PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: Department:	June 6, 2017	[X] []		Regular Public Hearing
Submitted By:	Department of Airports			
Submitted For:				

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: First Amendment (Amendment) to Automated Teller Machine Concession Agreement with Communitel, Inc. (R-2014-1289) (Agreement) for the operation of automated teller machines (ATMs) at the Palm Beach International Airport (PBIA), exercising the option to renew the Agreement for two additional years with a minimum annual guarantee (MAG) of \$25,000.00.

Summary: Communitel operates five ATMs at PBIA pursuant to the Agreement. Communitel is a Florida corporation with its principal place of business in Miami and is an Airport Concession Disadvantaged Business Enterprise. The initial term of the Agreement commenced on October 1, 2014, and expires on September 30, 2017. The Agreement provides for one two-year renewal at the County's option. The Amendment exercises the County's renewal option, extending the term of the Agreement to September 30, 2019. This Amendment also modifies the provision for MAG adjustments to provide that it shall not be less than \$25,000, and updates standard County non-discrimination language. Countywide (AH)

Background and Justification: On September 9, 2014, the Board approved the Automated Teller Machine Concession Agreement with Communitel. Communitel pays the greater of the MAG or 60% of annual ATM transaction fees (Privilege Fee). The MAG is adjusted annually based on the greater of the preceding year's MAG or 85% of the preceding year's Privilege Fee. Communitel requested a modification to the MAG adjustment provision to provide that the MAG will be adjusted annually based on the greater of the first contract year's MAG of \$25,000 or 85% of the prior year's Privilege Fee. Due to a decline in ATM usage at PBIA, the Department recommends approval of this request.

Attachments:

1. First Amendment to Automated Teller Machine Concession Agreement (3)

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Recommended By:	Van Jels	4/24/17
	Department Director	Date
Approved By:	County Administrator	5/22/17 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 Operating Costs Operating Revenues	(\$8,386)	(\$25,000)	(\$25,000)		
Program Income (County) In-Kind Match (County)	(\$0,500)	[#23,000]	<u>(\$25,000)</u>		
NET FISCAL IMPACT	(\$8,386)	(\$25,000)	(\$25,000)	\$-0-	\$-0-
# ADDITIONAL FTE POSITIONS (Cumulative)		<u>,,,,,,,,,</u>	(********	¥_¥	
Is Item Included in Current Budget? Yes X No					
Budget Account No: Fund 4100 Department 120 Unit 8430 RSource 4469					

Reporting Category

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

The fiscal impact analysis assumes payment of the MAG. This Amendment provides for an \$8,386 increase to the FY 2017 MAG calculation (\$25,000 was previously reported) and extends the agreement for two years with a MAG of \$25,000. Actual revenues may be greater if the percentage calculation exceeds the MAG in any given year.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

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

OFMB

B. Legal Sufficiency:

1delycent **Assistant County**

C. Other Department Review:

Department Director

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

CERTIFICATE (Corporation)

The undersigned hereby certifies that the following are true and correct statements:

1. That Pedro R. Pelacy is the Secretary of Communitel, Inc., a corporation organized and existing in good standing under the laws of the State of Florida, hereinafter referred to as the "Corporation", and that the following Resolutions are true and correct copies of certain Resolutions adopted by the Board of Directors of the Corporation as of the 25 day of 340 day of the State of Florida, the Articles of Incorporation and the By-laws of the Corporation:

RESOLVED, that the Corporation shall enter into that certain First Amendment to Automated Teller Machine Concession Agreement between Palm Beach County, a political subdivision of the State of Florida and the Corporation (the "Agreement"), a copy of which is attached hereto; and be it

FURTHER RESOLVED, that <u>Pedro R Pedros</u>, the <u>President</u> of the Corporation, is hereby authorized and instructed to execute such Agreement and such other instruments as may be necessary and appropriate for the Corporation to fulfill its obligations under the Agreement.

2. That the foregoing resolutions have not been modified, amended, rescinded, revoked or otherwise changed and remain in full force and effect as of the date hereof.

3. That the Corporation is in good standing under the laws of the State of Florida, and has qualified, if legally required, to do business in the State of Florida and has the full power and authority to enter into such Agreement.

IN WITNESS WHEREOF, the undersigned has set his hand and affixed the Corporate Seal of the Corporation the 12 day of April 2017

Corporate Seal

(1 of 1)

Summary of Certificates This report displays detailed Certificate of Insurance information for a selected

Insured. Any items shown in red are deficient.

Tuesday, April 18, 2017			
Simple View Certificate Images	Documents		
Insured: <u>Communitel, Inc.</u>	In	sured ID: R-2014-1289	
Status: Compliant (with	overrides)		
ITS Account Number: PLC1052			
Project(s): Palm Beach County -	Airport Properties		
Insurance Policy <u>General Liability</u> Expiration: 4/15/2018	Required	Provided	<u>Override</u>
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	
Automobile Liability Expiration: 4/18/2017	All Owned Autos Hired Autos Non-Owned Autos	not provided Hired Autos Non-Owned Autos	x
Combined Single Limit:	\$1,000,000	\$1,000,000	
Workers Compensation/Employers Liability Expiration: 10/27/2017	WC Stat. Limits	not provided	x

Notifications (Show All)

There were no deficiency letters issued.

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

Certificate Submittal

https://its.insurancetrackingservices.com/clientreports/ProblemsSpecificRpt.asp

4/18/2017

FIRST AMENDMENT TO AUTOMATED TELLER MACHINE CONCESSION AGREEMENT BETWEEN PALM BEACH COUNTY AND COMMUNITEL, INC.

This First Amendment to Automated Teller Machine Concession Agreement (this "First Amendment") is made and entered into _______ by and between Palm Beach County, a political subdivision of the State of Florida (the "County"), and Communitel, Inc., a Florida corporation organized under the laws of the State of Florida, having its office and principal place of business at 6955 NW 77th Avenue, Suite 204, Miami, Florida 33166 (the "Concessionaire").

WITNESSETH:

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

WHEREAS, the parties entered into that certain Automated Teller Machine Concession Agreement dated September 9, 2014, (R-2014-1289) (the "Agreement"), which provides for the right to provide ATM services at the Airport; and

WHEREAS, the parties hereto desire to amend the Agreement in accordance with the terms and conditions set forth herein.

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

1. The recitals set forth above are true and correct and incorporated herein by this reference. Terms not defined herein shall have the meaning ascribed to them in the Agreement.

2. Section 2.01 of the Agreement is hereby deleted in its entirety and replaced with the following Section 2.01:

2.01 "<u>ADA</u>" means 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, including, but not limited to 28 CFR Parts 36 and 36 and 49 CFR Parts 27 and 37, as now or hereafter amended.

3. County and Concessionaire hereby agree to renew the Agreement in accordance with Section 3.03 of the Agreement. The Term of the Agreement is hereby extended for an additional term of two (2) years (the "Renewal Term") and shall expire on September 30, 2019, with no further renewal.

If

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4. Section 5.02(A) of the Agreement is hereby deleted in its entirety and replaced with the following Section 5.02(A):

5.02 Minimum Annual Guarantee.

A. The Minimum Annual Guarantee for each Contract Year shall be as follows:

Time Period	Minimum Annual Guarantee
First Contract Year	\$25,000.00
(10/1/2014 - 9/30/2015)	
Second Contract Year	\$39,070.25
(10/1/2015 - 9/30/2016)	
Third Contract Year	\$33,385.88
(10/1/2016 - 9/30/2017)	
Fourth Contract Year	\$25,000.00 or eighty-five
(10/1/2017 – 9/30/2018)	percent (85%) of the Annual
and each Contract Year	ATM Privilege Fee for the
(10/1 - 9/30) thereafter.	preceding Contract Year,
	whichever is greater.

5. Section 21.01 of the Agreement is hereby deleted in its entirety and replaced with the following Section 21.01:

21.01 <u>Non-Discrimination in County Contracts</u>. Concessionaire 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.

Concessionaire 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 Concessionaire 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.

6. <u>Ratification of Agreement</u>. Except as specifically modified herein, all of the terms and conditions of the Agreement shall remain unmodified and in full force and effect and are hereby ratified and confirmed by the parties hereto.

7. <u>Paragraph Headings</u>. The heading of the various sections of this First Amendment 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 First Amendment or the Agreement.

8. <u>Effective Date</u>. This First Amendment shall become effective when signed by both parties hereto and approved by the Palm Beach County Board of County Commissioners.

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

By:

ATTEST:

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

SHARON R. BOCK

Clerk and Comptroller

Paulette Burdick, Mayor

(SEAL)

By:_

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

0 By:

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

Signatu ue

Pri

21 Print Name

APPROVED AS TO TERMS AND CONDITIONS

Director, Department of Airports

CONCESSIONAIRE: Communitel, Inc.

Signature

Pela edo Print Name

Title

(Seal)

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