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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: October 6, 2015

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

Agenda Item No. 8(A)(5)

Resolution No. R-825-15

From: Carlos A. Gimenez
Mayor

Subject: Non-Exclusive Management Agreement with the Non-Profit Miami Children's Museum for the Operation of a Children's Interactive Education Exhibit at Miami International Airport at an Expected Cost of Less than $500,000.00

Recommendation

It is recommended that the Board of County Commissioners (Board) (i) waive competitive bid procedures pursuant to Miami-Dade County Code Section 2-8.1 and Section 5.03D of the Home Rule Charter and R-1587-72; (ii) approve the award of a Non-Exclusive Management Agreement to the non-profit The Miami Children's Museum (MCM) for the operation of a children's Interactive Education Exhibit (the Exhibit) at Miami International Airport (MIA); and (iii) authorize the County Mayor or County Mayor's designee to execute the attached Agreement and exercise any renewal options and termination provisions therein.

Scope

MIA is located primarily within Commissioner Rebeca Sosa's District 6; however the impact of this item is countywide as MIA is a regional asset.

Delegated Authority

In accordance with Miami-Dade County Code Section County Mayor or County Mayor's designee has the authority to exercise the renewal options and terminate the agreement.

Fiscal Impact/Funding Source

No management fee will be paid to The Miami Children's Museum to operate the Exhibit. The Miami-Dade Aviation Department (MDAD) will reimburse The Miami Children's Museum for all start-up, operating and maintenance costs, which are expected to be no more than $500,000.00. The Agreement requires MCM and MDAD to agree on yearly budgets for the operation and maintenance of the Exhibit. Passengers will not be charged a fee to utilize the facility.

Track Record/Monitor

Not applicable as The Miami Children's Museum has no previous contracts with Miami-Dade County. The Agreement will be monitored by Gregory C. Owens, MDAD's Assistant Director of Business Retention and Development.

Background

Most large international airports have children's play areas where children can learn to think as well as play. In Minneapolis-St. Paul International Airport, for example, a giant suitcase was designed as an educational tool for parents and children. At Boston Logan International

Airport, tots can climb model airplanes, glide down a baggage claim slide and learn about air travel through a window display.

MDAD with the support of this Board has long desired to provide a child's play area for several years, and has had discussions with Fisher Price and other relevant companies in the past to provide materials and equipment, with none coming to fruition. Recent talks with MCM have shown they are willing and able to manage the installation, operation and maintenance of a play area. MCM is one (1) of the ten (10) largest children's museums in the country, and has unmatched local expertise in conceptualizing and installing innovative, interactive educational play areas for children. MCM is able to provide a play area for children that includes an educational element, utilizing exhibits from its own facility. The 1,500-square-foot exhibit will be located just past the Concourse E security checkpoint and offer a view of the airfield.

The goal will be to create an educational and engaging experience targeted toward children from toddlers to pre-teens. Elements in the play area will include mock airplanes, an interactive air traffic control tower, airplane style seating and other educational elements unique to an airport/aviation environment.

Per the attached Agreement (Exhibit 1), MCM will:

- conceptualize the layout of the Exhibit (Exhibit A), subject to County approval;
- procure all equipment, materials, furniture, and other supplies;
- install all equipment, materials and furniture;
- provide immediate (defined as within 48 hours) removal or replacement of any equipment, materials, furniture, and other supplies which become inoperable or whose condition poses a safety hazard;
- provide quarterly preventive inspection and maintenance of the equipment, materials, furniture, and other supplies, as well as a quarterly thorough cleaning;
- operate in a cost effective and efficient manner;
- obtain all required insurance coverage;
- submit to MDAD by December 1, on an annual basis, an operating budget for the next fiscal year;
- submit invoices to MDAD for reimbursable expenses; and
- provide to MDAD annual financial statements which shall be audited by an external auditor selected by the Department.

MDAD will reimburse MCM for all direct costs of operation, including material, equipment and maintenance of the Exhibit. MCM may solicit charitable contributions to fund the Exhibit, with the County's reimbursements to be reduced by that amount. MDAD can terminate the extension period upon 30-days written notice to MCM; MCM can terminate the extension period upon 90-days written notice to MDAD.

PROJECT LOCATION:	Miami International Airport, Concourse E, second floor
COMPANY NAME:	The Miami Children's Museum
COMPANY LOCATION:	980 Macarthur Causeway, Miami, FL 33132
TERM OF AGREEMENT:	Ten (10) years
OPTION TO RENEW:	One (1), five-year term
PAYMENTS TO COUNTY:	None
COMPANY PRINCIPALS:	Non-profit
GENDER, ETHNICITY & OWNERSHIP BREAKDOWN:	Not Applicable

Attachments

Jack Osterholt, Deputy Mayor

MEMORANDUM
(Revised)

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

DATE: October 6, 2015

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

SUBJECT: Agenda Item No. 8(A)(5)

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 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
Veto _____
Override _____

Agenda Item No. 8(A)(5)
10-6-15

RESOLUTION NO. R-825-15

RESOLUTION AUTHORIZING WAIVER OF FORMAL BID PROCEDURES PURSUANT TO SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 2-8.1 OF THE COUNTY CODE AND WAIVING RESOLUTION NO. R-1587-72 AS IN THE BEST INTEREST OF MIAMI-DADE COUNTY BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT; APPROVING A NONEXCLUSIVE MANAGEMENT AGREEMENT WITH THE MIAMI CHILDREN'S MUSEUM, FOR THE OPERATION OF A CHILDREN'S INTERACTIVE EDUCATIONAL EXHIBIT AT MIAMI INTERNATIONAL AIRPORT WITH EXPECTED REIMBURSABLE EXPENSES OF LESS THAN $500,000.00 SUBJECT TO THE AVAILABILITY OF FUNDS IN THE AVIATION DEPARTMENT'S ANNUAL BUDGET, AND FOR AN INITIAL TERM OF TEN YEARS WITH ONE FIVE-YEAR RENEWAL THEREAFTER; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SUCH CONTRACT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38 INCLUDING RENEWAL AND TERMINATION PROVISIONS

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

WHEREAS, it has been established that specified items and services cannot be purchased under normal bid procedures,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board finds it is in the best interest of Miami-Dade County to waive formal bid procedures, pursuant to Section 5.03(D) of the Home Rule Charter and Section 2-8.1 of the County Code, by a two-thirds (2/3)

vote of the Board Members present; finds it in the best interest of Miami-Dade County to waive Resolution No. R-1587-72 and award the Non-Exclusive Management Agreement For Operation Of a Children's Interactive Educational Exhibit At Miami International Airport to the Miami Children's Museum with expected reimbursable expenses of less than $500,000.00 subject of the availability of funds in the Aviation Department's annual budget, and for a ten-year term and one five-year option to renew, in substantially the form attached hereto and made a part hereof and authorizes the County Mayor or County Mayor's designee to execute such contract and exercise all provisions of the contract pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38, including all renewal options or termination provisions.

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

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

The Chairman thereupon declared the resolution duly passed and adopted this 6th day of October, 2015. 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 County 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: Christopher Agrippa
Deputy Clerk

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

David M. Murray

NON-EXCLUSIVE MANAGEMENT AGREEMENT FOR THE OPERATION OF A CHILDRENS INTERACTIVE EDUCATIONAL EXHIBIT AT MIAMI INTERNATIONAL AIRPORT

THIS NON-EXCLUSIVE MANAGEMENT AGREEMENT, made and entered into as of the _____day of _____, 2015 by and between

The County: **Miami-Dade County Florida,** a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, hereinafter called the "County", which shall include its officials, successors, legal representatives, and assigns.

and

Management: **The Miami Childrens Museum, a not-for-profit corporation** authorized to do business in the State of Florida (Management or Management Company) authorized to transact business in the State of Florida; which term shall include its officers, partners, employees, successors, legal representatives, and assigns.

Description of the Project: The County, as represented by the Miami-Dade Aviation Department (MDAD), has engaged a Management Company to manage, operate and maintain a Children's Interactive Educational Exhibit (the Exhibit) in a first-class manner.

The Exhibit will be an open area with various aviation related installations and equipment suitable for children to interact, experience, and play with, including but not limited to demonstratives, interactive exhibits, slides or other play equipment. The Exhibit will accommodate children ranging from toddlers through pre-teens, and be designed and installed to provide a safe environment for play and in a manner which shall be attractive for families. The Exhibit shall provide seating for parents.

THIS MANAGEMENT AGREEMENT (the "Agreement") is made and entered into as of this _____ day of _____, 2015, by and between Miami-Dade County, Florida (the "County"), a political subdivision of the State of Florida and the Miami Children's Museum, a Florida not-for-profit corporation ("Management") authorized to do business in the State of Florida.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the covenants herein contained, the parties hereto agree as follows:

WHEREAS, the County owns Miami International Airport (MIA), and operates the Airport through the Miami-Dade Aviation Department (MDAD);

WHEREAS, the MDAD desires to engage a Management Company to operate, manage, and maintain a Children's Exhibit at MIA;

WHEREAS, as the oldest and largest children's museum in Florida, and one of the ten largest children's museums in the United States, the Miami Children's Museum is a recognized leader in innovative and interactive education for children and families; and

WHEREAS, the Miami Children's Museum has unique expertise in creating engaging interactive exhibits in our community by infusing arts, culture, community and communication into interactive learning experiences

WHEREAS, in order to provide such Exhibit, the Miami Children's Museum is willing to provide management services for the operation of the Exhibit;

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

DEFINITIONS

- **AGREEMENT:** The Management Agreement and all attachments hereto and a part hereof entered into by the County and the Management, including all of its terms and conditions, attachments, exhibits, and amendments.

- **CODE:** The Code of Miami-Dade County, Florida.

- **COUNTY:** Miami-Dade County, a political subdivision of the State of Florida.

- **DEPARTMENT:** Miami-Dade Aviation Department ("MDAD"), which is a department of Miami-Dade County and represented by and acting through its Director and his/her designee(s).

- **DIRECTOR:** The Director of the Miami-Dade Aviation Department or authorized representative(s) designated in writing with respect to a specific matter(s) concerning the Services.

- **EFFECTIVE DATE:** The date that appears in the first paragraph of the Management Agreement.

- **FISCAL YEAR:** The period of time which commences on October 1st of a particular year and concludes on September 30th of the ensuing year.

- **MANAGEMENT or MANAGEMENT COMPANY:** The not-for-profit corporation identified above.

- **EXHIBIT:** The Children's Exhibit located at _____, and which is composed of approximately _____ sq. feet.

- **PROJECT MANAGER:** The person designated by the Department to administer the terms and conditions of this Agreement documents on behalf of the County.

- **SERVICES:** Those services that Management shall perform in accordance with the terms and conditions of this Agreement as directed and authorized in writing by the County.

ARTICLE 1
Term and Facilities

1.01 Term:

The County hereby engages Management and Management hereby agrees to manage, operate and maintain the Exhibit located at Miami International Airport (the "Airport" or "MIA"), as described in Sub-Article 1.04 and commencing _____, 2015, for a term of TEN YEARS (10) (the "Term").

1.02 Extensions:

This Agreement may be extended at the sole discretion of the Department for a maximum of one (1) five-year extension, given no existing Events of Default, as defined under Sub-article 14.01. Each Extension shall be exercised by the Department providing notice of said extension to Management, no later than ninety (90) days prior to the expiration date of the Agreement or the applicable Extension Period. In the event the Department does not give notice, this Agreement shall terminate accordingly. Management may, within thirty (30) days following the receipt of notice from the Department reject any such extension by written notice to the Department and, if so rejected, this Agreement shall terminate at the end of the term, or upon the termination of any exercised extension thereof as appropriate. Failure of Management to respond to the Department within the thirty (30) day notice period shall automatically constitute acceptance of the extension.

1.03 Termination of the Extension Period:

At any time during any exercised extensions of the term of this Agreement, Management, upon ninety (90) days advance written notice to the County, and the County, upon thirty (30) days written notice to Management, may terminate this Agreement without stated cause or liability to the other party.

1.04 Facilities:

The Department hereby makes available to Management the location referenced in Exhibit A. The Facility of the County to be operated by Management hereunder consists of currently empty space. No furniture, fixtures or equipment shall be removed from the Facilities without the prior written approval of the Department. The Department reserves the unlimited right, without liability to Management, to alter, change, modify or delete portions of the Exhibit listed on Exhibit A for purposes of refurbishment, modification, expansion, renovation, improvement or repair. The Department has the right to require the upgrading of the existing furniture, fixtures, and equipment.

ARTICLE 2
Scope of Services

2.01 Services:

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Management shall manage, operate and maintain the Exhibit in a safe, attractive, first class manner 365 days a year, or such lesser period of time as MDAD may permit.

This shall include the right and obligation to:

(a) design the layout of the Exhibit, subject to County approval;

(b) procurement of all equipment, materials, furniture, and other supplies as may be needed to effectuate the purposes of this Agreement;

(c) installation of all equipment, materials, furniture, and other supplies as are depicted in the design or as may enhance the Exhibit, subject to County approval

(d) provide immediate (defined as within 48 hours) removal or replacement of any equipment, materials, furniture, and other supplies which become inoperable or whose condition poses a safety hazard;

(e) provision of quarterly preventive inspection and maintenance of the equipment, materials, furniture, and other supplies, as well as a quarterly thorough cleaning;

(f) operate in a cost effective and efficient manner.

2.02 Management Advertising:

Management may include advertising or promotional space within the Exhibit for any facility located within Miami-Dade County which is wholly owned and operated by Management. Such advertising may not exceed ten feet in height, five feet in width, and two feet in depth.

ARTICLE 3
Revenues

3.01 No Charge For Use of Exhibit:

Neither the County nor Management shall impose any charge of fee on passengers for use of the Exhibit.

3.02. Charitable Contributions:

Management may solicit charitable contributions to fund all or some of its obligations under this Agreement. In the event that Management receives any such funds, the County's reimbursement obligations to Management hereunder shall be reduced by the face amount of such contributions. Management shall report the receipt of such contributions to the County within seven days of their receipt.

3.03. Sponsorship:

Management may also solicit contributions from persons or entities willing to sponsor equipment, exhibits, or installations at the Exhibit. In the event that Management receives any such funds, the County's reimbursement obligations to Management

hereunder shall be reduced by the face amount of such contributions. Management shall report the receipt of such contributions to the County within seven days of their receipt. Management may incorporate any Sponsor's name, logo, or other intellectual property into the Exhibit only with the written consent of both the Sponsor and the County. Management shall not accept sponsorship from any businesses engaged in the following:

(a) The sale of Cigarettes or other tobacco products;
(b) The sale of Alcoholic beverage;
(c) Adult entertainment, including but not limited to escort services, adult dancing establishments, and/or purveyors of adult novelties, DVD's, or video content;
(d) The sale of firearms or ammunition, unless such sales are an ancillary component of the sales of other merchandise such as food, camping supplies, boating supplies, and the like;
(e) Air Carriers that do not fly into or utilize MIA; and
(f) Other businesses or organizations deemed by the Department to be inappropriate for a children's Exhibit environment.

All indicia of sponsorship shall conform to the Airport's Design Guidelines, as may be amended from time to time. The Airport shall have the right to approve the size and location of all such sponsorship indicia. Sponsors shall not have the right to place commercial, political or religious advertising in the Exhibit, but shall have the right to have their name and/or logo displayed.

ARTICLE 4
Cost Reimbursements

4.01 No Management Fee:

Management shall not be entitled to compensation or payment by the County or MDAD for any management fees throughout the term of this Agreement.

4.02 Annual Operating Budget:

With the exception of the first year; annually thereafter, but no later than December 1 of (or date to be determined by Department) each year of this Agreement or any exercised extensions, Management shall provide a recommended Annual Operating Budget, for the twelve-month period beginning October 1 of the following year. The Annual Operating Budget including the accompanying percentages and ratios shall be used by the Department and Management as a means of controlling the revenues and expenses of Management and to measure Management's performance under this Agreement. The Annual Operating Budget shall be presented in a monthly format, in total and by operating unit, with comparisons to the prior year and the current year budget and actual. The Annual Operating Budget and any subsequent amendments thereto, shall be subject to approval by the Department. Management, in making expenditures hereunder, shall not exceed the expenditure percentages and ratios that are approved annually for each line item of the approved Annual Operating Budget without the prior approval of an amendment to said Budget by the Department. Monthly, Management shall report all deviations from the dollar amounts approved for each dollar line item in the Annual

Operating Budget, so that the Department may amend such Budget. In the event that Management is required to make expenditures in excess of the amount included in a monthly increment of the approved Annual Operating Budget because of emergencies or operational necessity such expenditures must be approved by the Department, Management shall make such expenditures and shall promptly advise the Department of such action and the Annual Operating Budget shall be amended to reflect same. Within 10 calendar days of the date of notice of award of this Agreement, Management shall submit to the Department for its consideration a proposed Annual Operating Budget for the first year of this Agreement. Approval of the Annual Operating budget shall not be construed as authority for Management to spend all monies budgeted. Approval of the Annual Operating Budget shall not deprive the County of the right to examine expenditures under this Agreement, including but not limited to expenditures previously approved or authorized in the Budget process, to determine compliance with the terms of this Agreement. The terms of this Agreement cannot be modified or altered by approval of any Annual Operating Budget, and, in the event of a conflict, the terms of this Agreement shall govern the payment obligations of the County.

4.03 Annual Audit:

As soon as practical, but no later than December 1 of each year of this Agreement, Management shall provide the Department with financial statements for the operations of the Facilities under this Agreement reflecting full disclosure for the annual period ending September 30 (DEBBIE—AUDIT MUST CONFORM TO OUR FISCAL YEAR.) of each year and any partial years, and the management letter resulting from a review of the operations, internal controls and other observations. Said financial statements shall be audited and the management letter prepared by the external auditors of the Department or any other firm of qualified independent Certified Public Accountants designated by Department. Following their completion, the Department and Management shall be provided with copies of the audited financial statements and the management letter.

4.04 Reimbursable Operating Expenses:

Management shall cause all obligations arising from installation, operation, or maintenance of the Facilities to be paid when due. To the extent that such costs are readily discernible as attributable to the operation of Management hereunder, the County shall reimburse Management for all direct costs of operation hereunder, including material costs, equipment costs, maintenance and such other operating expenses approved by the Department or described in the approved Annual Operating Budget. Such expenses shall be referred to as "Reimbursable Operating Costs". It is the intent of this Agreement that Management shall be reimbursed by the County for all reasonable and appropriate expenditures made pursuant to this Agreement not inconsistent with the terms contained herein.

Notwithstanding the preceding, Management agrees that the following are not reimbursable operating costs or expenditures:

(a) Management's overhead, administrative costs, and cost allocations reflecting home office expenses;
(b) Management's legal and accounting fees;

(c) Charitable and political contributions made by Management;
(d) Entertainment, including entertainment for the purposes of business development or client retention;
(e) Public relations, gifts, dues and memberships and entertainment by Management;
(f) Any penalties, assessments or fines issued by any court or authorized government entity or agency;
(g) Employee social functions;
(h) Employee severance pay and the cost of fringe benefits not earned or accrued during the time of the Agreement or while the employee has worked for Management other than at the Facilities; and
(i) Any other expenses which are for services which do not provide a direct benefit to the operations of the Exhibit.

4.05 **Invoices for Reimbursable Operating Expenses**:

Invoices for Reimbursable Operating Expenses, shall be recorded weekly, or such other frequency as the Department may authorize. Information shall be recorded separately for each transaction and shall include vendor name, invoice number, invoice date, invoice amount, net of maximum available purchase discounts, invoice due date, and expense classification in accordance with the Chart of Accounts customarily used by Management and approved by the Department. As soon as practical, but no later than the next working day or such other frequency as the Department may authorize, the Check Register Report and supporting invoices, duly approved by Management, shall be delivered to the Department for preliminary review and approval. Check register may be delivered electronically, but all invoices shall be presented in original form. The Department reserves the right to solicit additional information pertaining to any invoices which appear to be unrelated to operations controlled by Management or otherwise deemed by the Department worthy of investigation. Except as otherwise specifically provided herein, Management shall not pay any invoices listed on a check register until same are preliminarily approved by the Department.

Goods or services obtained by Management from outside vendors should be obtained through bidding of at least three cost proposals which provides the detailed service, cost per hour/unit (if applicable), time for completion and a grand total for job. Quotes should include verification by Management of a true business location and license before approval. Copies of all new and renewed contracts must be provided to the Department so expenditures against those contracts are verified. Also, copies of all quotes should be submitted to the Department. Notwithstanding the preceding, where Management determines that it will not be possible to obtain three quotes, and with the prior written approval of the Department, Management shall not be required to obtain three quotes prior to entering into a contract for the provision of goods and services. All vendors contracted by Management shall be registered County vendors, except where the Department has expressly authorized the use of non-County vendors in writing. Management may contract with the manufacturer of equipment, or such manufacture's authorized representative, for repair and maintenance of same without the use of sealed bids or quotes.

4.06 Payment of Invoices:

Following preliminary approval by the Department, pursuant to Sub-article 5.06 above, a check register, along with original supporting invoices, shall be processed by Management for payment in accordance with the normal procedures of Management. Management shall maintain separate paid invoices files for operations covered by this Agreement, and said paid invoices files, including supporting documents, such as, but not limited to, purchase orders, shipping and receiving slips and the like, shall be County property, held in fiduciary possession by Management. At the request of the Department, but no less often than quarterly, Management shall deliver to the Department all paid invoices files related to operations pursuant to this Agreement, not previously provided to the Department pursuant to other provisions hereof. The County shall on a monthly basis, and within 30 days of the last day of the prior month, reimburse Management for all reimbursable expenses paid by Management in the prior month. The County will issue reconciliation reports on a quarterly basis.

ARTICLE 5
Personnel

5.01 Not Used.

5.02 Personnel Standards:

Management shall properly control its employees and volunteers, who shall present a clean, neat, well-groomed and professional appearance at all times, and discharge their duties in a cooperative, courteous and efficient manner. Satisfactory maintenance of these requirements shall be the basis for the continued employment or use of all employees and volunteers of Management hereunder. At MDAD's reasonable direction, Management shall require all personnel and volunteers, except non-public contact and managerial employees, to wear visibly on their person, at all times while on duty, a distinctive name tag identifying the individual by name, as an employee or volunteer of Management and, if appropriate, displaying an employee number or title.

5.03 Restricted Area Access – Identification Badges:

Management shall be responsible for requesting the Department to issue identification badges to all employees, volunteers, and other personnel under its control who require access to restricted areas on the Airport as a part of their regularly assigned duties, and shall return the identification badges of all personnel transferred or terminated from the employ of Management or Airport assignment and upon termination of this Agreement. Management shall promptly report to the Department the names of all persons who were employed by Management from whom they were unable to obtain the return of Department issued identification badges. In the event that an identification badge is not returned because of a failure by Management, Management shall pay, from its own funds, the Department's established charge for lost or stolen identification badges. The Department shall have the right to require Management to conduct background investigations, criminal history checks and to furnish certain data on such employees

before the issuance of such identification badges, to include the fingerprinting of employee applicants for such badges.

5.04 AOA – Right to Search:

It is understood that the Department has a strong interest in maintaining good Airport security and intends to implement increased security measures for companies having access to the Air Operations Area ("AOA") of the Airport. Management agrees that its vehicles, cargo, goods and other personal property are subject to being searched when entering or leaving the AOA. Management further agrees, when required by the Department, that it shall not authorize any employee requiring regular access to the AOA as part of his/her regular duties, to enter the AOA unless and until such employee 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 Management pursuant to this Agreement.

It is further agreed that the Department has the right to prohibit an individual, agent or employee of Management 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 a designated management representative of the Department 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. Persons denied such access shall not be employed by Management hereunder.

Management acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of thefts, cargo tampering, aircraft sabotage and other unlawful activities.

5.05 AOA – Driver Training:

Before Management shall permit any employee to operate a motor vehicle on the AOA, Management shall require such employee to have a current, valid, appropriate Florida driver's license and to attend and successfully complete the AOA Driver Training Course conducted periodically by the Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department because of violation of AOA driving rules or loss of Florida driver's license.

5.06 Federal Agencies Right to Consent:

Management 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 and any bonding requirements as may be imposed by such agencies. Persons not approved or consented to by the Federal Inspection Services agencies may not be employed by Management on the Airport. These expenses are reimbursable subject to prior Department Approval.

5.07 Employment Related Examinations:

The Department shall have the right to require Management to use properly validated and lawful tests and procedures as a pre-employment screening mechanism for all or designated classifications of employees to assist Management in determining the accuracy of employment applications and the integrity of employment applicants. The Department may likewise require the use of shopping services, undercover operatives and other investigatory techniques for determining the honesty of employees. In addition, the Department may require Management to have polygraph examinations administered in individual instances, fully in compliance with the requirements and limitations of Federal law.

5.08 Tips and Gratuities:

No employee of Management shall be permitted directly or indirectly to solicit tips or request any form of gratuity from anyone unless under a program approved by the Department which may include the method to be used for distribution of such tips or gratuities.

5.09 Relationship of Parties:

Officers, agents, employees, and volunteers of Management shall not be deemed to be employees of the County or MDAD for any purpose whatsoever.

5.10 Wage Rates:

All paid employees, if any, of Management shall be paid at rates that comply with applicable federal, state, and local requirements.

5.11 Employment Eligibility Verification (E-Verify):

Management is required to enroll in the United States Citizenship and Immigration Services E-Verify system, and to utilize that system to verify the employment eligibility of all paid employees of Management.

5.12 Alcohol and Drug Testing:

Management acknowledges that the County has the obligation to establish a drug free workplace, and to establish policies and programs to ensure Airport safety and security. Management acknowledges that the Department has the right to require users of the Airport, including but not limited to lessees, permitees, licensees, and management companies, to establish reasonable programs to further the achievement of the obligations described herein. Accordingly, Management shall establish programs for pre-employment alcohol and drug screening for all candidates for employment at the Airport and for the same or similar screening, based upon reasonable suspicion that an employee, while on duty at the Airport, may be under the influence of alcohol or drugs. Further, to the extent permitted by law, Management shall establish a program for the random alcohol and drug screening of all employees who are authorized, pursuant to this Agreement, to operate any type or kind of vehicle on the airfield operations area ("AOA"). Management shall

make good faith efforts to negotiate amendments to any existing contract(s), which may serve as a bar to Management's implementation of its obligations hereunder. Notwithstanding the above, Management specifically acknowledges that the Department has the right and obligation to deny access to the AOA and to withdraw AOA driving privileges from any person whom it has a reasonable suspicion to believe is under the influence of alcohol or drugs.

5.13 Use of Public Facilities:

Management acknowledges and agrees that the County has provided certain facilities, such as, but not limited to, seating areas, holdrooms and restrooms in the Terminal Building, public parking and other conveniences for the use of the traveling public and has also provided special facilities solely for the use of the employees of Airport tenants and commercial users. Management shall not permit its employees to use the public areas provided by the County for use by the traveling public, except those employees normally required to be in contact with the traveling public, those providing passenger services and those doing so as part of regular assigned duties.

5.14 Passenger Referrals:

Management shall not permit its employees to enter into any agreements, understanding, arrangements or contracts, whether written or oral, relative to the referral of passengers and other Airport users to hotels, restaurant, shops or services off the Airport. The acceptance by an employee of any form of compensation, whether in cash or in kind, from airport employees and business and the possession of referral cards for such business shall be *prima facie* evidence of a violation of this provision.

5.15 Employee Covenants Violations:

In the event Management violates the covenants in Sub-Articles 5.13 or Sub-Article 5.14 above for failure to properly control its employees or by permitting its employees to improperly use facilities provided by the County for the use and convenience of the traveling public, the Department shall have the right to (i) confiscate the employee's Airport identification, (ii) require Management to terminate from employment at the Airport those employees who have individually violated the covenants of Sub-Article 5.13 and/or Sub-Article 5.14, and (iii) take action pursuant to Article 14 thereof.

5.16 Other Business Activity:

Management and its employees shall conduct no other business activity within the Facilities of the Airport, except as specifically authorized herein.

ARTICLE 6
Rights Reserved to the County

6.01 Rights Reserved to County:

All rights not specifically granted Management by this Agreement are reserved to the County.

6.02 Rights of County at Airport:

The County shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and facilities at the Airport. The County shall, in the exercise of such right, be free from any, and all liability to Management for business damages occasioned during the making of such repairs, alterations and additions except those occasioned by the sole active negligence of the County, its employees, or agents.

6.03 Right to Regulate:

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, to regulate Management or its operations.

ARTICLE 7
Maintenance

7.01 Cleaning of Facilities:

Routine daily maintenance of the Exhibit shall be provided by the Department. Management shall, on a quarterly basis provide for a thorough cleaning of the Facilities. Management shall provide to the Department a list of appropriate cleaning supplies for use on or in the facilities, and a handbook of appropriate cleaning processes for any specialty equipment within the Exhibit.

7.02 Repair of Damage:

Management shall repair all damage to the Facilities caused by Management, its employees, agents, independent contractors or patrons. The Department may, at its option, choose to do the work with its own forces or by contract or to require Management to perform or contract the work. Management shall be liable for any physical damage caused to the Facilities by Management, its employees, agents, contractors, subcontractors, vendors, or suppliers.

Where a piece of Exhibit equipment is damaged, and at the request of the County, Management shall provide for removal or replacement of the piece of equipment, or repair such damaged equipment, within 48 hours of notice.

7.03 Garbage and Trash Disposal:

Garbage and Trash removal shall be the responsibility of the Department.

7.04 Maintenance of Utilities:

Management shall have no responsibility for maintainence of utilities under this Agreement. Notwithstanding, to the extent all or some of the equipment or materials installed by Management require access to utilities, Management shall be responsible for provision of such access to the extent not already provided for in the Exhibit, and shall be responsible for maintenance of any electrical, water, sewer, or other utility component integrated into equipment or materials installed by Management.

7.05 Alterations and Signs:

Management shall not alter the Facilities in any way whatsoever, erect any signs nor permit any advertising of any nature without prior written approval from the Department.

7.06 Quarterly Inspection and Maintenance:

Management shall, on a quarterly basis, conduct preventive inspections of the Facilities, and shall provide the County with a list of recommended maintenance to be performed. If authorized by the County, Management shall perform all such maintenance as may have been authorized.

ARTICLE 8
Design and Construction of Facilities

8.01 Design and Construction-General:

As authorized pursuant to Section 125.012(24), Florida Statutes, when requested by the Department, Management shall contract for the design and construction of refurbishments, renovations and additions to the Facilities and other facilities designated by the Department which may not be included in "Facilities" hereunder. Management shall at all times follow procedures and requirement established by the Department for design, construction and reimbursement. All design and construction expenses shall be only as provided in a capital improvements budget to be established in accordance with the budget procedures of the Department. All such authorized design and construction shall be in accordance with Tenant-Reimbursable (TAC-R) procedures as may be effective at the airport at the time such work is authorized.

ARTICLE 9
No Assignment, Subletting or Sale of Controlling Interest

9.01 No Assignment:

Management shall neither assign, transfer, pledge or otherwise encumber this Agreement, nor allow others to use the Facilities, without the prior written consent of the Department.

9.02 Franchising:

The Facilities may not be branded nor franchised without the specific prior written approval of the Department, which approval may be withheld or denied without stated

cause. Before such approval can be considered, the terms, conditions and fees of any franchise agreement shall be subject to advance review and written approval of the Department.

ARTICLE 10
Indemnification

Management shall indemnify, defend, and hold harmless the County, including its successors and assigns, and its officers, employees, consultants, sub-consultants, agents, bond trustees, and instrumentalities (collectively the "Indemnitees"), from any and all liability, loss, claim, damage or cost, including attorney's and expert fees and cost of defense, which the County or its officers, employees, consultants, sub-consultants, agents, bond trustees, or instrumentalities may incur in whole or in part (i) out of any injury, loss, theft, damage or cost to any person or property while on or about the Facilities, or out of any condition on the Facilities, or out of any breach of any Agreement covenant, warranty or representation by Management or persons acting under Management or from any act or omission anywhere by Management or persons acting under Management, or (ii) 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 or the presence within theExhibit by the Management or its employees, volunteers, trespassers, agents, servants, partners, principals, contractors, vendors or suppliers, except to the extent caused directly by the negligent act or willful misconduct of County. Management 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 County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's and expert's fees which may be issued thereon. This provision shall survive termination of this Agreement.

ARTICLE 11
Insurance

11.01 Insurance Required:

Within twenty (20) calendar days of the Effective Date of this agreement, management shall obtain all insurance required under this Article and submit it for approval to:

Miami-Dade Aviation Department
c/o Risk Management
P.O. Box 025504
Miami, Florida 33102-5504

All insurance shall be maintained throughout the term of the Agreement and any Extensions thereof.

The limits for each type of insurance may be revised upon MDAD Risk Management's review and approval of the Management'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. No insurances shall be reimbursable unless Management procures a separate policy for the activities at Miami International Airport, unless noted below. Self insurance is not acceptable.

Certificate(s) of insurance from Management must show coverage has been obtained that meets the requirements as outlined below during the provision of Services at the Facilities:

(a) Workers' Compensation, if required by Chapter 440, Florida Statutes.

(b) 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 Management allowed on the Airside Operation Area (AOA) without increasing automobile coverage to $5,000,000 as approved by the Risk Management Office.

(c) At the request of the Department, Management shall add the County and the Facilities to Management's existing general liability policy. The County shall pay all costs associated with such addition upon submittal of appropriate documentation evidencing the specific insurance cost associated with such addition.

11.02 Certificates of Insurance:

Management shall furnish certificates of insurance to the County prior to commencing any operations under this Agreement, which certificates shall clearly indicate:

(a) the Management has obtained insurance in the type, amount and classifications as required for strict compliance with this Sub-Article;

(b) the County is named as an additional insured; and

(c) no material change or cancellation of said insurance shall be effective without thirty (30) days prior written notice to the County. The County reserves the right to require Management to provide such reasonably amended insurance coverage as it deems necessary or desirable upon issuance of notice in writing to Management.

11.03 Certificates of Renewal:

Management shall furnish certificates evidencing renewal or replacement of required insurance coverage, thirty (30) days prior to expiration or cancellation. The Department reserves the right to reasonably amend the insurance requirements or to assume direct responsibility for carrying all or any of the required insurance coverage by the issuance of notice in writing to Management. In the event the Department exercises its right to assume direct responsibility for any of the required insurance coverage, Management shall be named as an additional insured, where applicable provided the Department does not self-insure. Compliance with the foregoing requirements shall not relieve Management of its liability and obligation under any other portion of this Agreement.

11.04 Certificates of Continuity:

Management shall be responsible for assuring that the insurance certificates required in conjunction with Article 11, "Insurance" remain in force for the duration of the Agreement, including any and all Extensions, if applicable. If insurance certificates are scheduled to expire during the Agreement period, Management,shall be responsible for submitting new or renewed insurance certificates to the MDAD Risk Management Office at a minimum of thirty (30) calendar days before such expiration.

11.05 Insurance Company Rating Requirements

All insurance policies required above 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 financial strength, and no less than "Class VII" as to financial size, according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the MDAD's Risk Management Office.
>
> Certificates will show that no modification or change in insurance shall be made without thirty (30) calendar days written advance notice to the certificate holder.

11.06 Cancellation of Insurance:

Cancellation of any insurance or non-payment of any premiums for any insurance policies required by this Agreement shall constitute a breach of this Agreement.

11.07 Other Insurance Indemnification:

Management represents and warrants that any insurance protection required by this Agreement or otherwise provided by its contractors and subcontractors shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, consultants, agents and instrumentalities as herein provided.

11.08 Management Liable:

Compliance with the requirements of this Article 11 "Insurance" shall not relieve Management from its liability under any other portion of this Agreement.

11.09 Right to Examine:

The Department reserves the right, and upon reasonable notice, to examine the original policies of insurance (including, but not limited to binders, amendments, exclusions, riders and applications) to determine the true extent of coverage. Management agrees to permit such inspection at the offices of the Department. In addition, upon request (but no later than five (5) days from the date of request, unless such longer period is agreed to by the Department) Management agrees to provide copies to the Department, at Management's sole cost and expense.

11.10 Personal Property:

Any personal property of Management, or of others, placed in the Facilities shall be at the sole risk of Management or the owners thereof, and the Countyshall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage.

11.11 Survival of Provisions:

The provisions of this Article 11, "Insurance" shall survive the expiration or earlier termination of this Agreement.

11.12 Insurance Reimbursable:

The County shall reimburse Management for all insurances required under this section, upon presentation of approved insurance invoices by Management to the County.

ARTICLE 12
Trademarks and Licenses

The County may, from time to time, permit Management to utilize certain patents, copyrights, trademarks, trade names, logos, computer software and other intellectual property owned by the County in the Performance of this Agreement, which patents, copyrights, trademarks, trade names, logs 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 Management and the Department, on behalf of the County, granting Management 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. The County may likewise license from Management the use of certain trademarks which Management has previously created, without a requirement for the payment of any additional fees or compensation to Management for such license. Failure of the parties to execute a formal license agreement shall not vest neither title nor interest in such patent, copyright, trademark, trade name, logo, computer software or intellectual property shall vest in the using party.

ARTICLE 13
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, acts of God, work stoppages or slowdowns, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, provided however, this clause (i) does not apply to such actions related to employees, temporaries, contractors, subcontractors or suppliers of Management; or (ii) embargo's, general shortages of labor, equipment, facilities, materials or supplies in the open market, acts of God, acts of a public enemy, acts of

governmental authority, including, without limitation, the Federal Aviation Administration ("FAA"), Department of Transportation ("DOT"), Transportation Safety Administration ("TSA"), Environmental Protection Agency ("EPA"), civil and defense authorities, war (declared or undeclared), invasion, insurrection, terrorism, riots, rebellion or sabotage.

ARTICLE 14
Default and Termination by the County

14.01 Events of Default:

A default shall mean a breach of any term of this Agreement by Management (an "Event of Default").

14.02 Notice of Default and Opportunity to Cure:

If an Event of Default occurs, the Department shall notify Management (the "Default Notice"), specifying the basis for such default, and advising Management that such default must be cured immediately or this Agreement with the County may be terminated. Management can cure and rectify the default, to the Department's reasonable satisfaction, within thirty (30) days of actual notice 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 County's rights hereunder. The Default Notice shall specify the date by when Management shall discontinue the services under the initial term period (the "Termination Date").

14.03 Termination without Options to Cure:

The County may terminate this Agreement, effective immediately if: (i) a principal of Management is convicted of a felony during the term of this Agreement or any Extension Period, or (ii) if Management is found to have submitted a false certification or to have been, or is subsequently during the term of this Agreement, placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

The County may, as a further sanction, terminate or cancel any other agreement(s)/contract(s) that such individual or corporation or joint venture or other entity has with the County and that such individual, corporation or joint venture or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, 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 County through fraud, misrepresentation or material misstatement may be disbarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Management may be subject to debarment for failure to perform, and all other reasons set forth in § 10-38 of the Code.

14.04 Actions at Termination:

Management shall, upon receipt of such Termination Notice, and as directed by the Department:

(a) stop all work on the Termination Date specified in the Termination Notice;

(b) take such action as may be necessary for the protection and preservation of the Facilities and other County materials and property;

(c) cancel orders, provided however, that the County shall reimburse Management for all costs and expenses of such cancellation, provided that Management has, within five (5) business days, advised MDAD in writing that there may be cancellation costs, and to the extent known, an estimate of amount of these costs;

(d) assign to the County and deliver to any location designated by the County any non-cancelable orders not incorporated in the work, provided however, that Management will be compensated for such deliverables that have been specifically developed for the sole purpose of this Agreement;

(e) vacate, quit and surrender, and account for the Facilities, support space, all furnishings, fixtures, equipment, software, vehicles, records, funds, inventories, commodities, supplies and other property of the County, on or before the Termination Date, with such items to be in as good order and condition as they were upon the Term of this Agreement or date of subsequent acquisition, reasonable and normal wear and tear excepted; and

(f) remove all of its personal property from the Facilities, support space, on or before the Termination Date. Any personal property of Management not removed in accordance with this Sub-Article may be removed by the Department for storage at the cost of Management. Failure on the part of Management to reclaim its personal property within thirty (30) days from the Termination Date shall constitute a gratuitous transfer of title thereof to the County for whatever use and disposition is deemed to be in the best interests of the County.

NOTE: Any compensation paid pursuant to this Sub-Article is subject to audit.

14.05 Remedies for County:

Upon the termination of the Agreement based upon this Article 14, Management shall make a payment on the Termination Date, to the Department of the amount(s) equal to any monies due the Department under the Agreement. This payment is independent of and in addition to any payments, fees, and remedies available to the County under applicable law or this Agreement. Management shall indemnify and reimburse the Department within forty-five (45) days after the date of such termination, an amount equal to Department's costs for any damages to the Facilities, for failure to perform, or any other breach of the Agreement by Management. In the event the County exercises its termination right as provided hereunder, the County shall not be subject to any liability

and shall have no further obligations under this Nonexclusive Agreement. Management shall also be liable to such other relief as the County may be entitled.

ARTICLE 15
Termination by Management

15.01 Termination by Management:

Management shall have the right, upon ninety (90) calendar day's written notice to the Department to terminate this Agreement.

ARTICLE 16

Equal Employment Opportunity, Nondiscrimination and Affirmative Action Programs

16.01 Equal Employment Opportunity:

In accordance with Title 14 Code of Federal Regulation (CFR) Part 152 (Affirmative Action Employment Program), Management shall not discriminate against any employee or applicant for employment because of age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, in accordance with the Americans with Disabilities Act, discriminate against any otherwise qualified employees or applicants for employment with disabilities who can perform the essential functions of the job with or without reasonable accommodation. Management shall take affirmative actions' to ensure that applicants are employed and that employees are treated during their employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, or disability. Such actions include, but not limited to, the following: Employment, upgrading, transfer or demotion, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training including apprenticeship.

Management agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County setting forth the provisions of this Equal Employment Opportunity clause. Management shall comply with all applicable provisions of the Civil Rights Act of 1964, Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, revised order No. 4 issued December 1, 1951, as amended, and the Americans with Disabilities Act. The Age Discrimination in Employment Act effective June 12, 1968, Executive Order 13166 issued August 11, 2000, Improving Access to Services for persons with Limited English Proficient (LEP), the rules, regulations and relevant orders of the Secretary of Labor, Florida Statues §112.041, §112.042, §112.043 and the Miami-Dade County Code Sections 11A1 through 13A1, Articles 3 and 4.

Management shall assign responsibility to one of its officials to develop procedures that will assure that the policies of Equal Employment Opportunity and Affirmative Action are understood and implemented.

16.02 Nondiscriminatory Access to Premises:

Management, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant that: (1) no person on the grounds of race, color, sex, national origin or ancestry shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (2) that Management shall use the Premises in compliance with all other requirements imposed by or pursuant to the enforceable regulations of the Department of Transportation, as amended from time to time.

16.03 Breach of Nondiscrimination Covenants:

In the event it has been determined that Management has breached any enforceable nondiscrimination covenants contained in Sub-article 16.01 Equal Employment Opportunity and Sub-article 16.02 Nondiscriminatory Access to Premises above, pursuant to the complaint procedures contained in the applicable Federal Regulations, and Management fails to comply with the sanctions and/or remedies which have been prescribed, the County shall have the right to terminate this Agreement pursuant to the Termination of the Agreement section hereof.

16.04 Nondiscrimination:

During the performance of this Agreement, Management agrees as follows: Management shall, in all solicitations or advertisements for employees placed by or on behalf of Management, state that all qualified applicants will receive consideration for employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, physical handicap or disability. Management shall furnish all information and reports required by Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to Management's books, records, accounts by the County and Compliance Review Agencies for purposes of investigation to ascertain by the compliance with such rules, regulations, and orders. In the event of Management's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, and orders, this Agreement may be canceled, terminated, or suspended in whole or in part in accordance with the Termination of Agreement section hereof and Management may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 113155 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 113155 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 as amended or by rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

16.05 Disability Non-discrimination Affidavit:

By entering into this Agreement with the County and signing the Disability Nondiscrimination Affidavit, Management attests that this is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If Management or any owner, subsidiary or other firm affiliated with or related to Management is found by the responsible enforcement officer of the Courts or the County to be in violation of the Act or the Resolution, such violation

shall render this Contract terminable in accordance with the Termination of Agreement section hereof. This Contract shall be void if Management submits a false affidavit pursuant to this Resolution or Management violated the Act or the Resolution during the term of this Contract, even if Management was not in violation at the time it submitted its affidavit.

Management will include Sub-article 16.01 Equal Employment Opportunity and Sub-article 16.02 Nondiscriminatory Access to Premises of this Article in the Management sub-contracts in excess of $10,000.00, unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, so that such provisions will be binding upon each sub-consultant. Management shall take such action with respect to any sub-contract as the County may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Management becomes involved in, or is threatened with, litigation with a sub-consultant as the result of such direction by the County or by the United States, Management may request the United States to enter into such litigation to protect the interests of the United States.

16.06 <u>Affirmative Action/Nondiscrimination of Employment Promotion and Procurement Practices:</u>

(County Code Section 2-8.1.5): In accordance with the requirements of County Code Section 2-8.1.5, all firms with annual gross revenues in excess of $5 million seeking to contract with Miami-Dade County shall, as a condition of award, have a written Affirmative Action Plan and Procurement Policy on file with the County's Department of Procurement Management. Said firms must also submit, as a part of their Agreement to be filed with the Clerk of the Board, an appropriately completed and signed Affirmative Action Plan/Procurement Policy Affidavit.

Firms whose Boards of Directors are representative of the population make-up of the nation are exempt from this requirement and must submit, in writing, a detailed listing of their Boards of Directors, showing the race or ethnicity of each board member, to the County's Department of Procurement Management. Firms claiming exemption must submit, as part of their Agreement to be filed with the Clerk of the Board, an appropriately completed and signed Exemption Affidavit in accordance with County Code Section 2-8.1.5. These submittals shall be subject to periodic reviews to assure that the entities do not discriminate in their employment and procurement practices against minorities and women/owned businesses.

It will be the responsibility of each firm to provide verification of their gross annual revenues to determine the requirement for compliance with the County Code section. Those firms that do not exceed $5 million annual gross revenues must clearly state so in their Agreement.

ARTICLE 17
<u>Damage or Destruction to Facilities</u>

If the Facilities or a substantial portion thereof are rendered, unfit, or unusable for the use and purpose for which this Agreement is granted, without fault on the part of Management, its employees, agents, or independent contractors, either party shall have the option, without liability to the other party, upon five days notice in writing, to terminate this Agreement.

ARTICLE 18
Rules, Regulations and Permits

18.01 Rules and Regulations:

Management shall comply with: (i) the ordinances of the County including the rules and regulations of the Department; (ii) Chapter 25 of the Code; (iii) operational directives issued hereunder; (iv) all additional laws, statutes, ordinances, regulations and rules of the federal, state and local governments, and any and all plans and programs developed in compliance therewith; (v) any County administrative orders and resolutions of the Board of County Commissioners which may be applicable to its operations or activities under this Agreement; (vi) federal air and safety laws and regulations; and (vii) federal, state, and County environmental, hazardous wastes and materials, and natural resources laws and regulations. Management shall comply with the requirements of Resolution No. R-148-07, Labor Peace; and this Agreement itself is subject to the Independent Private Sector Inspector General Review provisions of Administrative Order 3-20, as such Administrative order may be amended from time to time.

18.02 Violations of Rules and Regulations:

Management represents and agrees to pay, on behalf of the County, any penalty assessment or fine issued against the County, or to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the federal, state or local governments based in whole or substantial part upon a claim or allegation that Management, its agents, employees, contractors, subcontractors, suppliers, or invitees, have violated any law, ordinance, regulation or rule described in Sub-Article 15.01 or any plan or program developed in compliance therewith. Any such penalty, assessment, or fine shall not be a Reimbursable Expense. Management further represents that the substance of Sub-Article 15.01 shall be included in every contract and other agreements, which Management may enter into related to its operations and activities under this Agreement and that any such contract 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.

18.03 Permits and Licenses:

Management covenants, represents, and warrants that it shall be strictly liable and responsible to obtain, pay for, maintain current, fully comply with, and make available to the Department upon request, all permits, licenses, and governmental authorizations and approvals, however designated and as may be required by any federal, state, or County governmental entity or judicial body having jurisdiction over Management or its

operations and activities, for any activity of Management on the Facilities and for any actions of Management at the Airport, including ensuring that all legal requirements, permits, and licenses necessary for or resulting, directly or indirectly, from Management's operations and activities on the Facilities and Airport have been obtained and are in compliance.

ARTICLE 19
Civil Actions

19.01 Governing Law-Venue:

This Agreement shall be governed and construed in accordance with the laws of the State of Florida. Venue for any action or claim arising from this Agreement shall be in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or in the United States District Court in and for the Southern District of Florida.

19.02 Registered Office/Agent Jurisdiction:

Management, 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 Management is a natural person, both Management and his or her personal representative(s) hereby submit themselves to the jurisdiction of the courts of the State of Florida for any cause of action based in whole or in part on the alleged breach of this Agreement.

ARTICLE 20
Actions at Termination

20.01 Surrender of Facilities:

On or before the termination date of this Agreement and any exercised extensions, whether by lapse of time or otherwise, in accordance with the provisions contained herein, Management shall vacate, quit and surrender and shall account for the Facilities, all furnishings, fixtures, equipment, vehicles, records, funds, inventories, commodities, supplies and other property of the County in as good order and condition as they were upon the Effective date of this Agreement or date of subsequent acquisition, reasonable and normal wear and tear excepted.

20.02 Amounts Due and Payable:

Upon termination of this Agreement and any exercised extensions, all amounts due and owing between the parties shall become immediately due and payable and any outstanding orders or contracts for goods and services, which cannot be cancelled, shall be assigned by Management to the County or such other party as the Department shall designate.

20.03 Removal of Personal Property:

On or before the termination date of this Agreement and any exercised extensions, except in instances of termination pursuant to Article 15.01 hereof, in which event Management shall be allowed up to five calendar days, Management shall remove all of its personal property from the Facilities. Any personal property of Management not removed in accordance with this Article may be removed by the Department for storage at the cost of Management. Failure on the part of Management to reclaim its personal property within thirty days from the date of termination shall constitute a gratuitous transfer of title thereof to the County for whatever use and disposition is deemed to be the best interests of the County.

ARTICLE 21
Other Provisions

21.01 Payment of Taxes:

Management is a 501(c)(3) entity which is not subject to most tax payments, and does not expect its operations hereunder to generate any tax liability. Notwithstanding, in the event any taxes are lawfully assessed against Management arising out of its operations hereunder, Management shall be responsible for payment of such taxes; provided, however, that Management 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 a default, pursuant to Article 14.

21.02 No Possessory Interests:

No clause, phrase, sentence, paragraph or article of this Agreement shall vest any possessory or leasehold interest in any real property, the Facilities, the Improvements or the personal property of the County described herein in Management nor shall such be construed as creating any landlord and tenant or partnership or joint venture relationship between the County and Management.

21.03 Rights to be Exercised by Department:

Wherever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

21.04 Administrative Modifications:

It is understood and agreed that the Department, upon written notice to Management, shall have the right to modify administratively and to revise the budget, revenue processing, reimbursement, replenishment and payment procedures, contained in Articles 3 and 4, other technical requirements hereof, and the exhibits hereto; provided, however, such revisions shall not have a materially adverse effect on the right of Management to be reimbursed for costs and expenses incurred on a timely basis or to receive reasonable compensation for its services hereunder or on the security of the funds and assets of the County.

21.05 Approvals:

Wherever in this Agreement approval by the County or Department is required, the County or the Department may approve or disapprove same without providing a stated cause for such action.

21.06 Security:

If requested by the Department, and subject to recommendation from Management as to reasonable and prudent security measures needed and approved by the Department, Management shall be responsible for the security and protection of the Facilities, and the equipment, furnishings, commodities and supplies provided herein. Such costs are reimbursable.

21.07 Rights of County at Airport:

The County shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and facilities at the Airport. The County shall, in the exercise of such right, be free from any and all liability to Management.

21.08 Federal Subordination:

This Agreement shall be subordinate to the provisions of any existing or future agreements between the County 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.

21.09 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 are severable.

21.10 Authorized Uses Only:

Notwithstanding anything to the contrary herein, Management shall not use or permit the use of the Facilities or the Airport for any illegal or unauthorized purpose nor for any purpose which would invalidate any insurance policies of the County or any policies of insurance written on behalf of Management under this Agreement.

21.11 No Waiver:

There shall be no waiver of the right of the County to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there by any waiver of any breach, default or non-performance hereof by Management, 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 County to demand strict performance of the provisions, terms and covenants of this Agreement with respect to any subsequent event or occurrence or of any subsequent breach, default or non-performance hereof by Management.

21.12 Right to Regulate:

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, to regulate Management or its operations.

21.13 Entirety of 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 Management hereby affirms the completeness and accuracy of the information submitted by Management to the Department in connection with the award of this Agreement.

21.14 Inspections:

The authorized employees and representatives of the County and of any applicable Federal or State agencies having jurisdiction hereof shall have the right of access to the Facilities at all reasonable times for the purposes of inspection and audit to determine compliance with the provisions of this Agreement. This right of inspection and audit shall impose no duty on the County to inspect and audit and shall impart no liability upon the County should it not make any such inspections or audits.

21.15 Headings:

The headings of the various articles and sections 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.

21.16 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.

21.17 Performance:

The parties expressly agree that time is of the essence in the performance of this Agreement and that the failure by Management to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the County of any obligation to accept such performance.

21.18 Notices:

Any notices given under the provisions of this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested to:

TO THE COUNTY:
Director
Miami-Dade Aviation Department
Post Office Box 025504
Miami, Florida 33102-5504

To Management, in care of the Executive Director, or to such other respective addresses as the parties may designate to each other in writing from time to time. Notices by registered or certified mail shall be deemed given on the delivery date indicated on the return receipt from the United States Postal Service.

IN WITNESS WHEREOF, the County has hereto caused this Agreement to be issued and executed by its appropriate officials, which the Agreement by its execution by its appropriate officials hereby accepts, as of the date first above written.

BOARD OF COUNTY COMMISSIONERS
OF MIAMI DADE COUNTY, FLORIDA

By:_____
Mayor

By:_____
Deputy Clerk

(COUNTY SEAL)

MANAGEMENT (If Individual or Partnership):

Name: Deborah Spiegelman

By: Deborah Spiegelman
Signature

CEO / Executive Director

MANAGEMENT(If Corporation):

Name:_____

By:_____
President

_____

Print Name

Title:_____

Print Name

Attest:_____
Corporate Secretary

_____
Print Name

(CORPORATE SEAL)

WITNESSES TO ABOVE SIGNATURE:

_____
Signature

_____
Print Name

_____
Signature

Lauren Ruiz
Print Name

The parties expressly agree that time is of the essence in the performance of this Agreement and that the failure by Management to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the County of any obligation to accept such performance.

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By:_____
Mayor

By:_____
Deputy Clerk

(COUNTY SEAL)

MANAGEMENT (If Individual or Partnership):

Name: Deborah Spiegelman

By: Deborah Spiegelman
Signature

CEO/Executive Director

MANAGEMENT(If Corporation):

Name:_____

By:_____
President

_____

Print Name

Title:_____

Print Name

Attest:_____
Corporate Secretary

_____
Print Name

(CORPORATE SEAL)

WITNESSES TO ABOVE SIGNATURE:

_____
Signature

_____
Print Name

_____
Signature

Lauren Ruiz
Print Name

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Mayor

By:_____
Deputy Clerk

(COUNTY SEAL)

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Name: Deborah Spiegelman

By: Deborah Spiegelman
Signature

CEO/Executive Director

MANAGEMENT(If Corporation):

Name:_____

By:_____
President

_____

Print Name

Title:_____

Print Name

Attest:_____
Corporate Secretary

_____
Print Name

(CORPORATE SEAL)

WITNESSES TO ABOVE SIGNATURE:

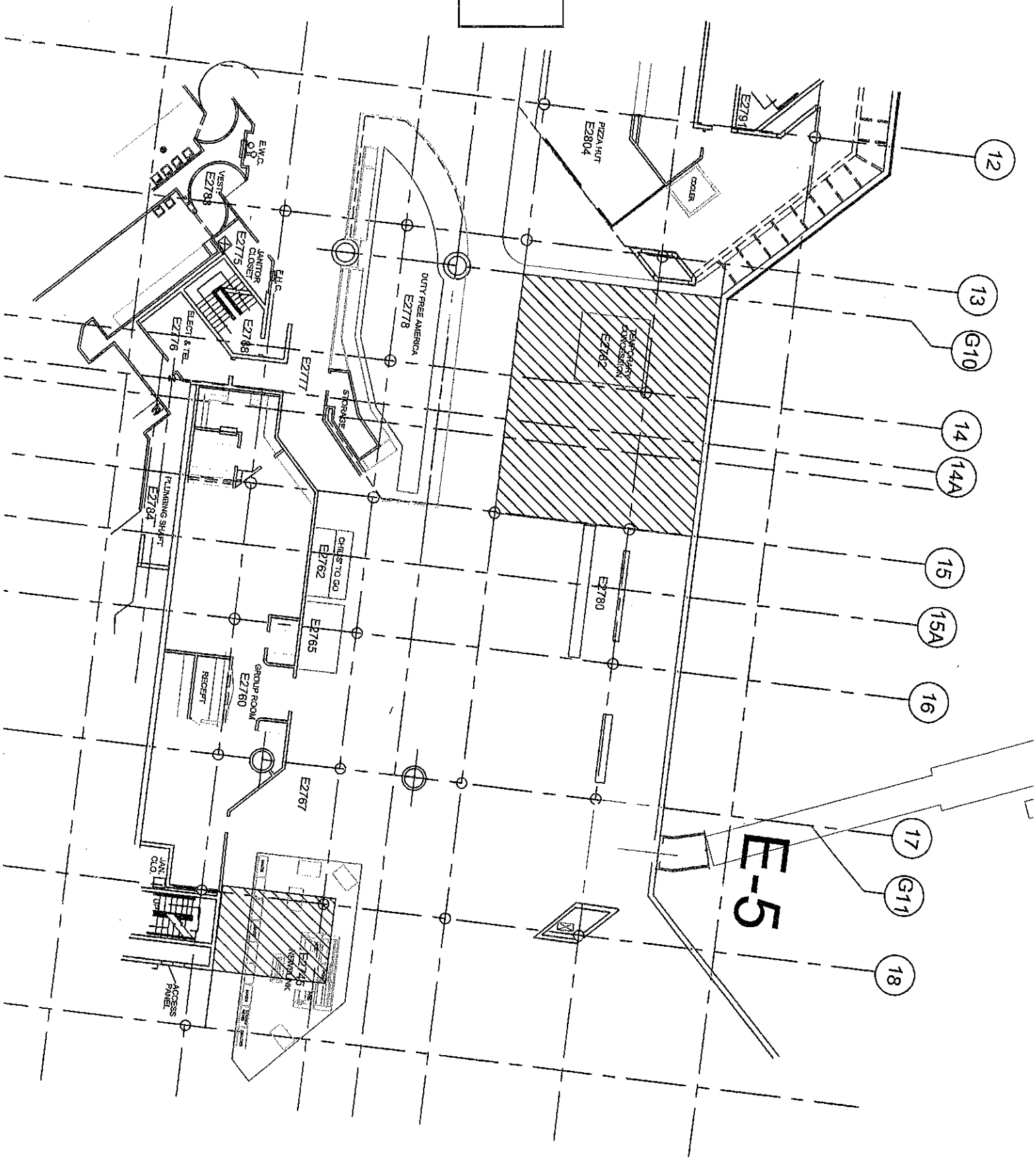
_____
Signature

RONALDA STREET
_____
Print Name

_____
Signature

Lauren Ruiz
_____
Print Name

Exhibit A



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RECEPT
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JAN. CLO.
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NEWSLINK
ACCESS PANEL