

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: November 17, 2020	<input checked="" type="checkbox"/> [X]	Consent	<input type="checkbox"/> []	Regular
	<input type="checkbox"/> []	Ordinance	<input type="checkbox"/> []	Public Hearing

Submitted By: Department of Airports

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I. EXECUTIVE BRIEF



Motion and Title: Staff recommends motion to receive and file: Twelfth Amendment (Amendment) to Lease and Concession Agreement (Agreement) with Host International, Inc. (Host) (R-98-1293D, as amended), providing for reconciliation of concession payments on a year-to-date basis, and updating standard form provisions, pursuant to delegation of authority approved by the Board on May 5, 2020 (R-2020-0527).

Summary: Under the Agreement, Host pays the greater of a percentage of gross revenues, or the minimum annual guarantee (MAG). Payments are submitted monthly and reconciled annually. Host has historically received a credit each year for amounts paid in-excess of what is actually due, because of seasonal variations that resulted in high percentage payments in the first half of each fiscal year, when passenger traffic is typically highest. Beginning in March, 2020, passenger traffic at the Palm Beach International Airport (PBI) declined substantially as a result of the COVID-19 pandemic, resulting in severe declines in Host's gross revenues. Prior to this decline, Host had paid substantially more in year-to-date percentage payments than the year-to-date MAG that was due. The Amendment adjusts the method of reconciliation, allowing Host to receive credit for payments made in excess of the MAG prior to the pandemic. The Amendment does not change the MAG, or defer rent or other charges. The Amendment also updates standard form provisions. **Countywide (AH)**

Background and Justification: Host is the food and beverage concessionaire at PBI. In response to COVID-19 related economic impacts, on May 5, 2020 (R-2020-0527), the Board authorized the Director of the Department of Airports to enter into certain amendments to provide relief to tenants at the PBI, including changes to the method of MAG reconciliation. The Amendment is consistent with the provisions of the Board's delegation.

Attachments: One (1) Twelfth Amendment

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Recommended By:		10 - 16 - 20
	Department Director	Date
Approved By:		10/26/20
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
Capital Expenditures					
Operating Costs					
Operating Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>
# ADDITIONAL FTE					
POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes X No
Does this item include the use of federal funds? Yes No X

Budget Account No: Fund _____ Department _____ Unit _____ RSource _____
Reporting Category _____

10-16-20

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

There is no fiscal impact as a result of the Amendment. The Amendment adjusts how reconciliation occurs and does not modify the annual amount due under the Agreement.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

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


 10/25/2020
 10/19 OFMB (2/10) 10/20

A. S. Jacobson
Contract Dev. and Control
10/20-2020

B. Legal Sufficiency:

Anne Helgert 10/22/2020
Assistant County Attorney

C. Other Department Review:

Department Director

REVISÉD 11/17

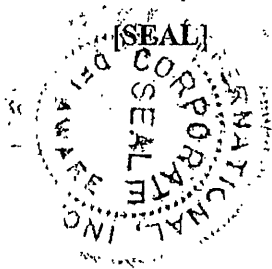
(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)


SECRETARY'S CERTIFICATE

I, Jeffrey L. Poersch, hereby certify that:

I am the Secretary of Host International, Inc. (the "Company"). As such, I hereby certify, represent and warrant on behalf of the Company that the attached resolutions are and remain in effect and constitute the officers and directors and authorized signatories of the Company, and that these resolutions are true and accurate to the best of my knowledge and belief. As Secretary I can also certify that each officer listed has been given authority to enter into agreements and act on behalf of the Company. I further certify that the address for each Director is 6905 Rockledge Drive, Bethesda, MD 20817 USA.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of HMSHost Corporation this 7th day of April, 2014.




Name: Jeffrey L. Poersch
Title: Secretary

Host International, Inc.

**WRITTEN CONSENT
OF THE
DIRECTORS
OF**

Host International, Inc.

June 1, 2013

Pursuant to Section 142 of the
General Corporation Law of the State of Delaware

The undersigned, being the Directors of Host International, Inc., a Delaware corporation (the "Corporation"), hereby consents to the adoption of the following resolutions (the "Written Consent"):

RESOLVED, that each of the following individuals be, and hereby is, elected or re-elected as an officer of the Corporation, each to serve until a successor shall have been duly elected and qualified or until such officer's earlier resignation, removal or death.

Paul Mamalian, President

Charles E. Powers, Vice President

Bernard N. Brown, Vice President

Mark T. Ratych, Treasurer


Jeffrey L. Poersch, Secretary

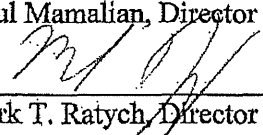
RESOLVED, that the above duly elected officers have the authority to enter into contracts or execute and deliver any instrument(s) in the name of and on behalf of the Corporation; and

RESOLVED, that this Written Consent may be signed in one or more counterparts each of which shall be deemed an original, and all of which shall constitute one instrument; and

RESOLVED, that a copy of this Written Consent be filed in the minute book of the Corporation.

IN WITNESS WHEREOF, the undersigned directors of the Corporation have executed this Written Consent.



Paul Mamalian, Director


Mark T. Ratych, Director

Insured Name


Host International, Inc (DX00001077)

Q

Host International, Inc (DX00001077)








Active Records Only

Advance Search

Name:	Host International, Inc 
Account Number:	DX00001077
Address:	
Status:	<u>Compliant with minor/expiring deficiencies.</u>

Insured Tasks	Admin Tools
<ul style="list-style-type: none"> • Insured Tasks • Admin Tools 	<ul style="list-style-type: none"> • Insured Tasks • Admin Tools

View

- | | |
|---|-----------------|
|  | Insured |
|  | Notes |
|  | History |
|  | Deficiencies |
|  | Coverages |
|  | Requirements |
|  | Contract Screen |

Add

Edit

Help

Video Tutorials

Insured		▲	
<input type="button" value="Business Unit(s)"/>		<input type="button" value="DBA Number"/>	<input type="button" value="Print Insured Info"/>
<input type="button" value="Print Compliance Report"/>			
Account Information			
Account Number:		DX00001077	
Risk Type:		Standard - General Services	
Do Not Call:		Address Updated:	
Address Information			
Mailing Address		Physical Address	
Insured:		Host International, Inc	
Address 1:			
Address 2:			
City:			
State:			

Zip:		
Country:		
Contract Information		
Contract Number:		
Contract Start Date:		Contract End Date:
Contract Effective Date:		Contract Expiration Date:
Description of Services:	Lease and Concession Agmt	Safety Form II:
Contact Information		
Contact Name:	Tom Flynn	Misc:
Phone Number:		Alt Phone Number:
Fax Number:		
E-Mail Address:	tom.flynn@hmshost.com	
Approval Date:		
Rush:	No	
Contract on File:	No	
Certificate Received:	No	
Indemnification Agreement:	No	
Tax Id:		

This Account created by c28 on 05/19/2020.

**TWELFTH AMENDMENT TO
LEASE AND CONCESSION AGREEMENT**

THIS TWELFTH AMENDMENT TO LEASE AND CONCESSION AGREEMENT (this "Amendment") is made and entered into this 2 day of OCTOBER, 2020, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and Host International, Inc., a corporation organized under the laws of the State of Delaware, authorized to do business in the State of Florida, and having its office and principal place of business at 6905 Rockledge Drive, Bethesda, MD 20817 ("Concessionaire").

WITNESSETH:

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

WHEREAS, Concessionaire, under that certain Lease and Concession Agreement between the parties dated August 18, 1998 (R-98-1293D), as amended ("Agreement"), operates the food and beverage concession at the Airport; and

WHEREAS, Concessionaire has represented to County that it has experienced significant impacts to its business operations directly resulting from the COVID-19 pandemic; and

WHEREAS, the County Administrator or designee, Director of the Department of Airports, has been delegated the authority by the Board of County Commissioners of Palm Beach County pursuant to County Resolution R-2020-0527 to enter into this Amendment; and

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

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

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

2. **Warranties and Representations.** As a material inducement to County to enter into this Amendment, Concessionaire hereby acknowledges, represents and warrants to the County that the following acknowledgments, representations and warranties are true and correct as of the Effective Date of this Amendment: (a) Concessionaire has experienced significant impacts to its business operations directly resulting from decline in passenger traffic as a result of the COVID-19 pandemic; and (b) the payment security in the form of Concessionaires Bond No. 017-008-690 issued by Liberty Mutual Insurance Company, in favor of Palm Beach County in the amount of \$916,682.00 is in full force and effect and has not been cancelled or otherwise

modified.

3. **Default.** The discovery by County that any of the warranties and representations made by Concessionaire herein as an inducement to enter into this Amendment were materially false shall constitute a material default of this Amendment by Concessionaire.

4. **Waiver.** Nothing in this Amendment shall be construed as waiving, reducing, abating or otherwise modifying any amounts due and payable to County under the Agreement. Furthermore, the failure of either party to insist on strict performance of any of the agreements, terms, covenants and conditions of this Amendment 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 Amendment shall be affected by any previous waiver or course of dealing.

5. **Monthly Minimum Annual Guarantee Reconciliation.** Notwithstanding any provision of this Agreement otherwise, including, but not limited to, Article 4.01(B), commencing as of October 1, 2019, Concession Fees shall be reconciled monthly, and Concession Fees shall be due and paid by Concessionaire to County as of the fifteenth (15th) day of each month, for the preceding month, in the manner set forth herein. Within fifteen (15) days after the close of each and every month throughout the Term of this Agreement, Concessionaire shall pay to County the difference between: (i) the greater of the Year-to-Date Minimum Annual Guarantee or the Year-to-Date Percentage Payment; and (ii) the Year-to-Date Concession Payments. An illustrative example of a monthly reconciliation as provided for herein is attached as Exhibit "A". Concession Fees shall be reconciled on an annual basis in accordance with the Audit Requirements provided in Article 5.02 of this Agreement. For purposes of this provision, the terms "Year-to-Date Minimum Annual Guarantee", "Year-to-Date Percentage Payment" and "Year-to-Date Concession Payments" shall have the following meanings:

- A. Year-to-Date Minimum Annual Guarantee shall mean one-twelfth 1/12 of the Minimum Annual Guarantee multiplied by the number of months that have accrued since the beginning of the then-current fiscal year (October thru September), as provided in Article 4.01(B) of the Agreement. The Year-to-Date Minimum Annual Guarantee as of the fifteenth (15th) day of a given month shall include the Monthly Minimum Guarantee for the preceding calendar month. For example, if the Minimum Annual Guarantee is \$1,800,000.00, payable in 12 monthly installments of \$150,000.00 each, then as of August 15, 2020, ten (10) monthly installments of the Minimum Annual Guarantee would accrue from the start of the current fiscal year (October 2019 through July 2020). In this example, as of August 15, 2020, the Year-to-Date Minimum Annual Guarantee would be: $\$150,000.00 \times 10 = \$1,500,000.00$.
- B. Year-to-Date Percentage Payment shall be determined by totaling the Monthly Percentage Payments accruing from the start of the then-current fiscal year (October thru September). For example, as of August 15, 2020, the Year-to-Date Privilege Fee would be the sum of the ten (10) Monthly Privilege Fees accruing from the start of the current Lease Year (October, 2019 through July, 2020).

- C. Year-to-Date Concession Payments shall be the sum of actual Concession Fee payments made by Concessionaire, or amounts credited to Concessionaire for such, during the then-current fiscal year (October thru September).

6. **Nondiscrimination Covenants.** Article 22.01, Nondiscrimination, of the Agreement is hereby deleted in its entirety and replaced with the following:

22.01 Nondiscrimination.

- A. Nondiscrimination in County Contracts. Palm Beach County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, Concessionaire warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.
- B. Federal Nondiscrimination Covenants. Concessionaire, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that it shall comply with the Federal Non-Discrimination Covenants attached as Exhibit "B" to this Amendment.

7. **Scrutinized Companies.** Article XXV, Miscellaneous, of the Agreement is hereby amended to add the following Article 25.23:

25.23 Scrutinized Companies. As provided in F.S. 287.135, by entering into this Lease or performing any work in furtherance hereof, Concessionaire certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)(b), if Concessionaire is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Lease may be terminated at the option of County. As provided in F.S. 287.135, by entering into this Lease or performing any work in furtherance hereof, the Concessionaire certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 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 Concessionaire, this Lease may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this

Lease shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Lease renewal, if applicable.

8. **Ratification of Agreement.** 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.

9. **Conflict.** In the event of a conflict between any provision of this Amendment and the provisions of the Agreement, or any other amendment thereto, the provisions of this Amendment shall control.

10. **Authorized Representatives.** The parties acknowledge that this Amendment has been executed by its duly authorized representatives. The parties declare and acknowledge that the terms of this Amendment have been completely read, fully understood, discussed with counsel, and voluntarily accepted by each party.

11. **Incorporation by Reference.** Exhibits attached hereto and referenced herein are hereby incorporated into made a part of this Amendment.

12. **Paragraph Headings.** The heading of the various sections of this 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 Amendment or the Agreement.

13. **Effective Date.** This Amendment shall become effective upon execution by the parties hereto ("Effective Date").

{Remainder of Page Intentionally Left Blank.}

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

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

Ray Walter

Witness Signature

RAY WALTER

(Typed or Printed)

Stacy Bohdy

Witness Signature

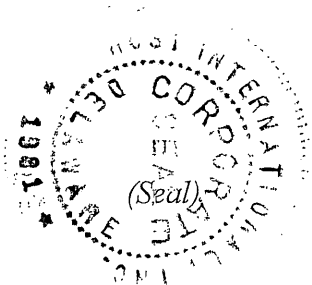
Stacy K. Schlamm

(Typed or Printed)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Anne Helfant

County Attorney



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

Eileen Hartin

Witness Signature

Eileen Hartin

(Typed or Printed)

Phil Fletcher

Witness Signature

Phil Fletcher

(Typed or Printed)

PALM BEACH COUNTY, FLORIDA

By: Rebecca Burke

Director, Department of Airports

CONCESSIONAIRE:
Host International, Inc.

By: Paul Mamalian

President

Typed or Printed Name of Corporate Officer

Title: Paul Mamalian

President

EXHIBIT "A"
ILLUSTRATIVE EXAMPLE OF A MONTHLY RECONCILIATION

EXHIBIT “B”
FEDERAL NONDISCRIMINATION COVENANTS

For purposes of this Exhibit, the term “CONTRACTOR” means Concessionaire and the term “Agreement” means the Agreement more particularly described in the preamble of this Amendment.

A. Title VI Clauses for Compliance with Nondiscrimination Requirements. During the performance of this Agreement, CONTRACTOR, for itself, its assignees, and successors in interest, agrees as follows:

1. Compliance with Regulations: CONTRACTOR will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities (“Nondiscrimination Acts and Authorities” as set forth in paragraph B below), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. Nondiscrimination: CONTRACTOR, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. CONTRACTOR will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by CONTRACTOR of CONTRACTOR’s obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. Information and Reports: CONTRACTOR will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, CONTRACTOR will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor’s noncompliance with the non-discrimination provisions of this Agreement, County will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to CONTRACTOR under this Agreement until CONTRACTOR complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: CONTRACTOR will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. CONTRACTOR will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if CONTRACTOR becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, CONTRACTOR may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, CONTRACTOR may request the United States to enter into the litigation to protect the interests of the United States.

B. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, CONTRACTOR, for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities, as may be amended, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

C. Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

1. CONTRACTOR for itself and its 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) 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 said facilities, (2) that in the construction of any improvements on, over, or under such land, 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, (3) that CONTRACTOR will use the CONTRACTOR Premises and any License Area in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Acts And Authorities.
2. In the event of breach of any of the above nondiscrimination covenants, County will have the right to terminate this Agreement and to enter or re-enter and repossess the CONTRACTOR Premises and any License Area and the facilities thereon, and hold the same as if this Agreement had never been made or issued.

D. Title VI Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program.

CONTRACTOR for itself and its 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 property described in this Agreement 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, the CONTRACTOR will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Authorities (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. In the event of breach of any of the above nondiscrimination covenants, County will have the right to terminate this Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if this Agreement had never been made or issued.

E. Airport Concession Disadvantaged Business Enterprises ("ACDBE").

This Agreement may be 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. CONTRACTOR 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. CONTRACTOR 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.

F. General Civil Rights Provision.

CONTRACTOR agrees to 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. If CONTRACTOR transfers its obligation to another, the transferee is obligated in the same manner as CONTRACTOR. This provision obligates CONTRACTOR for the period during which the property is owned, used or possessed by CONTRACTOR and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.