

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>~ 0.0*</u>	<u>see below</u>	_____	_____	_____
#ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

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

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

*This item contains no fiscal impact through 2016. Approval of the attached amendments may provide an increase in revenue as determined by appraisal on October 2016. Currently, annual revenue from these two contracts is \$209,093.60.

C. Departmental Fiscal Review: CM Simon

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

[Signature]
 OFMB ^{V4} 8/5/10 ^{8/15/10}

Dr. J. Jacobson 8/10/10
 Contract Dev. and Control
 E. Jones 8/6/10
 These Lease Amendments
 comply with our review
 requirements.

B. Legal Sufficiency:

[Signature] 8/9/10
 Assistant County Attorney

C. Other Department Review:

 Department Director

**THIRD AMENDMENT TO FUEL FARM FACILITIES LEASE
AGREEMENT BETWEEN PALM BEACH COUNTY AND
AIRCRAFT SERVICE INTERNATIONAL, INC.**

This Third Amendment (this "Amendment") is made and entered into this ___ of _____, 2010, by and between Palm Beach County, a political subdivision of the State of Florida ("COUNTY"), and Aircraft Service International, Inc., a Delaware Corporation, whose principal place of business is located at 201 South Orange Avenue, Suite 1100, Orlando, FL 32801 ("LESSEE").

WITNESSETH:

WHEREAS, COUNTY, by and through its Department of Airports, owns and operates Palm Beach International Airport, located in Palm Beach County, Florida; and

WHEREAS, the parties entered into that certain Fuel Farm Facilities Lease Agreement dated October 19, 1999 (R-99-2004D), as amended (the "Lease"), for the LESSEE's operation of fuel farm facilities which service airline companies at the Airport; and

WHEREAS, the parties now desire to amend the Lease as provided for herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. The foregoing recitals are true and correct and are hereby incorporated herein by reference. Terms not defined herein shall have the meanings set forth in the Lease.

2. Article I, Section 1.02, Commencement Date, of the Lease is hereby deleted and replaced in its entirety with the following:

1.02 Commencement Date. The term of this Lease shall commence on March 10, 1999 (the "Commencement Date") and shall terminate on the June 30, 2021 (the "Term"), unless terminated earlier pursuant to the terms of this Lease.

3. Article II, Premises and Privileges, of the Lease is hereby amended to add the following:

2.06 Conduct of Activities. LESSEE shall conduct its activities and operations on and from the Premises in a safe, efficient and first class, professional manner consistent with the degree of care and skill exercised by companies providing comparable services at similar airports. LESSEE shall furnish good, prompt and efficient service and sales adequate to meet all reasonable demands of scheduled air carriers and provide its services and sales on a fair, equal and non-discriminatory basis and charge fair, reasonable and non-discriminatory prices for its sales and services. LESSEE shall maintain sufficient supplies and personnel to meet the reasonable demands of the scheduled air carriers utilizing the Airport.

2.07 Annual Report. On or before March 1st of each year, LESSEE shall provide COUNTY with an annual report covering the preceding calendar year, which details the total number of gallons of aviation fuel sold by LESSEE at the Airport by month. The report shall be certified under oath by an officer of LESSEE as being true and correct.

2.08 Inspector General. Pursuant to Ordinance No. 2009-049, County has established the Office of the Inspector General, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. All contractors and parties doing business with County and receiving County funds are required to fully cooperate with the Inspector General, including receiving access to records relating to this Lease. LESSEE shall cooperate with the Inspector General in any inspections, audits, reviews or investigations instituted pursuant to Ordinance No. 2009-049, as may be amended, related to this Lease. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and to audit, investigate, monitor, and inspect the activities of the contractors, and their officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and to detect corruption and fraud.

4. Article III, Section 3.03, Adjustment of Rental, of the Lease is hereby deleted in its entirety and replaced with the following:

3.03 Adjustment of Rental.

- (A) Except as provided in Article 3.03(D) below, on October 1, 2010 and each three (3) year anniversary thereof (each such date, an "Adjustment Date"), the annual rental rates set forth herein shall be adjusted and the new annual rental rates shall be determined as hereinafter set forth. COUNTY shall select a qualified M.A.I. appraiser to determine the fair market rental value of the following:
- (i) the Property and that portion of the Facility located on Parcel 1,

as more particularly identified on Exhibit "A", for rental adjustments occurring prior to October 1, 2016; and (ii) the Property and Facility for rental adjustments occurring on and after October 1, 2019. The Department shall submit to LESSEE a written statement of the fair market rental rates as established by the appraisal, which shall become the new annual rental rates. The adjusted annual rental shall be payable commencing on the Adjustment Date.

- (B) Notwithstanding the foregoing, for those rental adjustments occurring prior to October 1, 2016, the adjusted annual rental payable by LESSEE shall not exceed an amount that would be obtained by multiplying the rentals established as of October 1, 2007 by a fraction, the numerator of which shall be the "Consumer Price Index" (as hereinafter defined) figure for May of the calendar year in which such adjustment is to become effective and the denominator of which shall be the Consumer Price Index figure for April 2007. For those rental adjustments occurring on an after October 1, 2019, the adjusted annual rental payable by LESSEE shall not exceed an amount that would be obtained by multiplying the rentals established as of October 1, 2016 by a fraction, the numerator of which shall be the "Consumer Price Index" (as hereinafter defined) figure for May of the calendar year in which such adjustment is to become effective and the denominator of which shall be the Consumer Price Index figure for April 2016.
- (C) For the purposes hereof, the term "Consumer Price Index" shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers, United States City Average, all items, 1982 - 1984 = 100, not seasonally adjusted, or any successor thereto as promulgated by the Bureau of Labor Statistics of the United States Department of Labor ("Bureau of Labor Statistics"). In the event that the Bureau of Labor Statistics ceases to use 1982 - 1984=100 as the standard reference index base period, the then current standard reference index base period shall be utilized. In the event the Consumer Price Index (or successor or substitute Consumer Price Index) is not available, a reliable governmental or other nonpartisan publication evaluating information theretofore used in determining the Consumer Price Index shall be used.
- (D) On October 1, 2016, the annual rental rates set forth herein shall be adjusted and new annual rental rates shall be determined as set forth in this Article 3.03(D) by appraisal and shall not be subject to the provisions of Articles 3.03 (A)-(C) above. In addition to payment

of rental for that portion of the Facility located on Parcel 1, as more particularly identified on Exhibit "A", LESSEE shall commence payment of rental for those portions of the Facility located on Parcels 2 and 3, as more particularly identified on Exhibit "A". COUNTY, at its sole cost and expense, shall obtain an appraisal of the Property and Facility to determine their fair market rental value. COUNTY shall provide a complete copy of the appraisal to LESSEE. In the event LESSEE objects to the fair market rental value set forth in the appraisal obtained by COUNTY, LESSEE shall notify COUNTY in writing of its objection within thirty (30) days of receipt of COUNTY's appraisal. Provided LESSEE has notified COUNTY in writing of its objection to COUNTY's appraisal within the aforementioned thirty (30) day period, LESSEE, at its sole cost and expense, may obtain a second appraisal. LESSEE shall provide COUNTY with a copy of the second appraisal within sixty (60) days of the date of LESSEE's objection notice. In the event a second appraisal is not obtained, the annual rental rates shall be adjusted on October 1, 2016 in accordance with the annual rental rates set forth in the first appraisal. In the event a second appraisal is obtained, and the annual rental rates established in the two (2) appraisals vary by an amount less than or equal to twenty five percent (25%) of the average of the two (2) appraisals, then the annual rental rates shall be adjusted on October 16, 2016 based on the average of the two (2) appraisals. In the event the two (2) appraisals vary by an amount greater than twenty five percent (25%) of the average of the two (2) appraisals, then COUNTY and LESSEE shall jointly retain an appraiser, reasonably acceptable to both parties, to perform a third appraisal. Except as otherwise provided for below, the cost of the third appraisal shall be borne equally by the parties. In the event the parties are unable to agree upon the selection of the appraiser to conduct the third appraisal, COUNTY shall have the right to select the third appraiser; provided, however, the cost of the third appraisal shall be borne solely by COUNTY. In the event a third appraisal is obtained, annual rental rates shall be adjusted, effective as of October 1, 2016, by the average of the three (3) appraisals. The parties agree that any appraisers selected pursuant to this Article 3.03(D) shall be qualified M.A.I. appraisers with demonstrated experience in appraising similar airport properties.

- (E) This Lease shall automatically be considered as amended, without formal amendment hereto, upon written notification by the Department to LESSEE of the annual rental rates established

pursuant to this Article 3.03. Any delay or failure of COUNTY in computing the adjustment in rental, as hereinabove provided, shall not constitute a waiver of or in any way impair the continuing obligation of LESSEE to pay such adjusted annual rental from the applicable Adjustment Date. Notwithstanding any provision of this Lease to the contrary, annual rental rates shall not be adjusted to an amount less than the annual rental rates payable during the period immediately preceding the Adjustment Date.

- (F) Notwithstanding any provision of this Lease to the contrary, LESSEE acknowledges and agrees that COUNTY shall have the right to establish and maintain the rental rates hereunder to ensure compliance with the provisions of Section 710 (rate covenant) of the Bond Resolution.

5. Article XIII, Section 13.02, Default, of the Lease is hereby amended to add the following:

- F. A default by LESSEE of any other agreement, permit or lease between County and LESSEE, which default has not been cured within the applicable cure period provided in such agreement, permit or lease.

6. Except as modified herein, all terms and conditions of the Lease shall remain in full force and effect.

7. This Third Amendment is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

8. In the event of any conflict or ambiguity between this Amendment and the Lease, the parties hereto hereby agree that this Amendment shall control.

(Remainder of page intentionally left blank)

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

ATTEST:

SHARON R. BOCK
Clerk & Comptroller

By: _____
Deputy Clerk

**PALM BEACH COUNTY, a political
subdivision of the State of Florida by its
Board of County Commissioners**

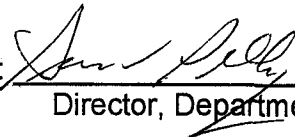
By: _____
Burt Aaronson, Chairman

(SEAL)

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Assistant County Attorney

**APPROVED AS TO TERMS
AND CONDITIONS**

By: 
Director, Department of Airports

**Signed, sealed and delivered in
the presence of two witnesses
for LESSEE:**


Donna McGill
Signature

Donna McGill
Print Name

Theresa E. Kassim
Signature

Theresa E. Kassim
Print Name

**LESSEE:
Aircraft Service International, Inc.**

By: 
Signature

Joseph I. Goldstein
Print Name

Secretary
Title

(Seal)

APPROVED AS TO FORM:
7/15/10 SK
LEGAL DEPT.

**SIXTH AMENDMENT TO AIRPORT BUILDING/GROUND LEASE
AGREEMENT BETWEEN PALM BEACH COUNTY AND
AIRCRAFT SERVICE INTERNATIONAL, INC.**

This Sixth Amendment (this "Amendment") is made and entered into this ___ of _____, 2010, by and between Palm Beach County, a political subdivision of the State of Florida ("COUNTY"), and Aircraft Service International, Inc., a Delaware Corporation, whose principal place of business is located at 201 South Orange Avenue, Suite 1100, Orlando, FL 32801 ("LESSEE").

WITNESSETH:

WHEREAS, COUNTY, by and through its Department of Airports, owns and operates Palm Beach International Airport, located in Palm Beach County, Florida; and

WHEREAS, COUNTY has certain building and ground areas at the Airport, which are available for leasing on triple net basis; and

WHEREAS, the parties entered into that certain Airport Building/Ground Lease Agreement dated October 19, 1993 (R-93-1323D), as amended (the "Lease"), for the LESSEE's operation of an aeronautical support business; and

WHEREAS, the parties now desire to amend the Lease as provided for herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. The foregoing recitals are true and correct and are hereby incorporated herein by reference. Terms not defined herein shall have the meanings set forth in the Lease.

2. Article I, Term of Leasehold, of the Lease is hereby deleted and replaced in its entirety with the following:

Article I
Term of Leasehold

This Lease shall commence and be effective upon the 1st day of July, 1993, and shall terminate on the 30th day of June, 2021 (the "Term"), unless terminated earlier pursuant to the terms of this Lease.

3. Article II, Premises and Privileges, of the Lease is hereby amended to add the following:

2.05 Conduct of Activities. LESSEE shall conduct its activities and operations on and from the Premises in a safe, efficient and first class, professional manner consistent with the degree of care and skill exercised by companies providing comparable services at similar airports. LESSEE shall furnish good, prompt and efficient service and sales adequate to meet all reasonable demands of scheduled air carriers and provide its services and sales on a fair, equal and non-discriminatory basis and charge fair, reasonable and non-discriminatory prices for its sales and services. LESSEE shall maintain sufficient supplies and personnel to meet the reasonable demands of the scheduled air carriers utilizing the Airport.

2.06 Inspector General. Pursuant to Ordinance No. 2009-049, County has established the Office of the Inspector General, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. All contractors and parties doing business with County and receiving County funds are required to fully cooperate with the Inspector General, including receiving access to records relating to this Lease. LESSEE shall cooperate with the Inspector General in any inspections, audits, reviews or investigations instituted pursuant to Ordinance No. 2009-049, as may be amended, related to this Lease. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and to audit, investigate, monitor, and inspect the activities of the contractors, and their officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and to detect corruption and fraud.

4. Article III, Section 3.03, Adjustment of Rentals, of the Lease is hereby deleted in its entirety and replaced with the following:

3.03 Adjustment of Rentals.

(A) Except as provided in Article 3.03(D) below, on October 1, 2010, and each three (3) year anniversary thereof (each such date, an "Adjustment Date"), the annual rental rates set forth herein shall be adjusted and the new annual rental rates shall be determined as hereinafter set forth. COUNTY shall select a qualified M.A.I. appraiser who shall appraise the leased premises to determine its fair market rental value. The Department shall submit to LESSEE a written statement of the fair market rental rates as established by the appraisal, which shall become the new annual rental rates for

the leased premises. The adjusted annual rental shall be payable commencing on the Adjustment Date.

- (B) Notwithstanding the foregoing, for those rental adjustments occurring prior to October 1, 2016, the adjusted annual rental payable by LESSEE shall not exceed an amount that would be obtained by multiplying the rentals established as of October 1, 2007 by a fraction, the numerator of which shall be the "Consumer Price Index" (as hereinafter defined) figure for May of the calendar year in which such adjustment is to become effective and the denominator of which shall be the Consumer Price Index figure for April 2007. For those rental adjustments occurring on and after October 1, 2016, the adjusted annual rental payable by LESSEE shall not exceed an amount that would be obtained by multiplying the rentals established as of October 1, 2016 by a fraction, the numerator of which shall be the "Consumer Price Index" (as hereinafter defined) figure for May of the calendar year in which such adjustment is to become effective and the denominator of which shall be the Consumer Price Index figure for April 2016.
- (C) For the purposes hereof, the term "Consumer Price Index" shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers, United States City Average, all items, 1982 - 1984 = 100, not seasonally adjusted, or any successor thereto as promulgated by the Bureau of Labor Statistics of the United States Department of Labor ("Bureau of Labor Statistics"). In the event that the Bureau of Labor Statistics ceases to use 1982 - 1984=100 as the standard reference index base period, the then current standard reference index base period shall be utilized. In the event the Consumer Price Index (or successor or substitute Consumer Price Index) is not available, a reliable governmental or other nonpartisan publication evaluating information theretofore used in determining the Consumer Price Index shall be used.
- (D) On October 1, 2016, the annual rental rates shall be adjusted and new annual rental rates shall be determined as set forth in this Article 3.03(D) by appraisal and shall not be subject to the provisions of Articles 3.03 (A)-(C) above. COUNTY, at its sole cost and expense, shall obtain an appraisal of the leased premises to determine its fair market rental value. COUNTY shall provide a complete copy of the appraisal to LESSEE. In the event LESSEE objects to the fair market rental value set forth in the appraisal obtained by COUNTY, LESSEE shall notify COUNTY in writing of its objection within thirty (30) days of receipt of COUNTY's

appraisal. Provided LESSEE has notified COUNTY in writing of its objection to COUNTY's appraisal within the aforementioned thirty (30) day period, LESSEE, at its sole cost and expense, may obtain a second appraisal. LESSEE shall provide COUNTY with a copy of the second appraisal within sixty (60) days of the date of LESSEE's objection notice. In the event a second appraisal is not obtained, the annual rental rates shall be adjusted on October 1, 2016 in accordance with the annual rental rates set forth in the first appraisal. In the event a second appraisal is obtained, and the annual rental rates established in the two (2) appraisals vary by an amount less than or equal to twenty five percent (25%) of the average of the two (2) appraisals, then the annual rental rates shall be adjusted on October 16, 2016 based on the average of the two (2) appraisals. In the event the two (2) appraisals vary by an amount greater than twenty five percent (25%) of the average of the two (2) appraisals, then COUNTY and LESSEE shall jointly retain an appraiser, reasonably acceptable to both parties, to perform a third appraisal. Except as otherwise provided for below, the cost of the third appraisal shall be borne equally by the parties. In the event the parties are unable to agree upon the selection of the appraiser to conduct the third appraisal, COUNTY shall have the right to select the third appraiser; provided, however, the cost of the third appraisal shall be borne solely by COUNTY. In the event a third appraisal is obtained, annual rental rates shall be adjusted, effective as of October 1, 2016, by the average of the three (3) appraisals. The parties agree that any appraisers selected pursuant to this Article 3.03(D) shall be qualified M.A.I. appraisers with demonstrated experience in appraising similar airport properties.

- (E) This Lease shall automatically be considered as amended, without formal amendment hereto, upon written notification by the Department to LESSEE of the annual rental rates established pursuant to this Article 3.03. Any delay or failure of COUNTY in computing the adjustment in rental, as hereinabove provided, shall not constitute a waiver of or in any way impair the continuing obligation of LESSEE to pay such adjusted annual rental from the applicable Adjustment Date. Notwithstanding any provision of this Lease to the contrary, annual rental rates shall not be adjusted to an amount less than the annual rental rates payable during the period immediately preceding the Adjustment Date.
- (F) Notwithstanding any provision of this Lease to the contrary, LESSEE acknowledges and agrees that COUNTY shall have the

right to establish and maintain the rental rates hereunder to ensure compliance with the provisions of Section 710 (rate covenant) of the Bond Resolution.

5. Article XI, Section 11.02(A), County's Right of Cancellation, of the Lease is hereby amended to add the following:

(9) A default by LESSEE of any other agreement, permit or lease between County and LESSEE, which default has not been cured within the applicable cure period provided in such agreement, permit or lease.

6. Article XIII, Laws, Regulations, Permits and Taxes, of the Lease is hereby amended to add the following:

13.06 Environmental Audit. At least thirty (30) days, but no more than ninety (90) days, prior to the expiration or earlier termination of the Lease, LESSEE shall cause a Phase I environmental assessment ("Phase I ESA") of the leased premises to be prepared and delivered to COUNTY. If requested by COUNTY or, if the Phase I ESA indicates that there is a potential that the presence of Hazardous Materials (as hereinafter defined) may exist on the leased premises or the adjacent property based on activities that have occurred or are occurring on the leased premises, LESSEE shall promptly cause a Phase II environmental assessment of the leased premises to be prepared and delivered to COUNTY. The ESAs shall be prepared by a professional geologist or engineer licensed by the State of Florida, acceptable to COUNTY, and shall be prepared to meet the standards of practice of the American Society of Testing and Materials ("ASTM"), to determine the existence and extent, if any, of Hazardous Materials on the leased premises. The ESAs shall state that COUNTY is entitled to rely on the information set forth in the ESAs. The ESAs shall be prepared and delivered to COUNTY at LESSEE's sole cost and expense. The Phase II ESA must address any potential areas of contamination identified in the Phase I portion of the assessment. For purposes of this Lease, "Hazardous Materials" shall mean any contaminant, hazardous or toxic substance, material or waste of any kind or any other substance that is regulated by any applicable federal, state or local laws, statutes, ordinances, rules, regulations or governmental restrictions relating to the protection of the environment or human health, welfare or safety or to the emission, discharge, seepage or release of Hazardous Materials into the environment, including, but not limited to, ambient air, surface water, groundwater or land, or otherwise relating to the handling of such Hazardous Materials ("Environmental Laws"). LESSEE shall, at its sole cost and expense, promptly commence and diligently pursue to completion any assessment, remediation, clean-up and/or monitoring of

the leased premises necessary to bring the leased premises into full compliance with Environmental Laws. The requirements of this paragraph shall be in addition to any other provisions of this Lease relating to the condition of the leased premises and shall survive the expiration or earlier termination of this Lease.

7. Except as modified herein, all terms and conditions of the Lease shall remain in full force and effect.

8. In the event of any conflict or ambiguity between this Amendment and the Lease, the parties hereto hereby agree that this Amendment shall control.

9. This Sixth Amendment is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have duly executed this Sixth Amendment, or have caused the same to be executed by their duly authorized representatives, as of the day and year first above written.

ATTEST:

SHARON R. BOCK
Clerk & Comptroller

By: _____
Deputy Clerk

**PALM BEACH COUNTY, a political
subdivision of the State of Florida by its
Board of County Commissioners**

By: _____
Burt Aaronson, Chairman

(SEAL)

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
Assistant County Attorney

**APPROVED AS TO TERMS
AND CONDITIONS**

By: *[Signature]*
Director, Department of Airports

**Signed, sealed and delivered in
the presence of two witnesses
for LESSEE:**

Donna McGill
Signature

Donna McGill
Print Name

Theresa E. Kassim
Signature

Theresa E. Kassim
Print Name

**LESSEE:
Aircraft Service International, Inc.**

By: *[Signature]*
Signature

Joseph I. Goldstein
Print Name

Secretary
Title

(Seal)

APPROVED AS TO FORM:
7/15/10 SA
LEGAL DEPT,