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

Memorandum

MIAMI-DADE COUNTY

Date: April 5, 2016

Agenda Item No. 8(A)(2)

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

From: Carlos A. Gimenez
County Mayor

Subject: Third Amendment to Lease and Concession Agreement with Concessions Miami, LLC at Miami International Airport

Resolution No. R-261-16

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the Third Amendment to the Lease and Concession Agreement with Concessions Miami, LLC at Miami International Airport (MIA) extending the Agreement's expiration date and altering the recalculation of the Minimum Annual Guarantee (MAG).

SCOPE

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

FISCAL IMPACT/FUNDING SOURCE

There is no associated negative fiscal impact to Miami-Dade County with the approval of this amendment. Concessions Miami pays the Miami-Dade Aviation Department (MDAD) a MAG of $1,351,920.00.

TRACK RECORD/MONITOR

Concessions Miami, LLC is current in all their contract obligations. Adrian Songer, MDAD Chief of Aviation Business and Revenue Development monitors the Agreement.

COMPLIANCE DATA

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

BACKGROUND

Pursuant to Resolution No. R-195-06, the Board approved the award of the Foodservice Concessions RFP to Concessions Miami, LLC for food service concessions in the North and South Terminals. On January 21, 2010, the Board adopted Resolution No. R-13-10, which adjusted the MAG and rent to offset decreased passenger volume beyond the control of the concessionaire. The Second Amendment under Resolution No. R-96-14, on May 3, 2011, revised the term commencement dates for all impacted North Terminal concessionaires to September 14, 2014 to compensate for losses stemming from construction delays.

This Third Amendment extends the Agreement's expiration date to February 14, 2021 to synchronize the South Terminal food and beverage lease expiration dates. The amendment also changes the basis of the recalculation of the MAG from enplaned passengers to an annual Consumer Price Index (CPI) calculation, as used in other concession agreements, to provide parity among all parties.

PROJECT:	Foodservice Concessions - RFP 01-05 Package One
PROJECT NO.:	RFP No. MDAD-01-05
PROJECT LOCATION:	Miami International Airport
COMPANY NAME:	Concessions Miami, LLC
TERM OF AGREEMENT:	Eight (8) years
OPTIONS TO RENEW:	At the sole discretion of MDAD, the eight - year term may be extended for two (2) separate one-year terms.
RECOMMENDED MODIFICATION:	To establish congruency of expiration dates for the South terminal food and beverage concessions by extending Concessions Miami's South Terminal locations Agreement expirations to February 14, 2021, and change the annual MAG recalculation to CPI methodology.
CONTRACT MEASURE:	32 percent Airport Concession Disadvantaged Business Enterprise goal
CONTRACT MEASURES ACHIEVED AT AWARD:	60.4 percent
CONTRACT MEASURE ACHIEVED TO DATE:	45.7 percent of gross revenues $79,921,357.00

Phillps Concessions	7.9%	$ 6.3M
Arriaza Bakery	5.3%	$ 4.2M
Las Vegas Restaurant II	1.4%	$ 1.1M
Atlanta Restaurant	31.1%	$24.8M
Total ACDBE sales to date	45.7%	$36.5M*

*Rounded

COMPANY PRINCIPALS:	Donata Russell Major, CEO, Michael B. Russell, Vice Chair, Anthony Joseph, President
OWNERSHIP BREAKDOWN:	Limited Liability Company
COMPANY LOCATION:	566 Wells Street Atlanta, Georgia 30312
YEARS IN BUSINESS:	Ten (10)

PREVIOUS AGREEMENTS WITH THE COUNTY IN LAST FIVE (5) YEARS:	Current
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: April 5, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(A)(2)

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

Veto _____

Override _____

Agenda Item No. 8(A)(2)

4-5-16

RESOLUTION NO. R-261-16

RESOLUTION APPROVING THE THIRD AMENDMENT TO THE NON-EXCLUSIVE FOOD AND BEVERAGE LEASE AGREEMENT WITH CONCESSIONS MIAMI LLC, FOR PREMISES AT MIAMI INTERNATIONAL AIRPORT, STANDARDIZING THE CONTRACT METHODOLOGY FOR RECALCULATION OF THE MINIMUM ANNUAL GUARANTEE TO THAT UTILIZED IN SIMILAR LEASE AGREEMENTS; ALTERING THE LEASE EXPIRATION DATE TO PROVIDE SIMILAR EXPIRATION DATES FOR ALL SOUTH TERMINAL FOOD AND BEVERAGE CONCESSION CONTRACTS; AND AUTHORIZING THE MAYOR OR 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 Third Amendment to the Food and Beverage Lease Agreement with Concessions Miami LLC extending Concessions Miami LLC's South Terminal locations Agreement expirations to February 14, 2021; the amendment also changes the contract methodology for recalculation of the Minimum Annual Guarantee to an annual Consumer Price Index (CPI) calculation as used in other standard concession agreements, and authorizes the Mayor or Mayor's designee to exercise all provisions therein.

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

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

The Chairman thereupon declared the resolution duly passed and adopted this 5th day of April, 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 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.

David Murray

THIRD AMENDMENT TO
NORTH/SOUTH FOODSERVICE CONCESSIONS AT MIA, BETWEEN MIAMI-DADE COUNTY, FLORIDA AND CONCESSIONS MIAMI, LLC.

THIS THIRD AMENDMENT to the Lease and Concession Agreement (the "Third Amendment") is made and entered into this _____ day of _____, 2015, by and between Miami-Dade County acting by and through its Aviation Department ("County" or "MDAD") and **Concessions Miami, LLC** ("Concessionaire").

WHEREAS, by Resolution No. R-195-06 passed and adopted February 9, 2006, the Board of County Commissioners of Miami-Dade County, Florida authorized a Non-Exclusive North/South Foodservice Concessions at Miami International Airport, and

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

WHEREAS, the Aviation Department desires to make certain accommodations relative to the contract term to offset the Location availability issues encountered by the Concessionaire in order to enable the recapture of the capital investment of the Concessionaire, and

NOW THEREFORE, in consideration of the premises, and terms and conditions of the North/South Foodservice Concessions, the parties to this Third Amendment agree as follows:

1. **Sub-Article 1.01 "Term"** is replaced in its entirety as follows:

1.01 TERM:

The Concessionaire shall have the right to occupy and use the following locations for the specified terms:

a) North Terminal Location: The County hereby leases to the Concessionaire the following North Terminal Concession Locations, for a eight (8) years Term commencing on September 14, 2014 or unless sooner terminated pursuant to **Article 12 "Termination by County". Locations: DA2251, DB2990, DB2781, DD21203.**

b) South Terminal Location: The County has leased to the Concessionaire the following South Terminal Locations, with an initial Term termination date of February 14, 2021. **Locations: H2780, J1058, J2406, J2404.**

In no event shall this Agreement afford the Concessionaires or any other party any right to use or occupy the Locations (or any part thereof) after the expiration, termination of this Agreement. The provisions of this Agreement shall remain in full force and effect until the expiration of obligations by the Concessionaire hereunder; notwithstanding, the Concessionaire shall not be entitled to make use of or occupy Locations hereunder after the expiration of the term applicable to such Location.

2. **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 **$1,073,781** effective November 1, 2014 based on applying the CPI-U retroactively to contract inception.

3. Concessionaire shall not be entitled to any credit for MAG payments made by Concessionaire prior to November 1, 2014.

The remainder of this page has been intentionally left blank.

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

CONCESSIONS MIAMI, LLC

_____
(Legal Name of Corporation)

ATTEST:

Secretary_____
(Signature and Seal)

By: _____
Authorized Officer - Signature

_____
(Type Name & Title)

Name: Anthony Joseph
President
(Type Name & Title)

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

By: _____
Mayor or his Designee

Approved for Form
and Legal Sufficiency

Attest: Harvey Ruvin, Clerk

_____
Assistant County Attorney

By: _____
Deputy Clerk