

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____
 Budget Account No: Fund _____ Department _____ Unit _____ Object _____
 Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: C. Michel Surin

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:
Fiscal Impact indeterminable at this time.

[Signature] 10/30/07
 OFMB
 10/30/07
 10/29/07

[Signature] 11/11/07
 Contract Dev. and Control

B. Legal Sufficiency:
James Brubio 4/2/07
 Assistant County Attorney

C. Other Department Review:

 Department Director

RESOLUTION NO. R-2007-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ADOPTING A NEW STANDARD FORM LICENSE AGREEMENT; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO EXECUTE THE STANDARD FORM LICENSE AGREEMENT; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO ENTER INTO CERTAIN AMENDMENTS TO THE STANDARD FORM LICENSE AGREEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County, by and through its Department of Airports, owns and operates the Palm Beach International Airport , Palm Beach County Glades Airport, North County General Aviation Airport and Palm Beach County Park Airport; and

WHEREAS, the delegation to the County Administrator or his designee of the authority to execute the standard form agreements eliminates delays caused by requiring such items to be brought before the Board of County Commissioners for approval and would therefore be consistent with the goal of the Board of County Commissioners to streamline the agenda process; and

WHEREAS, the Department of Airports receives requests from time to time for the short-term use of airport properties, including requests from the County's rental car concessionaires at the Palm Beach International Airport for short-term overflow parking during peak travel periods; and

WHEREAS, accommodation of these requests through the use of a revocable license would maximize potential revenues from the use of the County-owned land; and

WHEREAS, the Board of County Commissioners desires to authorize the County Administrator or his designee to execute a new standard form license agreement on behalf of the Board of County Commissioners.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are true and correct and are incorporated herein.
2. The Board of County Commissioners hereby: (i) adopts a new standard form license agreement, in the form attached hereto and incorporated herein as Attachment "A" (the "License Agreement"), and (ii) authorizes the County Administrator or his designee, the Director of the Department of Airports, to execute the License Agreement on behalf of the Board of County Commissioners for the short-term use of properties managed by the Department of Airports.
3. The County Administrator or his designee is hereby authorized to execute, on behalf of the Board of County Commissioners, an Agreement that includes non-material changes. For purposes of this Resolution, "non-material changes" mean changes that do not modify the substantive obligations of the parties.

4. The County Administrator or his designee may modify the insurance requirements contained in the License Agreement from time to time upon the advice of the Risk Management Department to require additional policies of insurance.

5. If any section, sentence, clause, phrase, or word of this Resolution is held invalid or unconstitutional by a Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

6. This Resolution shall become effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

- COMMISSIONER ADDIE L. GREENE, CHAIRPERSON -
- COMMISSIONER JEFF KOONS, VICE CHAIR -
- COMMISSIONER KAREN T. MARCUS -
- COMMISSIONER ROBERT J. KANJIAN -
- COMMISSIONER MARY MCCARTY -
- COMMISSIONER JESS R. SANTAMARIA -
- COMMISSIONER BURT AARONSON -

Then the Chair thereupon declared this Resolution duly passed and adopted this ____ day of _____, 20__.

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

Sharon R. Bock, Clerk & Comptroller

By: _____
Deputy Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

ATTACHMENT "A"
LICENSE AGREEMENT

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement") made and entered into this ___ day of _____, 200_, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as ("County") and _____ a _____, whose principal place of business is located at _____, hereinafter referred to as ("Licensee").

WITNESSETH:

WHEREAS, County, by and through its Department of Airports (the "Department"), is the owner and operator of the _____ Airport (the "Airport"); and

WHEREAS, County is the owner of that certain real property as more particularly described on the attached Exhibit "A"; and

WHEREAS, County is willing to grant Licensee a revocable license to use the Property for the purposes hereinafter defined.

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth on the part of the Licensee to be observed and performed, the County hereby grants the Licensee a non-exclusive, revocable license to use the Property (as hereinafter defined) upon the following terms and conditions:

ARTICLE 1 BASIC PROVISIONS

1.01 Recitals. The foregoing recitals are true and correct and incorporated herein.

1.02 Property. The Property, which is the subject of this Agreement, is more particularly identified in Exhibit "A", attached hereto and incorporated herein (the "Property").

ARTICLE 2 LENGTH OF TERM AND COMMENCEMENT DATE

The term of this Agreement shall commence on _____, 20__ (the "Commencement Date") and expire on _____, 20__ (the "Term"), unless terminated earlier as provided for herein. **[Insert if applicable: Licensee shall be permitted to use the Property on the following day(s) and/or times: (indicate specific dates/times Licensee will be permitted to use the Property during the Term.) Licensee shall not be permitted to use the Property on any other days or at any other times other than those specifically listed herein]**

ARTICLE 3 LICENSE FEE

3.01 License Fee. Licensee shall pay County for the use and occupancy of the Property a license fee in the amount of _____, together with applicable sales taxes thereon. **[Insert applicable provision: The license fee shall be payable in advance on the Commencement Date or The license fee shall be payable in advance, without demand and without any deduction, holdback or set off whatsoever, on or before the first day of each and every month throughout the Term of this Agreement with the first payment becoming due and payable on the Commencement Date.]**

ARTICLE 4
CONDUCT OF BUSINESS AND USE OF PROPERTY BY LICENSEE

4.01 Use of Property. Licensee shall use the Property solely and exclusively for _____ . Licensee shall not use, permit or suffer the use of the Property for any other business or purpose whatsoever.

4.02 Improvements. Licensee shall make no improvements, alterations or additions to the Property whatsoever, without the prior written consent of the Department, which may be granted or withheld in the Department's sole and absolute discretion.

4.03 Condition of Property. Licensee accepts the Property in its "As is", "Where is" condition as of the Commencement Date. Licensee further acknowledges that County has not made any warranties or representations of any nature whatsoever regarding the Property including, but not limited to, any warranties or representations relating to the physical condition of the Property or any improvements located therein, or the suitability of the Property or any improvements for the Licensee's intended use.

4.04 Waste or Nuisance. Licensee shall not commit or suffer to be committed any waste upon the Property or any nuisance or other act or thing which may result in damage or depreciation of value of the Property.

4.05 Compliance with Laws. Licensee shall, at its sole cost and expense, secure any and all required licenses and permits and shall comply with all local, state, and federal laws pertaining to Licensee or its use of the Property, including all applicable zoning, building and fire laws and regulations. Licensee acknowledges and agrees that County has made no representations whatsoever regarding Licensee's ability to use the Property for the purposes set forth in this Agreement. Licensee shall ensure that its invitees, guests and any all other persons entering the Property with or without Licensee's consent or knowledge comply with all applicable laws on the Property. Licensee shall indemnify, defend and save County harmless from any and all penalties, fines, costs, expenses, suits, claims, or damages resulting from Licensee's failure to perform its obligations specified in this Section. The foregoing indemnification agreement shall survive the expiration or earlier termination of this Agreement.

4.06 Non-Discrimination. Licensee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (a) that no person on the grounds of race, creed, color, national origin, sex, sexual orientation, religion, marital status, age, or disability shall be excluded from participation in or denied the use of the Property, (b) that in the construction of any improvements on, over, or under such Property and the furnishing of services, no person on the grounds of race, creed, color, national origin, sex, sexual orientation, religion, marital status, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (c) that Licensee shall use the Property in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended from time to time. In the event of the breach of any of the foregoing non-discrimination covenants, County shall have the right to terminate this Agreement and to reenter and repossess the Property and the facilities hereon, and hold the same as if the Agreement had never been made or issued. This cancellation provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed including exercise or expiration of appeal rights.

4.07 Surrender of Property. Upon expiration or earlier termination of Licensee's license to use the Property, Licensee, at its sole cost and expense, shall surrender the Property to the County in at least the same condition as the Property was in as of the Commencement Date of this Agreement.

4.08 County's Right to Enter. County shall have the right to enter the Property at any time, without notice, for any purpose whatsoever. County agrees to exercise reasonable

efforts to minimize interference with or disruption of Licensee's operations on the Property; provided, however, County shall not be required to expend additional sums of money in order to comply with the foregoing requirement. In the event that a County work activity must take place within the Property during Licensee's operating hours, which will disrupt or interfere with the Licensee's operations, County will endeavor to provide prior notice to Licensee. The notice requirements provided under Section 10.04 shall not apply to this Section.

ARTICLE 5 REPAIRS AND MAINTENANCE OF PROPERTY/SECURITY

5.01 Repairs & Maintenance. County shall not be obligated or required to make or conduct any maintenance or repairs whatsoever to the Property. All portions of the Property and all improvements erected on the Property shall be kept in good repair and condition by Licensee. Licensee shall maintain the Property free of trash and debris. Upon expiration or earlier termination of this Agreement, Licensee shall deliver the Property to County in good repair and condition as specified herein, free of all improvements constructed by Licensee, if any. In the event of any damage to the Property, County may complete the necessary repairs or maintenance of the Property and Licensee shall reimburse County for all expenses incurred by County in doing so, plus a twenty five percent (25%) overhead, within fifteen (15) days after written request for reimbursement from County.

5.02 Security. Licensee acknowledges and accepts full responsibility for the security and protection of the Property and any and all personal property and improvements now existing or hereafter placed on or installed in or upon the Premises, and for the prevention of unauthorized access to the Premises. Licensee fully understands that the police security protection provided by County is limited to that provided to any other business situated in Palm Beach County by the Palm Beach County Sheriff's Office and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Property, shall be the sole responsibility of Licensee and shall involve no additional cost to County.

ARTICLE 6 INSURANCE

6.01 Maintenance of Insurance. Licensee agrees to maintain, on a primary basis and at its sole expense, at all times during the Term of this Agreement, and any extension thereof, the insurance coverages and limits set forth in Exhibit "B", attached hereto and incorporated herein. The requirements contained herein, as well as County's review or acceptance of insurance maintained by Licensee is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Licensee under this Agreement.

ARTICLE 7 INDEMNIFICATION

Licensee shall indemnify, defend and save County harmless from and against any and all claims, actions, damages, liability and expense in connection with: (i) loss of life, personal injury and/or damage to or destruction of property arising from or out of any occurrence in, upon or at the Property; (ii) the occupancy or use by Licensee of the Property or any part thereof; or (iii) any act or omission of Licensee, its agents, contractors, employees or invitees. In the event the County is made a party to any litigation commenced against Licensee or by Licensee against any third party, then Licensee shall protect and hold County harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, and any appeals thereof. Licensee recognizes the broad nature of this indemnification provision and specifically acknowledges the receipt of good and value separate consideration in support thereof. This provision shall survive expiration or earlier termination of this Agreement.