques

4. Loss Prevention
   a. External and internal theft
   b. Shop security

5. Books, Records and Reports
   a. The books of account and supporting records of the joint venture(s) shall be maintained at the principal office and shall be open for inspection by MDAD or the ACDBE joint venture(s), upon reasonable prior written notice, during business hours.
   b. 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 joint venture(s), within an agreed upon time after the end of each month during the term of the Agreement, an un-audited operating (i.e., income) statement for the preceding month and for the year to date.
   c. Reports of the ACDBE Mentoring Program shall be submitted to the Department's Minority Affairs and the 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 and approved by the Department, and shall thereafter neither (i) terminate such ACDBE firms(s), (ii) reduce the scope of the work to be performed, (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.

MDAD shall monitor the compliance of the Concessionaire with the requirements of this provision as referenced in **Sub-Article 14.01 "ACDBE Requirements"** during the Term and/or Extension, of this agreement. 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 this provision, including, but not limited to records, records of expenditures, agreements between the Concessionaire and ACDBEs, and other records pertaining to the ACDBE Participation Plan.

If at any time MDAD has reason to believe that the Concessionaire is 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 of this 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 Department upon the Concessionaire except pursuant to a hearing conducted by the ACDBELO and/or Director

ARTICLE 15- RULES, REGULATIONS AND PERMITS

15.01 RULES AND REGULATIONS: The Concessionaire shall comply with the Ordinances of the Department including the Rules and Regulations of the Department, Chapter 25, of the Code, 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 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, 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 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 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 MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW: According to Section 2-1076 of the Code, as amended by Ordinance No. 99-63, the 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 (0.25%) of the total contract amount.

Exception: The above application of one quarter of one percent (0.25%) 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 County Administrative Order No. 3-2; (m) federal, state and local government-funded grants; and (n) interlocal Licenses. ***Notwithstanding the foregoing, the Board may authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) 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 an 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 BE EXERCISED BY DEPARTMENT: Wherever in this Agreement rights are reserved to the County, such rights may be exercised by 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, Relocation and Alternative Locations", Sub-Article 18.02 "Alterations by Concessionaire", Sub-Article, 20.02 "Right to Amend", and Sub-Article 20.04 "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 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. 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 and its employees, agents, contractors, subcontractors or suppliers. The Department may also initiate an action for specific performance and/or injunctive relief.

18.08 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.

18.09 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:
(Mailing Address)

Director
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.

18.10 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.

18.11 RIGHTS RESERVED TO DEPARTMENT: All rights not specifically granted the Concessionaire by this Agreement are reserved to the Department.

18.12 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.

18.13 AUTHORIZED USES ONLY: The 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.

18.14 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.

18.15 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.

18.16 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.

18.17 MODIFICATIONS: This Agreement may be modified and revised in writing and duly executed by the parties hereto, as permitted pursuant to Sub-Article 18.04 "Administrative Modifications", Sub-Article 20.02 "Right to Amend", and Sub-Article 20.04 "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.

18.18 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."**

18.19 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.

18.20 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.

18.21 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.

18.22 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.

18.23 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 County for any reason.

18.24 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 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 may in good faith contest any such lien if Concessionaire provides a bond in an amount and form acceptable to the 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 as a consequence of the existence of Concessionaire's interest under this Agreement.

ARTICLE 19 - WAIVER OF CLAIMS

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, 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 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 20 - REQUIRED, GENERAL AND MISCELLANEOUS PROVISIONS

20.01 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, or 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.

20.02 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.

20.03 CONCESSIONAIRE COVENANTS AND ASSURANCES:

A. Covenants Against Discrimination:

1. Concessionaire on behalf of itself, 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, CFR, 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 all information and reports required by said CFR, 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 the 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 the 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, the 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 the Department by the foregoing sentence shall not be effective until the procedures of Title 49, CFR, Part 21 are followed and completed, including exercise or expiration of appeal rights.

4. Concessionaire assures the 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, CFR, 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 the 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 the Department that it 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 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.

20.04 RIGHT TO MODIFY: The parties hereto covenant and agree that, during the Term, or any extension thereto. 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.

20.05 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.

20.06 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.

20.07 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 and extensions, as applicable.

20.08 REGULATIONS OF DEPARTMENT: The rights and privileges granted to the Concessionaire hereunder and the occupancy and use by the Concessionaire 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.

20.09 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.

20.10 MISCELLANEOUS PROVISIONS: The Concessionaire, 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, 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 (see Appendix L). The Proposer shall comply with these requirements.

20.11 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, 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.

20.12 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 the Department in the Form, and in all attachments thereto and enclosures therewith, submitted by Concessionaire to Department in connection with the award of this Agreement.

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

(Legal Name of Corporation)

ATTEST:

Secretary_____ By: _____
(Signature and Seal) Concessionaire - Signature

_____ Name: _____
(Type Name & Title)

_____
(Type Name & Title)

INDIVIDUAL, PARTNERSHIP OR JOINT VENTURE

_____ _____
Legal Name Legal Name

By: _____ By: _____
Signature Signature

_____ _____
(Type Name & Title) (Type Name & Title)

Attest: _____

Name of Managing Joint Venturer:

_____ Witness: _____

By: _____
Signature of Authorized Representative of the Joint Venture

Corporate Seal

(ATTACH ADDITIONAL SHEETS FOR EACH JOINT VENTURER, AS NEEDED)

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

By: _____
Mayor

Approved for Form
and Legal Sufficiency

Attest: Harvey Ruvin, Clerk

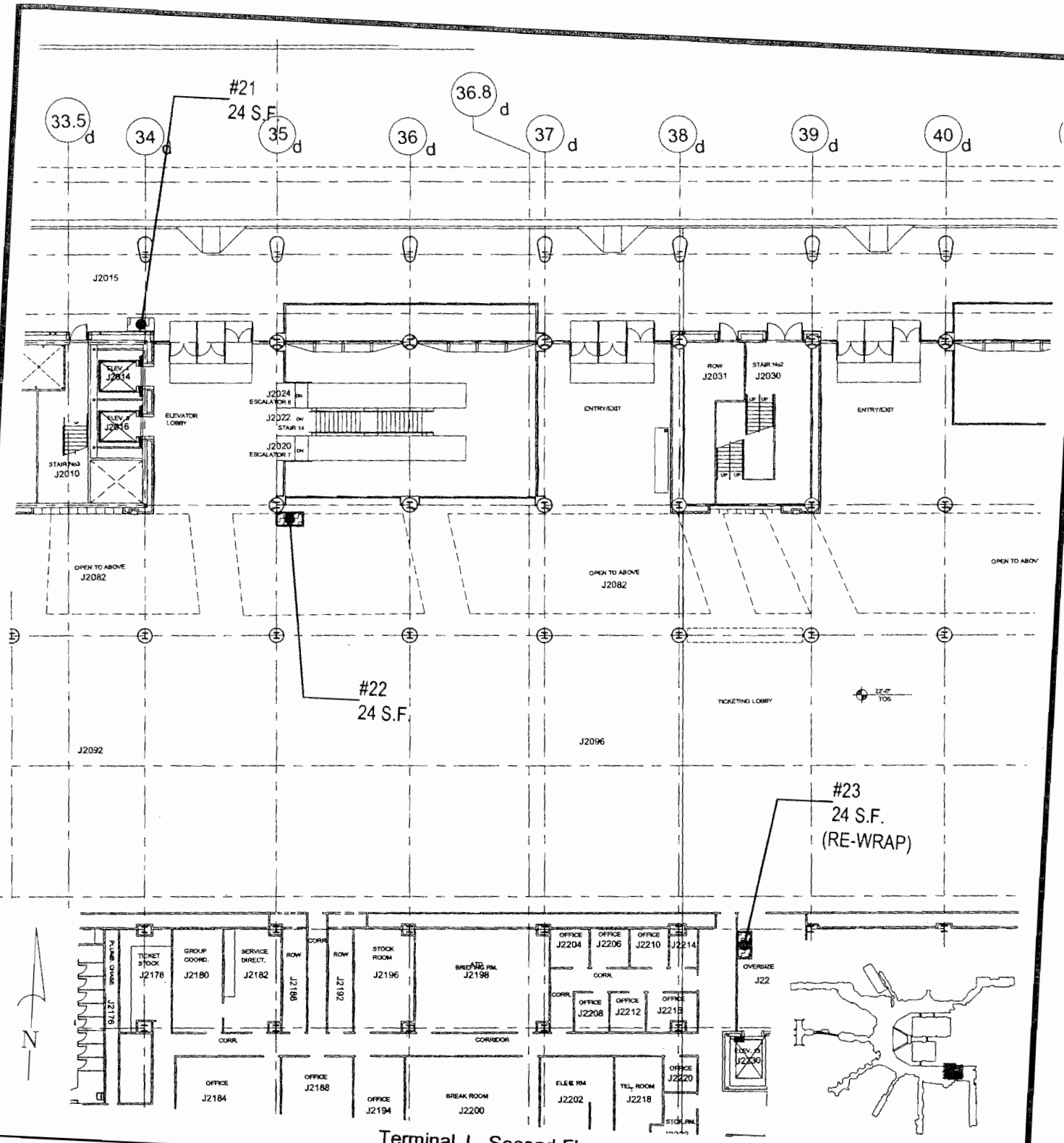
_____
Assistant County Attorney

By: _____
Deputy Clerk

Resolution No.: _____

Date: _____

EXHIBITS



Terminal J - Second Floor

KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	Concession space	72

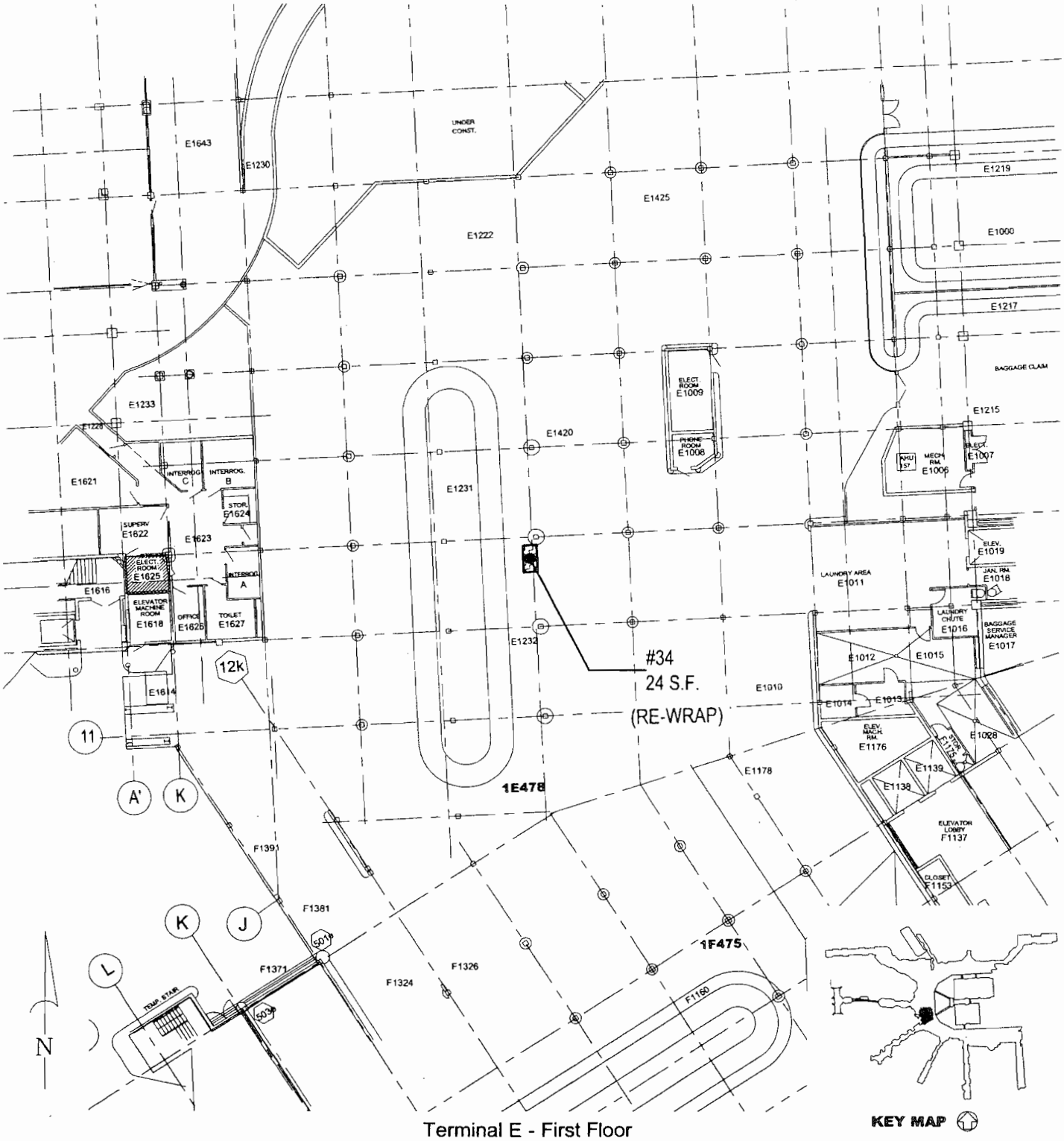
72

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0" | EFS #: DRAFT | DATE: 2/27/2009



Terminal E - First Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	24

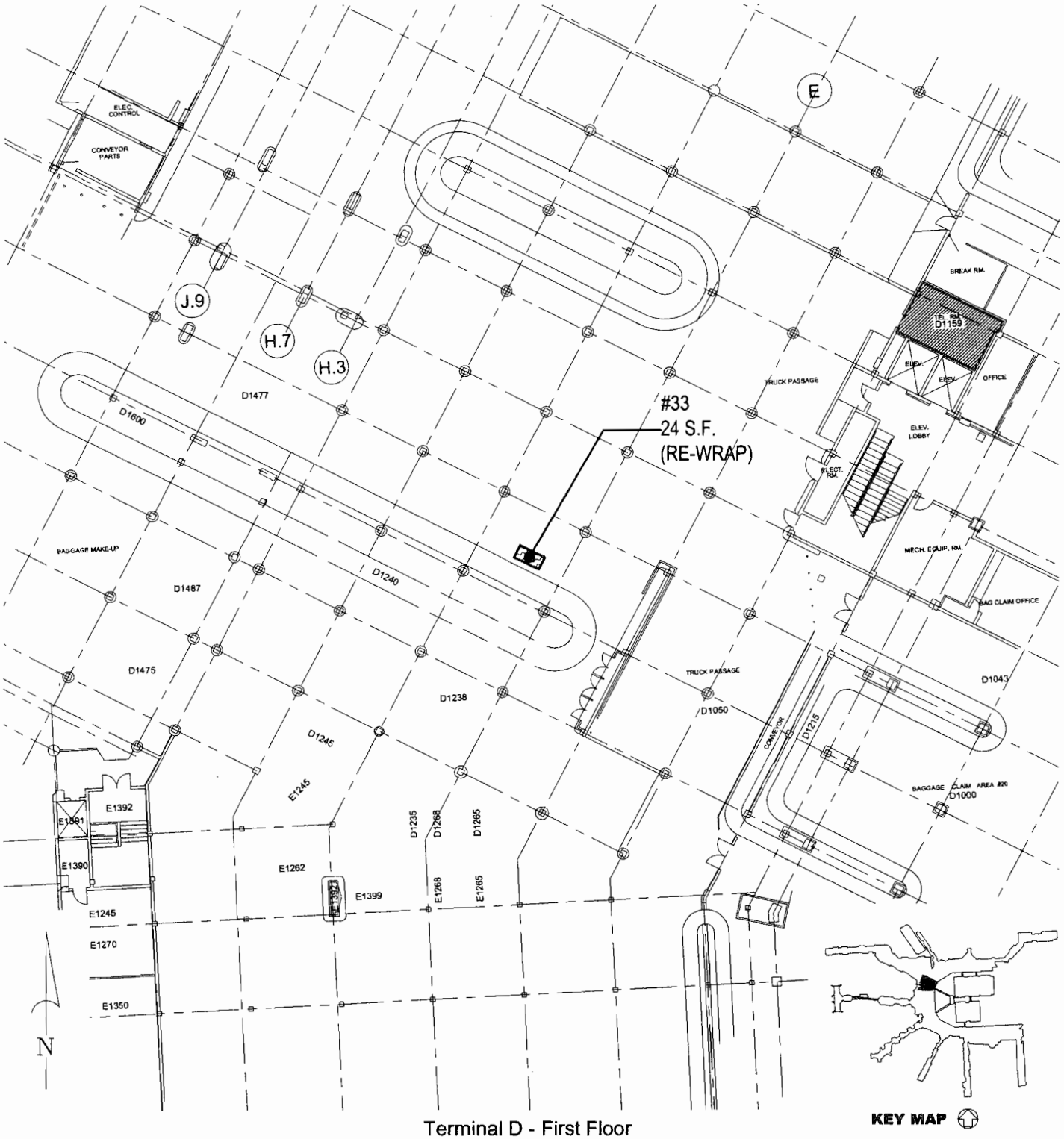
24

SCALE: 1/32" = 1'-0" | EFS #: DRAFT | DATE: 2/27/2009

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL



Terminal D - First Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	24

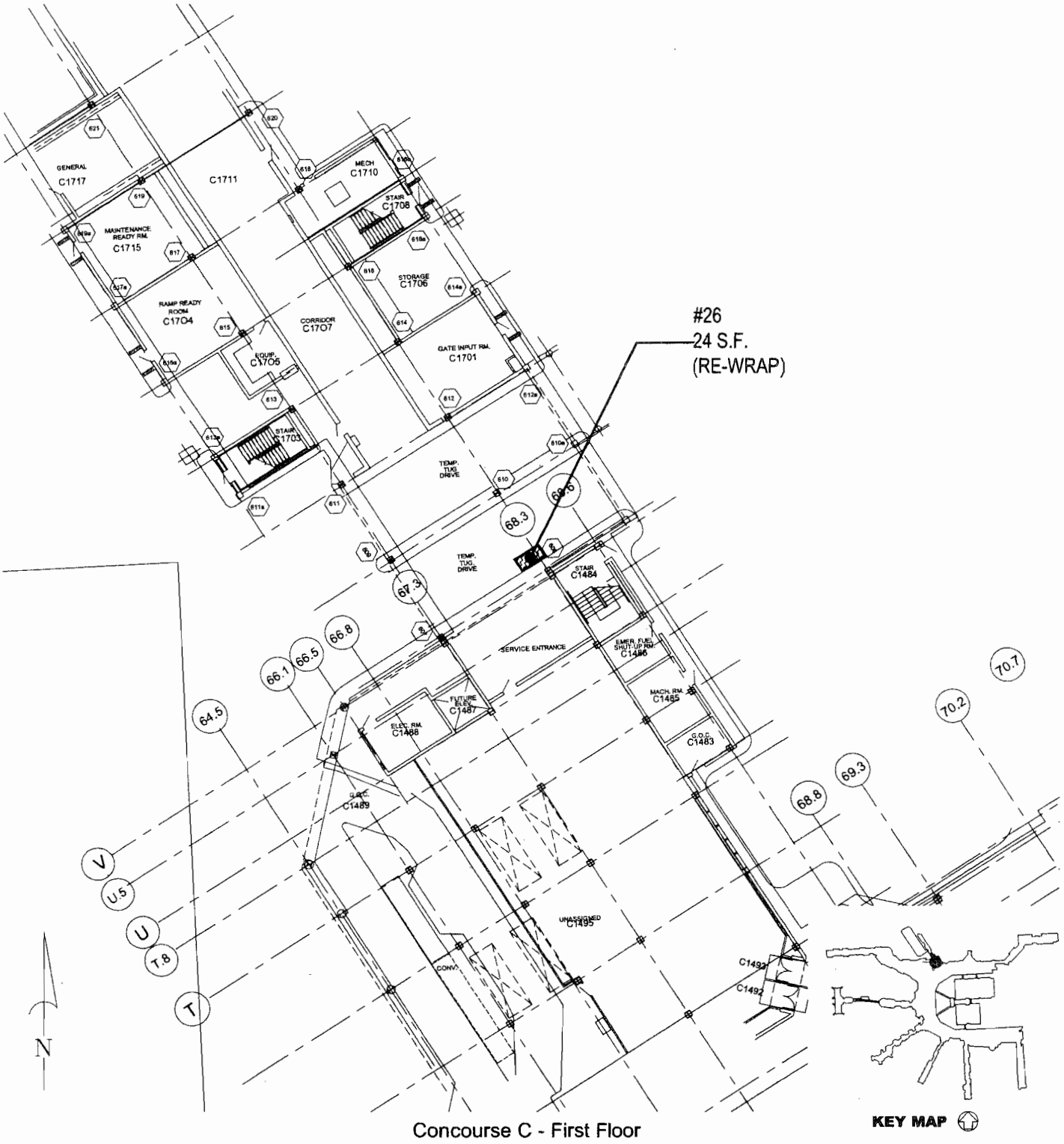
24

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009



Concourse C - First Floor

KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	Concession space	24

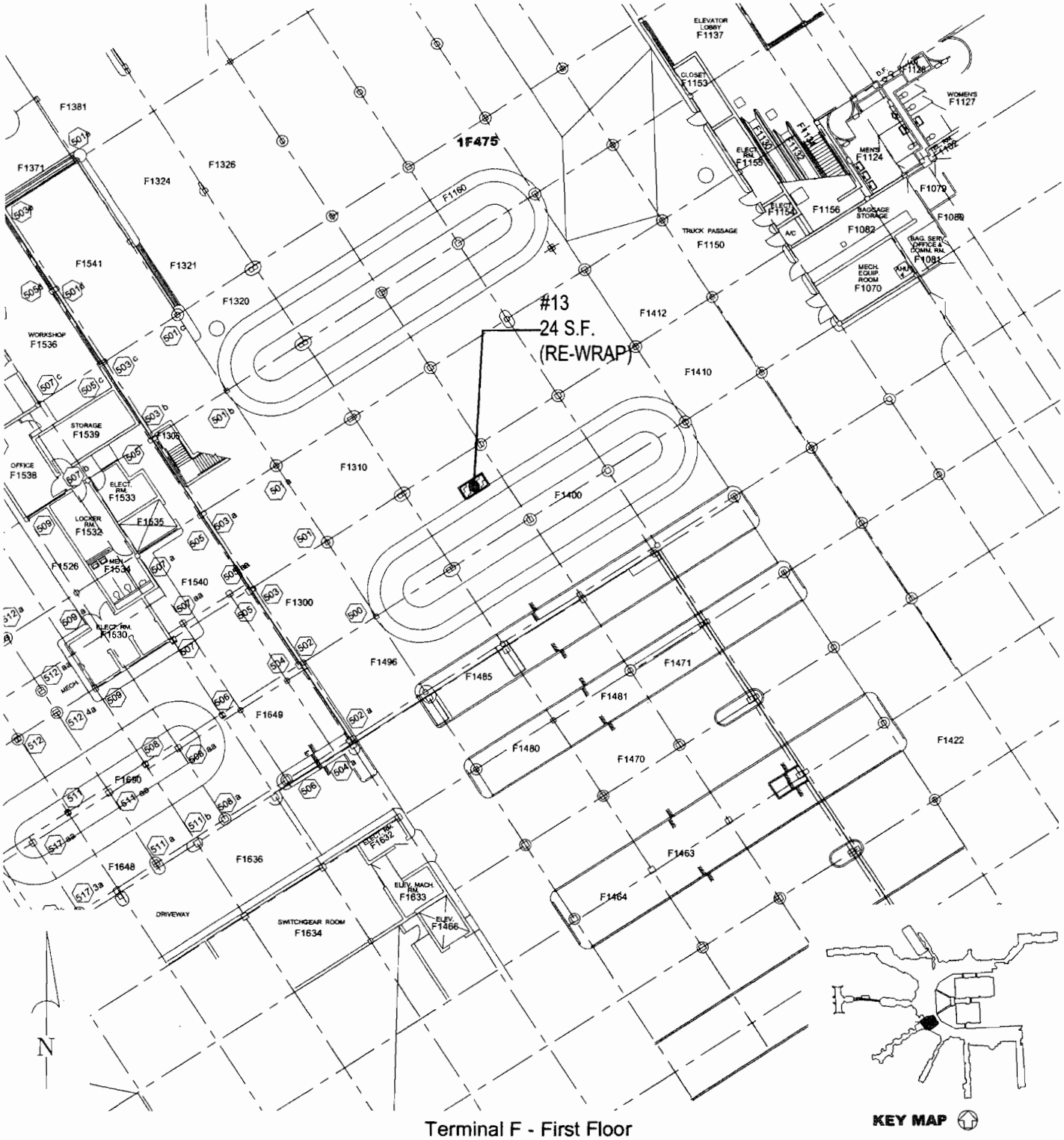
24

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WARPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009



Terminal F - First Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	24

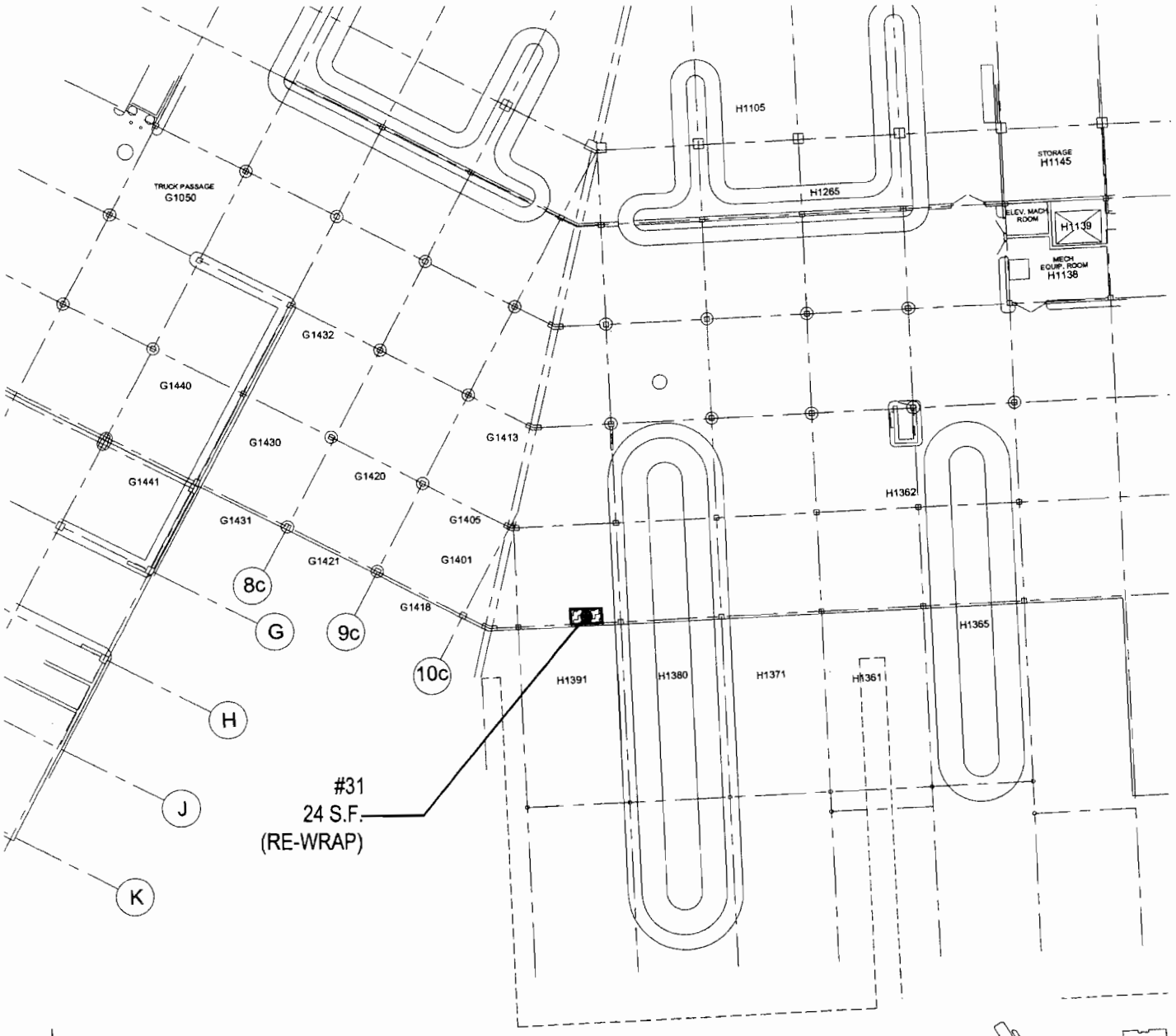
24

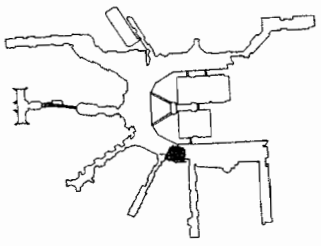
MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009





KEY MAP

Terminal H - First Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	24

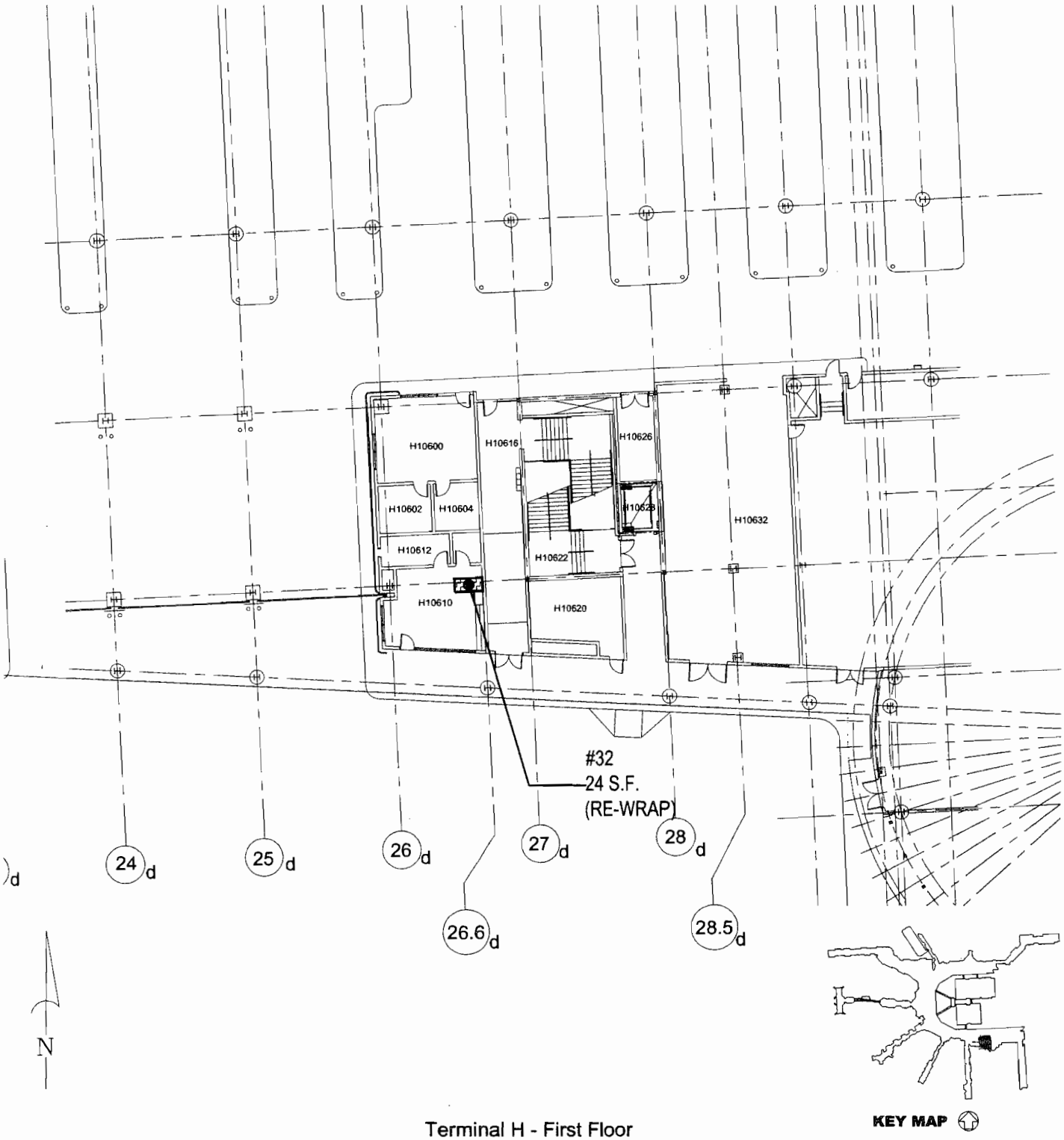
MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

24

SCALE: 1/32" = 1'-0" | EFS #: DRAFT | DATE: 2/27/2009



Terminal H - First Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	24

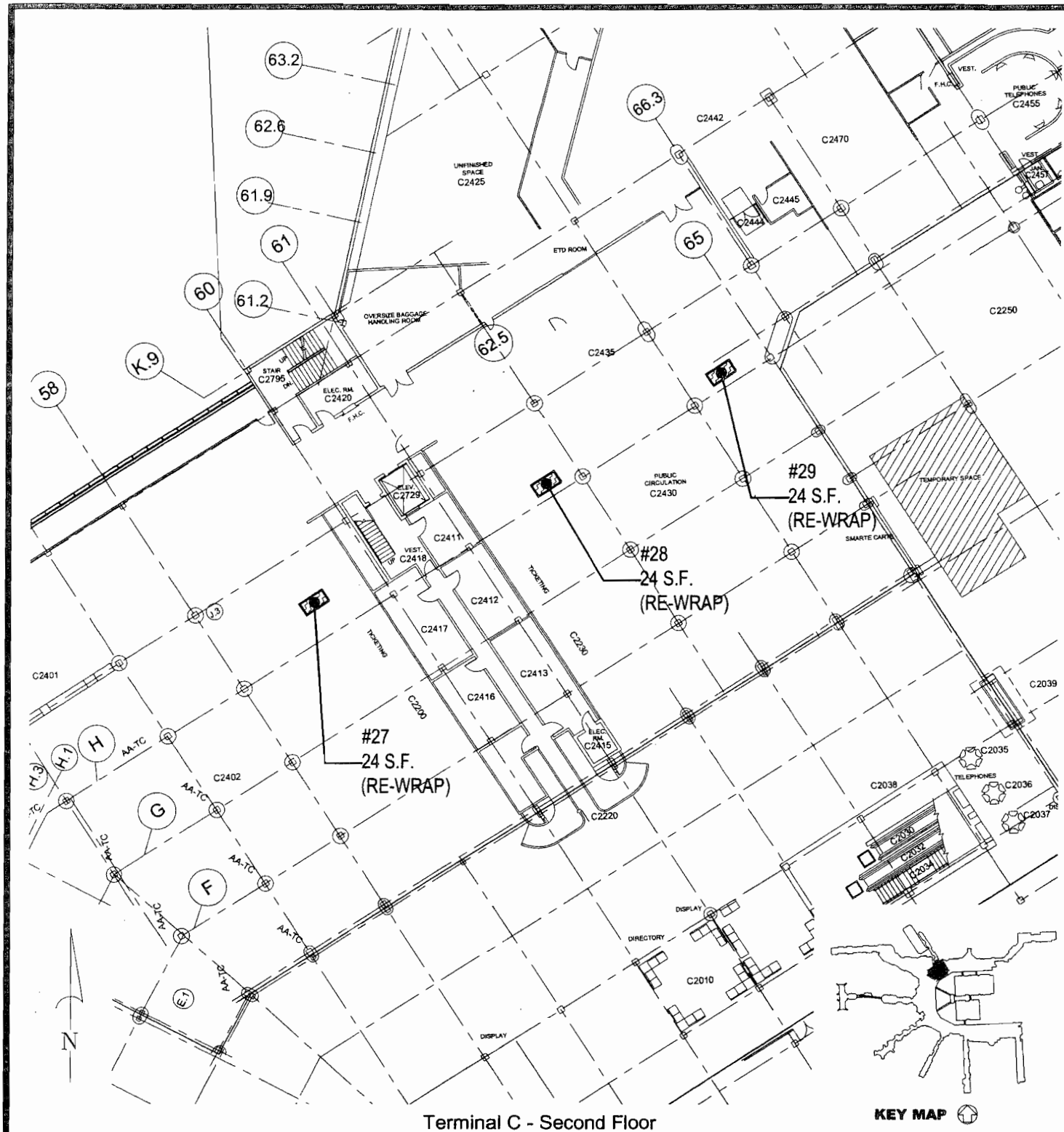
24

SCALE: 1/32" = 1'-0" | EFS #: DRAFT | DATE: 2/27/2009

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL



Terminal C - Second Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	72

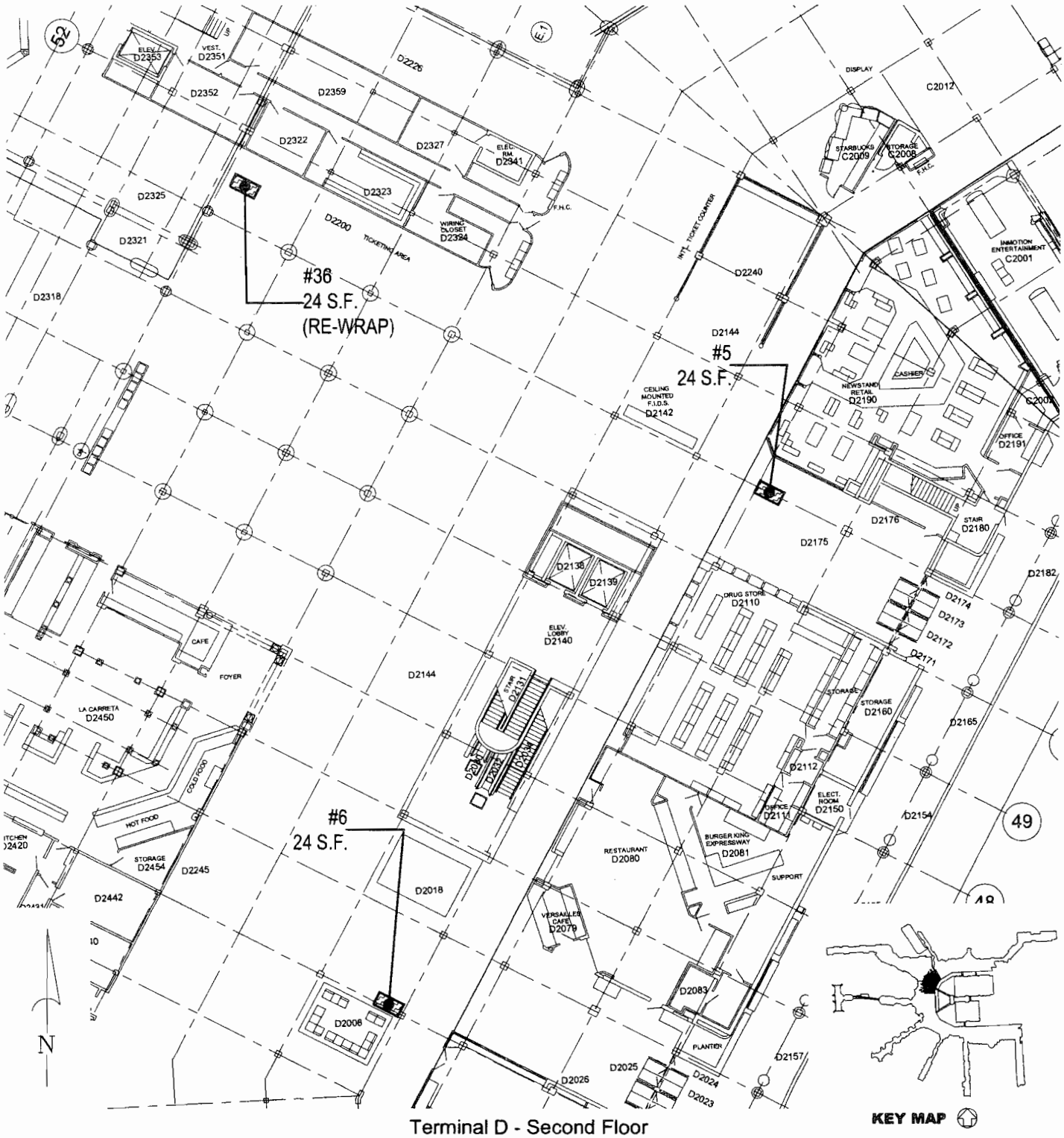
72

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009



Terminal D - Second Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	72

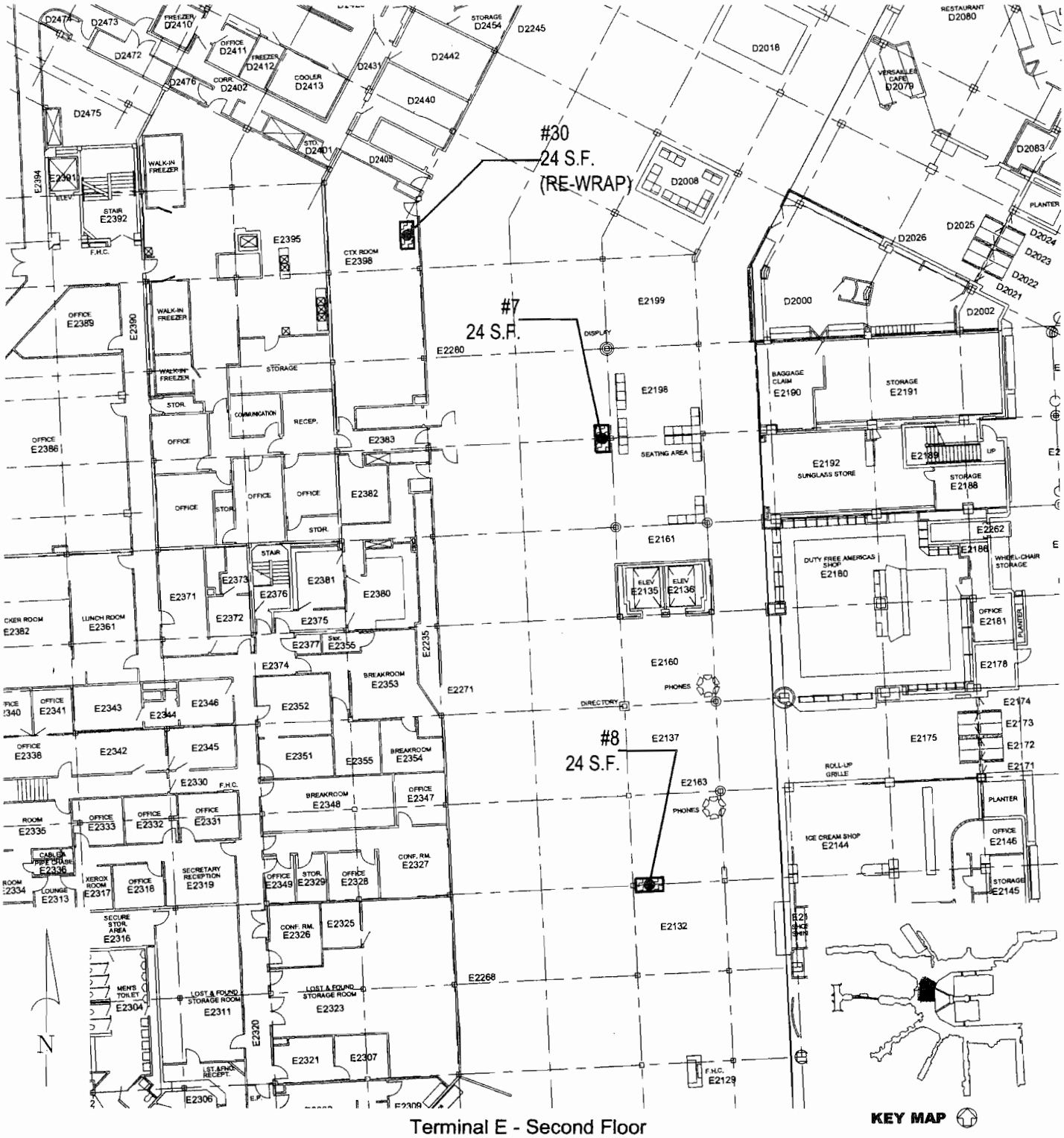
72

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009



Terminal E - Second Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	72

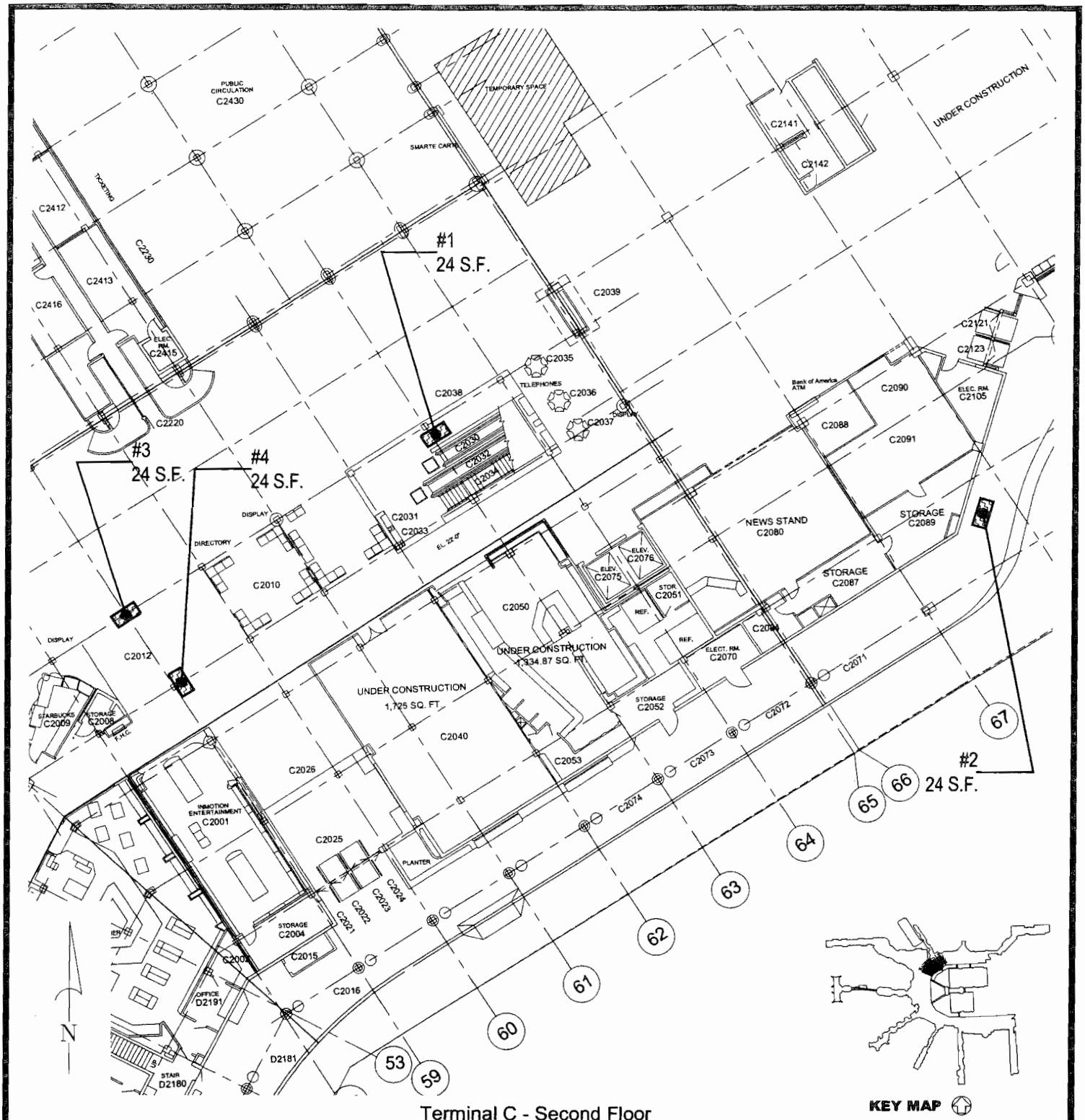
72

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009



Terminal C - Second Floor

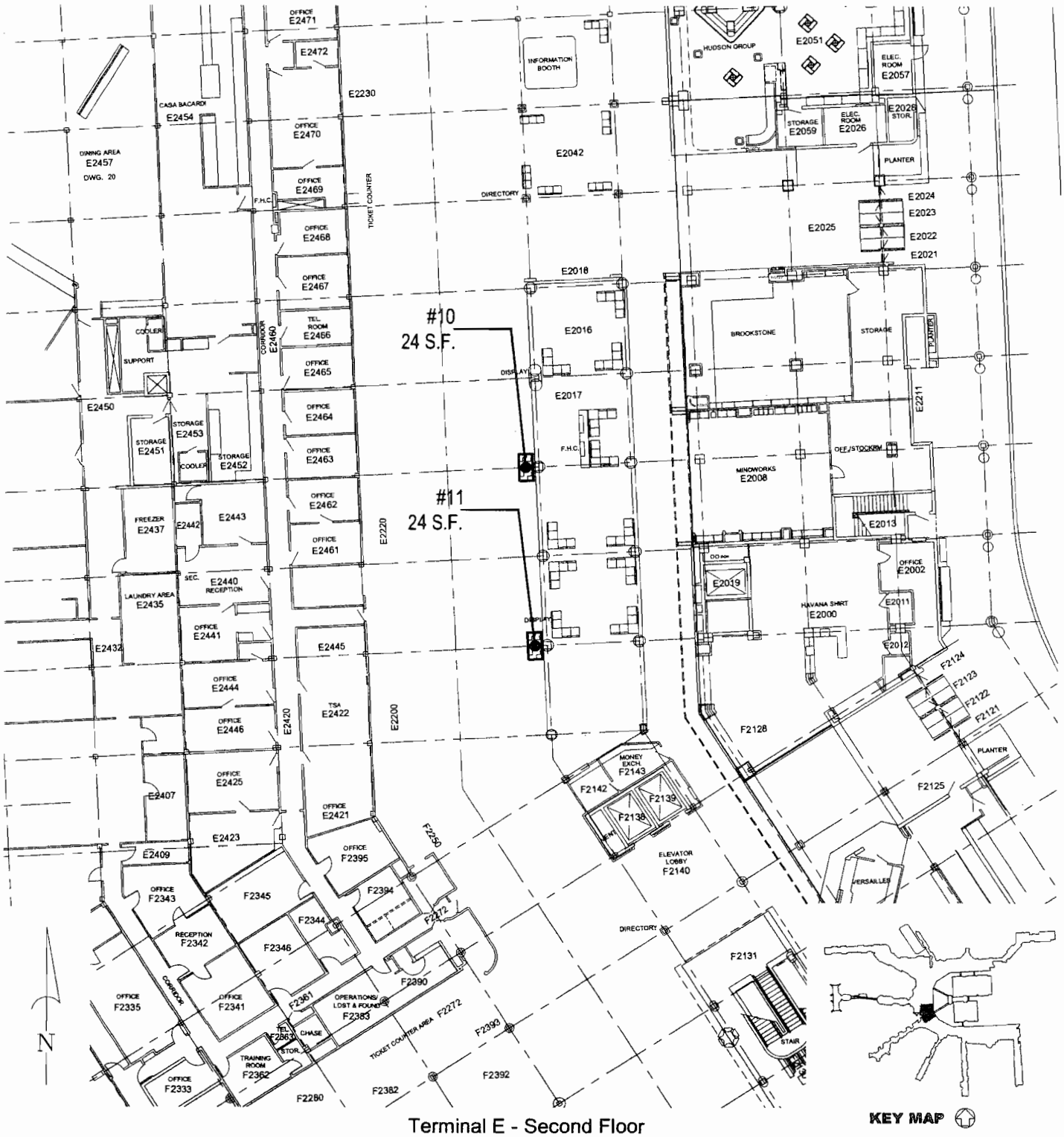
CODE:	SPACE CLASS	SQ. FT.
	Concession space	96
		96

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009



Terminal E - Second Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	48

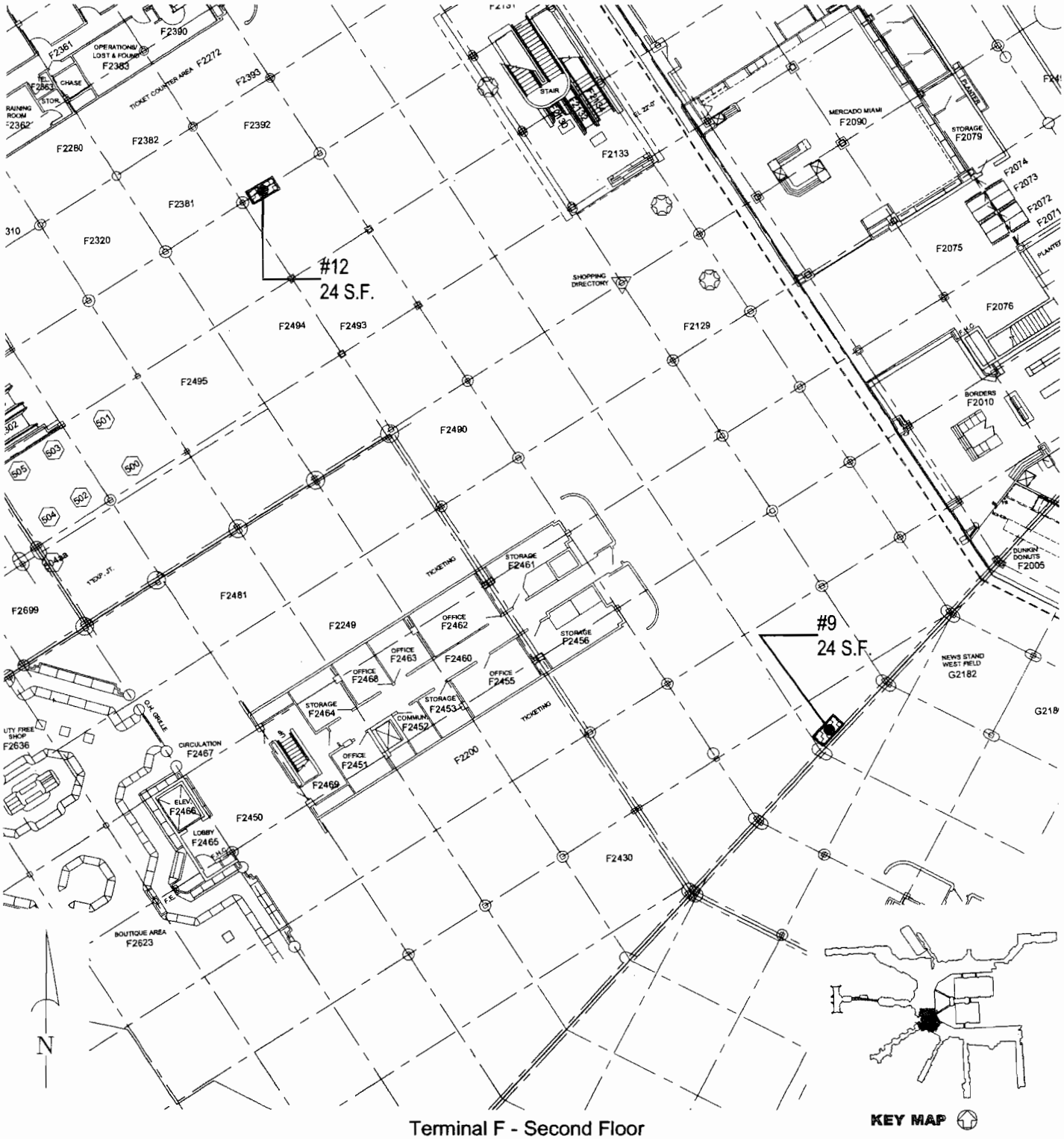
48

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009



Terminal F - Second Floor

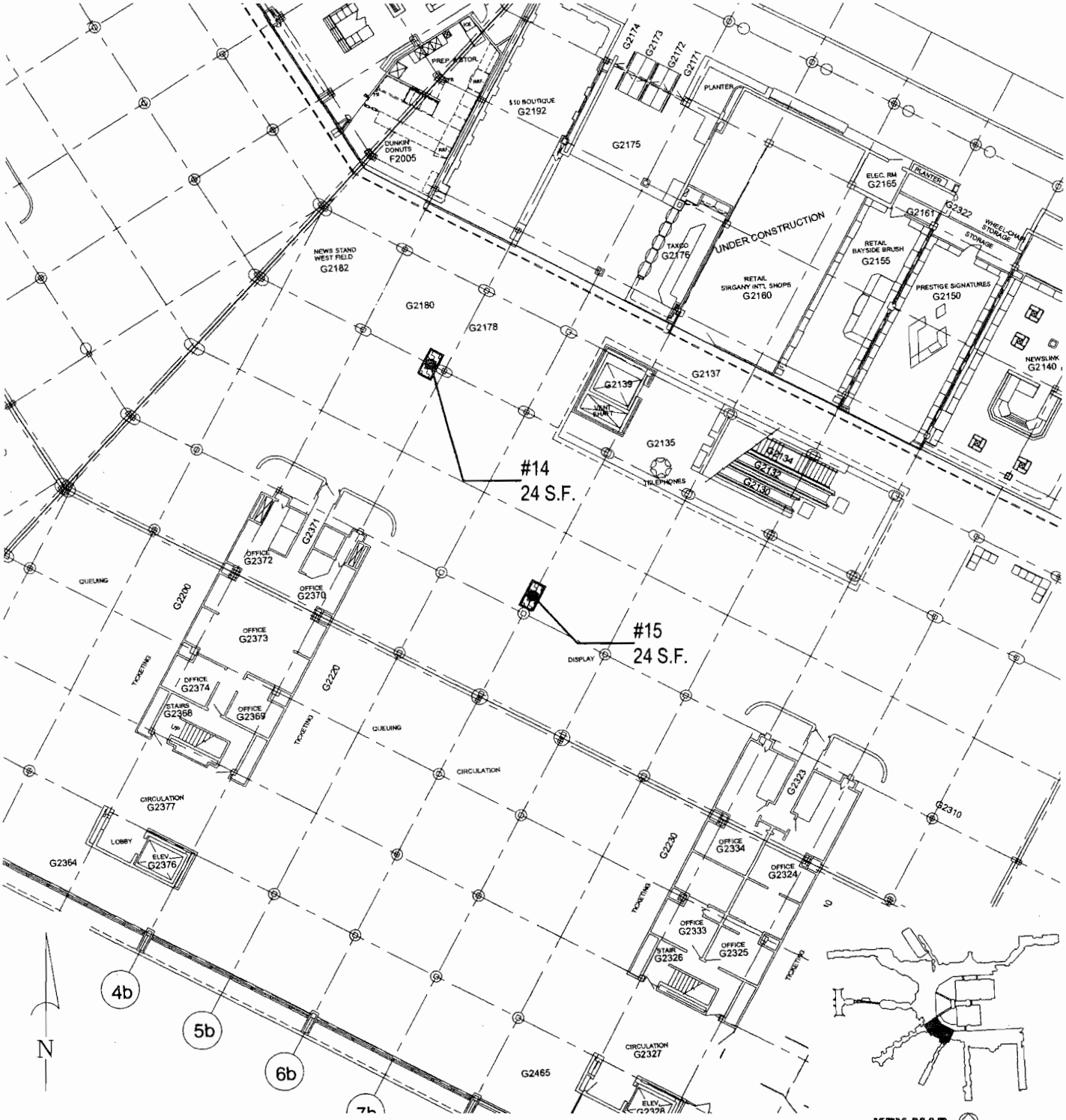
CODE:	SPACE CLASS	SQ. FT.
	Concession space	48
		48

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009



Terminal G - Second Floor

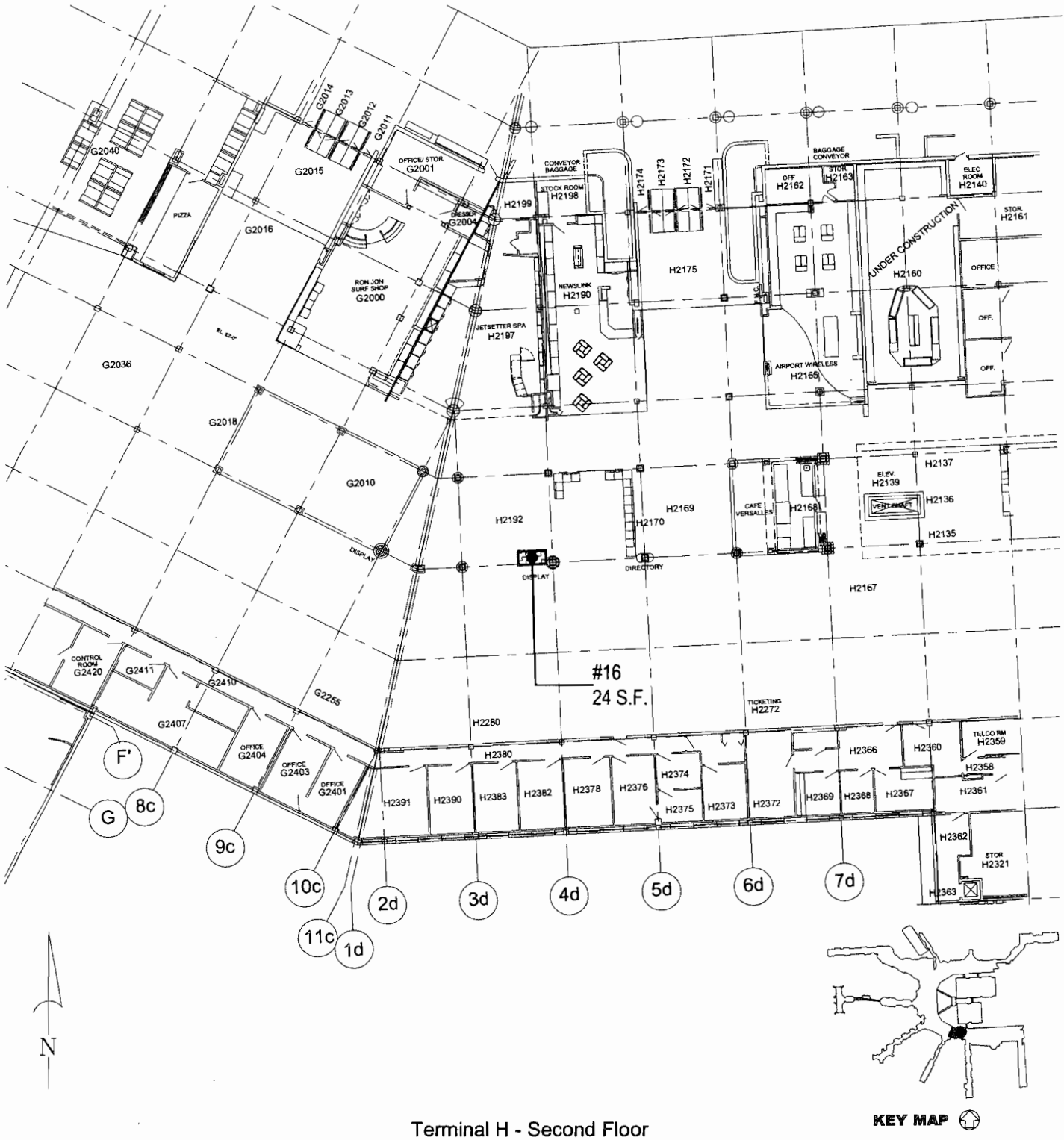
CODE:	SPACE CLASS	SQ. FT.
	Concession space	48
		48

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009



Terminal H - Second Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	24

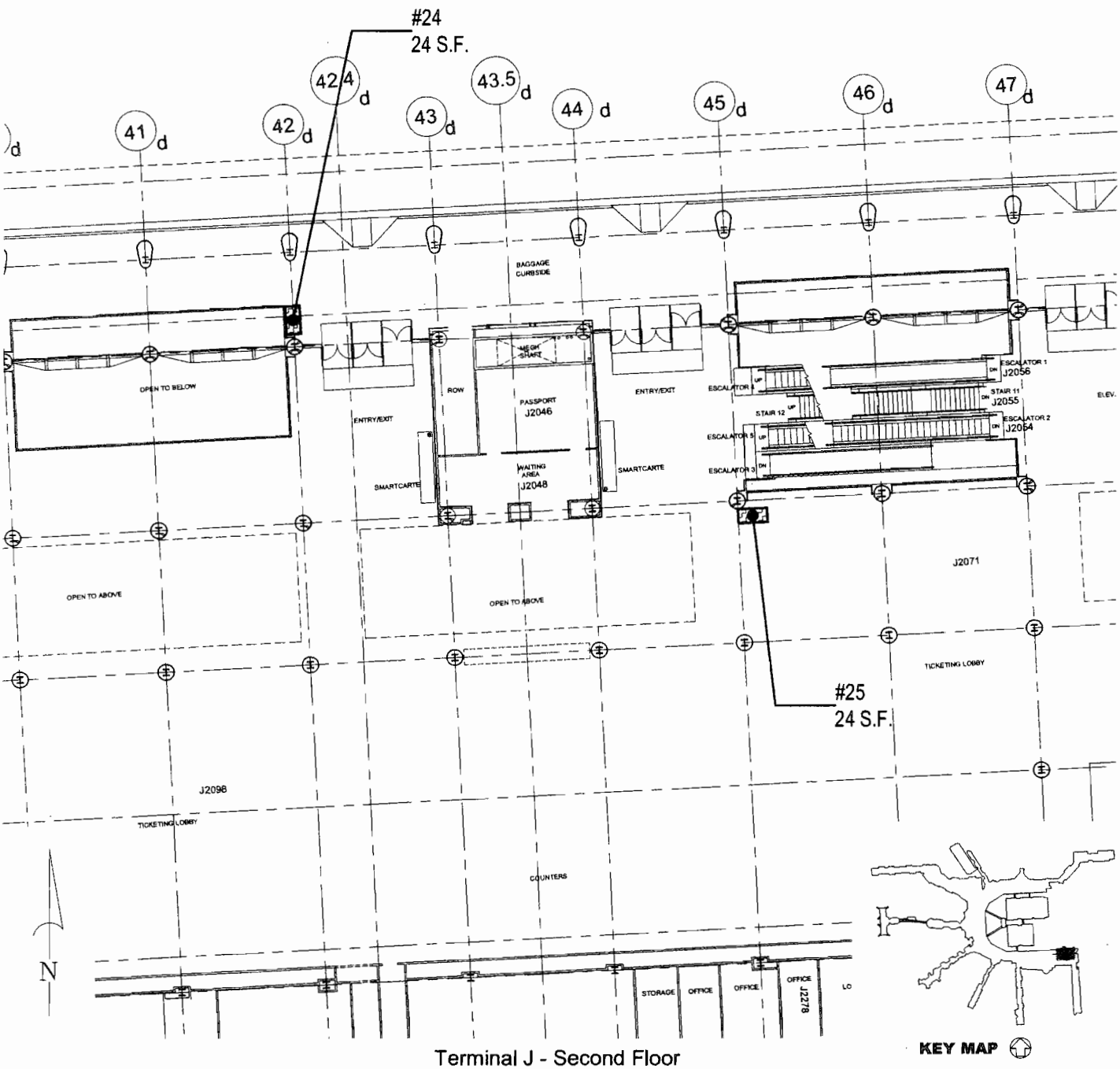
24

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES- RFP PROPOSAL



Terminal J - Second Floor

CODE:	SPACE CLASS	SQ. FT.
	Concession space	48

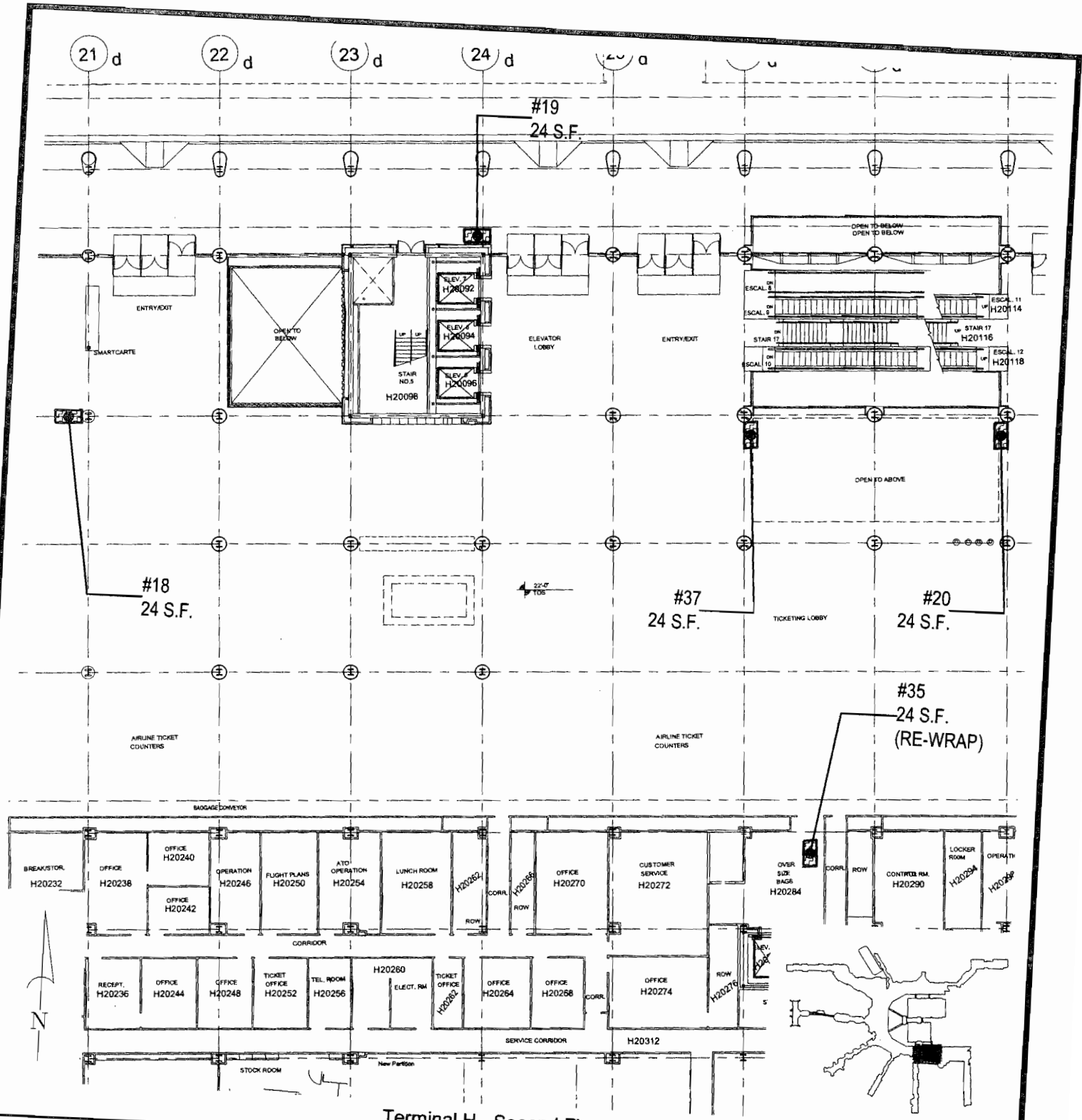
48

SCALE: 1/32" = 1'-0" | EFS #: DRAFT | DATE: 2/27/2009

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL



Terminal H - Second Floor

KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	Concession space	120
		120

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

LUGGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0" | EFS #: DRAFT | DATE: 2/27/2009

EXHIBIT B

SURETY PERFORMANCE AND PAYMENT BOND

By this Bond, We, [OPERATOR], as Principal, whose principal business address is [INSERT ADDRESS], under the contract dated , 2009, between Principal and Miami-Dade County for the development of the [IMPROVEMENTS] (hereinafter referred to as "Agreement") the terms of which 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 [OPERATOR], 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(l), 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:

_____

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

SURETY:

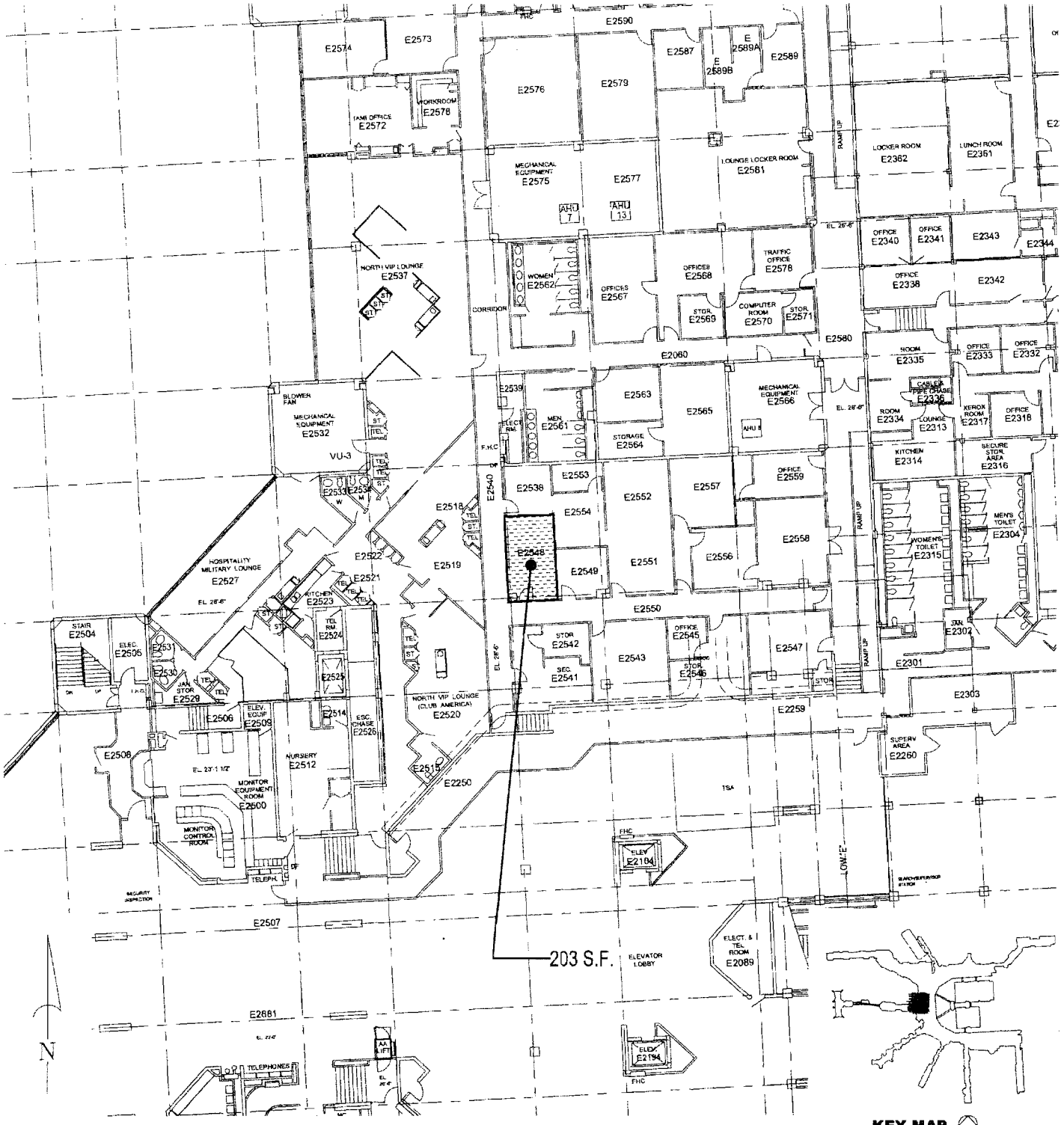
_____

By: _____

Attorney-in-Fact

(CORPORATE SEAL)

(Power of Attorney must be attached)



Terminal E - Second Floor

KEY MAP

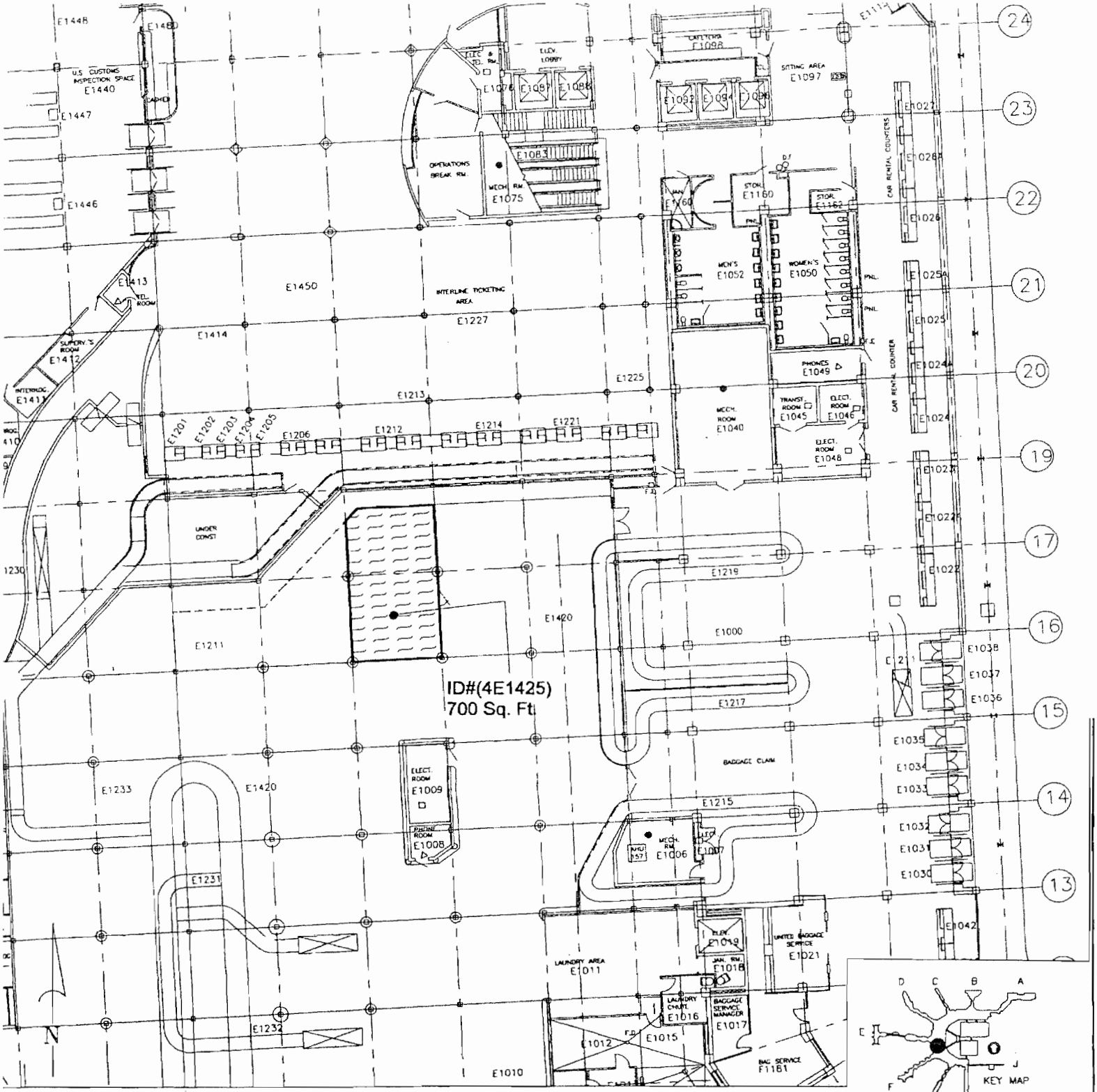
CODE:	SPACE CLASS	SQ. FT.
	A/C Office space	203
	Support Space	
		203

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT C

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: DRAFT	DATE: 2/27/2009



CONCOURSE E - FIRST FLOOR

CODE:	SPACE CLASS	SQ. FT.
	NON/AC OPERATIONAL	700

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT C

LUGGAGE WRAPPING SERVICES-RFP PROPOSAL

SCALE: 1/32" = 1'-0"	EFS #: M4242T1	DATE: 01-01-03

Bond No._____

PERFORMANCE BOND FOR MAG AND RENT REQUIREMENTS
EXHIBIT D

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 Lease and Concession Agreement entitled "Minimum Annual Guarantee" and Annual Rent, 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 Lease and 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 Lease and 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 Lease and Concession Agreement in Section 3.01 "Minimum Annual Guarantee", and Section 3.11 "Performance Bond for MAG Rent 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: _____

EXHIBIT E
(CD attached inserted in RFP NO. MDAD-01-09)

TENANT AIRPORT CONSTRUCTION NON-REIMBURSABLE PROJECTS
and
TENANT AIRPORT CONSTRUCTION REIMBURSABLE PROJECTS

Miami Dade County
Miami Dade Aviation Department
Miami International Airport
May 9, 2002

Tenant Airport Construction Non-Reimbursable Projects (TAC-N) Design and Construction Procedures EXHIBIT F

Glossary of Terms

A/E	Tenant's State of Florida Registered Architect or Engineer responsible for the design of the project
GSA	General Service Administration
MARC	Miscellaneous Asbestos Recovery Contract
MCC/TAC	Miscellaneous Construction Contract/Tenant Airport Construction
MDAD	Miami Dade Aviation Department
NTP	Notice to Proceed
TAC-N	Tenant Airport Construction Non-reimbursable projects
Tenant	Business Partner, Lessee

General Information

If a tenant wants to improve or expand a leasehold area, the tenant must first contact an MDAD Properties or Commercial Operations Manager to discuss the improvement terms of the revision agreement if the project is acceptable to MDAD.

The MDAD Properties or Commercial Operations Manager will prepare a "QUICK-CHECK FORM" (with attachments), which will be submitted to the MDAD Development Division Manager and other divisions for review and approval. Special consideration is given to its impact upon other adjacent projects underway or proposed. The attachments that will accompany the "QUICK-CHECK FORM" will include but are not limited to the following:

a. A completed TAC-N Project Information form, copy attached.

b. Conceptual drawings/sketches.

c. Tenant's letter which includes a description of the project, copies of a proposed schedule and cost estimate, plus a statement requesting MDAD to approve the conceptual project for design and construction.

Procedures-Design and Construction

1. The MDAD Development Division Manager will assign an MDAD Project Number to the project. If approved, the "QUICK-CHECK FORM" (with attachments) will be submitted to the Facilities Division Manager who will review and assign the project to the MCC/TAC Chief who will then direct the TAC-N Project Manager to monitor the design and construction activities of the project. The TAC-N Project Manager will contact the tenant upon receipt of the project and will forward the TAC-N procedures to the tenant.

2. It is the responsibility of the tenant through its A/E and/or Contractor, as applicable, to:

   a. Obtain copies of MDAD Record (As-Built) Drawings from the MDAD Technical Support Section by calling 305.876.7057.

   b. Verify field conditions including but not limited to electrical, mechanical, HVAC, plumbing, water, sewer, structural, connecting points for all utilities/HVAC/fire protection/smoke evacuation, etc.

   c. Ensure that the design of the project is in compliance with the MDAD Design Guidelines Manuals (MIA Terminal projects only) Guidelines is available on the Internet at (www.miami-airport.com).

   d. Obtain a copy of the MDAD Asbestos Status Report for the project from the MDAD Environmental Engineering Division. Please call 305.876.8326 to request the report. This report is required by the Miami Dade Building Department for permitting and must be submitted along with the application for a building permit and two sets of plans, signed and sealed by the A/E of Record.

   e. Coordinate schedules and locations for MIA terminal deliveries at the 2nd floor curbside with MDAD Landside Operations Division. Please call 305.876.7086 for coordination.

   f. Coordinate schedules and construction within the MIA terminal with the MDAD Terminal Operations Division. Please call 305.876.7082 for coordination.

   g. Coordinate airside accesses requirements with MDAD Airside Operations Division. Please call 305.876.7482 for coordination.

   h. Coordinate the issuance of MDAD photo ID badges and requirements for orientation regarding airport security with the MDAD Safety and Security Operations Division. Please call 305.869.4028 for coordination.

i. Coordinate "SHUTDOWN PROCEDURES" with the MDAD Engineering Maintenance Division. Please call 305.876.7477 for coordination.

j. Coordinate requirements and specific procedures relating to permitting for DERM, DEP, dewatering excavating, trenching, stockpiling, maintenance and disposal of contaminated material with the MDAD Environmental and Airport Engineering Division. Please call 305.869.1063 for coordination.

3. The tenant or the tenant's A/E of Record shall:

a. Submit 10 sets of 100% construction documents to the TAC-N Project Manager for review. Each sheet of the submitted plans shall be identified with a title box that includes the name, address, and telephone/fax numbers of the owner as follows:

Property Owner: Miami Dade Aviation Department
MDAD Project Manager:
Address: P.O. Box 025504, Miami, Florida 33102-5504
Tel: _____
Fax: 305.876.0996

Project Owner/Lessee: _____

Tenant's Project Manager: _____

Address: _____

Tel: _____

Fax: _____

The TAC-N Project Manager will submit the sets of construction documents to Consultants and MDAD Staff for a Design Review. This process has a duration period of fourteen (14) calendar days. The Reviewers will fax any issues/comments to the tenant's A/E of Record and to the TAC-N Project Manager within fourteen (14) calendar days of receipt of the plans. The tenant or the tenant's A/E of Record shall confirm receipt of Review Comments with the TAC-N Project Manager on the fifteenth (15) day.

b. Address the Reviewer's issues/comments to the satisfaction of both parties by fax, meetings, telephone conversations, etc.

c. Revise the construction documents to reflect the changes required by the Design Reviewers. Submit three sets of 100% construction documents, one (1) of which must be signed and sealed by the tenant's A/E of Record. Reviewers must sign the 100% Back Check form, and return it to the A/E and TAC-N Project Manager.

The TAC-N Project Manager will review the submittals. The MCC/TAC Chief will then provide the "Letter of Concurrence" to the tenant in order to apply for a building permit for its project. This letter is valid for a period of sixty (60) calendar days from the date of issuance. If the tenant or his A/E of Record has not applied for a building permit within the sixty (60) calendar days, the Letter of Concurrence will have to be reissued.

d. Provide the Miami Dade Building Department located at Building 5A, 4th Floor, MIA, with a Building Permit application, the TAC-N Letter of Concurrence, a copy of the MARC Report (if required) and two (2) signed and sealed 100% permit sets of the project construction documents. For additional information, please call 305.869.1363.

e. The TAC-N Project Manager will advise the tenant of the Miami Dade GSA, Risk Management Division's insurance requirements. Prior to commencement of construction, provide the TAC-N Project Manager copies of all Certificates of Insurance as required.

f. Submit copies of the Construction Schedule, Design and Construction Budget (Update), and Building Permit to the TAC-N Project Manager prior to commencement of construction.

4. Pre-Construction and Construction Meetings

The TAC-N Project Manager will determine, based on the complexity and magnitude of the project, if a pre-construction meeting is required and if regular construction meetings will be required. If required, the frequency of the construction meetings will be established based on the complexity and duration of the project. Attending the meetings will be the tenant's A/E and contractor, the MDAD representative and others as may be required. If no regular scheduled construction meetings are held, the TAC-N Project Manager or his designee will periodically visit the jobsite. The permit set of drawings is required to be kept and available on the construction site at all times.

5. Project Close-Out

If required, a walk through is scheduled and coordinated through the TAC-N Project Manager. It is the responsibility of the tenant to submit copies of the following, as applicable, to the TAC-N Project Manager:

a. The signed-off building permit (inspections) within 24 hours of its issuance.

b. Certificate of Occupancy or Completion within 24 hours of its issuance.

c. Warranties, manuals, instructions, etc., of any equipment that will be maintained by MDAD.

d. Record Drawings (As-Built drawings) on Bond paper, two (2) signed and sealed set prepared by the tenant's architect of Record within thirty (30) days from the issuance date of the Certificate of Occupancy or Completion.

e. Depending upon the size or complexity of the project, the tenant may be requested to provide the TAC-N Project Manager with As-Built Mylar's, 35mm aperture cards or digital files for the project.

The TAC-N Project Manager and the tenant will closeout the project. All documents must be received by the TAC-N Project Manager from the tenant prior to project closeout.

TENANT AIRPORT CONSTRUCTION REIMBURSABLE PROJECTS

PURPOSE

To provide details for the initiation and management of a Tenant Airport Construction Program reimbursable project.

DEFINITIONS

FAA	Federal Aviation Administration A/E Tenant's State Registered Architect or Engineer responsible for the design of the project.
BCC	Board of County Commissioners
GSA	General Services Administration
MARC	Miscellaneous Asbestos Recovery Contract
MCC/TAC	Miscellaneous Construction Contract/Tenant Airport construction
MDAD	Miami Dade Airport Aviation
NTP	Notice to Proceed
PM	Project Manager
TAC-N	Tenant Airport Construction Non- reimbursable projects
Tenant	Business Partner, Lessee

INSTRUCTION

GENERAL INFORMATION

Summary of Department Process for Design and Construction of TAC-R Projects

When an airport tenant wishes to improve or expand a leasehold area, the tenant must contact the MDAD Manager, Properties and Commercial Operations to discuss the proposed improvement or expansion. The Manager, Properties and Commercial Operations or designee determines whether the proposed design and construction will be a reimbursable or non-reimbursable project.

If the determination is that the proposed design and construction are reimbursable, the tenant must submit a letter to MDAD requesting approval to design and construct the project, detailing the proposed construction and providing a proposed schedule and cost estimate.

The Manager, Properties and Commercial Operations or designee prepares an instruction and forwards it to the MDAD Manager, Planning, the MDAD Design Chief, the MDAD Manager, Maintenance Engineering, the MDAD Manager, Terminal Facilities, and others as appropriate, for review and tentative approval.

If tentative approval in denied, the tenant is notified through MDAD Manager, Properties and Commercial Operations.

If tentative approval is given, the tenant is so advised through MDAD Manager, Properties and Commercial Operations and is invited to a meeting with a project conceptual review team which includes the MDAD Manager, Planning the MDAD Design Chief, the TAC-R chief to discuss the design process, bid and award process, construction and close out process. These discussions will include cost and schedule, and the identification of a TAC-R Project Manager.

There are standard MDAD procedures for the above named processes. However, dependent on the complexity, size, location and cost of the project, the conceptual review team may, through the TAC-R chief, waive certain aspects of these standard procedural requirements.

Procedures for Design and Construction

1. The design of the project will entail the Selection of an Architect/Engineer. The procedures for this activity are outlined in MDAD Procedure FD2-005.

2. Upon selection, the A/E will be required to produce the following:

   (a) A Planning Book in accordance with MDAD Procedure FD1-040-P

   (b) A Project Book in accordance to MDAD Procedure FD1-050-P

   (c) Design Documents in accordance with MDAD Procedure FD3-007-P

   (d) Design includes Contract Formation in accordance with MDAD Procedure FD4-040-P3.

3. Upon satisfactory completion of the design process, the project shall be bid and awarded for construction in accordance with MDAD Procedure FD4-011-P

4. Satisfactory completion of the project is dependent on inspections consistent with MDAD Procedures for Substantial Completion and Beneficial Occupancy as outlined in MDAD Procedures FD5-195-P

5. Upon satisfactory completion of item (4) above the project will be closed out accordance with MDAD Procedures FD5-245-P

6. The Project Manager shall be mindful of the fact that the above core MDAD Procedures, with references to other Procedures, together form the broad spectrum of management structures for the project.

EXHIBIT G

Sample Management Letter

Independent Auditor's Report

Board of Directors
XYZ Corporation

In planning and performing our audit of the Schedule of Gross Revenues and Percentage Fees Paid to the County of XYZ Corporation for the year ended _____xx, 20xx, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion of the Schedule of Gross Revenues and Percentage Fees Paid to the County and not to provide assurance on the internal control structure. Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under the standards established by the American Institute of Certified Public Accountants.

A material weakness is a condition win which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the Schedule of Gross Revenues and Percentage Fees Paid to the County being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. However, we noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defines above.

This report is intended solely for the information and use of the Board of Directors and management of XYZ Corporation and Miami-Dade County, Florida and should not be used for any other purpose.

ABC & DEF, CPA's
_____ xx, 20xx

Sample Audit Report

Independent Auditor's Report

Board of Directors
XYZ Corporation

We have audited the accompanying Schedule of Gross Revenues and Percentage Fees Paid to the County (as defined in the Lease and Concession Agreement between Miami-Dade County Florida and XYZ Corporation) of XYZ Corporation for the year ended _____ xx, 20xx. This schedule is the responsibility of XYZ Corporation's management. Our responsibility is to express an opinion on this schedule base on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Schedule of Gross Revenues and Percentage Fess Paid to the County is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall schedule presentation. We believe that our audit provides basis for our opinion.

In our opinion, the Schedule of Gross Revenues and Percentage Fees Paid to the County referred to above presents fairly, in all material respects, the gross revenues of XZ Corporation for the year ended _____ x, 20xx and the related fees paid, as defined in the Lease and Concession Agreement referred to in the first paragraph.

This report is intended solely for the information and use of the Board of Directors and management of XYZ Corporation and Miami-Dade County, Florida and should not be used or any other purpose.

ABC & DEF, CPA's
_____ xx, 20xx

Sample Compliance Letter

Independent Auditor's Report

Board of Directors
XYZ Corporation

We have audited, in accordance with generally accepted auditing standards, the Schedule of Gross Revenues and Percentage Fees Paid to the County of XYZ Corporation for the year ended _____ xx, 20xx and have issued our report thereon, dated _____ xx, 20xx. We have not performed any substantive audit procedures beyond the date of our report on the Schedule of Gross Revenues and Percentage Fees Paid to the County. Accordingly, this report is based on our knowledge as of that date and should be read with that understanding.

In connection with our audit, nothing came to our attention that caused us to believe that XYZ Corporation failed to comply with the term of the Lease and Concession Agreement with Miami-Dade County, Florida insofar as they relate to the Company's book of accounts, records and reports. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance.

This report is intended solely for the information and use of the Board of Directors and management of XYZ Corporation and Miami-Dade County, Florida and should not be used for any other purpose.

ABC & DEF, CPA's
_____ xx, 20xx

EXHIBIT G

XYZ
Corporation
Schedule of Gross Revenues and Percentage Fees Paid to the County For the Year Ended _____, 20xx

Month	Gross Revenues	Percentage Fee Due	Percentage Fee Paid	Balance Due
TOTAL				

Exhibit H
Monthly Report of Gross Revenues

Monthly Gross Revenues and Net Revenues to Airport Report
Report due on or before the Fifteen (15th) calendar day following the end of the each month

Month of:_____ **Year:** ____ / _____ / _____

To: Miami Dade Aviation Department
P.O. Box 592616
Miami, Florida 33159-2616
Att: Finance Division

Lease No. MDAD XXXX

Gross Sales by locations:
Loc.

Total Gross Revenues:		$ -
Effective Concessions Fees:		
Total Percentage Fee	%	
Less: Monthly MAG	12	
Less: Monthly Rent Sq. Ft's*Rent Rate **(excluding Support Space)**	12	
% Fee due in Excess of Monthly Rent	**Net to MDAD**	
	Total Due to MDAD	

Payment included in Check No. _____ **Amount Paid:** _____ **Date:** _____

I hereby certified that the above statement is true and correct:

_____
Signature

_____
Title

_____
Date

TSA Prohibited Items List
As of February 25, 2009

Sharp Objects

Item	Carry-on	Checked
Box Cutters	No	Yes
Ice Axes/Ice Picks	No	Yes
Knives - except for plastic or round bladed butter knives	No	Yes
Meat Cleavers	No	Yes
Razor-Type Blades - such as box cutters, utility knives, razor blades not in a cartridge, but excluding safety razors.	No	Yes
Sabers	No	Yes
Scissors - metal with pointed tips and blades shorter than four inches	Yes	Yes
Swords	No	Yes

NOTE: Any sharp objects in checked baggage should be sheathed or securely wrapped to prevent injury to baggage handlers and inspectors.

Sporting Goods

Item	Carry-on	Checked
Baseball Bats	No	Yes
Bows and Arrows	No	Yes
Cricket Bats	No	Yes
Golf Clubs	No	Yes
Hockey Sticks	No	Yes
Lacrosse Sticks	No	Yes
Pool Cues	No	Yes
Ski Poles	No	Yes
Spear Guns	No	Yes

Guns & Firearms

Item	Carry-on	Checked
Ammunition - Check with your airline or travel agent to see if	No	Yes

ammunition is permitted in checked baggage on the airline you are flying. If ammunition is permitted, it must be declared to the airline at check-in. Small arms ammunitions for personal use must be securely packed in fiber, wood or metal boxes or other packaging specifically designed to carry small amounts of ammunition. Ask about limitations or fees, if any, that apply. Read our Firearms & Ammunition section.		
BB guns	No	Yes
Compressed Air Guns (to include paintball markers) - Carried in checked luggage without compressed air cylinder attached.	No	Yes
Firearms - firearms carried as checked baggage MUST be unloaded, packed in a locked hard-sided container, and declared to the airline at check-in. Read our Firearms & Ammunition section.	No	Yes
Flare Guns - May be carried as checked baggage MUST be unloaded, packed in a locked hard-sided container, and declared to the airline at check-in.	No	Yes
Flares	No	No
Gun Lighters	No	Yes
Gun Powder including black powder and percussion caps	No	No
Parts of Guns and Firearms	No	Yes
Pellet Guns	No	Yes
Realistic Replicas of Firearms	No	Yes
Starter Pistols	No	Yes

NOTE: Check with your airline or travel agent to see if firearms are permitted in checked baggage on the airline you are flying. Ask about limitations or fees, if any, that apply.

Tools

Item	Carry-on	Checked
Axes and Hatchets	No	Yes
Cattle Prods	No	Yes
Crowbars	No	Yes
Hammers	No	Yes
Drills and drill bits (including cordless portable power drills)	No	Yes
Saws (including cordless portable power saws)	No	Yes
Tools (greater than seven inches in length)	No	Yes
Tools (seven inches or less in length)	Yes	Yes
Screwdrivers (seven inches or less in length)	Yes	Yes
Wrenches and Pliers (seven inches or less in length)	Yes	Yes

NOTE: Any sharp objects in checked baggage should be sheathed or securely wrapped to prevent injury to baggage handlers and Security Officers.

Martial Arts & Self Defense Items

Item	Carry-on	Checked
Billy Clubs	No	Yes
Black Jacks	No	Yes
Brass Knuckles	No	Yes
Kubatons	No	Yes
Mace/Pepper Spray - One 118 ml or 4 Fl. oz. container of mace or pepper spray is permitted in checked baggage provided it is equipped with a safety mechanism to prevent accidental discharge. For more information visit www.faa.gov., click on Passengers, then Preparing to Fly.	No	Yes
Martial Arts Weapons	No	Yes
Night Sticks	No	Yes
Nunchakus	No	Yes
Stun Guns/Shocking Devices	No	Yes
Throwing Stars	No	Yes

NOTE: Any sharp objects in checked baggage should be sheathed or securely wrapped to prevent injury to baggage handlers and Security Officers.

Explosive & Flammable Materials, Disabling Chemicals & Other Dangerous Items

Explosive Materials	Carry-on	Checked
Blasting Caps	No	No
Dynamite	No	No
Fireworks	No	No
Flares (in any form)	No	No
Hand Grenades	No	No
Plastic Explosives	No	No
Realistic Replicas of Explosives	No	No
Flammable Items	**Carry-on**	**Checked**
Aerosol (any except for personal care or toiletries in limited quantities)	No	No

Fuels (including cooking fuels and any flammable liquid fuel)	No	No
Gasoline	No	No
Gas Torches	No	No
Lighter Fluid	No	No
Common Lighters - Lighters without fuel are permitted in checked baggage. Lighters with fuel are prohibited in checked baggage, unless they adhere to the Department of Transportation (DOT) exemption, which allows up to two fueled lighters if properly enclosed in a DOT approved case. If you are uncertain as to whether your lighter is prohibited, please leave it at home.	Yes	No
Torch Lighters - Torch lighters create a thin, needle-like flame that is hotter (reaching 2,500 degrees Fahrenheit) and more intense than those from common lighters. Torch lighters are often used for pipes and cigars, and maintain a consistent stream of air-propelled fire regardless of the angle at which it is held. Torch lighters continue to be banned.	No	No
Strike-anywhere Matches - **One** book of safety (non-strike anywhere) matches are permitted as carry-on items, but all matches are prohibited in checked baggage.	No	No
Flammable Paints (See Other Items below for non-flammable paints)	No	No
Turpentine and Paint Thinner	No	No
Realistic Replicas of Incendiaries	No	No

NOTE: There are other hazardous materials that are regulated by the FAA. This information is summarized at www.faa.gov, click on Passengers, then Preparing to Fly.

Disabling Chemicals & Other Dangerous Items	Carry-on	Checked
Chlorine for Pools and Spas	No	No
Small compressed gas cartridges (Up to 2 in life vests and 2 spares)	Yes	Yes
Fire extinguishers and other compressed gas cylinders	No	No
Liquid Bleach	No	No
Spillable Batteries - except those in wheelchairs	No	No
Spray Paint	No	No
Tear Gas	No	No

NOTE: There are other hazardous materials that are regulated by the FAA. This information is summarized at www.faa.gov.

Other Items

Item	Carry-on	Checked
Gel-type candles	No	Yes

Gel shoe inserts - Gel shoe inserts are not permitted, but shoes constructed with gel heels are allowed and must be removed and screened.	No	Yes
Non-flammable liquid, gel, or aerosol paint	Yes - 3 oz. or smaller container	Yes
Flammable liquid, gel, or aerosol paint	No	No
Snow globes and like decorations regardless of size or amount of liquid inside, even with documentation.	No	Yes

EXHIBIT J

MIAMI-DADE AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT
COMMERCIAL OPERATIONS

COMMERCIAL OPERATIONS
TENANT HANDBOOK MANUAL

March 2004

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I. WELCOME

Welcome to the Miami International Airport family:

Miami International Airport is a family of dedicated Aviation Department county employee staff, its vendors, consultants, and Concessionaires. We number in the thousands and work closely together every day to achieve the four cornerstones upon which our mission is based: Safety and security, economic viability, customer service, and passenger service.

This standard of operations manual has been created to assist you in identifying our expectations of your inclusion into our Airport family. We believe we can meet the highest expectations of our passengers and airport patrons for an Airport, which enjoys the mixture of international and domestic passenger base but it requires your attention to detail to make this happen.

We look forward to working with you to achieve not only the standards included in this manual, but to excelling beyond these basic standards.

We welcome your input and wish you well in your new business here at the Airport.

Sincerely,

Jose Abreu, P.E. Director, Miarni-Dade
Aviation Department

JA:par

II. INTRODUCTION

This Standards of Operations Manual is constructed so that it addresses the events that will usually transpire as your business embarks on a relationship with the Miami International Airport.

The Lease that exists between the Concessionaire and the County is the primary legal document that defines allowable activities and conditions within the leasehold premises. Review of the Lease is recommended for further definition of activities, concession and public boundaries, and other operating rights.

A. Vision

The MIA concessions program is a world-class retailing experience for its diverse passenger mix of the culturally diverse, cosmopolitan South Florida region, and a multi-continent international gateway by providing a wide variety of international, national and local brands that offer fair and varying price points, and innovative store designs, all within a safe, vibrant shopping environment.

B. Commercial Operations Program Goals

A commitment to balance competitively priced high quality goods and services with needed passenger services and revenue to the Airport recognizing the investment by the concessionaires and achievement of our ACDBE goals.

C. Commercial Operations Program Objectives

To achieve the mission/vision and goals, commercial operations' objectives are to:

- Enhance the image of MIA as a world class airport which reflects the cosmopolitan and international nature of the community
- Enhance customer service and satisfaction by improving product choice, price points, and customer service
- Optimize sales/transactions and revenue to the Airport.
- Integrate design and location of commercial operations within the infrastructure of the Airport for passenger convenience
- Balance national, regional and local commercial operations and concessions with ACDBE representation throughout the terminal

D. Terminal Overview

The existing Miami International Airport terminal is currently configured in a horseshoe with Concourses from A to J. Security checkpoints are arranged at the entryway to each of the concourses.

A $4.8 billion Capital Improvement Program is underway to create three terminals; the North, Central and South Terminals as described below:

North Terminal will create about 3.2 million square feet of space to accommodate the movement of aircraft, baggage and people for an international connecting hub operation. Approximately 174,000 square feet of concession space is split between food/beverage and retail. The look of the retail will be guided by our Concessionaire Design Criteria Handbook which will:

- Create a world class retail environment
- Utilize the full height of the concourse to create excitement for concessions
- Maximize the quality of presentation to third level corridors
- Compliment the architecture of the terminal with its fixtures and storefronts
- Use lighting and signage to create drama and identity
- Be outfitted with quality materials that integrate with the terminal design.

North Terminal: The North Terminal has four phases with the first phase, Zone D, having opened in May 2004 and with the next three phases opening at various stages with final completion 2011. The North Terminal will include Zones A,B,C and D.

Central Terminal: The Central Terminal includes Concourses E, F, and G. The Retail and Food & Beverage concessions include 38 stores in approximately 73,000 square feet in a landside retail program,

South Terminal: The South Terminal includes about 40,000 square feet of new concession space, in the existing H Concourse and the new J Concourse.

Miami International Airport had approximately 17.8 million domestic passengers and 14.7 million passengers in 2006.

III. GETTING STARTED AT MIA

While it is exciting and fun to work at Miami International Airport, there are some differences from working in other retail environments. This section will address some of those differences and some of the actions necessary because of those differences. We will guide you through some of the processes needed to get your employees, started working with us at MIA.

People Concerns – Before Beginning Employment

1. Employee Parking

A. Availability

The airport employee parking lot is available to employees of companies that lease space in the terminal building and have been authorized by the Aviation Department to utilize the employee parking facility. Employees may park in the employee parking lot only while on duty at the MIA terminal building.

B. Location and Transportation

The employee parking lot is located approximately 1 ½ miles southeast of the main terminal building. It can be accessed through LeJeune Road at N.W. 14th St. or through Perimeter Road at 15th Street. Shuttle buses provide 24-hour transportation to and from designated locations on the departure level of the terminal building with approximate headways of 5 minutes during peak times and 15 minutes during non-peak times.

C. Parking Decal Information

Employee parking decals are issued in 4, 8, or 12-month increments. Companies that will be paying for employee parking decals can establish an account and be invoiced monthly by contacting the Finance Division. Employees can pay for their parking at the Decal Section. The Decal Section is located on the ground floor of the Dolphin Garage, and is open Monday-Friday except holidays from 8:00 a.m. to 5:00 p.m. Contact the Decal Section for current employee parking rates. To register your company and establish authorized requestors for your company, please obtain sample letters from the Decal Section (tel. number: 305- 876-7567).

D. Parking Lot Safety and Security

- Access to the employee parking lot is restricted to vehicles with a valid employee parking decal and employees with valid MIA identification badges or airport authorized company identification badges. Family members/friends traveling in the same vehicle will be denied entry to the lot if they do not have a valid MIA or company I.D.
- Employees must have a valid MIA or airport approved company identification badge to ride the employee shuttle bus between the employee parking lot and the terminal building. Family members/friends are not allowed to ride the employee shuttle bus.

- There are emergency telephones located at each bus shelter in the employee parking lot. These phones may be used to report personal safety issues or non-emergency situations such as the need for motorist assistance.

E. Abuse of Parking Privileges

- Employee parking decals must be permanently affixed on vehicle for which it was issued and can only be used by authorized employee.
- Parking in the employee parking lot is a privilege and may be revoked at any time for failure to comply with established procedures.

2. Badging

The Concessionaire shall be subject to all Departmental requirements and FAA mandates pertaining to the issuance of airport identification badges, including, but not limited to employee completion of SIDA training conducted by the Department and background checks, as required by the FAA Unescorted Access Privilege Rule. The Concessionaire shall pay, or cause to be paid, to the Department such nondiscriminatory charges, as may be established from time to time, for lost or stolen ID badges and those not returned to the Aviation Department. The Concessionaire will be required to conduct background investigations and to furnish certain data on such employees before the issuance of such ID badges, which data may include the fingerprinting of employee applicants for such badges.

All airport employees working need to be badged before work commences. Our badging office is located on the sixth floor of the former heliport facility adjacent to the Dolphin and Flamingo Parking Garage. It is **generally** open during business hours to accommodate users.

Badges must be displayed at all times. All airside employees must participate in additional training for this access.

The badging section has its own rules and regulations with which the concessionaire must become familiar.

3. Hiring New Employees

From time to time the Department assists concessionaires with their hiring by organizing a job fair. Contact the Employees Relations Department for more information about this opportunity.

The Concessionaire should familiarize itself with the Agreement for any required staffing levels prior to concluding hiring processes.

4. Employee Orientation

All airport employees (including Concessionaires) will need to be scheduled for an employee orientation with the Airport to receive SIDA training and customer service training (which is included in the orientation time). Please allow 90 minutes for this training, which must be accomplished prior to the employee beginning work at the Airport.

B. Other

1. Setting up Utilities

The cost of all utilities used or consumed on the Premises shall be borne by the Concessionaire. Unless the Premises are provided with separate electric, gas, and/or water meters, the Concessionaire agrees to pay for the utilities on the Premises 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 meters for utilities used at the Concessionaire's expense. See your Agreement for further detail on payment to MDAD for utility charges.

Other utilities used by the Concessionaire including telephones and telephone service hook-up, data lines and additional electrical and communications services are to be arranged for and paid by the Concessionaire. The Airport provides these type of services through its Information Technology Shared Tenant Services.

2. Use of Wireless Technologies

Any approval by the Department and subsequent installation by any Concessionaire, of a wireless network would be granted only with the explicit understanding that the Concessionaire agrees that the system be transitioned over to any future network once installed. Note that any and all costs, both one time and recurring, to be incurred as a result of the required transition to any future network shall be the responsibility of the concessionaire.

3. Banking Procedures

The bank is located on the fourth level of Concourses A and is equipped with a night depository, which is available to on-site Concessionaires. To arrange for depository services, the Concessionaire should contact the Bank to discuss procedures and fees.

It is critical that Concessionaires implement a policy and provide professional guidance for cash handling, ensuring that those staff members tasked with making deposits do so in the safest manner possible.

Concessionaires are responsible for arranging procedures to ensure that all stores have the appropriate amount of change on hand.

4. Hours of Operation

All units have specific hours set that the unit is to be open and serving the public. On site personnel are responsible for knowing what their store operating hours stipulate. In some cases, depending on airline schedules caused by weather or other delays, the store may be required to stay open beyond required hours. Procedures need to be in place to keep the store open and operating during such events.

The store must have all products and services available the moment it opens. This means, for example, that the coffee must be prepared and ready to serve prior to the actual opening time the store must also keep all products available up until the time the store officially closes. It is not acceptable for store employees to begin to remove product and clean the store until the actual closing time of the store.

IV. STANDARD AIRPORT PROCEDURES

A. Improvements to Premises

1. Conditions for Permits

Airport businesses must comply with their contractual requirement to obtain the written consent of MDAD to carry out any alterations to MDAD property. This includes what might be constructed as "minor" additions and deletions like an electrical outlet.

The permit process is designed to ensure that construction is compatible with present and future airport facilities, responsibilities are appropriately assigned, ensure compliance with other jurisdictions' requirements, meet MDAD standards for design, and assist Concessionaires with the timely and safe completion of their projects.

2. Permit Application Procedure

Concessionaire must first contact MDAD's Commercial Operations Division with any plans for site improvements, alterations or construction for preliminary plan approval.

The design criteria manual for each terminal details the submittal requirements and permit process.

B. Storage

1. Designated Storage Areas

Concession storage space may be leased through MDAD Commercial Operations Division and is designated in the Agreement. These storage areas are provided for activities related to the Concessionaire's doing business at the airport including storage, display, overstock or office uses. MDAD will make every effort to satisfy individual concession storage needs, dependent on the availability of suitable space.

2. Unapproved Storage

Hazardous, combustible or flammable materials, and storage of merchandise outside or adjacent to Concessionaire's retail premises or storage area is not permitted. Storage of materials, products, or trash that blocks access to fire safety equipment, doors and other access points is also prohibited. Concessionaires that consistently abuse storage privileges will be noticed and required to clean premises or will be billed for all associated costs required to clean up or remove the unapproved materials attributed to their business.

3. Fire Safety in Storage Areas

Concessionaires using storage areas must be aware of these common storage problems and must correct them to ensure fire safety:

- Storage too close to sprinkler heads.
- Improper storage of trash, boxes, oily rags, etc. These items are better removed to disposal or recycling receptacles provided for Concessionaires.
- Improper storage of flammable and combustible liquids and aerosols.
- Blocking of exit-ways and fire equipment.

4. Damage to Storage Areas

Storage rooms and the access to those rooms are the property of MDAD. Concessionaires found to be consistently causing damage to MDAD property will be noticed and may be billed for repairs following review and discussion with MDAD as necessary.

C. Changes in Price and Product Offerings

1. Street Pricing

The Concessionaire shall not charge prices in excess of one hundred ten percent of Street Prices as defined in the Agreement. The Concessionaire will be required to submit examples of pricing periodically as indicated in the Lease Agreement. MDAD will monitor Concessionaire prices to ensure compliance.

Concessionaires are required to submit a detailed list of all services and items (and their corresponding prices) offered in their assigned premises.

Prior to adding new items or increasing prices, Concessionaires are required to inform the airport and to seek written approval from the Department.

2. Menu and Product Offerings

MDAD and the Concessionaire agrees to offer a set of products and services approved prior to the opening of the location.

Any sales by the Concessionaire of services, products, or items not specifically approved in its Agreement shall constitute a default. In the event of such default, the Concessionaire will discontinue the sale or service of the unapproved product immediately, upon written notice from the Department. Failure to discontinue such sales shall be grounds for termination of the Agreement.

To request that an additional product be sold, the Concessionaire must submit in writing for approval to the Commercial Operations Division the request inclusive of the product name and suggested price along with the required support for the establishment of the proposed price.

D. Terminal Maintenance and Operational Issues

1. Maintenance Services

MDAD's Facilities Division has, as its highest priorities, the repair and upkeep of the airfield, passenger service and common and public areas. While the concessionaire, as delineated in its lease, is responsible for maintaining its premises, MDAD is available to assist Concessionaires with other repairs and maintenance-related activities as much as manpower and work scheduling will allow. The Maintenance Department has established fees for these services, which will be billed directly to the Concessionaire.

2. Maintenance Responsibilities

A. MDAD Responsibilities

MDAD Maintenance Department is responsible for the maintenance, repair and upkeep of the following items found within the Concessionaire's premises:

- Exterior window cleaning on the airfield;
- Emergency spot lights;
- Broken lock or key in storefront rolling grill;
- Electrical system supplied to the store (Concessionaire responsibility begins at outlet);
- And HVAC system

B. Concessionaire Responsibilities

Concessionaires are expected to maintain their premises in good repair and keep them in a clean condition and orderly appearance. Concessionaires are responsible for any other

upkeep and repair within their leasehold, including but not limited to windows, both inside and out, flooring, spot lights; display case and spot and window lighting; carpet; fixtures, and any

equipment or custom made features of the premise. Concessionaires must also arrange for their own janitorial service.

Concessionaires also are responsible for their own extermination, which must be coordinated with the Airport

3. Contracting Maintenance Work

Concessionaires who desire maintenance work can do so by:

- Contracting with an outside vendor who is capable of completing the desired maintenance and repair to the satisfaction of MDAD and to the Concessionaire; or

- Contracting with MDAD Facilities Department for those items outside MDAD's regular maintenance responsibilities.

A. Contracting with Outside Vendor Services

Concessionaires may hire service providers such as housekeeping, extermination or telecommunications without prior MDAD approval.

However, prior to any work, a permit must be issued. Concessionaires must contact Commercial Operations to obtain the proper permit forms and approval to hire any contractor who may impact airport operations such as electricians, phone repair, plumbers, etc.

Vendor must meet or exceed the original materials and workmanship and conform to any federal, state or local regulations. All work shall be subject to inspection by MDAD.

B. Contracting with Airport Facilities

Contact the MDAD Facilities (305-876-7311) to request a work order. Requests made 24 hours in advance of need are appreciated. For non-emergency requests, allow a maximum turn-around time of two weeks. Concessions contracting with the Maintenance Division will be billed on an hourly basis for manpower and the cost of supplies.

When requesting maintenance services, Concessionaires should identify the item in need of attention and time frame for completion. Efforts will be made to meet the request in a timely manner, depending on the department's manpower level and workload. Concessionaires should limit their requests to the Maintenance Division for maintenance and repair only, and not for making improvements or involving new construction.

4. Emergency Maintenance

The Facilities Division will respond to emergencies as a priority. Concessionaire should make clear in its request to the dispatch that an emergency situation exists for immediate attention. Examples of emergency maintenance requests are broken water pipes or any other uncontrollable leakage, broken display window glass, inoperable entry gate, etc.

E. Delivery Procedures

1. Delivery Hours

Airport businesses may take deliveries of products, supplies, etc. from 7:00 A.M. to 8:00 P.M. MDAD reserves the right to schedule deliveries or institute a common warehouse system with a common logistics fee to support the system if it becomes necessary.

2. Terminal Side Delivery

2.A Deliveries Terminal Curbside

- Delivery hours are from 7:00 p.m. to 8:00 a.m.
- Landside staff will determine drop off locations to minimize disruption to traffic.
- All vehicles must be attended. This is a Transportation Security Administration (TSA) mandate.
- Drivers must be able to provide proper identification and manifest of deliveries.
- Vehicle is subject to search.
- Location and delivery times may be subject to change due to security or operational requirements.

b. Vehicle Identification for Delivery Zones

All vehicles utilizing the loading and delivery zones in front of the terminal as described above must be adequately marked with company name and/or logo on both sides of the vehicle.

Painted, exterior magnetic, or interior static cling plastic signs attached to the side windows are acceptable.

Signs should look professional done with minimum dimensions of 8 1/2" by 11".

c. Delivery Zone Parking Restrictions (Time)

Use of loading and delivery zones is restricted to thirty (30) minutes. If a vendor anticipates that they will be actively loading or unloading for more than 30 minutes, they must notify Landside Operations at 305-876-7441.

d. Delivery through Terminal Building

Efforts should be made to avoid using public areas of the terminal for large quantity deliveries during peak hours. If supplies must be transferred through the public portions of the terminal, these pickups/deliveries should be scheduled during non-peak aircraft arrival and departure times.

Common carriers such as Federal Express, UPS or Airborne Express are authorized to bring shipments directly to the units or storage area.

All Concessionaire delivery carts, utility carts and trash collection dumpsters are asked to adhere to the following specifications to avoid damage to the Airport:

- Revolving white rubber, non-marking corner bumpers on platforms or base of carts
- Full encircling rubber bumpers around lower platform base
- Handles, bag holders or other portion carts that can cause damage, are to be protected with 3" revolving, white rubber, non-marking bumpers.
- Base of all carts are to be made of tubular construction.
- 8" x 1.75" Semi-Pneumatic ball bearing wheels are to be used.

Concessionaires found using non-compliant delivery equipment may be barred from future deliveries until which time equipment has been modified or replaced.

e. Airfield Deliveries

1. General

All Concessionaires are bound by the rules set forth by MDAD for operating motor vehicles on the airport's Airside Operation Areas (AOA). The requirements below summarize those rules that are typically applicable to the Concessionaire but in no way are representative of all airfield rules.

Concessionaires requiring AOA deliveries must call Airside Operations at 305-876-7359 during business hours and after hours call the Senior Agent at 305-588-7094, a minimum of one business day prior to the delivery date you must provide with the requesting company's name, name of person calling, MDAD ID number, contact phone number, name of company making the delivery, AOA entry point and delivery destination. Once the delivery company is escorted to the delivery site, the Concessionaire is required to provide continuous escort of delivery personnel while in the Security Display Area (SIDA).

2. Construction

Construction contractors must physically report to the Airside Operations Office located at E-20 Ground Floor, a minimum of one business day prior to the delivery date and submit for approval the Construction Delivery Notification Form. Once the delivery is escorted to the construction site, the contractor is required to provide continuous escort of delivery personnel while in the SIDA area.

Delivery vehicles arriving at an MDAD Access Gate without MDAD approved advance notification will be denied access.

No motor vehicle shall be operated on the Airport except on roadways or areas designated for such purposes.

Motor vehicles and equipment operating on the AOA must have an official motor vehicle identification permit issued pursuant to Operational Directives of the Aviation Department. In addition, company identification must be conspicuously displayed on such motor vehicles and equipment.

Except as otherwise stated in this handbook or other rules and regulations provided to the Concessionaire, the laws of the State of Florida in regard to the operation of motor vehicles, including traffic regulation, are made applicable also to the operation of motor vehicles on the Airport.

f. AOA - Driver Training

Before any employee is permitted to operate a motor vehicle of any kind or type on the AOA, such employee must attend and successfully complete the AOA Driver Training Course conducted from time to time by the Aviation Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Aviation Department for any violation of AOA driving rules. The Concessionaire shall be responsible ensuring that all such vehicle operators possess current, valid, appropriate Florida driver's licenses.

F. Promotional Events and Public Relations Opportunities

1. Promotional Events

Concessionaires are encouraged to conduct promotional events. Concessionaires are limited to conducting promotional events within the limits of the lease premises unless otherwise approved in writing. Promotional events should be coordinated and approved by the Commercial Operations Division.

Clean up activities associated with any promotion, unless otherwise specified, are the responsibility of the concessionaire organizing the promotion.

Application to conduct promotional activities in the Terminal must be made in writing to Commercial Operations.

2. Public Relations Opportunities

MDAD recognizes the desire of concessionaires to disseminate press releases for marketing and public relations purposes. Prior to sending press releases out regarding particular MDAD unit events, promotions or news, the releases must be approved by MDAD.

MDAD will not copy edit the release, but may make recommendations. This procedure is intended as a means of keeping the appropriate departments aware of airport business activities and a coordination to ensure the varied business activities public relations' efforts are appropriately coordinated.

G. Customer Complaint/Comment Procedures

Concessionaires must make reasonable, respectful efforts to remedy problems and issues raised by Airport patrons. Concessionaire must answer in writing all written customer complaints within ten (10) calendar days after receipt thereof and furnish a copy of the complaint and said answer to the Commercial Operations within the ten-day period.

H. Airport Police

The Miami-Dade County Police Department, located on site, is responsible for the overall safety and security of the airport and is recognized by the State of Florida as officers of the law with jurisdiction over airport activities.

1. Criminal or Suspicious Activity

Concessionaires and their staff should use the following resources should they see or suspect illegal activity.

Concessionaires can call the Police Department at 305-876-7373 to report a crime in progress or other suspicious activity.

I. Concessions Security

1. Employee/Contractor Strike Activities

In the event that a Concessionaire's business anticipates a strike of its staff or of companies that service the Concessionaire, the Manager of Landside Operations must be contacted for specific guidelines for governing strike activities at MIA.

2. Store Security MDAD to Confirm

The Miami-Dade County Police Department routinely patrols the terminal building and individual concessions. Commercial Operations staff meets with concession managers, store owners and staff on a monthly basis to discuss current problems. This meeting should be used to communicate ideas and methods of improving security. Store managers with questions or concerns may contact Commercial Operations.

3. Prosecution of Shoplifters

To maintain a high level or security at the airport, Concessionaires are strongly encouraged to prosecute shoplifters and staff caught stealing by attending court sessions. If a Concessionaire catches a shoplifter or observes a theft, immediately call 305-876-7373. To curb this activity, attending court sessions are critical.

4. Reporting Incidents

Badged staff function as a second set of eyes and ears for Airport Security and the Miami-Dade County Police Department. If a crime or suspicious activity is witnessed, please call the Police Department at 305-876-7373.

5. Loitering

If the Concessionaire notices a problem with airport staff or other people unknown to the Concessionaire, please call the Police Department at 305-876-7373.

J. Emergencies

The Operations Control Room (OCR) emergency communication and dispatch functions for the airport's police, fire, airport operations and maintenance departments. For protective and emergency services call:

Police Emergency: 305-876-7373

Fire/Medical Emergency: 305-876-7070
Operations: 305-876-0125

1. Medical

MDAD Fire Department's fully-trained and equipped Emergency Medical Technicians (EMTS) are on duty twenty-four (24) hours per day to handle any and all medical emergencies, regardless of severity. For Fire and Medical emergency, call 305-876-7070. Patients are taken to nearest Hospital.

2. Fire

In case of fire, Concessionaires are asked to be familiar with, and to instruct new staff in, the following procedure.

1) Evacuate the area.

2) Call for Fire or Medical assistance at 305-876-7070.

3) Attempt to fight the fire with a portable fire extinguisher ONLY if:

   a. you have been trained in the use of a fire extinguisher;

   b. the Fire Department has already been notified; or

   c. you can do so without exposing yourself to injury or the possibility of becoming trapped by the fire.

The Fire Department conducts regular inspections of Concessionaire and concession premises including storage areas, the main terminal, all concourses and all MDAD owned buildings for the purpose of fire prevention and to ensure compliance with fire safety practices.

An inspection report will be issued containing information relating to issues of non-compliance and/or recommendations by the inspector, with a date of re-inspection to ensure that the required corrections have been completed.

a. Fire Safety Compliance

The Fire Department will work with Concessionaires to ensure compliance with fire safety practices and codes. More rigorous regulations may be set for specific Concessionaires through provisions in the Lease. Fines for non-compliance as a result of inspections could occur.

b. Suspected Fire Code Violations

If Concessionaire suspects a fire code problem or if there is a concern about fire safety, questions can be directed at the time of inspection, or by calling the Fire Department.

3. Other Reporting Concerns

It is in the best interest of all airport staff to ensure that MIA is a safe workplace and place to visit. All staff are required, therefore, to assist the DOA with safety by being proactive in reporting any incidents that might threaten the safety of MIA's staff or visitors. This may include the following:

- Spills
- Ceiling / roof leaks
- Roadway potholes
- Non-functioning elevators / escalators
- Buckled carpeting / flooring concerns
- Bare electrical wires
- Pests and birds in the terminal
- Unsafe construction activity

Call Operations Control Room (OCR) at 305-876-0385 to report these problems.

4. After Hours Activity

Concessionaires should notify Operations Control Room (OCR) at 305-876-0385, when Staff will be working in the store / office after normal operating hours. Some activities may need to be approved by MDAD, Security and/ or the airlines. Advance calls will prevent confusion.

5. Access to Premises

a. Keys and Locks Policy

MDAD controls all keying and re-keying of MDAD facilities excluding Concessionaire Leasehold areas. A licensed and bonded locksmith hired by MDAD does keying and lock repair through a work order request.

b. Grand Master Key Policy

The Grand Master (a key that will open all airport locks) is kept by 1) police under "break" glass, 2) each shift commander of the fire department, and 3) the licensed and bonded MDAD locksmith.

No access will be granted using the Grand Master key except under the following conditions:

a. Fire or fire emergency within the locked area (this does not include access for fire inspections, testing or other regulatory activity);

b. Life threatening policy emergency or active pursuit of known suspect;

c. Maintenance, when actively working on an authorized lock request; and

d. Other emergency conditions as authorized by the Airport Manager.

4. Locked Out Procedure

In the event a concession employee is "locked out", "locked in", "forgotten keys", "lost keys" or is not involved in any of the emergency events listed above, the Grand Master key will not be used to gain access to the premises. A new key must be authorized to cover this situation. Only an authorized representative of the concession can request additional keys to access the premises.

NOTE: Requests should not be forwarded to the Police for purposes of unlocking Concessionaire space in the case of "forgotten keys" or "locked out" events.

K. Trash Removal

1. Refuse Disposal

All concessions are required to handle, recycle or dispose of garbage, papers, or refuse or other material on the Airport in the receptacles provided for that specific type of recyclable or non-recyclable waste. MDAD is not responsible for concession's refuse. MDAD is responsible for the refuse disposal contract for the hauling of solid waste and recyclables away from the terminal building.

Concessionaires must cover trash containers in all areas. Concessionaires are not permitted to use a vehicle used for hauling trash, dirt or any other materials on the Airport unless the vehicle is constructed so as to prevent the contents from escaping.

Within the Concessionaire premises, Concessionaire must provide suitable waste receptacles for oily wastes, rags and other rubbish and trash. All waste is to be removed daily.

2. Designated Disposal Site

MDAD maintains a solid waste and disposal unit providing trash compactors and recycling bins at designated sites in the Terminal building. Refuse from store operations, deliveries and storage areas shall be contained in this area. No other areas shall be used. All such areas shall be kept clean and sanitary at all times.

Temporary storage or disposal of refuse in places other than the designated solid waste and recycling bins is not permitted. Dumping of boxes or other materials, particularly in or near storage rooms and access hallways, is considered a fire and safety infraction.

In the event of spillage of trash, grease or any material which may be unsightly or detrimental to the pavement, or which might cause a safety hazard, the Concessionaire is responsible for clean-up.

L. Airport Information Services

Information centers are located in the center of both the departure/ticketing and baggage claim levels of the terminal. Staffed hours are generally from 5:00 AM to 10:00 PM, Monday through Sunday.

M. Airport Paging

The Airport Paging Center pages individuals for the purpose of delivering messages or giving directions. Concessionaires can use the paging system to locate passengers who have left merchandise or belongings. Paging hours are available 24 hours daily and the center can be contacted at 305-876-7000.

N. Terminal Construction

1. Right to Develop Airport

Construction and alteration of the terminal building, concourses and roadways are ongoing to meet the demands of the traveling public. MDAD reserves the right to develop or improve the airport as it sees fit.

2. Inconveniences during Construction

During construction, remodeling, expansion, relocation, maintenance and repair of the airport Concessionaires should expect some inconveniences during the process including, but not limited to, noise, dust, vibration and changes in access. MDAD will take action necessary to ensure the safety and protection of concession staff and merchandise as it is able.

Should Concessionaires experience extraordinary, unworkable conditions related to construction, Concessionaire should contact Commercial Operations immediately. Commercial Operations will assist Concessionaire in its attempt to remedy the situation or minimize construction impact on the concession.

0. Required Monthly Meetings

The Concessionaire shall meet no less than monthly and regularly with the Department to discuss matters relating to its Agreement. In addition, at the Department's request, the

Concessionaire shall attend other meetings with the County, airlines and any other parties designated by the Department.

Concessionaires are also required participate in such safety, security and other training and instructional programs, as the Department or appropriate Federal agencies may time to time require.

V. KEY CONTACTS

AVIATION PROPERTIES DEPARTMENT		TELEPHONE NUMBER
ACCESS TO PREMISES	Superintendent, Aviation Maintenance	
BADGES	Ground Transportation Office	
CONFERENCE CENTER	Reservations and Information	305-871-4100
DELIVERIES	Airside/Superintendent Airfield Operations	305-876-0152
	Landside /Supervisor Parking Control	305-876-7024
POLICE	**Communications Center (24 Hours)**	**305-876-7373**
FIRE/MEDICAL	**EMERGENCY**	**305-876-7070**
FIRE SAFETY	Fire Inspection Section	**305-876-7070**
INFORMATION SERVICES	Information and Paging	305-876-7000 ext. 8
LEASEHOLD PREMISES	Property Manager	
MAINTENANCE	Maintenance Dispatch (24 Hours)	305-876-7311
PARKING	Manager, Parking Systems	305-876-7024
RENT, FEES, AND CHARGES	Aviation Finance Specialist	
SECURITY AND SAFETY	Chief	305-869-4247
SIGNAGE	Property Manager	305-876-0299
STORAGE	Property Manager	305-876-7753
TRASH/RECYCLING	Maintenance Coordinator	305-876-0923

EXHIBIT K
Scope of Services

The Concessionaire shall provide, install, operate, and maintain luggage wrapping and all other necessary/appurtenant machines ("Machines") for the provision of luggage services at MIA. The Concessionaire shall place luggage wrapping machines in strategically located areas throughout the Terminal Building. The Concessionaire must provide re-wrapping free of charge to passengers whose luggage has been opened and inspected by the TSA. The Machines shall be new and maintained in an operational condition and in service three hundred sixty-five (365) days a year. The Concessionaire shall not provide any other service except luggage wrapping at MIA, unless specifically permitted in writing.

TRANSITION PLAN

The Concessionaire will submit a Transition Plan including a timeline schedule to the Department, within twenty (20) days of the Date of Execution to ensure a smooth transition from the incumbent.

LOCATIONS

The Concessionaire shall operate Machines at those Locations referenced in Exhibit A of the Agreement, and as may be added/deleted or modified by the Department from time to time, and shall use and occupy those Locations solely for the purpose of operating luggage wrapping machines as described herein and for no other business or purpose whatsoever.

The anticipated number of Locations are as stated below:
Terminal Building – Second level – 19 Locations
Curbside Locations – Second level – 4 Locations

Additionally, there will be Locations allocated for the re-wrapping stations.

The Department shall approve a final plan for the Locations of all Machines. Changes cannot be made to the Locations without the written approval of the Department. The Concessionaire can propose different or new Locations to MDAD for review.

EQUIPMENT SPECIFICATIONS

The Department supports the use of recyclable plastic materials. The plastic used must be resilient; however, its use cannot impede or interfere with the operation of the baggage conveyor system operation. Luggage must not be compressed in a way to cause the luggage to deform and impede an easy handling of the same by the Airlines. Proposers must provide specifications as part of their proposal, which shall be reviewed by the Evaluation/Selection Committee as part of the Technical Information, on the type of Machines they will use.

- Machines shall meet all Federal, State and County codes, requirements and regulations.

- Requested maximum size of the Machines: 5' (feet) height (including any advertisement sign), 3' (feet) width and 6' (feet) depth. The Department may at its discretion consider machines that are of a different size.

- The information requested shall include all reporting functionalities and capabilities (e.g. paper trail, electronic monitoring, certification from Machine manufacturer that revenue calculating devices in the Machines are tamperproof, etc).

- The Machine shall be easy to relocate, and be able to operate with power or battery. The Machine shall be provided with an emergency button to bring the machine to stop in case of an emergency, as well as a mechanism to turn on/off the Machines by the Concessionaire.

- Machines with credit cards capabilities are permissible.

- Concessionaire may be required, at its own expense, to install protective devices against burglary or vandalism, and machines should be capable of accepting such protective devices.

- Machines will not have any cavities or openings in which to conceal weapons of any kind.

EQUIPMENT OPERATION

Luggage Wrapping Machines shall be used to wrap or enclose baggage/luggage in a plastic material for the purpose of protecting/sealing it against damage and vandalism. Use of straps, belts or cords is prohibited.

During the term of the Agreement, the Concessionaire will be required to demonstrate without notice the operational process at any given Location. The purpose is to demonstrate that the wrapping operation does not affect the current and future TSA technology nor interfere with TSA operations.

Machines shall be covered and stored at the Locations at all time whenever not in use, unless otherwise advised by the Department.

Any and all information the Concessionaire intends to place on Machines shall be submitted to the Department for approval prior to installation. Once the

Department approves the information to be displayed on the Machines, changes to this information cannot be made without written approval from the Department.

The Concessionaire must provide on-site staff during the week to inspect clean and maintain machines.

GENERAL MANAGER

The Concessionaire shall appoint a full time, experienced and properly trained General Manager, to represent and act on behalf of the Concessionaire 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.

STAFFING AND MAINTENANCE

The Concessionaire shall employ at all times a sufficient number of personnel necessary to assure prompt, courteous and efficient service. For more information refer to Exhibit L, "Standard of Operations" and Exhibit J "Tenant Handbook". Luggage wrapping staff and employees shall be properly trained and attired, and must wear company issued identification badges and the Airport Identification badge in accordance with MIA requirements. Personnel shall not engage in any "pressure-sales" or soliciting tactics for any services offered at MIA.

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, business like, efficient, courteous, and accommodating manner.

The Concessionaire may be required to present a waiver to TSA and have its employees working in the TSA areas to sign a liability release and/or other documentation required by TSA.

PRICING

A price sheet detailing proposed prices for all services must be submitted annually or whenever the Concessionaire would like to modify them. All prices and subsequent changes must be approved by the Department prior to implementation. Prices for the first year of operation must be submitted for approval prior to contract execution.

Prices must be visible on the Machines. A sample of the sign and sign holder needs to be submitted to the Department for approval prior to implementation.

UTILITIES

The cost of all utilities used or consumed in the Locations shall be borne by the Concessionaire. The Concessionaire 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 Concessionaire on actual usage measured by temporary meters, arranged and paid for by the Concessionaire.

Utilities including electric and telecommunications, as necessary, must be pulled by the Concessionaire from the nearest junction box in accordance with MDAD requirements.

SIGNAGE

Any and all signage must have prior approval from the Department and is subject to the terms and conditions of the Agreement. Moving or flashing signs are prohibited.

AMERICANS DISABILITY ACT REQUIREMENTS

Concessionaire shall comply with all ADA requirements in the operation of luggage wrapping.

FEDERAL AVIATION ADMINISTRATION/MIA OPERATIONS REQUIREMENTS

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

CONCESSIONAIRE PERFORMANCE

The Concessionaires 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 Lease and Concession Agreement.)

SECURITY REQUIREMENTS

The Concessionaire shall provide necessary security measures at the Locations to protect the customer and MDAD.

The Concessionaire must comply with all Security Directives and all regulations. Failure to carry out all Security Directives and regulations will result in termination of the Agreement.

The Concessionaire may be required to sign an affidavit with TSA attesting to its Agreement to be subject to any direct enforcement action taken by TSA against the Concessionaire or its employees and to accept and adhere to any amendment that may be subsequently implemented through the Airport's security program or aircraft/air carrier security program, prior to commencement of operations.

Additional security requirements which constitute conditions of award are specified in Appendix M, Section 3.1 and 5 below. Nothing contained in this Section shall limit the ability of the Department, County, State, or Federal Government to enforce any existing or future directive, policy, rule, regulation, law, or statute related to security against the Concessionaire. The Concessionaire agrees that it will comply with same at its sole cost and expense.

INSTALLATION MAINTENANCE

The Concessionaire shall be responsible for all permitting and installation requirements for any new dedicated electrical outlets; and for all maintenance and repairs associated with the Luggage Wrapping Machines, at the Concessionaire's sole cost and expense. The Concessionaire shall perform the installations pursuant to TAC-N procedures, Exhibit F. Electrical cords if used, must be covered and not create a tripping hazard or other safety hazard.

If the re wrapping services are performed in the TSA area, it is the Concessionaire's responsibility to install the electrical outlets and maintain and operate the Machines at all times.

REPORTING

The Concessionaire shall provide an electronic record of all transactions by Location and by Machine, for accounting and auditing purposes, on a monthly basis and also, upon request by the Department. The Machines must generate printed revenue reports as requested by the Department. The manufacturer of the Machine must provide a certificate verifying that the revenue mechanism creating the reports is tamperproof. Machines or any part of the Machines cannot be replaced without the written permission of the Department, and any replacement or parts of Machines shall at all times meet the requirement above. The Department reserves the right to inspect the Machines and to audit the Concessionaire on a random basis without notice to the Concessionaire and to oversee all collections made by Concessionaire from Machines. Any evidence of tampering may lead to termination of the Agreement. Only a certified company technician may have access to the Machine's accounting system and must notify the Department before servicing or repairing any part of the machine that produces access to the accounting system. A copy of the monthly transaction report or similar information will need to be submitted with the Concessionaire's monthly payment for verification.

Customer Service:

Any and all information the Concessionaire intends to place on Machines shall be submitted to the Department for approval prior to installation. Once the Department approves the information to be displayed on the Machines, changes to this information cannot be made without written approval from the Department. Staff interacting with customers must be able to communicate well in English and must be trained in customer service, quality assurance, sensitivity and awareness regarding individuals with disabilities.

NOT APPLICABLE AT THE TIME OF THE LEASE AND SOME INFO ALREADY IN THE LEASE

EXHIBIT L
STANDARDS OF OPERATION

I. OPERATING REQUIREMENTS:

The Concessionaire shall comply with the Department's, **"Tenant Handbook" Exhibit K** and the **"Terminal Standards Manual"** (www.miami-airport.com), which may be amended from time to time, and the Concessionaire further agrees that its operation under the 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. The Department shall have the right, in accordance with the provisions of the Lease and Concession Agreement, to make reasonable objections to the quality of the equipment, the character of the service rendered to the public, the price charged, and the appearance and condition of the luggage wrapping machines and locations. The Concessionaire agrees to promptly discontinue or remedy any objectionable practice.

The Concessionaire shall maintain adequate personnel to provide quality service. Employees shall be courteous and helpful to the public. Employees, interacting with the public, must be able to speak English and Spanish.

The Concessionaire shall provide all necessary equipment as further described in the Agreement.

In addition, the Concessionaire understands and agrees that its operation at the Airport necessitates, at a minimum, the rendering of the following services:

A. Conduct of Operations:

1. Concessionaire shall not affix or maintain upon the glass panes or supports of the show windows, doors and the exterior walls of the locations, or any place within the locations if intended to be seen from the exterior of the locations, any signs, advertising placards, names, insignia, trademarks, descriptive material or any other such like item or items. The Department shall have the right, without giving prior notice to Concessionaire and without any liability for damages to the locations reasonably caused thereby, to remove any of same from the locations, except such as shall have first received written approval of the Department as to size, type, color, location, copy, nature and display qualities.
2. No awning or other projection shall be attached to the outside walls of the locations or the terminal building without the prior written consent of the Department.
3. All loading and unloading of goods shall be done only at such times, in the areas and through the entrances designated for such purposes by the Department. The Concessionaire may be required to utilize the services of a delivery /distribution company selected by the Department, if the program is so implemented.
4. All garbage and refuse shall be kept in the appropriate containers so as to minimize the spillage of such garbage and refuse.

5. No radio or television antenna shall be erected on the roof or exterior walls of the locations without the prior written consent of the Department. Any such aerial shall be subject to removal without notice at any time, and any damage to the walls or roof caused by such removal shall be the responsibility of the Concessionaire
6. No loudspeakers, televisions, radios, flashing lights or other devices shall be used in a manner so as to be heard or seen outside the locations without the prior written consent of the Department.
7. The outside areas immediately adjoining the locations shall be kept clear at all times by Concessionaire, and Concessionaire shall not place any obstructions, garbage, refuse, merchandise or displays in such areas.
8. Concessionaire, its employees, or its agents, shall not solicit business in any of the common areas, nor shall Concessionaire, its employees or its agents, distribute any handbills or any other advertising matter in common areas of the Terminal or in any of the related parking facilities.
9. Concessionaire shall not carry on any trade or occupation or operate any instrument or apparatus or equipment which emits an odor or causes a noise discernible outside the locations and which may be deemed offensive in nature.
10. Concessionaire shall operate on a seven days a week basis, with sufficient personnel to render a high quality of service. Hours of operations should be compatible with Airlines hours of operation to ensure customer service.
11. Concessionaire agrees that it shall obtain prior written approval from the Department in all of the following matters:
    i. Methods and hours of operation.
    ii. Uniforms to be used by employees, including nametags and Airport's ID badges.
12. The Concessionaire shall properly control the actions of its employees at all times while said employees are working on the Airport, ensuring that they present a neat appearance and discharge their duties in a courteous and efficient manner and that they maintain a high standard of service to the public.

B. Property Management:

The Concessionaire will perform the following duties, subject to the terms, conditions, limitations and all other provisions of this Agreement:

1. Function as operations liaison between the Department, governmental agencies and/or others.

2. Ensure Customer Service Program compliance. High quality customer service is the cornerstone to an effective sales program. The Concessionaire is required to submit customer service program within thirty (30) days of the Lease Effective Date of the Agreement for MDAD review and approval.

3. The Concessionaire shall cause (i) cooperation in the testing of pressure, water flow and other appropriate tests of the fire extinguishing systems and apparatus located within the support space from time to time and as often as reasonably

required by the Department, and if requested by the Department, furnish the County with copies of written reports of such tests; (ii) keep in proposer functioning order all fire fighting equipment and at all times maintain adequate stocks of fresh, suitable chemicals for use in such system and apparatus; (iii) notify the Department prior to conducting such tests; (iv) monitor and enforce compliance with all firefighting and other health and safety equipment and systems, and any related licenses, certificates and inspections.

4. Direct, coordinate and monitor procedures and practices for deliveries of materials and equipment, to and from the locations, as well as the collection and disposal of all waste and refuse related to the locations.

D. Special Services

1. Monitoring Services: The Department shall have the right, without limitation, to monitor and test the quality of services of the Concessionaire, but shall not be required to do so. This monitoring shall include, but not be limited to, personnel, product quality, service, and assistance; through the use of shopping services, closed circuit T.V. and other reasonable means.

2. Prohibited Items/Shipping Services: The Transportation Security Administration (TSA) has instituted a security measure that prevents certain items from entering the Airport's sterile areas or post-security checkpoints.

The Department will provide a list of those items, which may change from time to time, to the Concessionaire as depicted on Exhibit J "Prohibited Items List" and upon receipt the Concessionaire shall acknowledge receipt of said Exhibit J "Prohibited Items List".

E. Security:

1. Security: The Concessionaire acknowledges and accepts full responsibility for the security and protection of the locations, any improvements thereon, its equipment and property on the Airport, and control of access to the Air Operations Area ("AOA") through the locations by persons and vehicles. The Concessionaire fully understands and acknowledges that any security measures deemed necessary by the Concessionaire for the protection of said locations, equipment and property and access to the AOA through the locations shall be the sole responsibility of the Concessionaire and shall involve no cost to the County.

2. Security Identification Display Areas Access - Identification Badges: The Concessionaire shall be subject to all Departmental requirements and FAA mandates pertaining to the issuance of airport identification badges. Including, but not limited to employee completion of SIDA training conducted by the Department and extensive background checks, as required by the FAA Unescorted Access Privilege Rule. The Concessionaire shall pay, or cause to be paid, to the Department such nondiscriminatory charges, as may be

established from time to time, for lost or stolen ID badges and those not returned to the Department in accordance with this covenant. The Department shall have the right to require the Concessionaire to conduct extensive background investigations and to furnish certain data on such employees before the issuance of such ID badges, which data may include the fingerprinting of employee applicants for such badges. Furthermore, for those employees that will be performing their duties around or in the TSA areas, a TSA and Custom and Border Protection ("CBP") background check will be performed to secure the issuance of an Airport ID badge or any another determined seal to access the TSA areas.

3. AOA - Driver Training: Before the Concessionaire shall permit any employee to operate a motor vehicle of any kind or type on the AOA, the Concessionaire shall require such employee to attend and successfully completed the AOA Driver Training Course conducted from time to time by the Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department for any violation of AOA driving rules. Notwithstanding the above, the Concessionaire shall be responsible ensuring that all such vehicle operators possess current, valid, appropriate Florida driver's licenses.

4. Alcohol and Drug Testing: The Concessionaire acknowledges that the County, as a public agency, sponsors under the provisions of the Airport and Airway Improvement Act of 1982, as amended (the "Act"), has the obligation to establish a drug free workplace and to establish policies and programs to ensure airport safety and security. The Concessionaire acknowledges that Department, on behalf of the County, has the right to require users of the Airport (Concessionaires, Permittees, Licensees, etc.) To establish reasonable programs to further the achievement of the objectives described herein. Accordingly, the Concessionaire shall establish programs for pre-employment alcohol and drug screening for all candidates for employment at the Airport who will as a part of their duties (a) be present on the AOA; (b) operate a motor vehicle of any type on the AOA; or (c) operate any equipment, motorized or not, on the AOA and for the same or similar screening based upon a reasonable suspicion that an employee, while on duty on the AOA, may be under the influence of alcohol or drugs. Notwithstanding the above, the Concessionaire specifically acknowledges that the County, acting through the Department, has the right and obligation to deny access to the AOA and to withdraw AOA driving privileges from any person who it has a reasonable suspicion to believe is under the influence of alcohol or drugs.

5. Special Programs: The Concessionaire shall ensure that all employees so required participate in such safety, security and other training and instructional programs, as the Department or appropriate Federal agencies may time to time require.

6. Vehicle Permit and Company Identification: Motor vehicles and equipment of the Concessionaire operating on the AOA must have an official motor vehicle identification permit issued pursuant to Operational Directives of the

Department. In addition, company identification must be conspicuously displayed on such motor vehicles and equipment.

7. Federal Agencies Right to Consent: The Concessionaire understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies. Persons not approved or consented to by the Federal Inspection Services shall not be employed by the Concessionaire in areas under the jurisdiction or control of such federal inspection agencies.

8. AOA - Right to Search: The Concessionaire agrees that its vehicles, cargo, goods and other personal property are subject to being searched when attempting to enter or leave and while on the AOA. The Concessionaire further agrees that is shall not authorize any employee or agent to enter the AOA unless and until such employee or agent has executed a written consent-to-search form acceptable to the Department. Persons not executing such consent-to-search form shall not be employed by the Concessionaire at the Airport, in any job requiring access to the AOA.

It is further agreed that the Department has the right to prohibit an individual, agent or employee of the Concessionaire from entering the AOA based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage or other unlawful activities. Any person denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a hearing before the Director of the Department of his authorized designee within a reasonable time. Prior to such hearing, the person denied access to the AOA shall be advised, in writing, of the reasons for such denial.

The Concessionaire acknowledges and understands that these provisions are for the protection of all users of the AOA and is intended to reduce the incidence of thefts, cargo tampering, aircraft sabotage and other activities at the Airport.

II. PRICING POLICY

1. Price Increases: The Concessionaire shall receive written approval from the Department to increase the rental price, and any such request must be accompanied by a price survey. The Department reserves the right to verify price prior to approval. Prices may be checked periodically to assure compliance with this policy.

2. Marketing: The Concessionaire may be responsible for implementing a marketing plan for their luggage wrapping concession program.

III. MANAGEMENT AND PERSONNEL:

A. Management:

1. Personnel: The Concessionaire shall maintain a full time professional staff during the term of this Agreement of sufficient size, expertise and experience to manage the operations and to serve as a liaison with the Department.

2. General Manager: The Concessionaire shall employ, at no cost to the Department, a full time, dedicated, on-site General Manager experienced in management and supervision who has sufficient authority and responsibility to administer and manage the luggage cart program under this Agreement. The General Manager (or his/her authorized representative) shall be immediately available, the base of operations of the General Manager shall be at the Airport, and the General Manager shall spend substantially all of his working hours at the Airport. In those cases where the General Manager is scheduled to be absent from the post for a period greater than forty-eight (48) consecutive hours, a substitute General Manager must be appointed from the existing staff, and the Department notified in writing.

   The Department reserves the right to require Concessionaire to remove and replace any General Manager or Assistant who, in the opinion of the Department, does not perform up to the standards consistent with the fulfillment of Concessionaire's obligations under this Agreement.

   Management Responsibilities: In its capacity as the Concessionaire under this Agreement, and not as an agent of the Department, Concessionaire shall manage the locations in accordance with this Agreement, in furtherance of which Concessionaire shall, among other things, (i) use reasonable efforts to remedy problems and issues raised by Airport patrons with respect to the operation of the locations, (ii) answer in writing all written customer complaints within ten (10) calendar days after receipt thereof and furnish a copy of the complaint and said answer to the Department within said ten (10) calendar day period; and (iii) promptly furnish the Department with copies of all written notices received by Concessionaire from any governmental authority with respect to the locations.

B. Administrative Functions:

1. The Concessionaire shall provide quality control audits and reports covering compliance with contract requirements, cleanliness of the facility, timeliness of service and quality of the product. (MDAD will establish its own rules and regulations that are subject to its unilateral revision and implementation).

2. The Concessionaire shall generate monthly reports to MDAD, including sales by location; shall develop annual revenue projections by month and by location to be updated on a regular basis.

3. Generate monthly airport revenue reports, DBE Monthly Utilization Reports and such other financial and management reports as are usual and customary concession management programs. Prepare other reports and analyses as may be requested periodically by MDAD including number of transactions per period, average transaction value and sales per location.

4. Maintain computerized records on a management software program acceptable to MDAD. Programs and all data collected should be available to the Department on-line (digital and electronic).

5. Respond to customer/passenger complaints on behalf of MDAD.

6. Implement any new policies and procedures as directed by MDAD.

7. Ensure payment to MDAD to include all required reports. The Concessionaire is prohibited from waiving any right to receive rents, fees, charges, or other revenues that may be paid without the prior written consent of MDAD, and will similarly be prohibited from granting any rent abatements, extensions, or other modifications without such prior written consent.

8. Coordinate and maintain general oversight of deliveries of materials and equipment from designated on or off-airport storage areas for the locations and support space.

9. Develop, maintain and make available if requested, files to include copies of licenses, permits, insurance certificates, letters of credit, annual DBE certification and correspondence.

C. Training:

The Concessionaire shall submit a copy of its employee Customer Service Training Program within thirty (30) calendar days of the Effective Date of this Agreement. In addition, the Concessionaire shall annually hereafter establish a training program for its employees shall submit a summary report of the training areas covered and the number of participants in the following areas:

1. Customer service
   a. Greeting/approaching customers
   b. Answering questions
   c. Complaints resolution
   d. Establishing priorities
   e. Handling emergencies

2. Operations

a. Hours of operations
b. Inventory
c. Conducting and reporting transactions
d. Management structure
e. Hierarchy of decision-making
f. Attire/appearance standards

D. Staffing:

The Concessionaire shall ensure that passengers are provided the highest level of customer service. Adequate staffing levels must be maintained at all times. Peak passenger activity, the nature of the retail operation, and customers' needs shall be taken into account in determining these staffing levels. The level of staffing shall encompass employees, as well as managers and support staff, as appropriate to the operation.

Employee uniforms and nametags will be required in MIA retail operations. All employees are required to wear a uniform in the course of business, the uniform's design, color and overall appearance should be tasteful and in keeping with the theme of the particular type of operation.

The Concessionaire and its employees may receive Security Sensitive Information (SSI) from the Department or other security related agencies for which they have the responsibility to protect and safeguard. Such information should not be disseminated. Failure to do so the Concessionaire and/or its employees may be fined.

The Concessionaire and its employees must remove the wrapping from the luggage prior to re- inspection and deliver it to the TSA personnel on their working station. Upon re-inspection completion, the Concessionaire shall assist the re-wrapping of the luggage and place it on the conveyor belt as indicated by the TSA personnel.

The Concessionaire and its employees must control and monitor the luggage during the re-wrapping process, must not alter or remove any identification associated with such luggage and ensure the luggage is released to the TSA operator without any external influence.

The Concessionaire and its employees must not interfere with TSA personnel or any of their security procedures during the inspection of luggage and just release the same to TSA personnel.

TSA may, at any times amend or add new requirements due to emergent or changing circumstances and the Concessionaire will abide by the amendments or additional requirements.

E. Meetings:

The Concessionaire shall meet regularly with the Department to discuss matters relating to this Agreement. In addition, at the Department's request, the Concessionaire shall attend other meetings with the County, airlines and any other parties designated by the Department.