Memorandum

MIAMI-DADE COUNTY

Date: July 20, 2010

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

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

From: Carlos Alvarez
Mayor

George M. Burgess
County Manager

Subject: Third Amendment to Baggage Wrap Services Concession Agreement between Miami-Dade County and Secure Wrap of Miami, Inc.

RECOMMENDATION

It is recommended that the Board approve the attached Third Amendment to the Baggage Wrap Services Concession Agreement between Miami-Dade County and Secure Wrap of Miami, Inc. (Secure Wrap), at Miami International Airport (MIA), extending the term of the agreement on a month-to-month basis not to exceed four (4) months, to begin on August 22, 2010 and increasing the Monthly Percentage Fee to twenty-two (22%) percent and the Minimum Annual Guarantee (MAG) to $2 million.

It is further recommended that the Board authorize the Mayor or the Mayor's designee to execute the Amendment and exercise any termination provisions therein, and approve a waiver of County competitive bid procedures in accordance with Section 5.03(D) of the Home Rule Charter and Section 2-8.1 of the County Code, as being in the best interest of the County.

SCOPE

MIA is located primarily within Commissioner Rebeca Sosa's District Six; however the impact of this item is countywide as the airport is a regional asset.

FISCAL IMPACT/FUNDING SOURCE

There is no negative impact on current or future County budgets resulting from this amendment. This contract generates approximately $8,000,000 in annual gross revenues to the Aviation Department (based on sales for FY 08-09). This third amendment increase the monthly percentage fee to twenty-two (22%) percent of the monthly gross revenues from the current 20%, with a MAG of $2 million commencing on August 22, 2010.

TRACK RECORD/MONITOR

Secure Wrap has been satisfactorily providing this service at MIA since the inception of the original agreement on August 22, 2001. MDAD Chief of Business Development & Retention Adrian Songer is responsible for monitoring this project.

BACKGROUND

Pursuant to Resolution No. R-100-01, the Board awarded a concession agreement to Secure Wrap to operate the baggage wrap services at MIA, as of August 22, 2001, for a three-year term with the rights of the County to extend it for four separate terms of one year each.

Less than one month after commencement of its operations, Secure Wrap was prevented from operating following the tragedy of September 11, 2001. It was only after several months that the Transportation Security Administration (TSA) allowed them to start the wrapping operation again. MDAD subsequently concluded that Secure Wrap's business had been heavily impacted by TSA's implementation of security measures at MIA. It was therefore recommended to extend the agreement

for one (1) five-year term, rather than four (4) one-year term renewals, to allow the operator to recoup the lost revenue. Additionally, in an effort to address the changed market and business environment, MDAD recommended the payment terms be modified to a sliding scale percentage fee ranging from 9% to 20% of gross revenues. This First Amendment was approved by the Board pursuant to Resolution No. R-1220-04, extending the agreement through August 20, 2009.

On June 11, 2009, the Airport and Seaport Committee (ASC) authorized MDAD to seek temporary extension of the agreement on a month-to-month basis as of August 22, 2009, to allow time for the County to complete the new solicitation process and award a new agreement. MDAD was also provided time to negotiate a higher monthly fee with Secure Wrap as part of the Second Amendment. The results of those negotiations were presented to the Board on November 3, 2009, when, pursuant to Resolution No. 1232-09, the Board authorized a retroactive Second Amendment to the Agreement with Secure Wrap. The Second Amendment provided a month-to-month extension to the Agreement for one (1) year, and modified the sliding scale percentage fee approved under the First Amendment to a straight twenty (20%) percent of the monthly gross revenues. That Second Amendment expires on August 21, 2010.

On June 1, 2010, an award recommendation was issued and subsequently a protest was filed delaying the award of the new contract. MDAD is awaiting the Hearing Examiner's ruling, expected in July 2010. In order to provide the new contractor time to set up operations and to avoid any service interruptions, approval of this Third Amendment extending the term of the Agreement, on a month-to-month basis not to exceed four (4) months, is recommended. MDAD and Secure Wrap have agreed to increase the monthly percentage fee to twenty-two (22%) percent of the monthly gross revenues, with a MAG of $2 million as of August 22, 2010. Given the impending expiration of August 21, 2010, and the delay resulting from a bid protest of the new contract award, it is recommended to maintain the Agreement until the new solicitation is awarded.

PROJECT:	Third Amendment to Concession Agreement for Baggage Wrap Services at MIA
PROJECT NO.	N/A
USING AGENCY:	Miami-Dade Aviation Department
COMPANY NAME:	Secure Wrap of Miami, Inc.
COMPANY PRINCIPAL(S):	Radames Villalon, President Enrique A. Ramos, Vice-President
LOCATION OF COMPANY:	4050 NW 29th Street Miami, Florida 33142
YEARS IN BUSINESS:	15 years
CONTRACT MEASURES:	No measure was required by the agreement. However, Secure Wrap, a Disadvantaged Business Enterprise (DBE - Certification No. 4157, expires May 31, 2012), has adopted a mentoring program for Hannah Wrap, Inc., a local certified Micro/SBE.

PREVIOUS AGREEMENTS WITH THE COUNTY WITHIN THE PAST FIVE (5) YEARS: Baggage Wrap Services Concession Agreement at MIA

RECOMMENDED MODIFICATION: Extend the term of the Agreement on a month-to-month basis not to exceed four (4) months, to begin on August 22, 2010, and to increase the monthly percentage fee to twenty-two (22%) percent of the monthly gross revenues, and the MAG to $2 million commencing on August 22, 2010.

LIVING WAGE: N/A

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: July 20, 2010

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

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

Please note any items checked.

_____ **"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**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

✓ **No committee review**

✓ **Applicable legislation requires more than a majority vote (i.e., 2/3's ✓, 3/5's ____, unanimous_____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(A)
7-20-10

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THIRD AMENDMENT TO BAGGAGE WRAP SERVICES CONCESSION AGREEMENT BETWEEN MIAMI-DADE COUNTY, FLORIDA AND SECURE WRAP OF MIAMI, INC. AT MIAMI INTERNATIONAL AIRPORT; AUTHORIZING WAIVER OF COMPETITIVE BID PROCEDURES; AND AUTHORIZING COUNTY MAYOR OR DESIGNEE TO EXECUTE THIRD AMENDMENT AND TO EXERCISE ALL OTHER RIGHTS INCLUDING CANCELLATION PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to meet this need and accomplish the purposes outlined in the accompanying memorandum and documents, which are incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board authorizes: (i) execution of the Third Amendment for the operation of the Baggage Wrap Services at Miami International Airport ("MIA") between Miami-Dade County, Florida ("County") and Secure Wrap of Miami, Inc. ("Operator"), which extends the current agreement on a month-to-month basis not exceeding four (4) months, commencing August 22, 2010 and increases the Monthly Percentage Fee to twenty-two (22%) and the Minimum Annual Guarantee (MAG) to $2 (two) million, (ii) waiver of competitive bid procedures upon the written recommendation of the County Mayor or designee pursuant to Section 5.03(D) of the Home Rule Charter and Section 2-8-1 of the County Code by a two-thirds (2/3s) vote of the Board members present, (iii) the County Mayor or designee to execute the Third Amendment; and (iv) the County Mayor or designee to exercise or enforce any provision of the Third Amendment during said extension, including cancellation provisions contained therein.

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 20th day of July, 2010. 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. CAL

Cynji A. Lee

THIRD AMENDMENT TO BAGGAGE WRAP SERVICES CONCESSION AGREEMENT BETWEEN MIAMI-DADE COUNTY, FLORIDA AND SECURE WRAP OF MIAMI, INC.

This Third Amendment to the Baggage Wrap Services Concession Agreement at Miami International Airport ("MIA") entered into this _____ day of 2010, by and between Miami-Dade County (the "County"), a political subdivision of the State of Florida, and Secure Wrap of Miami Inc. (the "Operator" or "Secure Wrap").

WITNESSETH:

WHEREAS by Resolution No. R-100-01, the Board of County Commissioners of Miami-Dade County, Florida (the "Board"), authorized an agreement between the parties for the Baggage Wrap Services Agreement, Concession Agreement ("the Agreement") at MIA between Miami-Dade County, Florida and Secure Wrap of Miami, Inc., to install, maintain and operate baggage wrap equipment at MIA; and

WHEREAS on October 19, 2004, the Board, pursuant to Resolution No. 1220-04, authorized a first amendment to the Agreement with Secure Wrap, for the operation of the Baggage Wrap Services Concessions at MIA (the "First Amendment"), to provide an extension to the Agreement, and which First Amendment expires on August 21, 2009, and

WHEREAS, the Miami International Airport's Retail Ordinance provides authority for extension of this concession on a month to month basis, as needed to avoid disruptions to passenger services; and

WHEREAS, without provision of this service, the traveling public will not be provided with the protections they want and demand when transporting baggage; and

WHEREAS, on June 11, 2009 during the discussion of Agenda Item No. 3F the Airport and Seaport Committee, by motion, authorized the Mayor or his designee to extend the Agreement on a month to month basis commencing on August 22, 2009, to allow sufficient time for the County to complete (i) the solicitation process, and (ii) the award of a new agreement; and

WHEREAS, on November 3, 2009, the Board, pursuant to Resolution No. 1232-09, authorized a retroactive second amendment to the Agreement with Secure Wrap, for the operation of the Baggage Wrap Services Concessions at MIA (the "Second Amendment"), to provide an extension to the Agreement, and which Second Amendment expires on August 21, 2010, and

WHEREAS, Secure Wrap has agreed to extend the Agreement on a month to month basis, not to exceed four (4) months, and to increase the Monthly Percentage Fee amount to twenty-two (22%) percent of the Monthly Gross Revenues, commencing on August 22, 2010,

WHEREAS, Secure Wrap has agreed to extend the Agreement on a month to month basis, until the new solicitation is awarded, commencing on August 22, 2010, and

WHEREAS, the County Manager has recommended a successor firm for award, and this Third Amendment is required to finalize the award process, and

NOW, THEREFORE, in consideration of the premises contained herein, the parties hereto agree to the following modifications to the Agreement as follows:

1. In Article 1 entitled "Term", Sub-Article 1.02 entitled "Extensions", insert the last paragraph:

   Following the expiration of the Agreement on August 21, 2010, the Department retains the right to extend this Agreement on a month to month basis, not to exceed four (4) months. This Agreement shall be automatically renewed each month unless the Department, during any one (1) month extension period, advises the Operator of no further subsequent extension periods by written notice of termination delivered to the Operator at least thirty (30) days prior to the effective date of the intended termination.

2. Article 3 entitled "Payments", Sub-Article 3.04 "Minimum Annual Guarantee" and Sub-Article 3.03 "Monthly Percentage Fee", should be replaced in its entirety as follows:

   3.03 "Monthly Percentage Fee"
   As consideration for the privileges granted the Operator herein to engage in business at the Airport and not as payment for the use and occupancy of any property, effective August 22, 2010, the Operator shall pay to the County effective August 22, 2010, the amount by which a Monthly Percentage Fee of twenty-two (22%) percent of the Monthly Gross Revenues exceeds the sum of the Minimum Monthly Guarantee. Such payment shall be made in U.S. funds, by the tenth (10th) day of the month following the month during which the Monthly Gross Revenues were received or accrued.

   3.04 "Minimum Annual Guarantee"
   As part of the consideration for the privileges granted to the Operator herein to engage in business at the Airport, effective August 22, 2010, the Operator shall pay to the County a Minimum Annual Guarantee (MAG) of $2,000,000 or the Percentage Fee, as set forth in section 3.03 above, whichever is greater.

   The MAG is to be prorated and payable in twelve equal monthly payments in U.S. funds, on the first day of each month in advance and without billing or demand. The monthly payment hereunder shall be referred to herein as the Minimum Monthly Guarantee.

3. Except for the aforementioned modifications, and in all other respects, the Agreement, including the provisions stipulated in the First and Second Amendment, shall remain in full force and effect in accordance with the terms and conditions specified therein.

4. This Third Amendment shall become effective as of the date first written above and shall be applicable only to events occurring during the term of this Third Amendment.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to the Agreement to be executed by their respective and duly authorized officers, as of the day and year first above written.

ATTEST:

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida

BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Mayor

(MIAMI-DADE COUNTY SEAL)

Approved as to form
and legal sufficiency: _____
Assistant County Attorney

NAME OF OPERATOR:
Secure Wrap of Miami, Inc.

By: _____
President

_____
Print Name

Attest: _____
Secretary

ENRIQUE A. RAMOS
Print Name

(CORPORATE SEAL)