

Memorandum



Date: April 14, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Retroactive Fourth Amendment to the Lease and Concession Agreement with Areas USA MIA, LLC at Miami International Airport

TTC
Agenda Item No. 3(H)

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the retroactive Fourth Amendment to the Lease and Concession Agreement with Areas USA MIA, LLC (Areas) at Miami International Airport (MIA). This amendment changes the methodology for recalculation of the Minimum Annual Guarantee (MAG) to the Consumer Price Index (CPI) as used in other MIA concession agreements. It is further recommended that the Board authorize the County Mayor or the County Mayor's designee to execute the Amendment, substantially in the form attached.

SCOPE

MIA is located primarily within District 6, which is represented by Commissioner Rebeca Sosa; however, the impact of this agenda item is countywide as MIA is a regional asset.

FISCAL IMPACT/FUNDING SOURCE

This is a revenue-generating contract for Miami-Dade County. Areas pays the Miami-Dade Aviation Department (MDAD) a MAG of \$1,830,315.00. This Amendment will establish a new MAG amount of \$1,521,743.00, retroactive to November 1, 2013, to be adjusted annually by the CPI.

TRACK RECORD/MONITOR

Areas is meeting all contract obligations. The MDAD staff member responsible for monitoring this agreement is Adrian Songer, Chief of Business and Revenue Development.

COMPLIANCE DATA

Inquiries through MDAD Minority Affairs and the Department of Small Business Development reveal no violations for this firm.

BACKGROUND

Pursuant to Resolution No. R-196-06, the Board approved the award of Foodservice Concessions RFP No. MDAD-01-05 to Areas USA, Inc., now known as Areas USA MIA, LLC. The First Amendment approved by Resolution No. R-13-10 adjusted the MAG and rent to offset decreased passenger volume beyond the control of the concessionaire. The Second Amendment approved by Resolution No. R-287-11 extended the term of the original Agreement to compensate Areas for time lost due to a delay in MDAD's construction in the North Terminal. The Third Amendment approved by Resolution R-96-14 revised the term commencement dates for all impacted North Terminal concessionaires to September 14, 2014, to compensate for losses stemming from construction delays.

This Fourth Amendment changes the basis of the recalculation of the MAG from enplaned passengers to an annual CPI calculation, as used in the other MIA concession agreements to provide parity among all concessionaires. This amendment will establish the new MAG amount of \$1,521,743.00 retroactive to the CPI anniversary of November 1, 2013. Areas alerted MDAD to this MAG issue in November 2013. This began a process of meetings and negotiations over an 18-month period to reach an understanding of how best to approach this issue. In the middle of this process, Areas was being audited by Audit and Management Services which required MDAD to divert its attention from the issue to respond to the audit findings before moving forward with the Amendment. The audit revealed no abnormalities.

PROJECT: Foodservice Concessions - RFP 01-05 Package Two

PROJECT NO.: RFP No. MDAD-01-05

PROJECT LOCATION: Miami International Airport

COMPANY NAME: Areas USA, Inc., now known as Areas USA MIA, LLC

TERM OF AGREEMENT: Eight (8) years

OPTIONS TO RENEW: Two (2) one-year terms

RECOMMENDED MODIFICATION: Change the annual MAG recalculation to CPI methodology

CONTRACT MEASURE: 32 percent Airport Concession Disadvantaged Business Enterprise (ACDBE) goal

CONTRACT MEASURES ACHIEVED AT AWARD: 34.4 percent

CONTRACT MEASURE ACHIEVED TO DATE: 24.7 percent of gross revenues (\$96,611,948.00)

CBH MIA LLC	19.5%	\$18.80 M
WC Robinson & Assoc. Inc.	4.6%	\$4.40 M
Caribbean Airport Cuisine	0.3%	\$0.29 M
Excellent F&P	0.2%	\$0.18 M
Sirely Uniforms	<u>0.1%</u>	<u>\$0.05 M</u>
*Total ACDBE Sales	24.7%	\$23.72 M
Total Concession Sales	100%	\$96.61 M

*Rounded

COMPANY PRINCIPALS: Xavier Rabell, Eduardo Uribe, Fernando Martinez

GENDER, ETHNICITY AND OWNERSHIP BREAKDOWN: Areas USA, Inc. is a fully owned subsidiary of Areas S.A.

COMPANY LOCATION: 5301 Blue Lagoon Drive, Suite 690
 Miami, Florida 33126

YEARS IN BUSINESS:	43
PREVIOUS AGREEMENTS WITH THE COUNTY IN LAST FIVE (5) YEARS:	None
LIVING WAGE:	No
INSPECTOR GENERAL:	Provisions included in the agreement
USER AGENCY:	Miami-Dade Aviation Department



Jack Osterholt, Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: May 17, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No.

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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor'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

Agenda Item No.

Veto _____

Override _____

RESOLUTION NO. _____

RESOLUTION APPROVING THE FOURTH AMENDMENT TO THE NON-EXCLUSIVE FOOD AND BEVERAGE LEASE AGREEMENT WITH AREAS USA MIA LLC, FOR PREMISES AT MIAMI INTERNATIONAL AIRPORT; STANDARDIZING THE CONTRACT TERM METHODOLOGY FOR RECALCULATION OF THE MINIMUM ANNUAL GUARANTEE UTILIZED IN SIMILAR LEASE AGREEMENTS; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and document, 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 approves the Fourth Amendment to the Food and Beverage Lease Agreement with Areas USA MIA LLC, standardizes the contract term methodology for recalculation of the Minimum Annual Guarantee, and authorizing the County Mayor or County Mayor's designee to exercise all provisions 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:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairman thereupon declared the resolution duly passed and adopted this 17th day of May, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

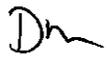
MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

David M. Murray



**FOURTH AMENDMENT TO
FOOD AND BEVERAGE LEASE AGREEMENT, MIAMI INTERNATIONAL
AIRPORT, BETWEEN MIAMI-DADE COUNTY, FLORIDA AND AREAS USA MIA,
LLC.**

THIS FOURTH AMENDMENT to the Lease and Concession Agreement for Areas USA MIA, LLC (the "Fourth Amendment") is made and entered into this _____ day of _____, 2016, by and between Miami-Dade County acting by and through its Aviation Department ("County" or "MDAD") and Areas USA MIA, LLC ("Concessionaire"), formerly known as Areas USA, Inc.,

WHEREAS, by Resolution No. R-196-06, passed and adopted February 7, 2006, the Board of County Commissioners of Miami-Dade County, Florida authorized a Non-Exclusive Lease and Concession Agreement for Food & Beverage Concessions at Miami International Airport.

WHEREAS, the Aviation Department desires to change the contract methodology for Recalculation of the Minimum Annual Guarantee in other similar lease agreements.

NOW THEREFORE, in consideration of the premises, and terms and conditions of the Lease and Concession Agreement, the parties to this Fourth Amendment agree as follows:

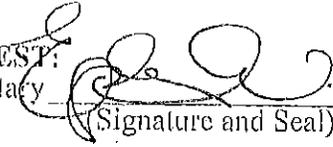
Sub-Article 3.03 "Recalculation of the Minimum Guarantee" is replaced in its entirety as follows:

3.03 RECALCULATION OF THE MINIMUM ANNUAL GUARANTEE: The Minimum Annual Guarantee shall be recalculated annually effective November 1st of each year. An appropriate adjustment will be made to reflect the change in the Consumer Price Index for all urban consumers (CPI-U) in the U.S. City Average: All items, for the published, preceding twelve-month period. The Minimum Annual Guarantee amount is established at **\$1,521,743** effective November 1, 2013 based on applying the CPI-U retroactively to contract inception.

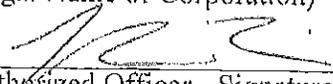
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IN WITNESS WHEREOF, the parties have executed this Fourth Amendment to the Agreement the date and year first above written.

AREAS USA MIA LLC

ATTEST:
Secretary 
(Signature and Seal)

ESTHER SARDINAS
(Type Name & Title)

(Legal Name of Corporation)
By: 
Authorized Officer - Signature

Name: Kirk Weiss
Vice President

(Type Name & Title)

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

By: _____
Mayor

Attest: Harvey Ruvim, Clerk

By: _____
Deputy Clerk

Approved for Form
and Legal Sufficiency

Assistant County Attorney

AREAS MAG RECALCULATIONS
AGREEMENT 003022

Effective 11/1/13-10/31/14
MAG \$ 1,378,016
Adjusted MAG \$ 1,521,743

Locations	Remainder Locations	Awarded Square Feet	Space ID	Actual Total Sq. Ft.	Propworks LH#	MAG Effective Date	Opened	Rent Effective	Pctg %	Base MAG	Prorated Adjusted MAG (CPI)
Ily Coffee		250	612445	279	11	05/28/08	3/28/2009	3/27/2008		65,746	65,746
Hagan Deli		250	612448	278	6	04/09/08	3/28/2008	3/27/2008		158,514	158,514
Famous Pizzeria		783	612414	789	8	04/17/08	4/8/2008	4/8/2008		290,838	290,838
Island chicken grill		810	612418	764	7	04/17/08	4/17/2008	4/17/2008		843,242	843,242
Borgos		255	612442	374	5	04/17/08	4/17/2008	4/17/2008		301,080	301,080
La Pansa		2130	612440	2985	9	04/30/08	5/12/2009	4/30/2008		872,694	872,694
Corona Beach House		1720	612510	1695	10	11/1/2008	6/9/2008	4/30/2008		1,054,218	1,116,241
Recalculation of MAG 11/1/08										1,027,392	1,137,257
Recalculation of MAG 11/1/09										1,215,731	1,539,331
Recalculation of MAG 11/1/10										1,560,000	1,900,000
Corona Beach House N.		2171	092761	2015	24	11/8/2009	1/25/2010	11/8/2009		1,747,144	1,674,243
Recalculation of MAG 11/1/10										1,849,351	1,506,676
Island Chicken Grill		1793	6082890	1879	27	1/6/2011	1/6/2011	1/6/2011		1,878,016	1,521,743
Wendys*		1352	6082751	1312	25	1/29/2011	2/11/2011	1/29/2011		1,880,315	1,547,613
Recalculation of MAG 11/1/11											
Recalculation of MAG 11/1/12											
Recalculation of MAG 11/1/13											
Recalculation of MAG 11/1/14											
Tot. Square Ft		11,522		12,150					105.45%		
Eat of Sandwich (not part of original award)		N/A	612715	1237	29		2/13/2013	2/13/2013			
Support			6180538	215	13			9/27/2007			
Support			11910	457	14			10/16/2007			
Support			11465	158	15			10/16/2007			
Support			6082187	790	21			8/15/2009			
Temp corona			612653	200	16			9/16/2006			
Office space			6084739	214	28			1/1/2011			
Total Annual Rent including taxi lot cafeteria + tax										\$ 1,737,561	

Using Eps through 11/1/12 then CPI 12month % Change as of 11/1/13

FY Year	Preceding 12mo % Chg
2008	3.7%
2009	-0.2%
2010	1.2%
2011	3.5%
2012	2.2%
2013	1.0%
2014	1.7%

North & South Eps 12month % Change

FY Year	N&S Eps	%Chg	MAG
2007	11,055,931		1,380,000
2008	10,540,557	-5.0%	1,292,000
2009	10,635,079	0.7%	1,301,044
2010	10,565,212	-0.7%	1,292,457
2011	14,253,068	35.2%	1,747,144
2012	15,069,509	5.9%	1,849,351
2013	15,327,577	1.6%	1,878,016
2014	14,984,121	-2.5%	1,830,315

Using CPI 12month % Change from contract inception

FY Year	Preceding 12mo % Chg
2008	3.7%
2009	-0.2%
2010	1.2%
2011	3.5%
2012	2.2%
2013	1.0%
2014	1.7%