

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: March 14, 2017

☐ Consent ☒ Regular
☐ Workshop ☐ Public Hearing

Department:

Submitted By: Department of Airports

Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve:

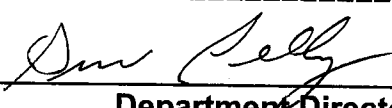
- (A) Hotel Development Site Lease Agreement (Lease) with CVH PBIA, LLC, a Florida Limited Liability Company, for the lease of approximately 130,680 square feet of unimproved ground for the development of a hotel on the Palm Beach International Airport (PBIA), commencing on March 14, 2017, and expiring 50 years from the date of beneficial occupancy, for an initial annual rental in the amount of \$156,816.00 or 3.5% of annual hotel revenues, whichever is greater.
- (B) A Budget Transfer of \$1,500,000 in the Airport's Improvement and Development Fund to provide budget for necessary infrastructure improvements to access roadways and utility corridors. This includes a Transfer from Reserves of \$1,500,000.

Summary: The Lease provides for the development of a 120 room hotel on approximately 3 acres of vacant land west of the lake on the northeast corner of the PBIA. The hotel brand is a Home2 Suites by Hilton, which is a limited service, upper/midscale all-suite hotel. CVH PBIA will pay the greater of initial annual rental of \$156,816.00 or 3.5% of annual hotel revenues and make a minimum capital investment of no less than \$10,000,000. The minimum rental guaranteed to the County over the term of the Lease is \$7,840,800, which does not take into consideration rental escalation or percentage rent. Construction of the hotel pursuant to the Lease must be completed in no more than 24 months. Infrastructure improvements are necessary due to increased traffic demands on PBIA's access roadways and for the development of the northeast corner of PBIA. The Department is pursuing grant funding for a portion of the infrastructure improvements. The Lease confirms the County's commitment to complete the necessary infrastructure improvements located outside the leased property. The lease of the property in the northeast corner of the PBIA, including the hotel property, is anticipated to generate more than \$1,000,000 in annual rental revenues. CVH PBIA has agreed to a minimum of 8% Airport Concession Disadvantaged Business Enterprise participation over the term of the Lease. Countywide (HF)

Background and Justification: On October 11, 2016, the Department issued Request for Proposals No. PB 16-6 for the lease and development of up to 9.98 ± acres of land on PBIA. Cohen Investments was the sole proposer. CVH PBIA is a single purpose entity established for this project by the proposer. Cohen Investments has developed Home2 Suites by Hilton hotels in a number of locations, including Tuscaloosa, AL, Southaven, MS and Lexington, KY. The hotel will be managed by Vista Host, which has experience in managing a wide array of franchise brands, including Hampton Inn, Hampton Inn & Suites, Hilton Garden Inn, and Homewood Suites. A market study prepared by HVS Consulting and Valuation Services prior to issuance of the RFP determined that a limited/select service hotel product tier to be the optimal fit for the location.

Attachments:

1. Location Map
2. Rendering
3. Hotel Development Site Lease Agreement (3)
4. Budget Transfer

Recommended By:  2/15/17
Department Director Date

Approved By: 
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Capital Expenditures	<u>\$1,500,000</u>				
Operating Costs					
Operating Revenues	<u>\$-0-</u>	<u>\$-0-</u>	<u>(\$85,966)</u>	<u>(\$156,816)</u>	<u>(\$156,816)</u>
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	<u>\$1,500,000</u>	<u>\$-0-</u>	<u>(\$85,966)</u>	<u>(\$156,816)</u>	<u>(\$156,816)</u>
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes _____ No X

Budget Account No: Fund 4100 Department 120 Unit 8452 RSource 4416
 Fund 4111 Department 121 Unit A187 Object 6101

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

The fiscal impact analysis above assumes the base rental commences on March 14, 2019; however, rental may occur earlier based upon the date construction of the hotel is completed. The Department is unable to estimate potential percentage rental at this time since it will be based on actual hotel revenues after the hotel opening. In addition, the fiscal impact analysis above does not estimate escalation of the base rental. The minimum rental guaranteed to the County over the term of the Lease will be \$7,840,800. The Lease also confirms the County's commitment to complete certain infrastructure improvements in an amount not to exceed \$1,500,000, which would be recommended by the Department absent approval of the Lease.

C. Departmental Fiscal Review: [Signature]

III. REVIEW COMMENTS

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

[Handwritten signature]
 OFMB
9/2/16 *MD 3/16*

J. J. Jacobson 2/24/17
Contract Dev. and Control
2/22/17 (TW)

B. Legal Sufficiency:

 2/27/17
Assistant County Attorney

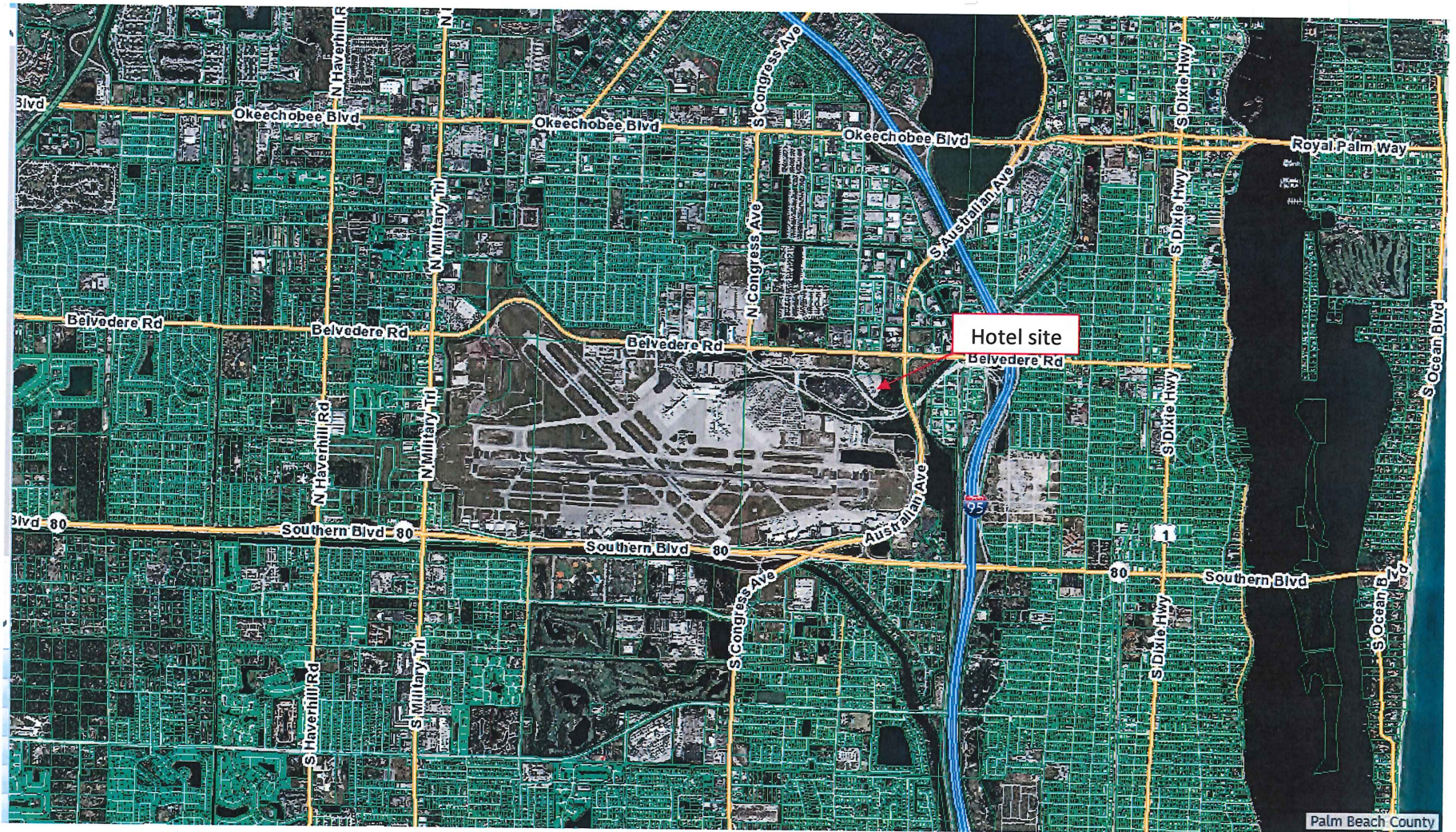
C. Other Department Review:

Department Director

REVISED 9/03
ADM FORM 01
(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

ATTACHMENT "1"

Location Map



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The information contained within these
design concepts are the exclusive
property of Renaissance Group Inc.

11-07-2016

proposed perspectives for
new Home 2 Hotel
West Palm Beach, Florida



PERSPECTIVE AT POOL

PERSPECTIVE AT MAIN ENTRANCE



ATTACHMENT "2"

HOTEL DEVELOPMENT SITE LEASE AGREEMENT

Department of Airports

Palm Beach County, Florida

and

CVH PBIA, LLC, a Florida Limited Liability Company

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HOTEL DEVELOPMENT SITE LEASE AGREEMENT

THIS HOTEL DEVELOPMENT SITE LEASE AGREEMENT (this "Lease") is made and entered into this _____ day of _____, 20____, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and CVH PBIA, LLC, a Florida Limited Liability Company, having its office and principal place of business at 6750 Poplar Avenue, Suite 107, Memphis, TN 38138 ("Tenant").

WITNESSETH:

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

WHEREAS, Tenant submitted a proposal in response to Request for Proposals, PB 16-6 issued on October 11, 2016, for the lease of certain real property at the Airport, which is managed by the Department on behalf of County.

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:

ARTICLE 1 - RECITALS

The foregoing recitals are true and correct and are hereby incorporated herein by reference.

ARTICLE 2 - DEFINITIONS

The following words, terms, and phrases wherever used in this Lease shall have the meanings set forth in this Article and the meanings shall apply to both singular and plural forms of such words, terms and phrases.

- 2.01 "Additional Insured" has the meaning set forth in Section 11.07.
- 2.02 "Additional Rent" has the meaning set forth in Section 5.13.
- 2.03 "Adjustment Date" has the meaning set forth in Section 5.04(A).
- 2.04 "Airport" has the meaning set forth in the Recitals.
- 2.05 "Airport Rules and Regulations" means the Palm Beach County Airport Rules and Regulations adopted by Resolution No. R-98-220, as now or hereafter amended, and any successor ordinance or resolution regulating activities or operations on the Airport.

- 2.06 “Annual Report” has the meaning set forth in Section 5.07.
- 2.07 “Assignment” has the meaning set forth in Article 16.
- 2.08 “Base Rental” means the initial annual ground rental set forth in Section 5.01, as adjusted in accordance with Section 5.04.
- 2.09 “Benchmark Brand” means Home2 Suites by Hilton or a comparable limited service, extended stay hotel that is: (a) within the upscale/upper-midscale chain scale segment as classified by STR, Inc., or its successor, or such other industry-accepted hotel data research firm publishing similar information as may be mutually agreed to by the parties in writing in the event STR ceases to publish such information; and (b) operated by a large, nationally-recognized hotel chain, such as Hilton, Hyatt, InterContinental, Marriott, Starwood, and Wyndham.
- 2.10 “Benchmark Standard” means the physical and operational standards found at all-suite, limited service, extended stay hotels within the United States in close proximity to an airport that primarily serve demand from airport traffic containing no fewer than one hundred twenty (120) guest rooms and having comparable attributes with respect to age, type of business and market area as the Hotel.
- 2.11 “Bond Resolution” means the Palm Beach County Airport System Revenue Bond Resolution dated April 3, 1984 (R-84-427), as amended and supplemented, which is hereby incorporated herein by reference and made a part hereof.
- 2.12 “Board” means the Board of County Commissioners of Palm Beach County, Florida.
- 2.13 “Bond” has the meaning set forth in Section 5.10.
- 2.14 “Business Day” means any day other than a Saturday, Sunday or County holiday. Use of the word “day” as opposed to Business Day means a calendar day.
- 2.15 “Capital Investment Report” shall have the meaning set forth in Section 7.01(E).
- 2.16 “Consumer Price Index” has the meaning set forth in Section 5.04(C).
- 2.17 “County Environmental Assessments” mean the Phase I Environmental Site Assessment Report prepared by URS Corporation Southern dated July 17, 2014; Limited Phase II Environmental Site Assessment Report prepared by URS Corporation dated September 17, 2014; Low Score Initiative Assessment Report prepared by Terracon Consultants, Inc., dated November 10, 2015; and Limited Contamination Assessment Report prepared by Terracon Consultants, Inc., dated August 30, 2016.
- 2.18 “County Party” means the County and its elected officers, employees and agents.

- 2.19 “Damages” has the meaning set forth in Article 18.
- 2.20 “Date of Beneficial Occupancy” has the meaning set forth in Section 3.01.
- 2.21 “Department” means the Palm Beach County Department of Airports.
- 2.22 “Derelict Vehicle” means a vehicle that is in a wrecked, dismantled or partially dismantled condition, or which is discarded and in an inoperable condition.
- 2.23 “Director” means the Director or Acting Director of the Department of Airports.
- 2.24 “Driveway Improvements” has the meaning set forth in Section 7.05(C).
- 2.25 “Effective Date” means the date that this Lease is approved by the Palm Beach County Board of County Commissioners and signed by the parties.
- 2.26 “Environmental Condition” means an environmental condition existing on the Property prior to the Effective Date that is in violation of applicable Environmental Laws.
- 2.27 “Environmental Laws” means all applicable Federal, State and local laws, statutes, ordinances, rules, regulations and governmental restrictions relating to the protection of the environment, human health, welfare or safety, or to the emission, discharge, seepage or release of Hazardous Substances into the environment, including, but not limited to, ambient air, surface water, groundwater or land, or otherwise relating to the handling of such Hazardous Substances.
- 2.28 “FAA” means the Federal Aviation Administration.
- 2.29 “Hazardous Substances” shall mean any contaminant, hazardous or toxic substance, material or waste of any kind or any other substance that is regulated by any Environmental Laws.
- 2.30 “Hotel” means the Benchmark Brand hotel to be developed by Tenant on the Property as more particularly detailed in Section 7.01(A) or such other hotel brand as may be consented to by County in accordance with Section 6.01(B), in its sole and absolute discretion.
- 2.31 “Hotel Revenues” means all revenues of the hotel business conducted by Tenant upon the Property regardless of where, how (cash or credit), or by whom payment is made, including, without limitation, all revenues from: (a) the rental of guest rooms, banquet rooms and meeting rooms; (b) the sale of food and beverages, including alcoholic beverages; (c) the sale of any goods or services, except as otherwise provided herein below; (d) advertising; (e) parking fees; and (f)

concession payments, license fees, rentals or other amounts paid or payable to Tenant pursuant to any and all concessions, subleases and licenses granted by Tenant for the use or occupancy of any portion of the Property, including agreements for the operation of gift and sundry shops, food and beverage concessions, cellular antennas, vending machines and rental car services. Unless revenues are expressly and specifically excluded from Hotel Revenues, all revenues payable to Tenant that are derived from, or that arise out of or become payable on account of the hotel business conducted by Tenant upon the Premises, whether directly or indirectly, shall be included in Hotel Revenues. In the event Tenant fails or elects not to charge or collect any rentals, concession or license fees, amounts for goods or services or any other amount which would otherwise be included in Hotel Revenues, the amount customarily charged by Tenant shall be included in the calculation of Hotel Revenues, unless such amount is expressly and specifically excluded from Hotel Revenues pursuant to this definition. No deduction shall be made from Hotel Revenues by reason of any credit loss, charge, or deduction that may be incurred by reason of the acceptance or use of credit cards or other credit or charge arrangements. All computations to be made in connection with determining Percentage Rent, including the amount of Hotel Revenues, shall be made in accordance with USALI (as hereinafter defined). Hotel Revenues shall not include:

- (A) All impositions (including, but not limited to, all federal, state and municipal excise, sales, use, and other taxes) collected from patrons or guests as a part of, or based upon, the sales price of any goods or services, including with limitation, gross receipts, room, bed, admission, cabaret, or similar taxes (including any tax credits or refunds, subsidies or other incentives provided by any governmental agency, constructive income, imputed income or similar income resulting from election or the effect of tax or other applicable statutes or laws);
- (B) Any gratuities collected for the benefit of and paid to Hotel personnel;
- (C) Rebates, discounts, or credits of a similar nature (not including charge or credit card discounts);
- (D) Allowances, rebates, refunds and accounts written off not included in Hotel Revenues in accordance with USALI;
- (E) Receipts from the financing, refinancing, sale or other disposition of the hotel or any building equipment or other capital assets and other items not in the ordinary course of the hotel's operations;
- (F) Casualty, liability or other insurance proceeds;
- (G) Complimentary rooms, food and beverage as well as goods or services, giveaways and other promotional items;

- (H) Allowances, rebates or refunds, arising from participation in any frequent guest/customer loyalty or other hotel franchisor award program, not included in hotel operating revenues in accordance with USALI;
 - (I) Receipts from awards or sales in connection with any condemnation or other taking, from other transfers in lieu of and under the threat of any condemnation or other taking, and other receipts in connection with any condemnation or other taking;
 - (J) Charge-backs, bad debts and other uncollected Hotel Revenues;
 - (K) The amount of returns to suppliers or manufacturers;
 - (L) Cash or credit refunds made for any returned merchandise accepted by Tenant and previously included in Hotel Revenues; and
 - (M) Refunds to Hotel guests of any sums or credits to any Hotel customers for lost or damaged items.
 - (N) Exchanges of merchandise to the extent of the value of the item exchanged;
 - (O) Fees and other charges on account of charge, credit card, or similar transactions, to, among others, credit card companies, point of sale providers and processors; and
 - (P) Sales of gift cards; provided, however, a redeemed sale using a gift card would be included in Hotel Revenues.
- 2.32 “Initial Leasehold Improvements” has the meaning set forth in Section 7.01(A).
- 2.33 “Inspection Period” has the meaning set forth in Section 3.05(B).
- 2.34 “Inspections” has the meaning set forth in Section 3.05(B).
- 2.35 “Lease” means this Lease and all exhibits attached hereto, which are incorporated herein by this reference. Words such as “herein,” “hereafter,” “hereof,” “hereby” and “hereunder” when used with reference to this Lease, refer to this Lease as a whole, unless context otherwise requires.
- 2.36 “Leasehold Mortgage” has the meaning set forth in Section 17.01.
- 2.37 “Leasehold Mortgagee” has the meaning set forth in Section 17.01.
- 2.38 “Lease Year” means a twelve (12) month period beginning on the Date of Beneficial Occupancy, and each twelve (12) month period thereafter, until the expiration or earlier termination of this Lease.

- 2.39 “Letter of Credit” has the meaning set forth in Section 5.10.
- 2.40 “Minimum Capital Investment” has the meaning set forth in Section 7.01(B).
- 2.41 “Monthly Percentage Rent” has the meaning set forth in Section 5.03.
- 2.42 “Monthly Report” has the meaning set forth in Section 5.06.
- 2.43 “Obstructions” has the meaning set forth in Section 23.03.
- 2.44 “Parcel N-11” means the real property identified on Exhibit “A” as “P.B.I.A. Lease Parcel N-11 WPB” and “P.B.I.A. Lease Parcel N-11 PBC”.
- 2.45 “Parcel N-11 PBC” means the real property more particularly described on Exhibit “A” as “P.B.I.A. Lease Parcel N-11 PBC”.
- 2.46 “Percentage Rent” has the meaning set forth in Section 5.01.
- 2.47 “Plans” have the meaning set forth in Section 7.01(C).
- 2.48 “Premises” means the Property together with all buildings, facilities and other improvements now or hereafter constructed thereon, subject to easements, rights-of-way and any other encumbrances of record.
- 2.49 “Property” means approximately one hundred thirty thousand, six hundred eighty (130,680) square feet of unimproved real property as more particularly described on Exhibit “B”. The parties acknowledge the boundary of the Property within Parcel N-11 PBC may change based upon the final site plan for the Initial Leasehold Improvements. Within ninety (90) days of approval of the site plan for the Initial Leasehold Improvements by County’s Planning, Zoning and Building Department, the parties shall enter into an amendment to this Lease to reflect the final square footage and location of the Property based upon the approved site plan and replace Exhibit “B” with an updated survey and legal description.
- 2.50 “Proposal” means the written proposal submitted by Tenant in response to the RFP.
- 2.51 “Quality Review” has the meaning set forth in Section 6.01(A).
- 2.52 “Quality Report” has the meaning set forth in Section 6.01(A).
- 2.53 “Release Documents” has the meaning set forth in Section 17.08.
- 2.54 “Request for Proposals” or “RFP” means Request for Proposals No. PB 16-6, issued by County on October 11, 2016, as amended and/or supplemented.

- 2.55 “Reviewer” has the meaning set forth in Section 6.01(A).
- 2.56 “Risk Management Department” means the Palm Beach County Risk Management Department.
- 2.57 “Roadway Improvements” means the internal Airport roadway improvements as generally depicted on Exhibit “C” as the “Phase 1 Roadway Improvements” to be constructed by County outside the Premises in accordance with Section 7.05(A), and shall include any additional improvements necessitated by the construction of the Roadway Improvements such as drainage improvements.
- 2.58 “Security Deposit” has the meaning set forth in Section 5.10.
- 2.59 “Tenant Improvements” means all buildings, structures, pavements, facilities, landscaping and other improvements, above and below ground, constructed by Tenant upon the Premises during the Term, including the Initial Leasehold Improvements.
- 2.60 “Tenant Party” means Tenant and its subtenants, contractors, suppliers, employees, officers, licensees, agents and invitees.
- 2.61 “Term” has the meaning set forth in Section 3.01.
- 2.62 “Title Review Period” has the meaning set forth in Section 3.02.
- 2.63 “Traffic Concurrency Allocation” has the meaning set forth in Section 7.06.
- 2.64 “TSA” means the Transportation Security Administration or any successor agency responsible for airport security.
- 2.65 “USALI” means the Uniform System of Accounts for the Lodging Industry as prescribed by the American Hotel and Lodging Association or any successor thereto.

ARTICLE 3 - EFFECTIVE DATE, TERM AND EVALUATION OF PREMISES

3.01 Term. The term of this Lease shall commence on the earlier of: (a) substantial completion of the Initial Leasehold Improvements as defined in Section 7.01(A); (b) the date Tenant commences using the Premises (or any part thereof) for the conduct of its business (other than construction); or (c) twenty four (24) months from the Effective Date (or such later date agreed to by County pursuant to Section 7.01(A)) (“Date of Beneficial Occupancy”) and expire fifty (50) years thereafter, unless sooner terminated pursuant to the terms of this Lease (“Term”). Notwithstanding the foregoing or any provision of this Lease to the contrary, the Date of Beneficial Occupancy shall not occur until County provides Tenant permanent ingress to and egress from the Property by completing the Driveway Improvements in accordance with Section

7.05.

3.02 Title Insurance. Tenant shall have thirty (30) days following the Effective Date to examine County's title to the Property (the "Title Review Period") and, at Tenant's option, obtain a title insurance commitment for the issuance of a leasehold title policy, agreeing to issue to Tenant a title insurance policy in such amount as deemed appropriate by Tenant. Tenant shall furnish a copy of the title insurance commitment and title policy, if applicable, to County together with legible copies of all exceptions to coverage reflected thereon upon receipt. The cost of the title insurance commitment and title insurance policy and any premium shall be borne by Tenant.

3.03 Title Defects. In the event the title insurance commitment shows as an exception any matters, other than the Permitted Exceptions, which render title unmarketable or would unreasonably interfere with Tenant's intended development and use of the Property for the uses permitted hereunder, Tenant shall notify County of Tenant's objections thereto prior to expiration of the Title Review Period. County shall have the right, but not the obligation, within sixty (60) days from receipt of the notice, to cure such title defects or to make arrangements with the title insurer for the removal of such objections from the title insurance commitment. If the defect(s) shall not have been so cured or removed from the title insurance commitment by endorsement thereto at the termination of the sixty (60) day period, Tenant shall have the option of: (a) accepting title to the Property as it then exists; (b) providing County with an additional ninety (90) days to remove such defects; or (c) terminating this Lease. Tenant shall provide County with written notice of its election within ten (10) days after expiration of the sixty (60) day period. In the event County is unable to cure such defects within the additional ninety (90) day period, Tenant shall have the option of: (a) accepting title to the Property as it then exists; or (b) terminating this Lease. Tenant shall provide County with written notice of its election within ten (10) days after expiration of the ninety (90) day period. In the event Tenant terminates this Lease pursuant to this Section, the parties shall be released from all obligations under this Lease, with the exception of those obligations arising hereunder prior to termination of this Lease or which expressly survive termination. In the event Tenant fails to properly exercise its right to terminate this Lease, Tenant shall be deemed to have waived such right and shall be deemed to have accepted title to the Property subject to all matters of record. Prior to final site plan approval for the Initial Leasehold Improvements, County agrees to notify Tenant of any changes to title to Parcel N-11 PBC and shall not take any action that would render title unmarketable or unreasonably interfere with Tenant's intended development within Parcel N-11 PBC without Tenant's prior written consent.

3.04 Survey. Tenant shall have the right, within the Title Review Period, to obtain a current survey of the Property. The survey shall be prepared in accordance with the minimum technical standards for surveys within the State of Florida. If the survey reveals any encroachments, overlaps, boundary disputes or other defects, other than the Permitted Exceptions, which render title unmarketable or unreasonably interfere with Tenant's intended development and use of the Property for the uses permitted hereunder, the same shall be treated as title defects as described in Section 3.03 of this Lease and Tenant shall have the same rights and remedies as set forth therein.

3.05 Inspections.

- (A) Tenant acknowledges and agrees that: (a) County has delivered a copy of the County Environmental Assessments to Tenant; and (b) Tenant has reviewed the County Environmental Assessments and has elected to enter into this Lease with County with the full knowledge of the matters identified therein, subject to the terms and conditions of this Lease. Tenant also acknowledges that solid waste may be buried in a portion of the Property located in areas adjacent to the pond as identified in the County Environmental Assessments, which solid waste may remain in place or be removed by Tenant at Tenant's sole cost and expense in the event Tenant elects to develop the areas impacted by such solid waste.
- (B) Commencing on the Effective Date and expiring ninety (90) days thereafter (the "Inspection Period"), Tenant may conduct any inspections and tests that Tenant deems appropriate with respect to the Property, including, but not limited to, the following: (a) physical inspection of the Property; (b) soil investigation; (c) environmental assessment; (d) topographic studies; and (e) engineering, utilities and site planning studies ("Inspections"). All Inspections performed hereunder shall be conducted at Tenant's sole cost and expense and shall be performed by licensed persons or firms dealing in the respective areas or matters. Tenant agrees to indemnify the County Parties from and against any and all Damages arising from or out of a Tenant Party's entry upon and inspection of the Property except if such Damages are caused by a County Party's negligence or willful misconduct or County's breach of its obligations under this Lease. Tenant's obligation to indemnify the County Parties pursuant to this Section shall survive the expiration or termination of this Lease. Prior to the expiration of the Inspection Period, Tenant shall provide County with one (1) complete copy of all written reports detailing the results of the Inspections obtained by Tenant hereunder. If Tenant determines, in its sole discretion, that it will be unable to develop the Property for the uses permitted hereunder, Tenant may elect to terminate this Lease upon written notice to County within sixty (60) days after the expiration of the Inspection Period, time being of the essence. If termination notice is timely given by Tenant pursuant to this Section, this Lease shall be deemed terminated, and the parties hereto shall be relieved of all liabilities and obligations under this Lease, except for those obligations arising hereunder prior to termination of this Lease or which expressly survive termination. In the event Tenant fails to properly exercise its right to terminate this Lease, Tenant shall be deemed to have waived such right. In the event Tenant terminates this Lease pursuant to this Section, Tenant, at its sole cost and expense, shall repair any damage resulting from the Inspections and restore the Property to the condition in which it existed prior thereto, using materials of like kind and quality.

- (C) Except as otherwise provided in Section 3.05(A) related to removal of buried solid waste at Tenant's election, the parties acknowledge and agree that Tenant shall have no responsibility whatsoever for any costs associated with remediation of any Environmental Condition existing on the Premises as of the Effective Date of this Lease that is identified in the County Environmental Assessments or as a result of the Inspections and that County shall be solely liable for any and all such costs; provided, however, County shall not be required by this Lease to remediate any Environmental Condition that is not in violation of Environmental Laws. The parties acknowledge and agree that the means and methods of remediation of any Environmental Condition subject to the provisions of this Section 3.05(C) shall be within the sole control and discretion of County. The parties further agree that the Term of this Lease and Tenant's obligations hereunder shall be tolled until County completes any necessary remediation; provided, however, on-going monitoring, assessment, sampling, testing, or other similar evaluation activities that will not materially affect Tenant's use of the Property for uses permitted hereunder shall not serve to extend the Term of this Lease or toll Tenant's obligations hereunder.

ARTICLE 4 - PREMISES AND PRIVILEGES

4.01 Description of Premises. County hereby demises and leases to Tenant, and Tenant rents from County, the Property, subject to the terms, conditions and covenants set forth herein.

4.02 Description of Specific Privileges, Uses and Rights. Tenant shall have the right and obligation to use the Property for the purpose of constructing, operating, and maintaining the Hotel on the Property.

4.03 Description of General Privileges, Uses and Rights. In addition to the specific privileges granted in Section 4.02 above, County hereby grants the Tenant the nonexclusive right of ingress to and egress from the Premises on, over and across internal Airport roadways used by the public, including, but not limited to, the internal Airport roadways and driveways providing access to the Premises from the public rights-of-way. The right of ingress to and egress from the Premises shall be subject to such laws, rules, regulations and orders as now or may hereafter have application at the Airport. Furthermore, Tenant shall be permitted to transport its Hotel customers from the Premises to and from the Airport's commercial terminal building in its shuttle vehicles; provided that such service is at no charge to the customer, Tenant shall not be required to obtain a separate permit or authorization from the Department for such ground transportation activities on the Airport. In addition, any required Airport ground transportation decals shall be provided at no additional cost to Tenant unless such service is provided at a charge to the customer. Except as expressly set forth in this Section, nothing in this Lease shall be construed to grant or convey to Tenant the right to use any space or area improved or unimproved which is leased to or under contractual control of a third party, or which County has not leased herein.

4.04 Prohibited Uses, Products and Services. Tenant agrees the Premises shall be utilized solely for the uses permitted herein and for no other purpose whatsoever. Tenant shall not provide any products or services not specifically authorized by this Lease or the Department.

4.05 Restrictions on Privileges, Uses and Rights.

- (A) The rights granted hereunder are expressly limited to the improvement, maintenance, and operation of the Premises pursuant to the terms and conditions of this Lease.
- (B) Parking of inoperable vehicles and the stockpiling or storage of inoperable equipment, machinery and containers on the Premises is strictly prohibited.
- (C) All storage and dumpsters must be screened or concealed from public view, and storage shall be limited to storage incidental to Tenant's overall operation on the Premises.
- (D) Tenant shall not permit the Premises to be used for vehicular parking or storage by the public, its customers or employees or any other person whomsoever while traveling from the Airport in lieu of utilizing the Airport's public parking facilities. Tenant further agrees that customers of the Hotel shall be permitted to park vehicles on the Premises only while utilizing Tenant's services or facilities on the Premises.
- (E) Tenant shall not use the Premises for the operation of rental car facilities or ground transportation services such as taxicab, limousine, transportation network companies or other similar ground transportations service providers.

4.06 Condition and Use of the Premises. Except as otherwise provided for herein, and subject to Tenant's rights to complete inspections pursuant to Sections 3.02, 3.03, 3.04 and 3.05, Tenant accepts the Premises in its "AS IS CONDITION" and "WITH ALL FAULTS," together with all defects, latent and patent, if any. Tenant further acknowledges that County has made no representations or warranties of any nature whatsoever regarding the Premises including, but not limited to, the physical and/or environmental condition of the Premises or any improvements located thereon; the value of the Premises or improvements; the zoning of the Premises; title to the Premises; the suitability of the Premises or any improvements for Tenant's intended use; or Tenant's legal ability to use the Premises for Tenant's intended use, except as specifically set forth herein.

ARTICLE 5 - RENTAL, FEES, CHARGES AND SECURITY DEPOSIT

5.01 Rental. For the use and occupancy of the Property, Tenant shall pay to County annual rental in the amount of the greater of: (1) initial annual ground rental of One Dollar and

20/100 (\$1.20) per square foot, for approximately one hundred thirty thousand, six hundred eighty (130,680) square feet of ground or One Hundred Fifty-Six Thousand, Eight Hundred Sixteen (\$156,816) annually ("Base Rental"); or (2) three and ½ percent (3.5%) of annual Hotel Revenues ("Percentage Rent").

5.02 Commencement and Time of Payment of Base Rental. Payment of the Base Rental by Tenant to County shall commence upon the Date of Beneficial Occupancy. Base Rental shall be payable in equal monthly installments, in advance, on or before the first (1st) day of each and every month throughout the Term of this Lease. All payments must be delivered (together with applicable sales taxes), without demand and without any deduction, holdback or set off whatsoever, to: Palm Beach County Department of Airports, 846 Palm Beach International Airport, Finance Division, West Palm Beach, Florida 33406, or at such other address as may be directed by the Department from time to time. Payments shall be made payable to "Palm Beach County."

5.03 Commencement and Time of Payment of Percentage Rent. In the event the Monthly Percentage Rent (as hereinafter defined) is greater than the monthly installment payment of Base Rental payable to County, Tenant shall pay the difference to County with the Monthly Report required by Section 5.06 on or before the twentieth (20th) day of each and every month for the preceding month, without demand, deduction or setoff, throughout the Term of this Lease. For purposes of this Lease, the term "Monthly Percentage Rent" shall mean three and ½ percent (3.5%) of monthly Hotel Revenues.

5.04 Adjustment of Base Rental.

- (A) On October 1, 2019, and each three (3) year anniversary thereof (each such date, an "Adjustment Date"), the then current Base Rental shall be adjusted in accordance with the provisions of this Section. The new Base Rental shall be determined by an appraisal obtained by County, which shall set forth the fair market rental for the Property (exclusive of the Tenant Improvements). The appraisal shall be performed, at County's sole cost and expense, by a qualified appraiser selected by County. County shall notify Tenant in writing of the fair market rental of the Property as established by the appraisal, which shall become the new Base Rental subject to the limitations set forth in Section 5.04(B) below. Tenant shall commence paying the new Base Rental on the Adjustment Date. The new Base Rental shall not be less than the Base Rental for the prior period. This Lease shall automatically be considered as amended to reflect the new Base Rental rate, without formal amendment hereto, upon County's written notification of the establishment of the new Base Rental rate applicable to the Property.
- (B) Notwithstanding the foregoing, any increase in the then current Base Rental payable shall not exceed the lesser of: (a) an amount equal to nine percent (9%) of then current Base Rental; or (b) an amount that would be obtained by multiplying the initial Base Rental as of the Effective Date of

this Lease 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. Increases shall be rounded to the nearest whole cent. For example, if the then current Base Rental is One Dollar and 20/100 (\$1.20) per square foot, the maximum increase would be Eleven Cents (\$0.11) per square foot (i.e., $\$1.20 \times .09 = \0.108 , or \$0.11 rounded to the nearest whole cent).

- (C) For the purposes hereof, the "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. In the event that the Consumer Price Index ceases to use the 1982 - 1984 average of one hundred (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) Notwithstanding any provision of this Lease to the contrary, Tenant acknowledges and agrees that County shall have the right to establish and maintain the rental rate hereunder to ensure compliance with the provisions of Section 710 (rate covenant) of the Bond Resolution.
- (E) Any delay or failure of County in computing the adjustment in the Base Rental, as hereinabove provided, shall not constitute a waiver of or in any way impair the continuing obligation of Tenant to pay such adjusted annual Base Rental from the applicable Adjustment Date.

5.05 Late Payments - Interest. Tenant shall pay to County interest at the rate of one and one-half percent (1.5%) per month on any late payments commencing fifteen (15) days after the amounts are due. The Department, in its sole and absolute discretion, may elect to waive the aforementioned late fees in appropriate circumstances as determined by the Department.

5.06 Monthly Report. On or before the twentieth (20th) day of each and every month throughout the Term of this Lease after the Date of Beneficial Occupancy, Tenant shall deliver to County an accurate written accounting statement ("Monthly Report") in the form attached hereto as Exhibit "D", which shall include the following information for the preceding calendar month: (a) the Hotel Revenues for the preceding calendar month by category; (b) Hotel occupancy for the preceding calendar month; (c) the Monthly Percentage Rent payable to County; and (d) any exclusions from Hotel Revenues. County may require the Monthly Report to be delivered to County electronically.

5.07 Annual Report. Within one hundred twenty (120) days after the end of each Lease Year, Tenant shall provide County with an annual report auditing the Monthly Reports submitted by Tenant to County for the preceding Lease Year ("Annual Report"). The purpose of the Annual Report is to provide County with reasonable assurance that the information reported by Tenant to County in the Monthly Reports is free of material misstatement, and the calculations are accurate. The Annual Report shall be in a form reasonably satisfactory to County and shall be prepared by an independent Certified Public Accountant, not a regular employee of Tenant, in accordance with the USALI. The Annual Report shall include the following:

- (A) A schedule detailing Hotel Revenues for the preceding Lease Year by category and month, which shall also detail any exclusion(s) from Hotel Revenues;
- (B) A schedule detailing Hotel occupancy by month;
- (C) A schedule detailing the payments to County by Tenant during the preceding Lease Year by month; and
- (D) A calculation of the amount owed to either party, if any.

The Annual Report shall include an opinion regarding the information contained in schedules listed above. The Annual Report shall not contain a qualified opinion, an adverse opinion, or a disclaimer of opinion, as defined by the American Institute of Certified Public Accountants or any successor agency thereto, regarding the information contained in the required schedules. If the Annual Report indicates that the amount (together with any sales taxes thereon) due and owing for any Lease Year is greater than the amount paid by Tenant to County during such Lease Year, Tenant shall pay the difference to County with the Annual Report. If the amount paid by Tenant to County during any Lease Year exceeds the amount due and owing for such Lease Year, County shall credit the overpayment in the following order: (a) against any past due amounts owed to County by Tenant, including interest and late fees; (b) against currently outstanding, but not yet due, rental payments owed to County by Tenant; and (c) against any other sums payable by Tenant to County. Notwithstanding the foregoing, in the event of an overpayment by Tenant during the last Lease Year, County shall credit the overpayment against any remaining amounts owed to County, including interest and late fees, and refund to Tenant any overpayment amount in excess of the credit. The obligations arising under this paragraph shall survive the expiration or earlier termination of this Lease until satisfied.

5.08 Accounting Records. Tenant shall keep all books of accounts and records customarily used in this type of operation, and as from time to time may be required by County, in accordance with USALI. Such books of accounts and records shall be retained and be available for three (3) years from the end of each Lease Year, including three (3) years following the expiration or earlier termination of this Lease. County shall have the right to audit and examine upon reasonable notice and during normal business hours all such books of accounts and records relating to Tenant's operations hereunder. If the books of accounts and records are kept at locations other than the Premises, Tenant shall, at its sole cost and expense, arrange for them to be brought to a location convenient to the auditors for County in order for County to

conduct the audits and inspections as set forth in this paragraph, which may include providing such books of accounts and records to County electronically at Tenant's election. The obligations arising under this paragraph shall survive the expiration or termination of this Lease until satisfied.

5.09 Audit by County. Notwithstanding any provision in this Lease to the contrary, County or its representative(s) may perform audits of all or selected operations performed by Tenant under the terms of this Lease upon reasonable notice and during regular business hours. In order to facilitate the audit performed by County, Tenant agrees to make suitable arrangements with the Certified Public Accountant who is responsible for preparing the Annual Report on behalf of Tenant to make available to County's representative(s) any and all working papers relevant to the report prepared by the Certified Public Accountant, which may be provided to County electronically. County or its representative(s) shall make available to Tenant a copy of the audit prepared by or on behalf of County. Tenant shall have sixty (60) days from receipt of the audit report from County or its representative(s) to provide a written response to the Department regarding the audit report. Tenant agrees that failure of Tenant to submit a written response to the audit report in accordance with the requirements of this paragraph shall constitute acceptance of the audit report as issued. If, as a result of the audit, it is established that Tenant has understated Hotel Revenues by five percent (5%) or more, the entire expense of the audit shall be borne by Tenant.

5.10 Security Deposit. Prior to the Effective Date of this Lease, Tenant shall post a security deposit with County equal to three (3) monthly installments of Base Rental (the "Security Deposit"). The Security Deposit shall serve as security for the payment of all sums due to County and shall also secure the performance of all obligations of Tenant to County. The Security Deposit shall be either in the form of a clean, Irrevocable Letter of Credit ("Letter of Credit") or a Surety Bond ("Bond") in form and substance satisfactory to County. In the event of any failure by Tenant to pay any rentals or charges when due or upon any other failure to perform any of its obligations or other default under this Lease, then in addition to any other rights and remedies available to County at law or in equity, County shall be entitled to draw on the Security Deposit and apply same to all amounts owed. Upon notice of any such draw, Tenant shall immediately replace the Security Deposit with a new Letter of Credit or Bond in the full amount of the Security Deposit required hereunder. Tenant shall promptly increase the amount of the Security Deposit to reflect any increases in the Base Rental payable hereunder; provided, however, if the amount of required Security Deposit increase resulting from adjustment of the Base Rental is less than twenty five percent (25%) of the amount of Security Deposit currently held, no increase in the Security Deposit shall be required. The Security Deposit shall be kept in full force and effect throughout the Term of this Lease and any extension thereof and for a period of ninety (90) days after the termination of this Lease. Not less than forty-five (45) days prior to any expiration date of a Letter of Credit or Bond, Tenant shall submit evidence in form satisfactory to County that such security instrument has been renewed. In the event Tenant fails to renew a Letter of Credit or Bond or to increase the amount of the Security Deposit in accordance with the requirements of this Section, County shall, upon three (3) Business Days prior written notice to Tenant, be entitled County to draw down the full amount of such Security Deposit, and such failure, unless cured within the aforementioned three (3) Business Day period, shall constitute a default of this Lease entitling County to all available

remedies. The Security Deposit shall not be returned to Tenant until all obligations under this Lease are performed and satisfied. Prior to consent from County to any assignment of this Lease by Tenant, Tenant's assignee shall be required to provide a Security Deposit to County in accordance with the terms and conditions of this Section.

5.11 Triple Net Lease. This Lease shall be deemed to be "triple net" without cost or expense to County including, but not limited to, cost and expenses relating to taxes, insurance, and the maintenance and operation of the Premises.

5.12 Taxes and Fees. Tenant shall pay, on or before their respective due dates, all Federal, State and local taxes and fees, and all special assessments of any kind, which are now or may hereafter be levied upon the Premises (including improvements thereon) or the estate hereby granted, or upon Tenant, or upon the business conducted on the Premises, or upon any of Tenant's property used in connection therewith, or upon any rentals or other sums payable hereunder, including, but not limited to any ad valorem taxes, and sales or excise taxes on rentals, and personal property taxes against tangible and intangible personal property of Tenant. Tenant hereby covenants and agrees to pay monthly to County, as "Additional Rent," any sales, use or other tax, or any imposition in lieu thereof (excluding State and/or Federal Income Tax) now or hereinafter imposed upon the rents, use or occupancy of the Premises imposed by the United States of America, the State of Florida or Palm Beach County, notwithstanding the fact that the statute, ordinance or enactment imposing the same may endeavor to impose the tax upon County as landlord/lessor, to the extent as applicable.

5.13 Additional Rent. Any and all sums of money or charges required to be paid by Tenant under this Lease, other than the annual rental, shall be considered "Additional Rent", whether or not the same is specifically so designated and County shall have the same rights to enforce due and timely payment by Tenant of all Additional Rent as are available to County with regards to annual rent.

5.14 Accord and Satisfaction. In the event Tenant pays any amount that is less than the amount stipulated to be paid under this Lease, such payment shall be considered to be made only on account of the stipulated amount. No endorsement or statement on any check or letter shall be deemed an accord and satisfaction. County may accept any check or payment without prejudice to County's right to recover the balance due or to pursue any other remedy available to County pursuant to this Lease or under the law.

ARTICLE 6 - QUALITY AND CHARACTER OF SERVICES

6.01 Hotel Operation and Management.

- (A) Tenant shall cause the Hotel to be operated and managed in accordance with the Benchmark Standard at all times during the Term of this Lease. Commencing on the tenth (10th) anniversary of the Date of Beneficial Occupancy, County shall have the right, at County's cost and expense, to cause a quality review of the Hotel to be conducted by an independent third-party reviewer selected by County with demonstrated experience in

evaluating the qualitative performance of comparable hotels ("Reviewer") for the purpose of determining whether or not the Hotel is being operated and managed in accordance with the Benchmark Standard ("Quality Review"). Upon completion of the Quality Review, the Reviewer shall provide a written report ("Quality Report") to both parties regarding Reviewer's findings, which shall note any deficiencies in achieving the Benchmark Standard. If the Quality Report concludes that there are any deficiencies in achieving the Benchmark Standard, Tenant shall respond to County in writing indicating whether Tenant intends to rectify or contest each of the deficiencies noted. In the event Tenant intends to rectify the deficiencies, Tenant shall provide a schedule and remediation plan to address the deficiencies, which schedule shall provide for the deficiencies to be corrected within no more than one hundred twenty (120) days from the date of the written report. In the event Tenant contests one (1) or more of the deficiencies noted in the Quality Report, the parties shall meet in a good faith effort to resolve the claim by County that the Hotel is not achieving the Benchmark Standard. In the event the parties are unable to resolve the claim after making good faith efforts to do so, County shall select a second Reviewer to review the matters identified by the first Reviewer as being deficient and to provide a written report to the parties. Tenant shall have the right to approve the second Reviewer prior to County's final selection, which approval shall not be unreasonably withheld, conditioned or delayed. The parties agree that the determination of the second Reviewer shall be conclusive as to any deficiencies identified. In the event the second Reviewer concludes that deficiencies exist, Tenant shall provide a schedule and remediation plan to address the deficiencies, which schedule shall provide for the deficiencies to be corrected within no more than one hundred twenty (120) days from the date of the second Reviewer's written report. County shall have the right to cause subsequent Quality Reviews to be conducted from time-to-time, which shall be subject to the provisions of this Section; provided that such Quality Reviews shall be limited to no more than one (1) Quality Review every five (5) years.

- (B) Tenant may replace the Benchmark Brand during the Term of this Lease upon no less than one hundred twenty (120) days prior written notice to County; provided that the replacement brand is a Benchmark Brand as defined in this Lease and otherwise satisfies the Benchmark Standard. In the event Tenant desires to replace then current Benchmark Brand with brand that would not be considered a Benchmark Brand under this Lease and satisfy the Benchmark Standard, Tenant shall not be permitted to replace the Benchmark Brand without County's prior written consent, which consent may be granted or denied in County's sole and absolute discretion.

6.02 Quality of Merchandise. Tenant shall use its best efforts to ensure that products and merchandise sold in connection with its operations are safe, free of adulteration, sanitary and properly labeled in accordance with applicable law.

6.03 Hours of Operation. Tenant shall actively operate the Premises in a business-like manner and the businesses located on the Premises shall maintain such hours of operation of comparable businesses located within the City of West Palm Beach.

6.04 Nondiscriminatory Services Requirement. Tenant shall provide all services authorized hereunder to its customers and patrons upon a fair, equal, and nondiscriminatory basis and charge fair, reasonable, and nondiscriminatory prices; provided, however, that Tenant may make or give such reasonable and nondiscriminatory discounts, rebates, or other similar price reductions as it may desire to its employees, Airport employees, seniors and military personnel.

6.05 Type of Operation. Tenant shall maintain and operate the Premises in an orderly, proper, and first-class manner, which does not unreasonably annoy, disturb, or offend others at the Airport considering the nature of such operations.

6.06 Services to the General Public. Tenant shall strive to ensure that all of its employees know the layout of the Airport and have the ability to provide passengers and visitors with information regarding the locations of Airport services.

6.07 Personnel. Tenant shall ensure the Premises is managed, maintained, and operated under the supervision and direction of qualified and experienced manager(s), as reasonably determined by Tenant, in accordance with the Benchmark Agreement. Tenant shall provide County with contact information for one or more local representative(s) of the Tenant who will be available by telephone in case of an emergency.

6.08 Security of Premises. Tenant acknowledges and accepts full responsibility for the security and protection of the Premises, and any and all inventory, equipment, facilities and improvements now existing or hereafter placed on or installed in or upon the Premises, and for the prevention of unauthorized access to its facilities. Tenant fully understands that the police security protection provided by County is limited to that provided to any other business situated in Palm Beach County, Florida 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 Premises and improvements constructed thereon, shall be the sole responsibility of Tenant and shall involve no cost to County.

ARTICLE 7 - CONSTRUCTION OF IMPROVEMENTS

7.01 Tenant Construction Requirements. Except as otherwise provided for herein, Tenant shall make no additions, alterations or improvements to the Premises, or improvements constructed thereon, without the prior written approval of the Department, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant acknowledges and agrees that it shall not be deemed unreasonable for the Department or County to withhold consent to any improvements determined to be a potential hazard to air navigation by the Department, County

or FAA or which would be inconsistent with applicable federal laws or regulations, or FAA orders, advisory circulars or other similar guidance documents. Any such additions, alterations or improvements shall be made in accordance with the construction requirements contained herein and as established by the Department. All improvements constructed or placed on the Premises, including drainage and landscaping, shall be of attractive construction and first-class design, shall comply with any and all applicable governmental laws, regulations, rules and orders shall follow standard construction methods, and shall be constructed in accordance with the requirements of this Article. Notwithstanding the foregoing, additions, alterations or improvements to interior improvements to the Premises that do not require a building permit, such as interior painting and replacement of flooring, and replacement of damaged exterior landscaping with the same landscaping materials, shall not require the Department's prior approval.

- (A) Initial Leasehold Improvements. Tenant shall cause the design and construction of the following improvements at Tenant's sole cost and expense: (a) a Hotel on the Property, consisting of approximately seventy three thousand, three hundred twenty-six (73,326) square feet of space and which shall include no less than one hundred twenty (120) guest rooms, and an outdoor pool; and (b) except as otherwise provided in Section 7.05, all other improvements and infrastructure, whether located on or off the Property, necessary to support the development of the Hotel, including, but not limited to, electrical systems, sewage, wastewater disposal, landscaping, lighting, signage, parking, roadways and driveways necessary for ingress, egress and circulation, stormwater control systems, lighting and security measures, as required (the "Initial Leasehold Improvements") at its sole cost and expense. Construction of the Initial Leasehold Improvements shall be completed no later than twenty four (24) months following the Effective Date, unless otherwise approved by the Department in writing, which approval shall not be unreasonably withheld, conditioned or delayed for reasons beyond the reasonable control of Tenant. Substantial completion of the Initial Leasehold Improvements will occur when the applicable governmental authority issues a temporary or permanent certificate of occupancy for the Property, as improved by the Initial Leasehold Improvements. Tenant shall promptly notify County in writing of the issuance of a certificate of occupancy for the Initial Leasehold Improvements.
- (B) Minimum Capital Investment. Tenant shall expend not less than Ten Million (\$10,000,000) on the design, construction and installation of the Initial Leasehold Improvements (the "Minimum Capital Investment"). The parties acknowledge that Tenant also anticipates spending approximately Six Million (\$6,000,000) on trade fixtures, furnishing and equipment not included in the Minimum Capital Investment. Capital expenditure costs that may be counted toward the Minimum Capital Investment shall include all costs paid for work performed, services rendered and materials furnished for the construction of the Initial

Leasehold Improvements, subject to the following terms, conditions and limitations:

- (1) The cost of design (subject to the limitations set forth herein), construction and acquisition of the Initial Leasehold Improvements; bonds; construction insurance; and building, impact and concurrency fees shall be included in the Minimum Capital Investment.
 - (2) No more than twelve percent (12%) of the Minimum Capital Investment for payments made by Tenant to independent contractors for engineering and architectural design work may be included in the Minimum Capital Investment.
 - (3) Only true third party costs and payments made by Tenant shall be included in the Minimum Capital Investment. Costs incurred by any sublessee, licensee or other occupant of the Premises, or any portion thereof, other than Tenant shall not be included in the Minimum Capital Investment.
 - (4) Costs for consultants (other than engineering and design consultants, as provided above) shall not be included in the Minimum Capital Investment. Legal fees and accountant fees shall not be included in the Minimum Capital Investment.
 - (5) Finance and interest expenses shall not be included in the Minimum Capital Investment.
 - (6) Administrative, supervisory and overhead or internal costs of Tenant shall not be included in the Minimum Capital Investment.
 - (7) Costs associated with acquisition or installation of personalty, such as furnishings, trade fixtures and equipment, not permanently affixed to the Premises, or any other personalty whatsoever, shall not be included in the Minimum Capital Investment.
 - (8) Any costs associated with any improvements other than the Initial Leasehold Improvements shall not be included in the Minimum Capital Investment unless Tenant has obtained written approval from the Department prior to incurring such costs.
- (C) Construction Requirements. Prior to constructing any improvements on the Premises (including, but not limited to, the Initial Leasehold Improvements), Tenant shall cause detailed preliminary construction plans and specifications for the improvements to be prepared (hereinafter collectively referred to as the "Plans") in accordance with standards established by the Department and deliver the preliminary Plans to the

Department for review, comment and approval, which approval shall not be unreasonably withheld, conditioned or delayed. The Department shall review the preliminary Plans and provide a written response to Tenant within thirty (30) days of delivery of the preliminary Plans to County for review. In the event the Department does not approve the preliminary Plans, Tenant will be notified of the reasons for the disapproval and the necessary modifications and/or alterations to the Plans. Tenant shall resubmit modified Plans to the Department within thirty (30) days of the date of the Department's written notice of disapproval. Within one hundred twenty (120) days following approval of the preliminary Plans by the Department, Tenant shall prepare or cause to be prepared final working Plans in substantial conformity to the approved preliminary Plans and shall submit the final working Plans to the Department for approval. Upon approval of the final working Plans by the Department, Tenant shall obtain all permits and other government approvals required for the commencement of construction. Prior to commencement of construction, Tenant shall deliver to the Department one (1) complete set of the final working Plans as approved by the governmental agencies exercising jurisdiction thereover. Minor changes from the final working Plans shall be permitted if such changes may be reasonably inferred from the final working Plans, or if they are made to comply with requirements of any governmental agency exercising jurisdiction thereover.

- (D) Within one hundred twenty (120) days following Tenant's receipt of a certificate of occupancy or certificate of completion, as appropriate, for improvements constructed pursuant to this Article, Tenant, at its sole cost and expense, shall have prepared and deliver to the Department: one (1) complete set of as-built drawings in a hardcopy format, one (1) complete set of as-built drawings in a PDF format and one (1) complete set of as-built drawings in Auto CADD files in the latest version acceptable by the Department.
- (E) Within one hundred twenty (120) days following the substantial completion of construction of the Initial Leasehold Improvements, Tenant shall, at its sole cost and expense, have prepared and delivered to the Department a detailed statement attested to and certified by an independent Certified Public Accountant, reasonably acceptable to the Department, detailing the costs by category and amount incurred by Tenant in accordance with Sections 7.01(A) and 7.01(B) above for the Initial Leasehold Improvements ("Capital Investment Report"). In the event Tenant fails to satisfy the Minimum Capital Investment requirement, Tenant shall have the option, in Tenant's sole discretion, of: (a) paying the difference to County with the Capital Investment Report, or (b) applying the difference to the future improvement or refurbishment of the Premises to be completed within ten (10) years of the Date of Beneficial Occupancy. In the event Tenant elects to apply the difference to future

improvements to or refurbishment of the Premises, Tenant shall have prepared and delivered to the Department a detailed statement attested to and certified by an independent Certified Public Accountant, reasonably acceptable to County, detailing the costs by category and amount incurred by Tenant, which shall be due within one hundred twenty (120) days following the expiration of the aforementioned ten (10) year period.

- (F) All improvements constructed upon the Premises shall be completed at Tenant's sole cost and expense and shall be completed in accordance with the approved Plans.
- (G) Tenant acknowledges that the Property is located on one of the main entry roadways to the Airport and that it is of the utmost importance to the parties to ensure that Airport passengers and users are presented with a positive "first impression" of the Airport. Accordingly, County's approval rights shall extend to and include architectural and aesthetic matters, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant acknowledges and agrees that it shall not be deemed unreasonable for County to require modifications to the types, location, size or height of landscaping, exterior signage or fencing or to exterior building color schemes or decorative elements; to require screening from public view of exterior mechanical equipment (including roof appurtenances, such as exhaust fans and heating and air conditioning units, and electrical equipment), loading docks, dumpsters or other similar items; or to disapprove of the use of building materials that do not reflect a high degree of quality, durability or craftsmanship, such as plastic, or aluminum or vinyl siding. The parties agree to work cooperatively and in good faith to avoid any delays in the design approval process.
- (H) County reserves the right, in its sole and absolute discretion, to disapprove of any improvements within the Premises determined to be a potential hazard to air navigation by the Department, County and/or the FAA or which County determines, in its sole and absolute discretion, would have the potential of affecting future Airport operations or development.

7.02 Construction Bonds. Tenant shall ensure that all improvements are constructed to completion in accordance with the approved Plans and that all persons or entities performing work or providing materials relating to such improvements including, but not limited to, all contractors, subcontractors, laborers, materialmen, suppliers and professionals, are paid in full for such services and materials. Prior to the commencement of any improvements to the Premises, the estimated cost of which exceeds Two Hundred Thousand Dollars (\$200,000), Tenant shall cause to be made, executed and delivered to County at Tenant's sole cost a bond that is in a form and substance reasonably satisfactory to County, that a company reasonably acceptable to County issues, and that guarantees Tenant's compliance with its obligations arising under this Lease. Tenant may not subdivide improvements or phase projects for the purpose of avoiding the foregoing bond requirement. County shall be named as the obligee on the bonds.

In lieu of the bond required by this Section, Tenant may file with County an alternative form of security in the form of cash, money order, certified check, cashier's check, clean irrevocable letter of credit, or security of a type listed in Part II of Chapter 625, Florida Statutes; provided, however, the form of the security and company issuing such security, if applicable, shall be subject to the prior written approval of County and shall be in accordance with County's standard policies and procedures. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this Section. Any such alternative form of security may be reduced by Tenant subject to approval of County during the construction of the improvements, but not more than once per month, based upon the percentage of completion of the improvements plus retainage, and the Department, on behalf of the County, may execute such certificates, notices or other documents as may be necessary to effectuate such reduction. Tenant shall provide County evidence reasonably satisfactory to County evidencing the percentage of completion of the improvements, including, but not limited to, an executed Application and Certification for Payment (A1A Document G702) indicating the balance to finish the work, including retainage.

7.03 Contractor Requirements. Tenant shall require contractors to furnish for the benefit of County a payment and performance bond satisfying the requirements of Section 255.05, Florida Statutes, in a form approved by County. Tenant shall require its contractors to name County as a dual obligee on the bond(s). Tenant shall also require contractors to furnish satisfactory evidence of statutory Worker's Compensation insurance, comprehensive general liability insurance, comprehensive auto insurance, and physical damage insurance on a Builder's Risk form with the interest of County endorsed thereon, in such amounts and in such manner as the Risk Management Department may reasonably require. The Risk Management Department may require additional insurance for any alterations or improvements approved hereunder, in such amounts as the Risk Management Department reasonably determines to be necessary.

7.04 No Liens. Tenant agrees that nothing contained in this Lease shall be construed as consent by County to subject the estate of County to liability under the Construction Lien Law of the State of Florida and understands that County's estate shall not be subject to such liability. Tenant shall notify any and all parties or entities performing work or providing materials relating to any improvements made by Tenant of this provision of this Lease. If so requested by County, Tenant shall file a notice satisfactory to County in the Public Records of Palm Beach County, Florida, stating that County's estate shall not be subject to liens for improvements made by Tenant. In the event that a construction lien is filed against the Premises or other County property in connection with any work performed by or on behalf of Tenant, Tenant shall satisfy such claim, or transfer same to security, within thirty (30) days from the date of filing. In the event that Tenant fails to transfer or satisfy such claim within the thirty (30) day period, County may do so and thereafter charge Tenant all costs incurred by County in connection with the satisfaction or transfer of such claim, including attorneys' fees, and Tenant shall promptly pay to County all such costs upon demand, as Additional Rent.

7.05 Roadway and Driveway Improvements and Utility Extensions.

- (A) County shall cause the design and construction of the Roadway Improvements to be completed within twenty four (24) months of the

Effective Date, unless otherwise approved by Tenant in writing, which approval shall not be unreasonably withheld, conditioned or delayed for reasons beyond the reasonable control of County. Tenant acknowledges and agrees that the final location of the Roadway Improvements shall be subject to approval of County's Engineering Department, acting in its governmental capacity, and that nothing in this Section shall be construed as a waiver of County's governmental or regulatory authority.

- (B) County shall cause the following utilities to be extended to the boundary of the Property in a location reasonably acceptable to the parties: power and communication duct banks, and water and sanitary sewer. The parties shall mutually agree upon a schedule for the extension of the utilities to ensure completion of the Initial Leasehold Improvements prior to the deadline for completion of construction provided for in Section 7.01(A). County shall complete the extension of the utilities in accordance with the agreed upon schedule, unless otherwise approved by Tenant in writing, which approval shall not be unreasonably withheld, conditioned or delayed for reasons beyond the reasonable control of County.
- (C) County shall cause the design and construction of a driveway and related improvements, such as lighting, irrigation and landscaping improvements serving the driveway, within Parcel N-11 PBC in a location reasonably acceptable to the parties to provide ingress to and egress from the internal Airport roadways to the boundary of the Property ("Driveway Improvements"). Construction of the Driveway Improvements shall be completed by County on or before completion of the Initial Leasehold Improvements by Tenant, unless otherwise approved by Tenant in writing, which approval shall not be unreasonably withheld, conditioned or delayed for reasons beyond the reasonable control of County.
- (D) Prior to completion of the Driveway Improvements, County shall provide Tenant with ingress and egress to the Property from the internal Airport roadways for construction of the Initial Leasehold Improvements.
- (E) Tenant acknowledges and agrees that the Roadway Improvements and Driveway Improvements shall be considered public Airport facilities and that Tenant shall have the nonexclusive right of ingress to and egress from the Premises on, over and across the paved surfaces designated for vehicular traffic upon completion of construction by County.
- (F) Tenant acknowledges and agrees that County shall not be obligated to expend more than One Million Five Hundred Thousand Dollars and 00/100 (\$1,500,000) on the design, permitting and construction of the improvements under this Section 7.05.

7.06 Traffic Concurrency Allocation. Tenant acknowledges that Parcel N-11, which

includes the Property, has traffic concurrency approval for the equivalent of two hundred sixty (260) hotel rooms and two hundred thousand (200,000) square feet of office, County has submitted an application to modify and increase the traffic concurrency approval for Parcel N-11, and County intends to reserve a portion of the trips allocated to Parcel N-11 for use outside the Property. In the event Tenant elects to construct more than the equivalent of one hundred twenty (120) hotel rooms for traffic concurrency purposes within the Property ("Traffic Concurrency Allocation"), Tenant acknowledges and agrees that Tenant shall be obligated, at Tenant's sole cost and expense, to obtain separate traffic concurrency approval for the additional traffic demand generated by Tenant's proposed development in excess of the agreed-upon Traffic Concurrency Allocation, unless otherwise approved in writing by the Department, which approval may be granted, withheld or conditioned in the Department's sole and absolute discretion. Tenant acknowledges and agrees that the Traffic Concurrency Allocation may only be used for the development of the Initial Leasehold Improvements; any remaining trips shall be reallocated to other portions of Parcel N-11 or other County-owned property as determined by County in its sole and absolute discretion; and Tenant shall not be entitled to reserve such trips from the Traffic Concurrency Allocation for future Tenant Improvements.

7.07 Development Approvals. County agrees to execute any applications or petitions required to obtain the necessary permits, development approvals and other similar governmental authorizations for the development of the Tenant Improvements in accordance with the requirements of this Lease if the written consent of the property owner is required for such application or petition. The Department may execute such applications and petitions on behalf of County. Tenant acknowledges and agrees that County shall be acting its proprietary capacity as the property owner when executing such applications and petitions and not in its governmental capacity and that Tenant shall be responsible for satisfying all the conditions of approval at Tenant's sole cost and expense.

ARTICLE 8 - OBLIGATIONS OF TENANT

8.01 Observance of Rules and Regulations. Tenant covenants and agrees to observe and obey, and to require all Tenant Parties to observe and obey such reasonable rules and regulations of the Department (including amendments and supplements thereto) as may be adopted by the Department regarding the Tenant Parties use of common areas of Parcel N-11 that are not owned and maintained by Tenant; provided, however, the Department shall not adopt any rules or regulations regarding use of such areas that would materially conflict with the approved use of the Premises or Tenant's rights under this Lease.

8.02 Noise and Vibrations. Tenant shall take all reasonable measures to:

- (A) Reduce to a minimum, vibrations tending to damage any equipment, structure, building or portion of a building that is on the Premises or is a part thereof, or is located elsewhere on the Airport; and
- (B) Keep the sound level of its operations as low as reasonably possible.

8.03 Regulation of Conduct. Tenant shall control the conduct, demeanor and appearance of its employees, subtenants and others doing business with Tenant on the Premises to the extent reasonably possible.

8.04 Garbage and Debris. Tenant shall be responsible for the provision of trash removal services for the Premises at Tenant's sole cost and expense and agrees to deposit trash, garbage and debris in appropriate containers for collection.

8.05 Nuisance, Waste or Injury. Tenant shall not commit any nuisance, waste or injury on the Premises and shall not do, or permit to be done, anything which may result in the creation, commission or maintenance of such nuisance, waste or injury on the Premises.

8.06 Vapors, Fumes or Emissions. Tenant shall not create, nor permit to be caused or created upon the Premises any obnoxious odor, smoke, noxious gases or vapors; provided, however, that fumes resulting from the normal operations of properly certified and maintained trucks and other vehicles shall be excepted from this provision. Tenant shall ensure that emissions generated by any such trucks, and other vehicles shall comply with all provisions of applicable environmental emissions laws and regulations.

8.07 Utilities Systems. Tenant shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of the utilities systems installed or located on or about the Premises that are also used by other occupants, customers or users of the Airport.

8.08 Hazardous Conditions. Tenant shall not do or permit to be done any act or thing upon the Premises that:

- (A) Will invalidate or conflict with any insurance policies covering the Premises or the Airport; or
- (B) May constitute a hazardous condition that increases the risk normally attendant upon the operations permitted by this Lease.

8.09 Flammable Liquids. All flammable liquids that are kept or stored at the Premises must at all times be handled, stored and used in accordance with all applicable Federal, State and local laws.

8.10 Fire Extinguishing System. From time to time and as often as reasonably required by the Department or any governmental authority having jurisdiction, Tenant shall conduct pressure, water flow, and other appropriate tests of the fire extinguishing system and apparatus, which are maintained by Tenant or any subtenant.

8.11 Derelict Vehicles. Tenant shall not permit the temporary or permanent storage of any Derelict Vehicles on the Premises. Tenant shall cause Derelict Vehicles to be removed from the Premises within twenty-four (24) hours after written notice from the Department.

8.12 Emergency Evacuation and Hurricane Plans. Tenant shall provide the Department with emergency evacuation and hurricane plans within thirty (30) calendar days of the Effective Date. These plans shall be detailed procedures of actions to be taken by Tenant and its subtenants, if any, in the event of an emergency evacuation or hurricane warning. Tenant shall update its emergency evacuation and hurricane plans annually, if requested by the Department.

ARTICLE 9 - MAINTENANCE AND REPAIR

9.01 Maintenance/Repair of Premises. Tenant shall be responsible for all repairs and maintenance of the Premises (which shall include, but shall not be limited to, all landscaped areas, paved areas, buildings and improvements thereon), whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. Maintenance and repairs shall be in quality and class comparable to the original work. Tenant shall be required to keep all landscaped areas, paved areas, buildings, equipment and other improvements in good condition and repair throughout the Term of this Lease. Without limiting the generality thereof, Tenant shall:

- (A) Repair and maintain all doors, windows, pavement, equipment, lighting fixtures, furnishings, fixtures, roof, exterior walls, signage and structural support system(s).
- (B) Refurbish the Premises as often as is necessary to preserve the Premises in good condition and repair, including furnishings, fixtures and equipment used in the operation of the Premises. Routine refurbishment may include, but is not limited to, replacement of worn or damaged flooring, furnishings and/or wall coverings; interior and exterior painting; parking lot restriping; and other similar work.
- (C) Provide and maintain all fire protection and safety equipment and all other equipment of every kind and nature required by any law, rule, order, ordinance, resolution or regulation of any applicable governmental authority.
- (D) Repair any damage to landscaped areas, paving or other surface(s) of the Premises.
- (E) Take anti-erosion measures, including, but not limited to, the planting and replanting of grasses with respect to all portions of the Premises not paved or otherwise improved.
- (F) Repair and maintain all utilities including, but not limited to, service lines for the supply of water, gas service lines, electrical power, telephone and telecommunications conduits and lines, sanitary sewers and storm sewers which are now or which may be subsequently located upon the Premises leased to Tenant and which are used exclusively by Tenant or any of its subtenants.

- (G) Repair and maintain those portions of the storm water drainage system located within the Premises, and which serves the Premises.
- (H) Maintain all furnishings, fixtures, machinery, and operating equipment used in the operation of the Premises in good condition and repair.

9.02 Cleanliness of Premises.

- (A) Tenant shall maintain the Premises in a neat, orderly, sanitary, clean and presentable condition and shall cause routine janitorial services to be provided for the Premises at Tenant's sole cost and expense. Tenant shall keep the buildings located on the Premises free of insects, vermin and other pests.
- (B) Tenant shall maintain vehicular parking areas in a clean and neat manner, free from trash and debris. Tenant shall be responsible for maintaining all landscaping on the Premises in good condition and free of unsightly conditions. Tenant's landscaping responsibilities shall include, without limitation, watering grass, shrubs and trees; mowing the grass on a regular basis; trimming the trees and fertilizing grass, shrubs and trees; and replacing damaged or dead landscaping.

9.03 Inspections.

- (A) County and its designated representatives shall have the right to enter the Premises during regular business hours upon reasonable prior notice to Tenant to inspect same for the purpose of determining whether Tenant is in compliance with the requirements of this Lease. Notwithstanding the foregoing, County agrees that any inspections of the interior of the Hotel shall be limited to once annually unless County has reasonable cause to believe Tenant is in violation of the terms and conditions of this Lease or such inspection is necessary to ensure the safety of the public. Nothing in this Section shall preclude County from conducting any required inspections acting in its governmental capacity.
- (B) In the event Tenant is not in compliance with Section 9.02(B), as reasonably determined by County, County shall provide Tenant with written notice of such noncompliance. If corrective action is not initiated as to any noncompliance of Section 9.02(B) within five (5) Business Days and pursued in a diligent manner to completion, County may cause the same to be accomplished at Tenant's sole cost and expense. Tenant agrees that Tenant shall assume and be liable to County for payment of all costs incurred by County, plus a twenty-five percent (25%) administrative overhead fee, which costs and administrative overhead fee shall constitute

Additional Rent hereunder and shall be due and payable within thirty (30) calendar days of the date of County's written notice.

- (C) In the event Tenant is not in compliance with this Lease, as reasonably determined by County, County shall provide Tenant with written notice of such noncompliance. Except as otherwise provide in Section 9.03(B), if corrective action is not initiated within thirty (30) days, and pursued in a diligent manner to completion, County may cause the same to be accomplished at Tenant's sole cost and expense. Tenant agrees that Tenant shall assume and be liable to County for payment of all costs incurred by County, plus a twenty-five percent (25%) administrative overhead fee, which costs and administrative overhead fee shall constitute Additional Rent hereunder and shall be due and payable within thirty (30) calendar days of the date of County's written notice.

9.04 County Maintenance Requirements.

- (A) County shall be responsible for the maintenance and repair of the Driveway Improvements in good condition and repair throughout the Term of this Lease. County may elect to require Tenant to pay a prorated share of County's actual annual costs of the operation, maintenance and repair of the Driveway Improvements. Tenant's prorated cost shall be determined by multiplying County's actual annual costs of operating, maintaining and repairing the Driveway Improvements by a fraction, the numerator of which shall be the total square footage of Property, and the denominator shall be four hundred thirty-four, eight hundred forty-four (434,844) square feet. Tenant shall pay its annual prorated costs within sixty (60) days of the date of County's invoice therefor.
- (B) County shall be responsible for maintaining the landscaping on the lake parcel located adjacent to the Property in good condition and free of unsightly conditions. County's landscaping responsibilities shall include, without limitation, watering grass, shrubs and trees; mowing the grass on a regular basis; trimming the trees and fertilizing grass, shrubs and trees; and replacing damaged or dead landscaping. In order to provide a view of the lake from the Hotel, County agrees to trim the existing trees located between the Property and the lake and to coordinate with Tenant to identify any trees that unreasonably obstruct the view of the lake. Tenant acknowledges that removal of certain trees may be prohibited or require mitigation if removed under applicable County codes or ordinances. In the event Tenant desires the removal of any of the trees located outside of the Property that obstruct the view of the lake from the Hotel, the parties shall mutually agree upon a plan for the removal and mitigation of such tree(s), if applicable, and each party shall pay fifty percent (50%) of the actual costs of implementing such plan.

ARTICLE 10 - UTILITIES

10.01 Utility Costs. Tenant shall pay for all electric and all other utility charges for the Premises. Metering devices shall become the property of County upon installation. Except as otherwise provided in Section 7.05, Tenant shall be responsible for the extension of utility mains and services to the Property and such utility mains shall become the property of County upon installation.

10.02 Interruption of Service. No failure, delay or interruption in supplying any services for any reason whatsoever (whether or not a separate charge is made therefore) shall be construed to be an eviction of Tenant or grounds for any diminution or abatement of rental or shall be grounds for any claim by Tenant under this Lease for damages, consequential or otherwise.

10.03 Water, Industrial and Sanitary Sewage Systems. Tenant acknowledges that the first one-half (½) inch of stormwater runoff must be pretreated within the Premises prior to discharging into the primary drainage system. Tenant acknowledges and agrees that any stormwater improvements constructed by Tenant outside the Premises shall be subject to approval of the Department and considered part of the Airport's stormwater drainage system, which shall be owned and maintained by County at its sole cost and expense and over which Tenant shall have an easement for the use of said system. Notwithstanding the foregoing, County shall have the right, in its sole and absolute discretion and at its sole cost and expense, to relocate or otherwise modify any stormwater drainage improvements located outside the Premises; provided that such relocation or modification does not negatively impact the Premises' drainage. Tenant shall operate and maintain, at its sole cost and expense, all the components of any and all water, industrial and sanitary sewage system(s) and stormwater drainage facilities serving the Premises that are located within the Premises. Tenant shall provide, operate and maintain adequate facilities for separating, neutralizing and treating industrial waste and foreign materials generated within the Premises and the proper disposal thereof as required by all applicable Federal, State and local laws, regulation and rules, as now or hereafter amended.

ARTICLE 11 - INSURANCE REQUIREMENTS

Unless otherwise specified in this Lease, Tenant shall, at its sole expense, maintain in full force and effect at all times during the Term and any extension thereof, the insurance limits, coverages and endorsements required herein. Tenant acknowledges and agrees that the requirements contained in this Article, or County's review or acceptance of insurance, shall not in any manner limit or qualify the liabilities and obligations assumed by Tenant under this Lease.

11.01 Commercial General Liability. Tenant shall maintain Commercial General Liability Insurance with limits of liability not less than One Million Dollars (\$1,000,000) each occurrence, including coverage for, but not limited to, Premises/Operations, Products/Completed Operations, Contractual Liability, Personal/Advertising Injury and Cross Liability. This coverage shall be provided on a primary basis.

11.02 Business Auto Liability. Tenant shall maintain Business Automobile Liability Insurance with limits of liability not less than One Million Dollars (\$1,000,000) each occurrence for owned, non-owned and hired automobiles. In the event Tenant has no owned automobiles, Tenant shall maintain only Hired & Non-Owned Auto Liability Insurance. This coverage may be satisfied by way of endorsement to the Commercial General Liability/Airport Liability policy, or a separate Business Auto Liability policy. This coverage shall be provided on a primary basis.

11.03 Business Interruption Insurance. Tenant shall maintain Business Interruption Insurance, which shall include Rent Insurance in an amount not less than the annual rental payable hereunder. Rent Insurance shall be carried in the name of Tenant as named insured and shall be payable to County to be applied to rental for the period from the occurrence of the damage or destruction until completion of the restoration or repairs.

11.04 Worker's Compensation & Employers Liability. Tenant shall maintain Worker's Compensation & Employers Liability in accordance with Chapter 440, Florida Statutes, and Federal law. This coverage shall be provided on a primary basis.

11.05 Umbrella or Excess Liability. If necessary, Tenant may satisfy the minimum limits required above for Commercial General Liability and/or Business Auto Liability coverage under Umbrella or Excess Liability Insurance. The Umbrella or Excess Liability policy shall have an aggregate limit not less than the highest "each occurrence" limit for the Commercial General Liability, Business or Auto Liability. County shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability policy, unless the Certificate of Insurance notes the Umbrella or Excess Liability policy provides coverage on a "Follow-Form" basis.

11.06 Property, Wind & Flood Insurance.

- (A) Builder's Risk Insurance. Tenant shall maintain Builder's Risk insurance covering the Tenant's building(s), betterments and improvements during the course of construction at the Premises in an amount at least equal to one hundred percent (100%) of the estimated completed property or project value as well as subsequent modifications of that sum. Coverage shall be provided on an All-Risk basis including coverage for the perils of wind and flood. Tenant agrees this coverage shall be provided on a primary basis.
- (B) After construction is completed, Tenant shall maintain:
 - (1) Property insurance in an amount not less than one hundred percent (100%) of the total replacement cost of the buildings, betterments and improvements, including those made by or on behalf of Tenant as well as Tenant's contents located on the Premises. The settlement clause shall be on a Replacement Cost basis. Coverage shall be written with a Special - Cause of Loss (All-Risk) form and include an endorsement for Ordinance & Law in an amount not less than

twenty-five percent (25%) of the Property insurance limit. This coverage shall be provided on a primary basis.

- (2) Flood insurance, regardless of the flood zone, in an amount not less than one hundred percent (100%) of the total replacement cost of the buildings, betterments and improvements, including, but not limited to, those made by or on behalf of Tenant as well as Tenant's contents, located on the Premises, or the maximum amount available from the National Flood Insurance Program. This coverage shall be provided on a primary basis.
- (3) Windstorm insurance, unless included as a covered peril in the property insurance, in an amount not less than one hundred percent (100%) of the total replacement cost of the building, betterments and improvements, including, but not limited to, those made by or on behalf of Tenant as well as Tenant's contents, located on the Premises, or the maximum amount available under the Florida Windstorm Underwriting Association. This coverage shall be provided on a primary basis.

11.07 Additional Insured Endorsement. Tenant shall endorse County as "Additional Insured" on each of the liability policies required to be maintained by Tenant hereunder, with the exception of Worker's Compensation/Employers Liability and Business Auto Liability. The "Additional Insured" endorsements shall provide coverage on a primary basis. Each "Additional Insured" endorsement shall read: "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, and Employees, c/o Insurance Tracking Services, Inc., P.O. Box 20270, Long Beach, CA 90801", or as otherwise approved or modified by County.

11.08 Certificate of Insurance.

- (A) Tenant shall provide the Department with a certificate of insurance, or certificates of insurance, evidencing limits, coverages and endorsements required herein within the time frames set forth below:
 - (1) Commercial General Liability insurance prior to the Effective Date;
 - (2) Business Auto Liability insurance prior to allowing vehicles on to the Premises;
 - (3) Business Interruption and Worker's Compensation insurance on or before the Date of Beneficial Occupancy.
 - (4) Builder's Risk insurance and Property, Wind and Flood insurance within the time frames set forth in Section 11.06.

- (B) All certificates of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. In the event coverage is cancelled or is not renewed, Tenant shall provide County a new certificate of insurance or certificates of insurance evidencing replacement coverage no later than thirty (30) days prior to the expiration or cancellation of the coverage. The certificate holder's name and address shall read "Palm Beach County Board of County Commissioners c/o Insurance Tracking Services, Inc., P.O. Box 20270, Long Beach, CA 90801", or as otherwise approved or modified by County.

11.09 Waiver of Subrogation. By entering into this Lease, Tenant agrees to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, Tenant shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. The requirements of this paragraph shall not apply to any policy, a condition to which the policy specifically prohibits such an endorsement, or voids coverage if Tenant enters into such an agreement on a pre-loss basis.

11.10 Premiums and Proceeds. Tenant shall not keep, use, sell or offer for sale in or upon the Premises any article which may be prohibited by any, condition, provision, or limitation of the property, flood or wind insurance policies. Tenant shall be responsible for all premiums, including increases, for property, flood and wind insurance policies. Tenant agrees that all property, flood and windstorm insurance proceeds shall be made available for use to promptly replace, repair or rebuild the building, betterments and improvements, including, but not limited to, those made by or on behalf of Tenant.

11.11 Deductibles, Coinsurance & Self-Insured Retention. Tenant shall be fully and solely responsible for any deductible, coinsurance penalty, or self-insured retention; including any losses, damages, or expenses not covered due to an exhaustion of limits or failure to comply with the policy.

11.12 Right to Review or Adjust Insurance. The Risk Management Department may review, modify, reject or accept any required policies of insurance, including, but not limited to, limits, coverages or endorsements, required by this Article from time to time throughout the Term and any extension thereof. County may also reject any insurer or self-insurance plan providing coverage because of poor financial condition or failure to operate legally. In such event, County shall provide Tenant a written notice of rejection, and Tenant shall comply within thirty (30) days of receipt of the notice.

11.13 No Representation of Coverage Adequacy. Tenant acknowledges the limits, coverages and endorsements required by this Article are intended to minimize liability for County. Tenant agrees that it will not rely upon the requirements of this Article when assessing the extent or determining appropriate types or limits of insurance coverage to protect Tenant against any loss exposures, whether as a result of this Lease or otherwise.

ARTICLE 12 - DAMAGE TO OR DESTRUCTION OF PREMISES

12.01 Removal of Debris. If the Premises, or any portion thereof, is damaged by fire, the elements or other casualty, Tenant shall remove all debris resulting from such damage from the Premises as soon as reasonably practicable, but in no event more than thirty (30) days after written notice from County to Tenant. Tenant shall take all necessary actions to place the Premises in a neat and orderly condition to ensure the safety of persons entering upon the Premises. If Tenant fails to comply with the provisions of this Section, County may take such measures as it deems necessary to render the Premises in a neat, orderly, and safe condition. Tenant agrees that Tenant shall fully assume and be liable to County for payment of any costs incurred by County, plus a twenty-five percent (25%) administrative overhead fee, which costs and administrative overhead fee, shall be due and payable to County within thirty (30) days from the date of written notice provided by the Department.

12.02 Tenant's Obligations. Tenant assumes full responsibility for the condition of the Premises and the character, acts and conduct of all persons admitted to the Premises by or with the actual or constructive consent of Tenant or with the consent of any person acting for or on behalf of Tenant. If the Premises, or any portion thereof, are damaged in any way whatsoever, whether by an act of God or by the act, default or negligence of a Tenant Party, Tenant shall, at its sole cost and expense, restore the Premises to the condition existing prior to such damage. Tenant shall commence restoration as soon as reasonably practicable after any such damage and shall diligently pursue such restoration to completion in accordance with the construction requirements set forth in Article 7. All repairs and restoration shall be performed by Tenant at Tenant's sole cost and expense, in accordance with the construction requirements contained herein. If Tenant fails to restore the Premises as required by this Section, County shall have the right to enter the Premises to perform the necessary restoration after providing Tenant with ninety (90) days prior written notice of its intent perform such restoration. Tenant agrees that Tenant shall fully assume and be liable to County for payment of the costs of restoration, plus a twenty-five percent (25%) administrative overhead fee, which costs and administrative overhead fee, shall be due and payable to County within thirty (30) days from the date of the written notice provided by the Department.

12.03 Insurance Proceeds. Upon receipt by Tenant of the proceeds of any insurance policy or policies required hereunder, the proceeds shall be deposited in an escrow account so as to be available to pay for the cost of any required repair, replacement or rebuilding. The proceeds shall be disbursed at the direction of Tenant during construction to pay the cost of such work. If the amount of the insurance proceeds is insufficient to pay the costs of the required repair, replacement or rebuilding of damaged improvements, Tenant shall pay any additional sums required to complete the required repair, replacement or rebuilding into the escrow account. If the amount of the insurance proceeds is in excess of the costs of the required repair, replacement or rebuilding, the excess amount shall be remitted to Tenant.

ARTICLE 13 - ENCUMBRANCES

Except as otherwise provided for herein, Tenant shall not, in any manner, mortgage, pledge or otherwise encumber this Lease, the Premises or any improvements now existing or hereinafter erected or constructed upon the Premises without County's prior written consent, which consent will not be unreasonably withheld, conditioned or delayed. Any such encumbrance without County's approval shall be null and void. Tenant shall cause to be removed any and all liens of any nature arising out of or resulting out of or resulting from the performance of any work or labor performed upon the Premises or the furnishing of any materials for use upon the Premises, by, on behalf of or at the direction of a Tenant Party. This provision shall be construed to include a prohibition against any mortgage, pledge, or encumbrance by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary.

ARTICLE 14 - TITLE TO IMPROVEMENTS

14.01 Title to Improvements on the Premises. Except as otherwise provided for herein, Tenant shall be deemed to be the owner of all Tenant Improvements during the Term. Upon expiration or earlier termination of this Lease, all buildings, structures, pavements, facilities, landscaping and other improvements, above and below ground, constructed or placed upon the Premises by Tenant, title to which has not previously vested in County hereunder shall become the absolute property of County, and County shall have every right, title, and interest therein, free and clear of any liens, mortgages, and other encumbrances. Upon the request of County, Tenant shall provide County with a bill of sale or other evidence of the transfer of ownership of the Tenant Improvements together with evidence satisfactory to County that the improvements are free from liens, mortgages and other encumbrances.

14.02 Survival. The provisions of this Article shall survive expiration or termination of this Lease.

ARTICLE 15 - EXPIRATION, DEFAULTS, REMEDIES AND TERMINATION

15.01 Expiration. This Lease shall automatically expire at the end of the Term.

15.02 Default. The occurrence of any one or more of the following events shall constitute a material default of this Lease by Tenant:

- (A) The vacating or abandonment of the Premises by Tenant.
- (B) The failure by Tenant to make payment of rental or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of three (3) Business Days after Tenant has been provided with written notice thereof.
- (C) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by

Tenant, where such failure continues for a period of thirty (30) days after written notice thereof from County to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commenced such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion. Nothing contained in this paragraph shall be deemed to alter or affect the cure period for performance of any covenant, condition or provision for which a specific time period is provided in this Lease.

- (D) To the extent permitted by law: (a) the making by Tenant or any guarantor thereof of any general assignment, or general arrangement for the benefit of creditors; (b) the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy [unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days]; (c) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (d) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

Notwithstanding any provision of this Lease, Tenant acknowledges and agrees the Department may require Tenant to immediately cease any activity, which could result in an airport hazard or endanger safety of any Airport user, as reasonably determined by the Department.

15.03 Remedies. In the event of a material default by Tenant, County may at any time thereafter, with or without notice or demand and without limiting any other right or remedy which County may have under the law by reason of such default or breach, elect to exercise any one of the following remedies:

- (A) Declare the entire rent for the balance of the Term or any part thereof due and payable forthwith, and bring an action for the recovery thereof.
- (B) Terminate Tenant's right to possession of the Premises by any lawful means and re-enter and re-take possession of the Premises for the account of Tenant, in which case the rent and other sums hereunder shall be accelerated and due in full, and Tenant shall be liable for the difference between the rent which is stipulated to be paid hereunder plus other sums as described herein and what County is able to recover from its good faith efforts to relet the Premises, which deficiency shall be paid by Tenant. Upon such reletting, all rentals received by County shall be applied, first to the payment of any indebtedness, other than rent due hereunder from Tenant; second, to the payment of any reasonable costs and expenses of

such reletting, which shall include all damages incurred by County due to Tenant's default including, but not limited to, the reasonable cost of recovering possession of the Premises including reasonable attorneys' fees, and reasonable real estate commissions paid by County relating to the unexpired term of this Lease; third, to the payment of rent due and unpaid hereunder; and the remainder, if any, shall be paid to Tenant.

- (C) Treat this Lease as terminated and re-enter and re-take possession of the Premises for the account of County, thereby terminating any further liability under this Lease on the part of Tenant and County. Notwithstanding the foregoing, County shall have a cause of action to recover any rent remaining unpaid when County retakes possession of the Premises for the account of County.
- (D) Stand by and do nothing, holding Tenant liable for rental as it comes due.
- (E) Pursue any other remedy now or hereinafter available to County under the laws of the State of Florida.

Notwithstanding anything in this Lease to the contrary, County shall have the right to bring an action for its damages upon the occurrence of a default by Tenant and County reserves all rights which laws of the State of Florida confer upon a landlord against a tenant in default. Tenant hereby waives any additional notice Tenant may be entitled to pursuant to Florida law.

15.04 Termination by Tenant. Tenant may terminate this Lease, if Tenant is not in default of this Lease (including, but not limited to, its payments to County hereunder), by giving County sixty (60) days advance written notice, upon or after the happening of any one of the following events:

- (A) The default by County in the performance of any covenant or agreement herein required to be performed by County and the failure of County to remedy such default for a period of thirty (30) days after receipt from Tenant of written notice to remedy same; provided, however, that no notice of cancellation, as provided herein, shall be of any force or effect if County shall have remedied the default within such thirty (30) day period; or in the event the same cannot be cured within such thirty (30) day period and County has commenced such cure and thereafter diligently pursues the same until completion.
- (B) The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control or use of the Airport and facilities, or any substantial part or parts thereof, in such a manner as to substantially restrict the operation of Tenant, for a period of at least ninety (90) days.

15.05 Default by County. County shall not be in default unless County fails to perform obligations imposed upon County hereunder within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to County, specifying wherein County has failed to perform such obligations; provided, however, that if the nature of County's default is such that more than thirty (30) days are reasonably required for its cure, then County shall not be deemed to be in default if County commenced such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion.

15.06 Surrender of Premises. Tenant expressly agrees that it shall immediately surrender the Premises to County in good condition, upon expiration or termination of this Lease, depreciation and wear from ordinary use for the purpose for which the Premises were leased being excepted. In the event Tenant shall holdover, refuse, or fail to give up the possession of the Premises at the termination of this Lease, Tenant shall be liable to County for any and all damages, and in addition thereto, Tenant shall also be strictly liable to pay to County during the entire time period of such holdover, double rental, as provided for in Section 83.06, Florida Statutes. Tenant shall remove all of its personal property from the Premises prior to the expiration of this Lease. Any personal property of Tenant not removed by Tenant shall, at the option of County, become the property of County, or alternatively, may be disposed of by County at Tenant's expense.

ARTICLE 16 - ASSIGNMENT, TRANSFER AND SUBLETTING

Tenant shall not, in any manner, assign, transfer or otherwise convey an interest in this Lease, the Premises or any portion thereof ("Assignment"), without the prior written consent of County, which consent shall not be unreasonably withheld, conditioned or delayed. County shall not be deemed to have withheld its consent unreasonably unless County has been furnished evidence establishing that the proposed assignee: (a) has the ability to make the rental payments required under this Lease; (b) has sufficient experience to operate the facilities constructed or to be constructed on the Premises in the manner required hereunder; (c) has the ability to otherwise perform all of the terms, conditions and covenants of this Lease; and (d) agrees to assume all obligations, responsibilities and liabilities of Tenant arising on and after the effective date of the Assignment. Any attempted Assignment without County approval shall be null and void. In the event County consents in writing to an Assignment, Tenant shall have the right to assign this Lease to the extent permitted by County's consent to such Assignment, provided that the use of the Premises shall be limited to the same uses as are permitted under this Lease. Any permitted Assignment shall be subject to the same conditions, obligations and terms as set forth herein. Tenant shall have the right to sublease the Premises subject to the prior written consent of County, which consent shall not be unreasonably withheld. All subleases shall be subject to the same conditions, obligations, and terms as set forth herein and Tenant shall be fully responsible for the observance by its subtenants of the terms and covenants contained in this Lease. Notwithstanding any provision of this Lease to the contrary, the consent of County shall not be required for an Assignment of this Lease in its entirety where all or substantially all of the assets of Tenant are acquired by another entity by reason of a merger, acquisition, or other business reorganization, provided that Tenant provides written notice to County ten (10) days prior to the change in ownership. County may freely assign this Lease at any time without the consent of

Tenant, and upon assumption by such assignee of County's obligations hereunder, County shall be released from all liability and obligation arising hereunder upon such assignment.

ARTICLE 17 - RIGHTS OF LEASEHOLD MORTGAGEES

17.01 Right to Mortgage. Tenant may encumber its leasehold estate and interest in the Premises by mortgage, security agreement or other such instrument (any such instrument is hereinafter referred to as "Leasehold Mortgage", and the holder thereof is referred to as "Leasehold Mortgagee") during the Term of this Lease; provided, however, that the entire proceeds of any loan or future advance secured thereby shall be utilized for the construction and improvement of the Premises and further provided that County shall not be obligated to, nor deemed to have subjected or subordinated County's fee simple interest in the Premises to any Leasehold Mortgage, nor subordinated County's interest in this Lease to such Leasehold Mortgage. County's interests in the fee and this Lease are and shall remain at all times superior and prior in right to any Leasehold Mortgage.

17.02 Notice of Default. A Leasehold Mortgagee may provide written notice of its Leasehold Mortgage in the same manner and at the same address as required by this Lease for notices delivered to County, together with the name and address of the Leasehold Mortgagee. In the event such notice is delivered to County, County, upon serving Tenant with any notice under this Lease, shall also serve a copy of that notice upon the Leasehold Mortgagee in the same manner as required by this Lease for notices delivered to Tenant. The delivery shall be made at the address the Leasehold Mortgagee shall have designated in writing to County. County agrees to give the Leasehold Mortgagee written notice of any default by Tenant and of County's intention to terminate this Lease for any reason at least sixty (60) days before the effective date of such termination. The Leasehold Mortgagee shall have the right to perform any of Tenant's covenants or to cure any default by Tenant which is curable by it or to exercise any right conferred upon Tenant by the Terms of this Lease within such sixty (60) day period or such longer period if the default by Tenant is of such nature that it cannot be cured within such sixty (60) day period, provided that the Leasehold Mortgagee diligently and actively undertakes to cure such default and pursues such cure to completion within a reasonable period of time under the circumstances. The sole remedy available to Leasehold Mortgagee due to the failure of County to provide Leasehold Mortgagee with notice as required hereunder shall be the tolling of the applicable cure period afforded to Leasehold Mortgagee herein until the earlier of provision of such notice to Leasehold Mortgagee or Leasehold Mortgagee's receipt of actual knowledge of such notice. County's failure to provide Leasehold Mortgagee notice as required hereunder shall not alter or affect Tenant's rights or obligations under this Lease, nor extend any cure period afforded to Tenant hereunder, or entitle Tenant to damages or other remedies.

17.03 Opportunity to Cure. County will recognize the Leasehold Mortgagee as the tenant of the Premises and accept the performance by the Leasehold Mortgagee of Tenant's obligations under this Lease, upon written notice from the Leasehold Mortgagee to County that it has taken possession of the Premises, for so long as the Leasehold Mortgagee is in possession of the Premises, and provided that Leasehold Mortgagee diligently and actively undertakes to cure and pursues such cure to completion within a reasonable period of time under the circumstances any then existing defaults by Tenant, and performs Tenant's obligations under this Lease.

County agrees that it will not unreasonably withhold or delay its consent to any future assignment by the Leasehold Mortgagee of the rights of Tenant under this Lease; provided that: (a) there is no existing default under this Lease or the Leasehold Mortgagee or such assignee diligently and actively undertakes to cure any such default and pursues such cure to completion as provided above, and (b) the assignee has similar recent experience and knowledge regarding operations being conducted on the Premises and has the financial ability to perform under this Lease, as reasonably determined by County. Upon any valid permitted assignment of this Lease by the Leasehold Mortgagee, Leasehold Mortgagee shall have no further liability under this Lease for obligations arising after such assignment. Any action by the Leasehold Mortgagee to cure any default by Tenant or otherwise to exercise Tenant's rights under this Lease shall not be deemed to be an assumption by the Leasehold Mortgagee of Tenant's obligations under this Lease unless the Leasehold Mortgagee takes possession of the Premises pursuant to a foreclosure or other enforcement of its security interest in this Lease or otherwise expressly assumes such obligations in writing. If the Leasehold Mortgagee takes possession of the Premises or succeeds to the interest of Tenant, County shall accept the Leasehold Mortgagee as tenant under this Lease, and this Lease shall continue in full force and effect, provided that there are no then existing uncured defaults under this Lease, and Leasehold Mortgagee performs all obligations of Tenant under this Lease.

17.04 No Lease Amendments. This Lease shall not be amended, modified, terminated or canceled by reason of the exercise of any option or election by Tenant under this Lease, or by the giving of any notice by Tenant under this Lease, unless such amendment, modification, termination or cancellation is assented to in writing by any Leasehold Mortgagee. Any such attempted amendment or modification, termination or cancellation without that assent shall be void.

17.05 Limitation of Liability. A Leasehold Mortgagee shall only be liable to perform the obligations imposed on Tenant in this Lease during the period that the Leasehold Mortgagee is in possession or ownership of the leasehold estate created by this Lease.

17.06 Certificates. Each party agrees, at any time and from time to time upon not less than twenty (20) days prior written notice by the other party, to execute, acknowledge and deliver to the other party a statement in writing certifying: (a) whether this Lease is in full force and effect, and if it is alleged that this Lease is not in full force and effect, setting forth the nature thereof in reasonable detail; (b) whether this Lease has been supplemented or amended, specifying the manner in which it has been supplemented or amended; (c) the date to which all rental payments have been made; (d) the commencement and expiration date of this Lease; and (e) whether or not, to the best of the knowledge of the signer of such statement, the other party is in default or may be with notice or the passage of time, or both, in keeping, observing or performing any term, covenant, agreement, provision, condition or limitation contained in this Lease and if in default, specifying each such default, it being intended that any such statement delivered pursuant to this paragraph may be relied upon by the other party, any prospective assignee of the other party's interest in this Lease or any Leasehold Mortgagee, but reliance on such certificate may not extend to any default as to which the signer shall not have had actual knowledge.

17.07 Subordination of Landlord's Lien. County does hereby subordinate its statutory landlord's lien to the lien and operation of any Leasehold Mortgage. This subordination of County's lien shall be self operative.

17.08 Release of Lien. Upon the scheduled expiration or early termination of this Lease, provided such termination is in accordance with the terms of this Lease including, but not limited to, this Article, Tenant and/or Leasehold Mortgagee, as appropriate, shall promptly execute, in recordable form, and deliver to County, a termination of lease, termination of memorandum of lease, release of mortgage and such other documents as County may reasonably require (collectively, the "Release Documents"). In the event Tenant or Leasehold Mortgagee fails to provide the foregoing Release Documents within thirty (30) days after County's written request therefor, County shall be entitled to execute the same for and on behalf of Tenant and/or Leasehold Mortgagee and Tenant and Leasehold Mortgagee hereby appoint County as attorney in fact for the limited purpose of execution of such Release Documents.

17.09 Indemnification. By acceptance of the rights and benefits conferred upon a Leasehold Mortgagee by this Article, such Leasehold Mortgagee agrees, for itself and its successors and assigns, that it shall be bound by the terms of this Article as if such Leasehold Mortgagee were a direct party hereto and further agrees to protect, defend, reimburse, indemnify and hold the County Parties harmless from and, against any and all Damages arising from to the Leasehold Mortgagee's negligence or willful misconduct in connection with its entry upon the Premises for inspection or other purposes.

17.10 Personal Property. Notwithstanding any other provision of this Lease to the contrary, Tenant may, without County's or Department's consent, from time to time, secure financing or general credit lines and grant the lenders thereof, as security therefor: (a) a security interest in Tenant's personal property located at the Premises, and/or (b) the right to enter the Premises to realize upon any personal property so pledged. Upon Tenant providing notice of such financing to County, County agrees to evidence its consent in writing to such security interest. All of Tenant's personal property shall be and remain the personal property of Tenant. County expressly waives its statutory and common law landlord's liens as same may be enacted or may exist from time to time and any and all rights granted under any present or future laws to levy or distrain for rent, whether in arrears or in advance, against the aforesaid personal property of Tenant on the Premises and further agrees to execute any reasonable instruments evidencing such waiver (upon Tenant's request).

ARTICLE 18 - INDEMNIFICATION

Tenant agrees to protect, defend, reimburse, indemnify and hold the County Parties free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages (including attorney fees at trial and appellate levels) and causes of action of every kind and character (collectively referred to herein as "Damages") against, or in which County is named or joined, arising out of this Lease or use or occupancy of the Premises by any Tenant Party, including, but not limited to those arising by reason of any damage to property or the environment, or bodily injury (including death) incurred or sustained by any party hereto, or of any party acquiring any interest hereunder, and any third or other party whomsoever, or any

governmental agency, arising out of or incident to or in connection with a Tenant Party's acts, omissions or operations hereunder, or the performance, non-performance or purported performance of a Tenant Party or any breach of the terms of this Lease; provided, however, Tenant shall not be responsible to a County Party for Damages that are solely attributable to the negligence or willful misconduct of such County Party. Tenant further agrees to hold harmless and indemnify the County Parties for any fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from or in any way arising out of or due to a Tenant Party's activities or operations or use of the Premises whether or not Tenant was negligent or even knowledgeable of any events precipitating a claim or judgment arising as a result of any situation involving the activities. This indemnification shall be extended to include all deliverers, suppliers, furnishers of material, or anyone acting for, on behalf of or at the request of Tenant. Tenant recognizes the broad nature of this indemnification and hold-harmless provision, and acknowledges that County would not enter into this Lease without the inclusion of such clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by County in support of this indemnification in accordance with the laws of the State of Florida. The obligations arising under this Article shall survive the expiration or termination of this Lease.

ARTICLE 19 – EXTERIOR SIGNAGE

19.01 General. Tenant may install and operate upon the Premises, at Tenant's sole cost and expense, signs representing the businesses operating on the Premises. Tenant acknowledges County's desire to maintain a high level of aesthetic quality on the Airport and agrees that all signage installed by Tenant on the Airport, including the Premises, shall be of first class design and appearance. Tenant covenants and agrees that, in the exercise of its privilege to install and maintain appropriate signage, Tenant shall submit to County the size, design, content, and intended location of each and every sign it proposes to install on or within the Premises or such other locations on the Airport as may be approved by County. No signs of any type shall be installed on or within the Premises or Airport without the prior written approval of County as to the size, design, content, and location. Handwritten, hand lettered and hand held exterior signs are prohibited. County shall have the right to require Tenant to remove any unapproved signage. In the event Tenant fails, refuses or neglects to remove any unapproved signage within a fifteen (15) days of County's written notice to do so, County may also elect, at its sole option, to cause such signage to be removed on behalf of and for the account of Tenant. Tenant shall reimburse County the actual cost of such removal services, plus a twenty-five percent (25%) administrative overhead within thirty (30) days of the date of the invoice therefor. County's failure to require removal of any sign placed on or about the Premises without written permission shall not be deemed a waiver of County's authority to require removal of any unapproved sign.

19.02 Off-Site Business Signage. County agrees to work with Tenant in good faith to identify appropriate location(s) for business signage outside of the Premises within Parcel N-11 for the purpose of directing customers to the Hotel from the public roadways serving the Airport; provided, however, Tenant acknowledges and agrees such other locations may require the parties to coordinate with future tenants of Parcel N-11. Any such business signage shall be subject to the requirements of Section 19.01. County shall grant Tenant a nonexclusive easement or license to Tenant for the purpose of installing, maintaining and repairing such business signage. Tenant

acknowledges and agrees that County may cause any business signage located outside the Premises to be removed and relocated to an alternative location at no cost to Tenant to the extent such signage will unreasonably interfere with the future development of Airport facilities or that portion of Parcel N-11 located outside the Premises by future tenants. Tenant acknowledges and agrees that County may allow the location of business signage to be shared by future tenants of Parcel N-11, and Tenant further agrees to cooperate with County in the colocation of tenant business signage to the maximum extent possible. Nothing in this Section shall be construed as authorizing Tenant to install advertising signage in any location outside of the Premises.

ARTICLE 20 - LAWS, REGULATIONS AND PERMITS

20.01 General. Tenant agrees that throughout the Term and any extension thereof, Tenant shall at all times be and shall remain in full and complete compliance with all applicable Federal, State and local laws, statutes, regulations, rules, rulings, orders, ordinances and directives of any kind or nature but not limited to, as now or hereafter amended, including, but not limited to, FAA Advisory Circulars and Airport Rules and Regulations.

20.02 Permits and Licenses Generally. Tenant agrees that it shall, at its sole cost and expense, be strictly liable and responsible for obtaining, paying for, and maintaining current, and fully complying with, any and all permits, licenses and other governmental authorizations, however designated, as may be required at any time throughout the Term of this Lease or any extension thereof by any Federal, State or local governmental entity or any court of law having jurisdiction over the operations and activities conducted on the Premises by Tenant, including ensuring that all legal requirements, permits, and licenses necessary for, or resulting directly or indirectly from, Tenant's operations and activities on the Premises have been obtained and are in full legal compliance. Upon the written request of County, Tenant shall provide to County certified copies of any and all permits and licenses which County may request.

20.03 Air and Safety Regulation. Tenant agrees that it shall conduct its operations and activities under this Lease in a safe manner, shall comply with all safety regulations of the Department and with safety standards imposed by applicable Federal, State and local laws and regulations and shall require the observance thereof by all Tenant Parties transacting business with or for Tenant, resulting from, or in any way related to, the conduct of a Tenant's business on the Premises. Tenant shall procure and maintain such fire prevention and extinguishing devices as required by County and by law and shall at all times be familiar and comply with the fire regulations and orders of County and the fire control agency with jurisdiction at the Airport, as same may now exist or hereafter come into being. Tenant hereby agrees that neither Tenant, nor employee or contractor or any person working for or on behalf of Tenant, shall require any personnel engaged in the performance of Tenant's operations to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health or safety, as determined by standards adopted pursuant to the Occupational Safety and Health Act of 1970, as same may be amended from time to time, as well as all State and local laws, regulations, and orders relative to occupational safety and health.

20.04 Environmental and Natural Resource Laws, Regulations and Permits.

- (A) Notwithstanding any other provision of this Lease to the contrary, Tenant hereby expressly covenants, warrants, guarantees and represents to County, upon which County expressly relies, that Tenant is knowledgeable of, and shall fully comply with, any and all Environmental Laws applicable to Tenant and its operations hereunder.
- (B) Tenant acknowledges that, if its operations involve the generation, processing, handling, storing, transporting and disposal of Hazardous Substances, such operations may be subject to regulation under applicable Environmental Laws. Tenant further expressly covenants, warrants, guarantees and represents that it is fully qualified to handle and dispose of any and all such Hazardous Substances, in a manner which is both safe and in full compliance with any and all applicable Environmental Laws.
- (C) Tenant hereby expressly assumes and accepts full responsibility and liability for compliance with all such applicable Environmental Laws in the handling and disposal of any and all Hazardous Substances resulting from or arising out of Tenant's operations conducted on the Premises, and Tenant shall, prior to commencement of any such operations pursuant to this Lease, secure any and all permits, and properly make all necessary notifications as may be required by any and all governmental agencies having jurisdiction over parties or the subject matter thereof. Tenant further represents, warrants, guarantees and covenants to County, upon which County hereby expressly relies, that Tenant and any Tenant Party required to be so trained working for, or on behalf of, Tenant have been, or will be prior to commencement of operations on the Premises, fully and properly trained in the handling of all such Hazardous Substances, and that such training, at a minimum, complies with any and all applicable Environmental Laws.
- (D) Tenant shall provide to County satisfactory documentary evidence of all such requisite legal permits and notifications, as hereinabove required and as may be further required, upon request, from time to time by County.
- (E) If Tenant is deemed to be a generator of hazardous waste, as defined by applicable Environmental Laws:
 - (1) Tenant shall obtain an EPA identification number and the appropriate generator permit and shall comply with all requirements imposed upon a generator of hazardous waste, including, but not limited to, ensuring that the appropriate transportation and disposal of such materials are conducted in full compliance with Environmental Laws;
 - (2) Tenant shall maintain an accurate inventory list (including quantities) of all such hazardous waste, whether stored, disposed of, or recycled, available at all times for inspection at any time on the Premises by

County;

- (3) Tenant shall notify the Palm Beach County Solid Waste Authority, Palm Beach County Environmental Resources Management Department, and such other appropriate agencies as County may from time to time designate, of all Tenant's hazardous waste activities, if any; and
 - (4) Tenant shall provide to the Department, Risk Management Department - Safety Division, and to all appropriate governmental entities having jurisdiction thereover, contact information for its emergency coordinator in case of any spill, leak, or other emergency situation involving hazardous, toxic, flammable, and/or other pollutant/contaminated materials.
- (F) Violation of any part of the foregoing provisions or disposal by Tenant of any Hazardous Substances in violation of the provisions of this Article shall be deemed to be a default under this Lease and shall be grounds for termination of this Lease unless cured within ten (10) days of receipt of notice from County or as expeditiously as possible if the default cannot be completely cured within the ten (10) day period. Tenant shall be strictly liable for, and hereby expressly assumes all responsibility for all citations, fines, environmental controls and monitoring, clean-up and disposal, restoration and corrective measures resulting from or in any way connected with the improper use, handling, storage, and/or disposal of Hazardous Substances by a Tenant Party on or from the Premises, regardless of whether or not a default notice has been issued and notwithstanding any other obligations imposed upon Tenant pursuant to the terms of this Lease. All such remedies of County with regard to environmental requirements as set forth herein shall be deemed cumulative in nature and shall survive expiration or termination of this Lease.
- (G) Tenant agrees to protect, defend, reimburse, indemnify and hold the County Parties harmless from and against any and all Damages arising from, resulting out of or in any way caused by or connected to a Tenant Party's failure to comply with applicable Environmental Laws. Tenant understands that this indemnification is in addition to and is a supplement of Tenant's indemnification agreement set forth in Article 18. Tenant acknowledges the broad nature of this indemnification and hold-harmless clause and that County would not enter into this Lease without the inclusion of such clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by County in support of this indemnification in accordance with laws of the State of Florida. The obligations arising under this Section shall survive the expiration or earlier termination of this Lease.

ARTICLE 21 - AMERICANS WITH DISABILITIES ACT

Tenant shall comply with all applicable requirements of the Americans with Disabilities Act, the State of Florida Accessibility Requirements Manual, and Section 504 of the Rehabilitation Act of 1973 and all implementing rules, regulations and orders, and shall cooperate with County to ensure Tenant remains in compliance with such requirements throughout the Term of this Lease.

ARTICLE 22 - DISCLAIMER OF LIABILITY

COUNTY HEREBY DISCLAIMS, AND TENANT HEREBY RELEASES THE COUNTY PARTIES, FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), FOR ANY LOSS, DAMAGE, OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY ANY TENANT PARTY DURING THE TERM OF THIS LEASE OR ANY EXTENSION THEREOF INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF A TENANT PARTY THAT MIGHT BE LOCATED OR STORED ON THE PREMISES, UNLESS SUCH LOSS, DAMAGE OR INJURY IS CAUSED BY A COUNTY PARTY'S SOLE NEGLIGENCE OR IS CAUSED BY COUNTY'S BREACH OF ITS OBLIGATIONS UNDER THIS LEASE. THE PARTIES HERETO EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR ANY OTHER DAMAGE RELATED TO THE LEASING OF THE PREMISES PURSUANT TO THIS LEASE.

ARTICLE 23 - GOVERNMENTAL RESTRICTIONS

23.01 Federal Right to Reclaim. In the event a United States governmental agency shall demand and take over the entire facilities of the Airport or the portion thereof wherein the Premises are located for public purposes for a period in excess of ninety (90) days, either party may terminate this Lease by providing written notice of such termination to the other party and the parties shall thereupon be released and fully discharged from any and all liability hereunder arising after such termination or as a result thereof. This Section shall not act or be construed as a waiver of any rights Tenant may have against the United States as a result of such taking.

23.02 County Tax Assessment Right. None of the terms, covenants and conditions of this Lease shall in any way be construed as a release or waiver on the part of County, as a political subdivision of the State of Florida, or any of the public officials of County, of the right to assess, levy, and collect any ad valorem, non ad valorem, license, personal, intangible, occupation, or other tax which shall be lawfully imposed on the Premises, the business or property of Tenant.

23.03 Height Restriction. The height of all temporary and permanent structures, objects of natural growth and other obstructions ("Obstructions") on the Premises, including, but not

limited to, lighting poles, flag poles, signage, promotional displays and cranes and other similar equipment, shall be limited to such height so as to comply with 14 CFR Part 77, as now or hereafter amended. All Obstructions to be constructed or installed on the Premises shall be reviewed by the FAA prior to construction or installation. In no event shall any Obstructions be constructed or installed on the Premises, which are determined by the FAA to be an airspace obstruction or to pose a potential threat to air navigation. All Obstructions shall be consistent with the Palm Beach County Airport Zoning Ordinance (as codified in Article 16 of the Palm Beach County Unified Land Development Code), as now or hereafter amended.

23.04 Right of Flight. County hereby reserves unto itself and its successors and assigns, for the use and benefit of the public, the right of flight for: (a) the passage of aircraft in, through, and across the airspace above the surface of the Premises, together with the right of the aircraft to make noise and exhaust emissions, light, vibrations, radio, television and other electromagnetic emissions and other effects as may be necessary for or incidental to the operation of aircraft; (b) navigation of or flight in said airspace; and (c) aircraft landing on, taking off from or operating at the Airport. Tenant on behalf of itself, and its subtenants, successors and assigns, hereby waives, releases and forever discharges County and its elected officials, officers, employees, agents, attorneys, consultants, representatives, successors and assigns from all claims, demands, judgments, orders, awards, liabilities, costs, attorney's fees, causes of action, administrative proceedings and lawsuits of every kind, nature or description, whether known or unknown, fixed or contingent, which County or any person claiming through or under it ever had, now has or hereafter may acquire, upon or by reason of the exercise of the rights reserved herein. It is further agreed that County shall have no obligation whatsoever, now or at any time in the future, to avoid or mitigate damages arising as a result of the exercise of the rights reserved herein or the operation of the Airport.

23.05 Operation of Airport. Tenant expressly agrees for itself, its sublessees, successors and assigns, to prevent any use of the Premises, which would interfere with or adversely affect the operation, maintenance or development of the Airport, or otherwise constitute a hazard to air navigation. Notwithstanding any provision of this Lease to the contrary Tenant, for itself and its sublessees, successors and assigns, agrees that County shall be entitled to self-help in the event a of an immediate hazard to the flight of aircraft over the Premises exists upon the Premises. Without limiting the generality of the foregoing, Tenant acknowledges that County shall be entitled to enter the Premises and physically remove or mitigate the hazard, at Tenant's expense. In the event Tenant fails to promptly mitigate a hazard or adverse effects on air navigation following notification from County, Tenant shall reimburse County for any and all costs and expenses incurred by County in exercising its self-help rights hereunder, plus a twenty-five percent (25%) administrative overhead fee, which costs, expenses and administrative overhead fee shall constitute Additional Rent hereunder and shall be due and payable within thirty (30) calendar days of the date of the Department's written notice. Tenant acknowledges and agrees that the right of self-help shall be in addition to any and all remedies available under the law and this Lease, including, but not limited to, immediate injunctive relief, both temporary and permanent, and the right of specific performance.

23.06 Release. Tenant acknowledges that noise and vibration are inherent to the operation of Airport and hereby releases County from any and all liability relating to the same.

23.07 Exclusive Rights. Except as otherwise provided for in this Section 23.07, Tenant understands and agrees that the rights granted under this Lease are nonexclusive, other than the exclusive right of use of the Premises, and that County may grant similar privileges to another lessee or other lessees on other parts of the Airport. Provided that Tenant is not in default of this Lease beyond any applicable cure period, County agrees for a period of five (5) years from the Effective Date of this Lease that County shall not enter into another lease for the operation of a hotel within Parcel N-11 without Tenant's prior written consent, which consent may be granted or denied in Tenant's sole and absolute discretion; provided, however, Tenant shall provide its consent or denial to County within fifteen (15) Business Days of County's written request.

23.08 Hazardous Wildlife Attractants. Tenant shall be prohibited from using the Premises in a manner which attracts, or has the potential to attract, hazardous wildlife to or in the vicinity of the Airport. Tenant acknowledges that water detention and retention areas are considered wildlife attractants and shall request the approval of the Department prior to constructing new water detention or retention areas, or modifying existing water detention or retention areas within the Premises. If approved by the Department, water detention or retention areas shall be in compliance with the siting, design and construction requirements of the Department. Tenant further agrees to comply with the provisions of FAA Advisory Circular No. 150/5200-33, as now or hereafter amended, as such circular is interpreted by the Department.

ARTICLE 24 - NON-DISCRIMINATION

24.01 Non-Discrimination in County Contracts. Tenant warrants and represents to County that all of its employees are treated equally during employment without regard to race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information. Tenant has submitted to County a copy of its non-discrimination policy, which is consistent with the above, as contained in Resolution R-2014-1421, as amended, or in the alternative, if Tenant does not have a written non-discrimination policy, it has acknowledged through a signed statement provided to County affirming their non-discrimination policy conforms to R-2014-1421, as amended.

24.02 Federal Non-Discrimination Covenants.

- (A) Tenant, for its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:
 - (1) In the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such facilities and services in compliance with all requirements imposed by the nondiscrimination acts and regulations listed in the Non-discrimination Authorities (as hereinafter defined), as may be amended,

such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

- (2) No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of County property, including, but not limited to, the Premises.
 - (3) In the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
 - (4) Tenant will use the Premises in compliance with all other requirements imposed by or pursuant to the Non-discrimination Authorities.
- (B) In the event of breach of any of the above nondiscrimination covenants, County shall have the right to terminate this Lease and to enter, re-enter, and repossess the Premises, and hold the same as if this Lease had never been made or issued. This Lease shall not be terminated pursuant to this paragraph until the procedures of 49 CFR Part 21 are followed and completed, including, the exercise or expiration of appeal rights.
- (C) For purposes of this Article, the term "Non-Discrimination Authorities" includes, but is not limited to, the non-discrimination statutes, regulations and authorities listed in Appendix "E" of Appendix "4" of FAA Order 1400.11, Non-discrimination in Federally-Assisted Programs at the Federal Aviation Administration, as may be amended.
- (D) Tenant shall comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates Tenant for the period during which Federal assistance is extended to the Airport through the Airport Improvement Program. In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates Tenant for the longer of the following periods: (a) the period during which the Property is used by County or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which County or any transferee retains ownership or possession of the Property.

24.03 Airport Concession Disadvantaged Business Enterprises ("ACDBE"). This Lease is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. It is the policy of County that ACDBEs shall have the maximum practicable opportunity to participate in the performance of contracts. Tenant agrees that it will not

discriminate against any business owner because of the owner's race, color, national origin or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. Tenant agrees to include the aforementioned statement in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

24.04 Airport Concession Disadvantaged Business Enterprise Participation Goal.

- (A) Tenant agrees that the ACDBE participation in this Lease shall be at least equal to eight percent (8%) throughout the Term and any extension thereof, or Tenant shall clearly demonstrate to the Department its good faith efforts to do so in a manner acceptable to the Department.
- (B) "Good faith efforts" are those efforts that could reasonably be expected to result in ACDBE participation. Tenant shall actively seek to obtain ACDBE participation in this Lease and shall document those efforts. Efforts that are merely "pro forma" are not considered good faith efforts in meeting the ACDBE goal. In determining whether or not a Tenant has made such good faith efforts, the Department will refer to the description of good faith efforts as provided in 49 CFR Parts 23 and 26.
- (C) For the purpose of verifying Tenant's good faith efforts, Tenant shall keep and maintain such books of account and records as necessary to document compliance with 49 CFR Part 23, as now or hereafter amended or any successor regulation, and this Section 24.04. County and its representatives shall have the right to inspect and audit such books of account and records upon reasonable notice to Tenant at a location convenient for County and its representatives.
- (D) Tenant shall provide written quarterly reports on or before the twentieth (20th) day of each reporting month (January, April, July and October of each Lease Year) to the Department, in a form and detail satisfactory to the Department, as to the participation of ACDBE's in this Lease. The quarterly reports shall detail ACDBE participation for each quarter, as well as the cumulative "to date" participation for the entire Lease Year. Quarterly reports shall be certified by an officer of Tenant as being true and accurate. If requested by the Department, the quarterly reports shall include certification of receipt payment from the ACDBE firms participating in this Lease, in a form and detail satisfactory to the Department. In the event the ACDBE participation level drops below the established ACDBE participation goal, Tenant shall take immediate corrective measures to ensure that the ACDBE participation is increased to the established ACDBE participation goal. Tenant shall document its good faith efforts to achieve the ACDBE participation goal and provide written reports to the Department documenting such good faith efforts. The Department may require the reports required hereunder to be submitted electronically.

- (E) Tenant shall use good faith efforts to replace any ACDBE that is terminated or has otherwise failed to complete its agreement or subcontract with another ACDBE. Tenant shall notify the Department of any ACDBE's inability or unwillingness to perform and shall provide reasonable documentation. Tenant shall obtain prior approval from the Department of the substitution an ACDBE.
- (F) Tenant shall provide the Department with copies of all subcontracts and agreements with ACDBE firms providing goods or services under this Lease upon request, which shall be subject to review and final approval by the Department to ensure compliance with 49 CFR Part 23.

ARTICLE 25 - COUNTY NOT LIABLE

County shall not be responsible or liable to Tenant for any claims for compensation or any losses, damages or injury whatsoever sustained by Tenant resulting from failure of any water supply, heat, air conditioning, electrical current, or sewerage or drainage facility, or caused by natural physical conditions on the Premises, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, hurricane, act of God or state of war, civilian commotion or riot, or any cause beyond the control of County. All personal property placed on or moved on to the Premises shall be at the sole risk of Tenant. County shall not be liable for any damage or loss of any personal property placed or moved on to the Premises.

ARTICLE 26 - AUTHORIZED USES ONLY

Notwithstanding anything to the contrary herein, Tenant shall not use or permit the use of the Premises or the Airport for any illegal or improper purpose or for any purpose which would invalidate any policies of insurance, now existing or hereafter written on the Premises or the Airport for County or Tenant.

ARTICLE 27 - MISCELLANEOUS

27.01 Waiver. The failure of either party to insist on strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that either party may have for any subsequent breach, default, or non-performance, and neither parties' right to insist on strict performance of this Lease shall be affected by any previous waiver or course of dealing.

27.02 Subordination.

- (A) Subordination to Bond Resolution. This Lease and all rights granted to Tenant hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by County in the Bond Resolution, and County and Tenant agree that to the extent permitted by authorizing legislation, the holders of the bonds or their designated representatives may exercise any and all rights of County

hereunder to the extent such possession, enjoyment and exercise are necessary to insure compliance by Tenant and County with the terms and provisions of this Lease and Bond Resolution.

- (B) Subordination to State/Federal Agreements. This Lease shall be subject and subordinate to all the terms and conditions of any instrument and documents under which County acquired the land, of which the Premises are a part, or improvements thereon, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Tenant understands and agrees that this Lease shall be subordinate to the provisions of any existing or future agreement between County and the United States of America or State of Florida, or any of their agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of state or federal funds for the development of the Airport.

27.03 Easements. Nothing in this Lease shall impair any existing utility easements, nor impair the right of access to any existing utility lines. County reserves the right to grant easements, licenses and rights-of way to others over, under, through, across or on the Premises reasonably necessary for the development, operation or provision of utility services to adjacent County-owned properties; provided that such grant is not materially detrimental to the proper conduct of Tenant's operations. The County agrees to cooperate in good faith with Tenant to determine the appropriate location of such easements, licenses and rights-of-way in an effort to avoid unnecessarily impacting Tenant's operations. Tenant agrees to consent and join to such easements, licenses and rights-of-way upon the written request of County.

27.04 Independent Contractor. Tenant or any successor in interest to this Lease, is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and County shall in no way be responsible therefor.

27.05 Governmental Authority. Nothing in this Lease shall be construed to waive or limit County's governmental authority as a political subdivision of the State of Florida to regulate Tenant or its operations. County's obligations under this Lease are made in a proprietary capacity, rather than in a governmental capacity and such agreements shall not be construed as limiting, prohibiting or eliminating the obligation of the parties to comply with all applicable rules, regulations, ordinances, statutes and laws, nor to alter or impair County's governmental functions, including, but not limited to, County's right to lawfully exercise its regulatory authority over the development of the Premises, nor as enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of County's governmental authority.

27.06 Rights Reserved to County. All rights not specifically granted Tenant by this Lease are reserved to County.

27.07 Invalidity of Clauses. The invalidity of any portion, article, paragraph, provision, clause or any portion thereof of this Lease shall have no effect upon the validity of any other part or portion hereof.

27.08 Governing Law. This Lease shall be governed by and in accordance with the laws of the State of Florida.

27.09 Venue. Venue in any action, suit or proceeding in connection with this Lease shall be filed and held in a State court of competent jurisdiction located in Palm Beach County, Florida.

27.10 Notices. All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or overnight mail, telecopied or faxed (provided in each case a receipt is obtained), or alternatively shall be delivered by the United States Postal Service, Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services or overnight mail, or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5PM on a Business Day and on the next Business Day if transmitted after 5PM or on a non-Business Day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

County:

Attn: Deputy Director, Airports Business Affairs
Palm Beach County Department of Airports
846 Palm Beach International Airport
West Palm Beach, Florida 33406-1470
Fax: 561-471-7427

With a copy to:

Attn: Airport Real Estate Attorney
Palm Beach County Attorney's Office
301 North Olive Ave, Suite 601
West Palm Beach, FL 33401
Fax: 561-355-4398

Tenant:

Eliot Cohen, Manager
CVH PBIA, LLC
6750 Poplar Avenue, Suite 107
Memphis, TN 38138
Fax: 901-753-4492

With a copy to:

Rachel Ricci, Senior Counsel
Broad and Cassel, LLP
One North Clematis Street, Suite 500
West Palm Beach, FL 33401
Fax: 561-655-1109

Any party may from time to time change the address to which notice under this Lease shall be given such party, upon three (3) days prior written notice to the other party.

27.11 Inspector General. County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of Tenant, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

27.12 Paragraph Headings. The heading of the various articles and sections of this Lease 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 Lease or any part or parts of this Lease.

27.13 No Recording. Neither this Lease, nor any memorandum or short form hereof, shall be recorded in the Public Records of Palm Beach County, Florida, without the prior written consent of the Department.

27.14 Binding Effect. The terms, conditions and covenants of this Lease shall inure to the benefit of and be binding upon the parties hereto and their successors, assigns and subtenants, if any. This provision shall not constitute a waiver of any prohibition against or limitations regarding assignment or subletting.

27.15 Performance. The parties expressly agree that time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

27.16 Construction. No party shall be considered the author of this Lease since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Lease. Thus, the terms of this Lease shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof, shall be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Lease and the same shall remain in full force and effect.

27.17 No Broker. Tenant represents and warrants that Tenant has not dealt with any real estate salesperson, agent, finder or broker in connection with this Lease and further agrees to indemnify, defend and hold harmless County from and against any claims or demands of any such salesperson, agent, finder or broker claiming to have dealt with Tenant. The foregoing indemnification shall include all costs, expenses and fees, including reasonable attorney's fees plus cost at trial and all appellate levels, expended or incurred in the defense of any such claim or demand. The obligations set forth in this paragraph shall survive the termination of this Lease.

27.18 Public Entity Crimes. As provided in Section 287.132-133, Florida Statutes, by entering into this Lease or performing any work in furtherance hereof, Tenant certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the Effective Date hereof. This notice is required by Section 287.133(3) (a), Florida Statutes.

27.19 Scrutinized Companies. As provided in Section 287.135, Florida Statutes, by entering into this Lease or performing any work in furtherance hereof, Tenant certifies that it, its affiliates, suppliers, subcontractors and consultants who perform hereunder, have not been placed on the Scrutinized Companies Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to Section 215.4725, Florida Statutes, or is engaged in business operations in Cuba or Syria. If County determines, using credible information available to the public, that a false certification has been submitted by Tenant, this Lease may be terminated and a civil penalty equal to the greater of Two Million Dollars (\$2,000,000) or twice the amount of this Lease shall be imposed, pursuant to Section 287.135, Florida Statutes.

27.20 Annual Appropriation. Nothing in this Lease shall obligate County during any fiscal year to expend money or incur any liability that involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. County's obligations under this Lease, which involve the expenditure of money, shall be subject to annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners.

27.21 Consent or Action. Wherever this Lease requires County or Department's consent or approval or permits County or Department to act, such consent, approval or action may be given or performed by the Director.

27.22 Entirety of Agreement. The parties agree that this Lease sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Lease may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

27.23 Remedies Cumulative. The rights and remedies of the parties hereto with respect to any of the terms and conditions of this Lease shall be cumulative and not exclusive and shall be in addition to all other rights and remedies of the parties.

27.24 Incorporation by References. All terms, conditions and specifications of the RFP; the Proposal; and all exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Lease by reference. In the event of any conflict and for purposes of resolving any disputes which may arise regarding this Lease, the order-of-precedence shall be: (a) this Lease; (b) the RFP; and (c) the Proposal.

27.25 No Third Party Beneficiaries. No provision of this Lease is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Lease, including but not limited to any citizen or employees of County and/or Tenant.

27.26 Force Majeure. Notwithstanding anything to the contrary set forth herein, neither party shall be liable for failure to perform any of its obligations under this Lease in the event it is prevented from so performing by an event of force majeure, including, strike, lockout, breakdown, accident, weather, order or regulation of or by any governmental authority or failure to supply or inability by the exercise of reasonable diligence to obtain supplies, parts or employees necessary to furnish such services or because of war or other emergency or for any other cause beyond its reasonable control. Where there is an event of force majeure the party prevented from or delayed in performing its obligations under this Lease must immediately notify the other party giving full particulars of the event of force majeure preventing that party from, or delaying that party in, performing its obligations under this Lease and that party must use its reasonable efforts to mitigate the effect of the event of force majeure upon its or their performance of the contract and to fulfill its or their obligations under the Lease. Upon completion of the event of force majeure the party affected must as soon as reasonably practicable recommence the performance of its obligations under this Lease. An event of force majeure does not relieve a party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.

27.27 Radon. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from County's public health unit.

27.28 Survival. Notwithstanding any early termination of this Lease, Tenant shall remain obligated hereunder to perform any duty, covenant or obligation imposed upon Tenant hereunder arising prior to the date of such termination.

(Remainder of page left blank intentionally.)

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease as of the day and year first above written.

ATTEST:

SHARON R. BOCK,
CLERK AND COMPTROLLER

PALM BEACH COUNTY,
A POLITICAL SUBDIVISION OF THE
STATE OF FLORIDA, BY ITS BOARD
OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Paulette Burdick, Mayor


APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

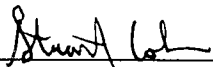
By: _____
County Attorney

By: 
Director, Department of Airports

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

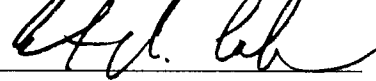

Signature

Terri Bower
Print Name


Signature

Stuart Cohen
Print Name

TENANT:
CVH PBIA, LLC,
A Florida Limited Liability Company

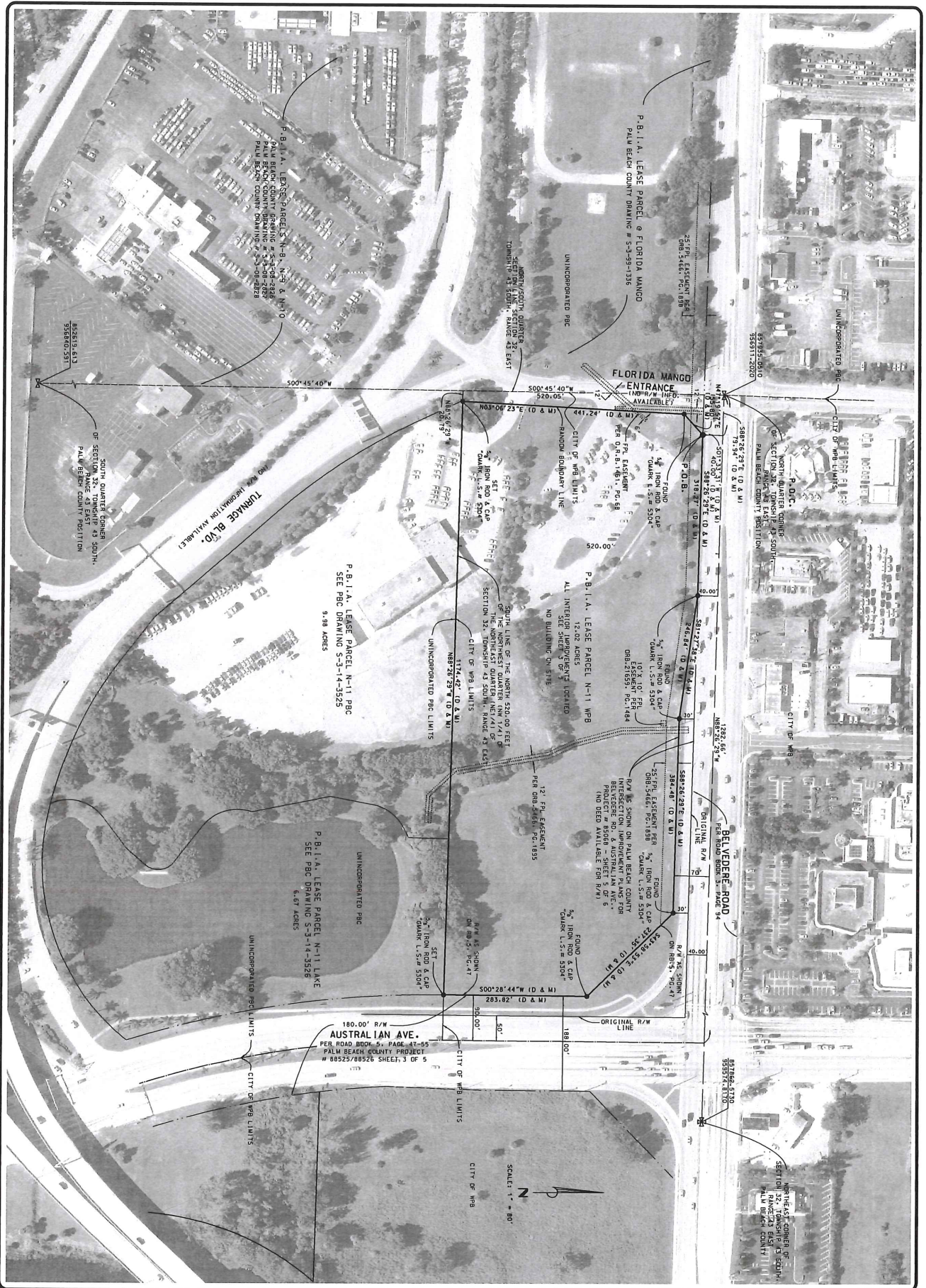
By: 
Signature

Eliot D. Cohen
Print Name

MEMBER
Title

(Seal)

EXHIBIT "A"
PARCEL N-11



PROJECT NO.
20140510

SHEET 2
OF 3

PROJECT:
**P.B.I.A. LEASE PARCEL
N-11 WPB
BOUNDARY SURVEY**

DESIGN FILE NAME: S-3-14-3524.DGN
DRAWING NO.: S-3-14-3524

APPROVED: J.M.
DRAWING E.A.D.
CHECKED: M.L.F.
DATE: 6/11/14

FIELD BOOK NO.
1123AA

REVISION
1. UPDATED SURVEY TO
INCLUDE TOPO INFO

BY: GWM
DATE: 7/16



**PALM BEACH COUNTY
ENGINEERING AND PUBLIC WORKS
ROADWAY PRODUCTION**

2300 NORTH JOG ROAD
WEST PALM BEACH, FL 33411

COUNTY OF PALM BEACH STATE OF FLORIDA

BOARD OF COUNTY COMMISSIONERS
PROJECT NO. 2014013-10

P.B.I.A. LEASE PARCEL N-11 PBC BOUNDARY SURVEY

HAL R. VALECHE
DISTRICT 1

PAULETTE BURDICK
DISTRICT 2

STEVEN L. ABRAMS
DISTRICT 4

JESS R. SANTAMARIA
DISTRICT 6

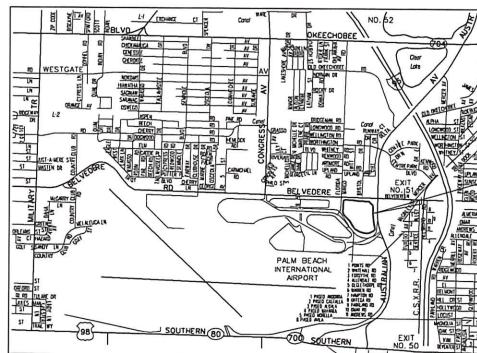
SHELLEY VANA
DISTRICT 3

MARY LOU BERGER
DISTRICT 5

PRISCILLA A. TAYLOR
DISTRICT 7



SECTION 32, TOWNSHIP 43 SOUTH, RANGE 43 EAST



LOCATION MAP
N.T.S.

LEGEND

D = DELTA
L = LENGTH
R = RADIUS
C = CALCULATED
(P) = DEED
(F) = PLAT
(D & M) = DESCRIPTION & MEASURED
E = CENTERLINE
L.S. = LICENSED SURVEYOR
P.B. = PLAT BOOK
F.P.L. = FLORIDA POWER & LIGHT
D.R.B. = OFFICIAL RECORD BOOK
P.C.P. = PERMANENT CONTROL POINT
P.L.S. = PROFESSIONAL LAND SURVEYOR
P.R.M. = PERMANENT REFERENCE MONUMENT
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
N.T.S. = NOT TO SCALE
P.B.I.A. = PALM BEACH INTERNATIONAL AIRPORT

PBIA LEASE PARCEL N-11 PBC PROPERTY DESCRIPTION

A PARCEL OF LAND LOCATED WITHIN PALM BEACH INTERNATIONAL AIRPORT PROPERTY AS RECORDED IN OFFICIAL RECORD BOOK 619, PAGE 344 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SITUATED IN SECTION 32, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 32; THENCE SOUTH 02°45'40" WEST ALONG THE NORTH-QUARTER QUARTER SECTION LINE OF SAID SECTION 32, A DISTANCE OF 520.05 FEET TO THE SOUTH LINE OF THE CORPORA TE LIMITS OF THE CITY OF WEST PALM BEACH, ALSO BEING THE SOUTH LINE OF THE NORTH 520.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 32; THENCE SOUTH 89°26'29" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 20.79 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°26'29" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 866.10 FEET; THENCE SOUTH 01°33'31" WEST DEPARTING SAID SOUTH LINE, A DISTANCE OF 78.55 FEET; THENCE SOUTH 60°47'57" WEST, A DISTANCE OF 26.54 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 65.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 50°15'45", AN ARC DISTANCE OF 74.52 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 10°32'11" WEST ALONG A TANGENT LINE, A DISTANCE OF 89.89 FEET; THENCE SOUTH 11°01'55" EAST, A DISTANCE OF 159.42 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 30.00 FEET (A RADIAL LINE FROM SAID POINT BEARS SOUTH 71°24'43" EAST); THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 69°47'09", AN ARC DISTANCE OF 109.62 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 51°41'51" EAST ALONG A TANGENT LINE, A DISTANCE OF 89.16 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 40.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 92°47'52", AN ARC DISTANCE OF 64.78 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 41°09'40" WEST ALONG A TANGENT LINE, A DISTANCE OF 47.61 FEET; THENCE SOUTH 52°28'10" WEST, A DISTANCE OF 78.25 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 85.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 77°55'55", AN ARC DISTANCE OF 115.61 FEET TO A POINT OF CUSP WITH A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 170.00 FEET (A RADIAL LINE FROM SAID POINT BEARS NORTH 19°59'59" EAST); THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 24°42'33", AN ARC DISTANCE OF 332.07 FEET TO THE END OF SAID CURVE AND A NON-TANGENT LINE; THENCE NORTH 52°09'11" WEST ALONG SAID NON-TANGENT LINE, A DISTANCE OF 84.44 FEET; THENCE NORTH 40°47'57" WEST, A DISTANCE OF 318.40 FEET TO THE POINT OF TANGENCY OF A TANGENT CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 200.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 18°04'26", AN ARC DISTANCE OF 32.18 FEET TO THE POINT OF TANGENCY; THENCE NORTH 25°17'31" WEST ALONG A TANGENT LINE, A DISTANCE OF 163.93 FEET TO THE CORNER OF THE NORTH 520.00 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SAID SECTION 32 AND THE POINT OF BEGINNING.

SURVEYOR'S REPORT

THE PROPERTY AS SURVEYED CONTAINS 434,844 SQUARE FEET OF 3.9826 ACRES MORE OR LESS.

BEARINGS ARE BASED ON A GRID (NAD 83, 1990 ADJUSTMENT) BEARING OF SOUTH 89°26'29" EAST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 43 SOUTH, RANGE 43 EAST AS DETERMINED BY PALM BEACH COUNTY AND ALL OTHER BEARINGS ARE RELATIVE THERETO.

THIS INSTRUMENT PREPARED BY GLENN W. MARK, P.L.S., IN THE OFFICE OF THE COUNTY ENGINEER, 8 VISTA CENTER 2300 NORTH JOC ROAD, WEST PALM BEACH, FLORIDA 33411-2745.

NO SEARCH OF THE PUBLIC RECORDS HAS BEEN MADE BY THE SIGNING SURVEYOR. IT IS POSSIBLE THAT THERE ARE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, OR OTHER INSTRUMENTS WHICH COULD AFFECT THE SUBJECT PROPERTY, WHICH ARE UNKNOWN TO THE SIGNING SURVEYOR.

I HAVE REVIEWED THE CHICAGO TITLE INSURANCE COMPANY, TITLE COMMITMENT COMMITMENT NO. 2607007, FILE NO. 2607007, WITH AN EFFECTIVE DATE OF 4/10/2014 AT 09:00 AM, ISSUED BY SOUTHEAST GUARANTY A TITLE, INC. AND ALL SURVEY RELATED ENCUMBRANCES IDENTIFIED IN THE POLICIES SCHEDULE B - SECTION 11 ARE SHOWN ON THIS SURVEY OR NOTED BELOW.

5. RESTRICTIONS AND RESERVATIONS IN FAVOR OF USA RECORDED IN OFFICIAL RECORD BOOK 619, PAGE 344. (NOT PLOTTED)

6. EASEMENT TO FPL RECORDED IN OFFICIAL RECORD BOOK 1461, PAGE 68. (PLOTTED)

7. EASEMENT TO FPL RECORDED IN OFFICIAL RECORD BOOK 5466, PAGE 1895 AND OFFICIAL RECORD BOOK 5466, PAGE 1898. (PLOTTED)

8. UTILITY EASEMENT TO FPL RECORDED IN OFFICIAL RECORD BOOK 21659, PAGE 1484. (PLOTTED)

9. POSSIBLE LIENS BY VIRTUE OF THE NOTICE OF COMMENCEMENT RECORDED IN OFFICIAL RECORD BOOK 26580, PAGE 14, OFFICIAL RECORD BOOK 26580, PAGE 1231 AND OFFICIAL RECORD BOOK 26624, PAGE 83. (NOT PLOTTED)

NOTE: ALL RECORDING REFERENCES CONTAINED HEREIN ARE IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

THE ITEM NUMBER CITED ABOVE REFERS TO SCHEDULE B - SECTION 11 OF THE ABOVE REFERENCED TITLE COMMITMENT.

UNDERGROUND FOUNDATIONS AND UTILITIES MAY BE PRESENT. NO UNDERGROUND FOUNDATIONS OR UTILITIES WERE LOCATED BY THIS SURVEY.

NO HORIZONTAL OR VERTICAL TOPOGRAPHY WAS PERFORMED BY THIS SURVEY, AT THE CLIENT'S REQUEST.

NO VEGETATION WAS LOCATED BY THIS SURVEY, AT THE CLIENT'S REQUEST.

NO WETLAND DETERMINATIONS OR DELINEATIONS WERE CONDUCTED BY THIS SURVEY, AT THE CLIENT'S REQUEST.

SEE THE RECORDED DOCUMENTS CITED ON THIS DRAWING FOR ADDITIONAL INFORMATION.

THE INTENDED PLOT SCALE OF THIS DRAWING IS 1" = 80' ON 24"x36" MEDIA.

FIELD WORK FOR THIS PROJECT IS LOCATED IN FIELD BOOK 1123 A4, PAGE 48, DATED 05/29/2014. INSTRUMENTS USED WERE THE TOPCON GTS-602 #2 TOTAL STATIONS AND GPS UNIT 2.

THE FILE NAMES FOR THE BOUNDARY WORK ARE 2014013-10 ALL/2014013-10 ALL.554, 2014013-10 NOTES.DOC & S-3-14-3524.DGN.

FIELD WORK COMPLETED ON 06/03/14.

ALL APPARENT EXISTING IMPROVEMENTS HAVE NOT BEEN LOCATED OR NOTED ON THIS SURVEY, AT THE CLIENT'S REQUEST. REFER TO AERIAL FOR EXISTING IMPROVEMENTS CAPTURED DURING PHOTO FLIGHT DATE.

LEGAL ACCESS TO THE PARCEL IS PROVIDED VIA BELVEDERE ROAD TO THE NORTH A PUBLICLY DEDICATED ROADWAY.

THE PROJECTS FIELD TRAVERSE WAS BALANCED USING STAR NET PRO VERSION 8.0.19. A FIELD TRAVERSE WAS RUN IN ORDER TO ESTABLISH STATE PLANE COORDINATES ON THE ENTIRE SITE. EXISTING STATE PLANE COORDINATED SECTION CORNERS, THE NORTH QUARTER CORNER OF SECTION 32/43/43 AND THE NORTHEAST CORNER OF SECTION 32/43/43 WERE HELD FIXED IN THE TRAVERSE ADJUSTMENT. THE SECTION WAS BROKEN DOWN IN ACCORDANCE WITH PALM BEACH COUNTY SECTION CORNER POSITIONS. SEE CERTIFIED CORNER RECORDS 54089 (15820), 54088 (22019), 54087 (118554), 54090 (23564) & 53500 (135217 & 11027).

ALL ESTABLISHED CONTROL BASED ON THE MEASUREMENTS SHOWN. MEET OR EXCEED THE RELATIVE DISTANCE ACCURACY REQUIREMENT OF 1:10,000 (COMMERCIAL/HIGH RISK) REQUIRED BY THIS SURVEY.

DATE OF AERIAL PHOTO BY OTHERS 01/24/2013 - 02/03/2013. THIS IS AN ORTHO-IMAGE OR ORTHO-PHOTO. THE PHOTO WAS NOT CONTROLLED, TARGETED OR FIELD VERIFIED BY THE SIGNING SURVEYOR AND IS FOR INFORMATIONAL PURPOSES ONLY.

COORDINATES SHOWN ARE GRID

DATUM = NAD 83, 1990 ADJUSTMENT

ZONE = FLORIDA EAST

LINEAR UNITS = US SURVEY FOOT

COORDINATE SYSTEM 1983 STATE PLANE TRANSVERSE MERCATOR PROJECTION

ALL DISTANCES ARE GROUND.

PROJECT SCALE FACTOR = 1.000044878

GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE

ALL FEATURE SYMBOLS SHOWN ARE NOT TO SCALE.

CERTIFIED TO: PALM BEACH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, CHICAGO TITLE INSURANCE COMPANY, SOUTHEAST GUARANTY & TITLE, INC.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

I HEREBY CERTIFY THAT THE BOUNDARY SURVEY SHOWN HEREON WAS MADE UNDER MY RESPONSIBLE DIRECTION AND SUPERVISION AND THAT SAID SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 54-17.050-052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

GLENN W. MARK, PLS
FLORIDA CERTIFICATE NO. 5304

DATE

PALM BEACH COUNTY
ENGINEERING AND PUBLIC WORKS
ROADWAY PRODUCTION
2300 NORTH JOC ROAD
WEST PALM BEACH, FL 33411



NO.	REVISION	DATE	BY
1	ADDED BUILDING RESTRICTION AREA	6/11/14	GW
2	REVISED SIZE OF REMEDIATION AREA	6/11/14	GW

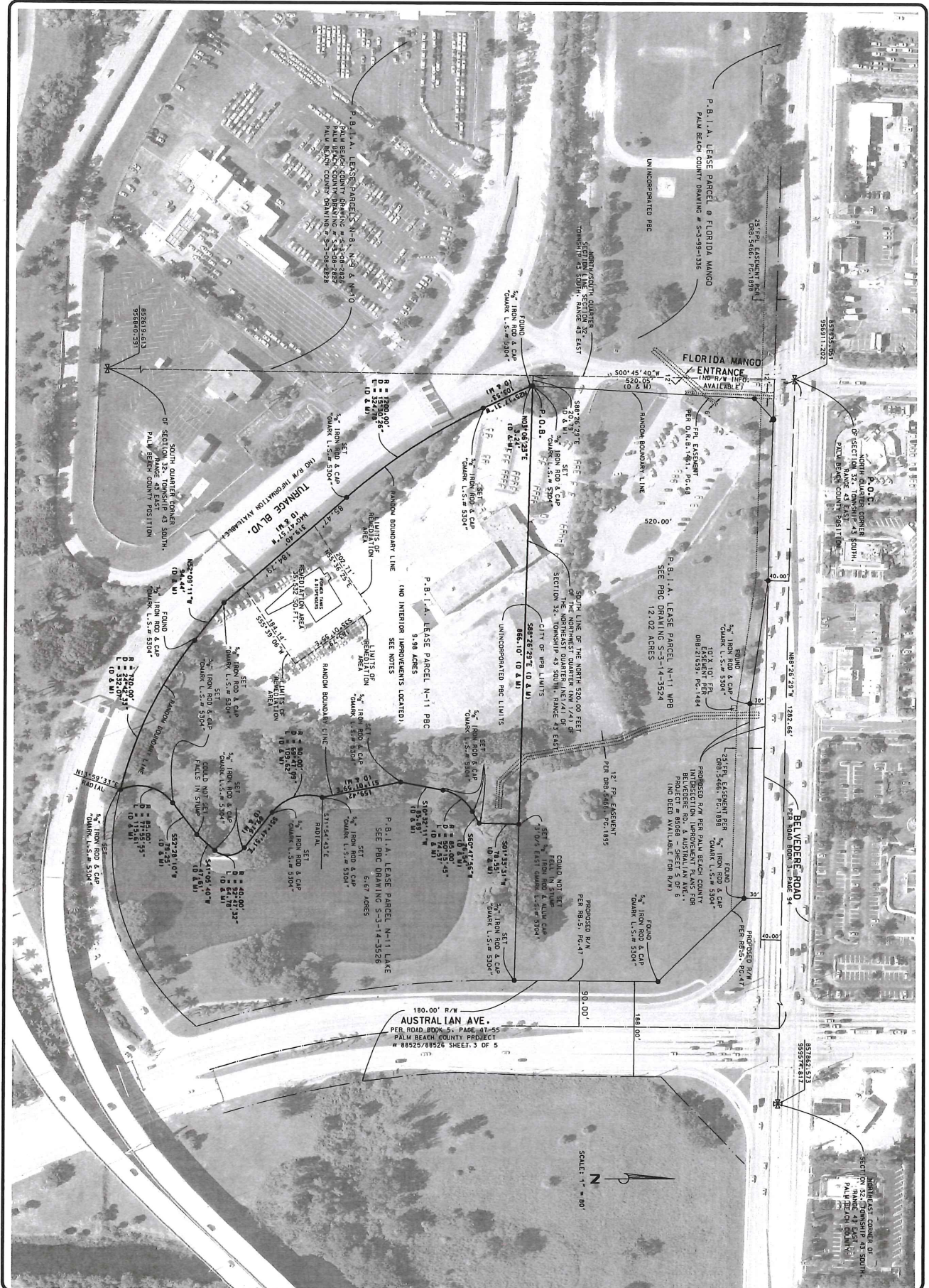
SCALE: AS NOTED
APPROVED: G.W.M.
DRAWN: E.A.O.
CHECKED: W.L.F.
DATE: 6/11/14
FIELD BOOK NO. 1123A

P.B.I.A. LEASE PARCEL
N-11 PBC
BOUNDARY SURVEY
BESTOR FILE NAME: S-3-14-3525.DGN
DRAWING NO. S-3-14-3525

SHEET: 1

OF: 2

PROJECT NO. 2014013-10



PROJECT NO. 2014015-10
SHEET: 2
DATE: 8/1/14

PROJECT: P.B.I.A. LEASE PARCEL N-II PBC
BOUNDARY SURVEY
DESIGN FILE NAME: S-3-14-3525.DGN
DRAWING NO.: S-3-14-3525

APPROVED: M.L. DRAWING: E.L.D. CHECKED: M.L.F. DATE: 8/1/14

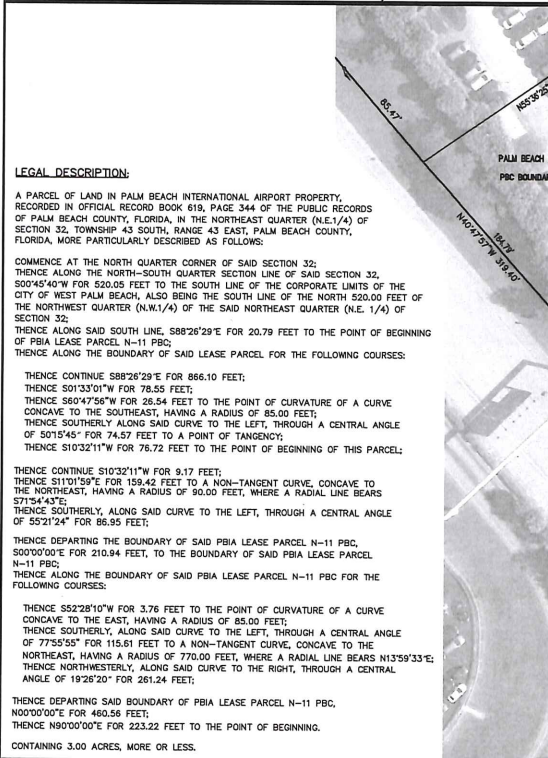
FIELD BOOK NO. 1123AA

NO.	REVISION	BY	DATE
1	ADDED BUILDING RESTRICTION AREA	GWM	7/6/16
2	REVISED SIZE OF REMEDIATION AREA	GWM	7/6/16



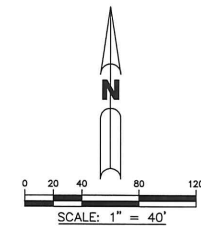
PALM BEACH COUNTY
ENGINEERING AND PUBLIC WORKS
ROADWAY PRODUCTION
2300 NORTH JOG ROAD
WEST PALM BEACH, FL 33411

EXHIBIT "B"
THE PROPERTY



SKETCH OF BOUNDARY AND LEGAL DESCRIPTION

DRAWN: MB/	PROJ. No. 17-006
CHECKED: JEP	SCALE: 1"=40'
F.B.	DATE: FEB.2017
PAGES:	SHEET 1 OF 1



ABBREVIATIONS:
P.O.C. - POINT OF COMMENCEMENT
P.O.B. - POINT OF BEGINNING
P.B. - PLAT BOOK
CRB - OFFICIAL RECORD BOOK
D.B. - DEED BOOK
PG. - PAGE
R/W - RIGHT-OF-WAY
R - RADIUS
Δ - CENTRAL ANGLE
A - ARC LENGTH
U.E. - UTILITY EASEMENT
D.E. - DRAINAGE EASEMENT
(D) - DEED DIMENSION
(G) - GRID DIMENSION
C = CENTERLINE
NAD - NORTH AMERICAN DATUM
LBI - LICENSED BUSINESS
PBC - PALM BEACH COUNTY
PBIA - PALM BEACH INTERNATIONAL AIRPORT

1. THIS LEGAL DESCRIPTION IS PREPARED IN ACCORDANCE WITH THE APPLICABLE PORTIONS OF THE STANDARDS FOR PRACTICE SET FORTH IN RULE 5J-17.050 THROUGH 5J-17.052, FLORIDA ADMINISTRATIVE CODE.
- THIS SKETCH IS NOT A BOUNDARY SURVEY.
2. THIS SKETCH WAS BASED ON PALM BEACH COUNTY ENGINEERING AND PUBLIC WORKS PROJECT # 8-11 LEASE PARCELS MAP NO. 69-0000 SECONDARY SURVEY, DRAWING NO. S-3-15-3525, PROJECT NO. 201401-015-00, DATED 6/11/14, FURNISHED TO BROWN & PHILLIPS, A SKETCH PLAN FURNISHED BY RENAISSANCE GROUP; AND ON INSTRUCTIONS GIVEN BY THE CLIENT.
3. BEARINGS ARE BASED ON NB82°5'29"W (GRID) ALONG THE NORTH LINE OF THE N.E.1/4 OF SECTION 32, TOWNSHIP 43 SOUTH, RANGE 43 EAST.
4. THE LEGAL DESCRIPTION WAS PREPARED BY BROWN & PHILLIPS, INC.
5. AREA = 3.00 ACRES, MORE OR LESS.
6. NO SEARCH OF THE PUBLIC RECORDS HAS BEEN PERFORMED BY BROWN & PHILLIPS, INC.
THERE MAY BE ADDITIONAL EASEMENTS AND/OR RESTRICTIONS NOT SHOWN ON THIS
SKETCH THAT MAY BE FOUND IN THE PUBLIC RECORDS OF PALM BEACH COUNTY.
7. ALL DIMENSIONS ARE CALCULATED.
8. THE PROPOSED USE OF THE SUBJECT PROPERTY IS A HOTEL.
9. ADDITIONS OR DELETIONS TO THIS SKETCH BY OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY.
10. THIS SKETCH IS INTENDED TO BE DISPLAYED AT A SCALE OF 1"=40', ON A 24" x 36" SHEET.
11. © COPYRIGHT 2017 BY BROWN & PHILLIPS, INC.
REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND
ORIGINAL GRADED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER EMPLOYED BY
BROWN & PHILLIPS, INC.

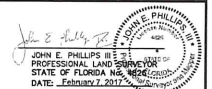


EXHIBIT "C"
ROADWAY IMPROVEMENTS

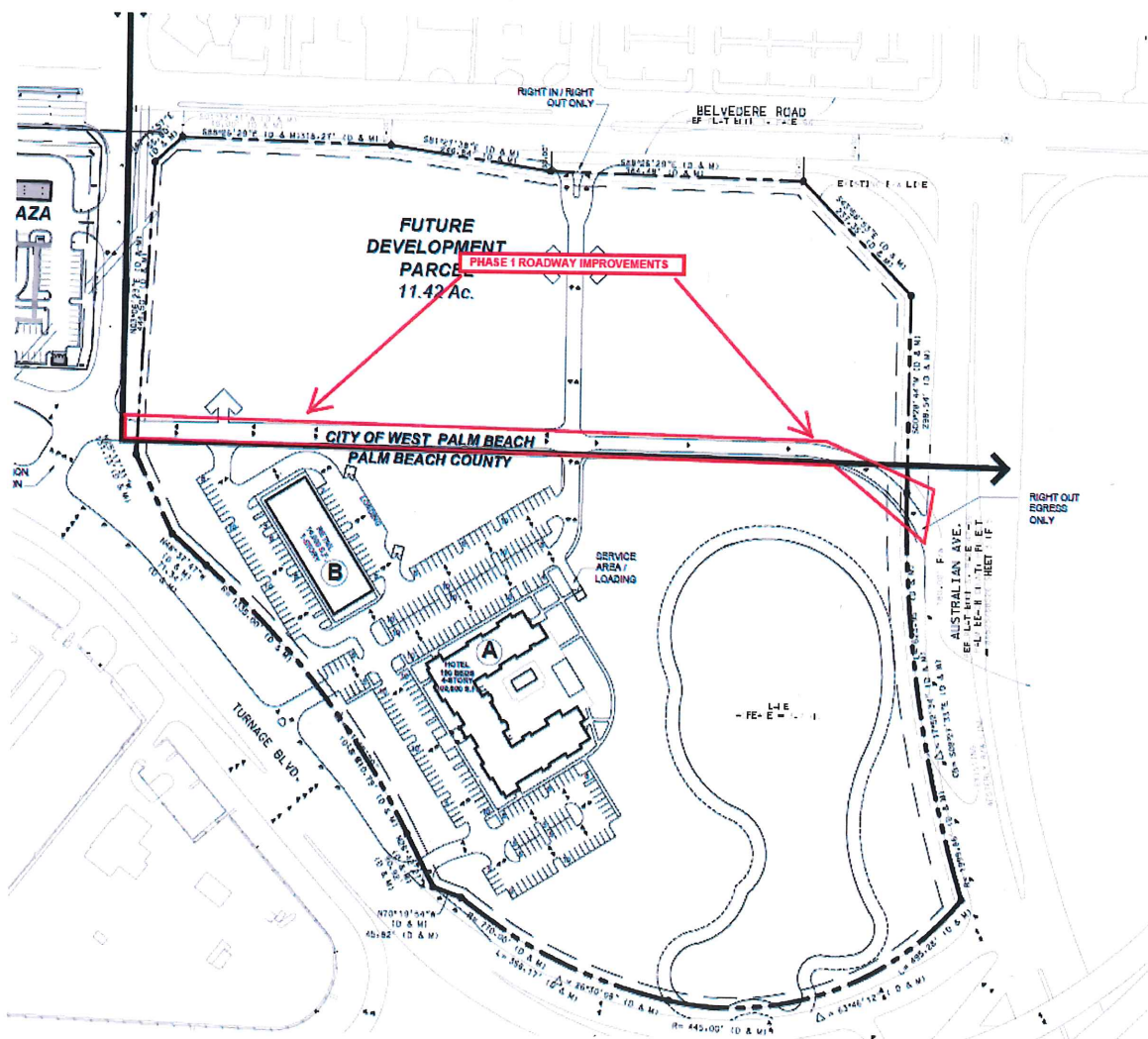


EXHIBIT "D"
MONTHLY REPORT

Exhibit "D" to Hotel Development Site Lease
Monthly Report for CVH PBIA, LLC
For the Period of ----- to -----

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Month (a)	Hotel Revenue from rental of guest, banquet and meeting rooms	Hotel Revenue from sale of food, beverage and alcohol	Hotel Revenue from sale of any goods or services	Hotel Revenue from advertising	Hotel Revenue from parking fees	Hotel Revenue from concession payments, license fees, rentals or other	Exclusions from Hotel Revenue	Total Hotel Revenue	Total Gross Revenue YTD	Percentage Rent (3.5% of Hotel Revenues)	Monthly Base Rental (Annual Base Rental/12)	Monthly Base Rental payment check number	Excess Due	Amount Paid	Excess Due payment check number	Total Amount Paid YTD	Hotel Occupancy Percentage
January								-	-	-	-		-			-	
February								-	-	-	-		-			-	
March								-	-	-	-		-			-	
April								-	-	-	-		-			-	
May								-	-	-	-		-			-	
June								-	-	-	-		-			-	
July								-	-	-	-		-			-	
August								-	-	-	-		-			-	
September								-	-	-	-		-			-	
October								-	-	-	-		-			-	
November								-	-	-	-		-			-	
December								-	-	-	-		-			-	
Totals	0.00	0.00	0.00	0.00		0.00		0.00	0.00	0.00	0.00		0.00	0.00		0.00	

(a) the listing of months should begin with the month in which the Date of Beneficial Occupancy occurs.

MONTHLY REPORT PREPARED BY:

Summary of Certificates

This report displays detailed Certificate of Insurance information for a selected Insured. Any items shown in red are deficient.

Monday, February 13, 2017

Simple View

Certificate Images

Documents

Insured:

CVH PBIA, LLC

Insured ID:

PBI-CVHPBIA-17-01

Status:

Compliant

ITS Account Number:

PLC2426

Project(s):

Palm Beach County - Airport Properties

Insurance Policy	Required	Provided	Override
General Liability			
Expiration: 11/14/2017			
General Aggregate:	\$1,000,000	\$2,000,000	
Products - Completed Operations Aggregate:	\$1,000,000	\$2,000,000	
Personal And Advertising Injury:	\$1,000,000	\$1,000,000	
Each Occurrence:	\$1,000,000	\$1,000,000	
Fire Damage:	\$0	\$0	
Medical Expense:	\$0	\$0	

Notifications

There were no deficiency letters issued.

Do you have an updated Certificate? Click the button below to submit a Certificate.

Certificate Submittal

AFFIDAVIT OF LIMITED LIABILITY COMPANY

STATE OF TENNESSEE

COUNTY OF Shelby

BEFORE ME, the undersigned authority, personally appeared, the undersigned who by me being first duly sworn, depose(s) and say(s) that:

1. The undersigned is the Trustee of the Bonnie S. Cohen 2012 Trust, Manager of CVH PBIA, LLC, a limited liability company organized and existing under the laws of the State of Florida ("Company").

2. Articles of Organization of the Company have been filed, and are on-file with, the Florida Department of State and such articles are incorporated herein by reference.

3. The Company is in good standing and is authorized to transact business in the State of Florida as of the date hereof.

4. The company is a manager managed limited liability company.

5. The undersigned is the Trustee of the sole manager of the Company or has been authorized by majority vote of the managing members to act on behalf of the Company and legally bind the Company and execute contracts and other instruments relating to the transaction of business of the Company.

6. The undersigned has the right and authority to enter into that certain Hotel Development Site Lease Agreement between Palm Beach County, a political subdivision of the State of Florida and the Company (the "Agreement"), which is incorporated herein by reference and made a part hereof, and such other instruments as may be necessary and appropriate for the Company to fulfill its obligations under such Agreement, including amendment(s) and termination of such Agreement.

7. Upon execution and delivery of such Agreement and documents by the undersigned, all of the aforesaid shall be valid agreements of and be binding upon the Company.

8. The transactions contemplated herein will not violate any of the terms and conditions of the Company's member agreement, operating agreement certificate of organization or of any other agreement and amendments thereto of whatever kind between the Company and any third person.

9. The undersigned acknowledges that affiant is familiar with the nature of an oath and the penalties provided by the laws of the State of Florida and that this Affidavit is being given to induce Palm Beach County to enter into the Agreement.

FURTHER AFFIANT SAYETH NAUGHT,

Eliot D. Cohen

Eliot D. Cohen, Individually and as
Trustee of the Bonnie S. Cohen 2012 Trust,
Manager

SWORN TO AND SUBSCRIBED before me on this 1 day of February, 2017, by
Eliot D. Cohen, Individually and as Trustee of the Bonnie S. Cohen 2012 Trust, Manager
of CVH PBIA, LLC, on behalf of the Company who is personally known to me OR who
produced _____, as identification and who did take an oath.

Terri Bowen

Notary Signature

Terri Bowen

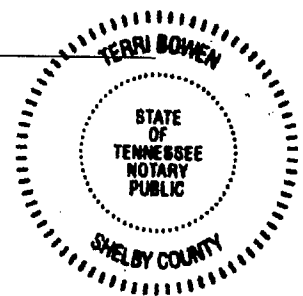
Print Notary Name

NOTARY PUBLIC

State of TN at large

My Commission Expires:

4.26.20



17-0602

BUDGET TRANSFER
BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

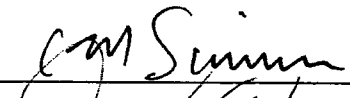


Page 1 of 1 pages

Advantage Document Numbers:
 BGEX 021317/916
 BGRV

Fund 4111 Airport Improvement and Development Fund

Use this form to provide budget for items not anticipated in the budget.

ACCT.NUMBER	ACCOUNT NAME	ADOPTED BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 02/14/17	REMAINING BALANCE
<u>Expenditures</u>								
121-A187-6101	Land	10,414,551	4,288,645	1,500,000	0	5,788,645	382,446	5,406,199
121-A900-9909	Reserves Improvement Program	25,514,393	16,208,144	0	1,500,000	14,708,144	0	14,708,144
Total Appropriations & Expenditures		<u>166,759,342</u>	<u>151,161,799</u>	1,500,000	1,500,000	<u>151,161,799</u>		

	Signatures	Date	By Board of County Commissioners
OFMB			At Meeting of
INITIATING DEPARTMENT/DIVISION		2/13/17	March 14, 2017
Administration/Budget Department Approval		2/16/17	
OFMB Department - Posted			Deputy Clerk to the Board of County Commissioners

Attachment # 4