



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	<u>\$530,912</u>	<u>\$416,690</u>	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>\$530,912</u>	<u>\$416,690</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

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 4100 Department 120 Unit 8430 RSource 4461  
 Reporting Category \_\_\_\_\_

*(Handwritten mark)*

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

The lease years under the Agreement coincide with the County's fiscal year. The scheduled MAG for fiscal year 2020 is \$1,833,362. Under the Amendment, Host will pay the Percentage Payment only for fiscal year 2020. Host has paid \$1,302,450 in Percentage Payments for fiscal year 2020 resulting in a \$530,912 reduction in revenues to the County. The Percentage Payment for fiscal year 2020 remains subject to final audit. The Amendment reduces the MAG for fiscal year 2021 by \$416,690. The Percentage Payment may exceed the MAG for fiscal year 2021; however, excess payments cannot be estimated at this time.

**C. Departmental Fiscal Review:**

*(Handwritten signature)*

**III. REVIEW COMMENTS**

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

*(Handwritten signature)*  
 OFMB *(Handwritten date)*  
*(Handwritten initials)*

*(Handwritten signature)*  
 Contract Dev. and Control *(Handwritten date)*  
*(Handwritten initials)*

**B. Legal Sufficiency:**

*(Handwritten signature)*  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

REVISED 11/17

(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 Jeffrey L. Poersch is the Assistant Secretary of Host International, Inc., a corporation organized and existing in good standing under the laws of the State of Delaware, 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 1st day of December, 2020, in accordance with the laws of the State of Delaware, the Articles of Incorporation and the By-laws of the Corporation:


RESOLVED, that the Corporation, from time to time, shall enter into amendments ("Amendments") to that certain Lease and Concession Agreement between the parties dated August 18, 1998 (R-98-1293D), as amended, 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 Paul Mamalian, the President of the Corporation, is hereby authorized and instructed to execute such Amendments 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 Amendments.

**IN WITNESS WHEREOF**, the undersigned has set his hand and affixed the Corporate Seal of the Corporation the 1st day of December, 2020.

  
[Signature]

Jeffrey L. Poersch,  
Assistant Secretary



🔍 Search

👤 Insured

Insured Name

Host International, Inc (DX00001077)

🔍

Host International, Inc (DX00001077)

Active Records Only

Advance Search

Name: Host International, Inc 👤

Account Number: DX00001077

Address:

Status: Compliant with minor/expiring deficiencies.

**Insured Tasks Admin Tools**

View

- 👤 Insured
- 📄 Notes
- 🔄 History
- ☰ Deficiencies
- 📶 Coverages
- ★ Requirements
- 🔄 Contract Screen
- Add
- Edit
- Help
- Video Tutorials

Insured ▲

Business Unit(s) DBA Number Print Insured Info

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:	

Zip:		
Country:		
<b>Contract Information</b>		
Contract Number:		
Contract Start Date:		Contract End Date:
Contract Effective Date:		Contract Expiration Date:
Description of Services:	Lease and Concession Agmt	Safety Form II:
<b>Contact Information</b>		
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.

**THIRTEENTH AMENDMENT TO  
LEASE AND CONCESSION AGREEMENT**

**THIS THIRTEENTH AMENDMENT TO LEASE AND CONCESSION AGREEMENT** (this “Amendment”) is made and entered into this \_\_\_\_\_, 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**, the Agreement provides Concessionaire is required to pay the greater of the Minimum Annual Guarantee or the Percentage Payment for each Lease Year, commencing October 1<sup>st</sup> and ending on September 30<sup>th</sup>; and

**WHEREAS**, the Minimum Annual Guarantee for the period commencing on October 1, 2019 and ending on September 30, 2020 (“Lease Year 2020”) was One Million, Eight Hundred Thirty-Three Thousand, Three Hundred Sixty Two Dollars and 40/100 (\$1,833,362.40), which exceeds the Percentage Payment; and

**WHEREAS**, the Minimum Annual Guarantee for the period commencing on October 1, 2020 and ending on September 30, 2021 (“Lease Year 2021”) is scheduled to be One Million, Four Hundred Sixty-Six Thousand, Six Hundred Ninety Dollars (\$1,466,690) if no abatement is granted; and

**WHEREAS**, Concessionaire has experienced significant impacts to its business operations directly resulting from the COVID-19 pandemic and is requesting an abatement of Minimum Annual Guarantees; 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. **Term.** The Primary Term shall end on September 30, 2024.

3. **Concession Fees; Minimum Annual Guarantee; Minimum Monthly Payment.** Notwithstanding any provision of the Agreement to the contrary, the following provisions shall be used for determining Concession Fees payable to County, and the date that payments shall be due and payable to County, for the periods set forth herein below:

- A. For Lease Year 2020, Concessionaire shall pay to County the Percentage Payment together with applicable sales taxes thereon. The amount of the Minimum Annual Guarantee in excess of the Percentage Payment shall be considered abated by County, including associated late fees; provided Concessionaire reimburses County, within fifteen (15) days of the Effective Date of this Amendment, for sales taxes paid by County to the State of Florida on Concessionaire's behalf, which remains outstanding as of December 7, 2020, in the amount of Forty-Two Thousand, Seven Hundred Ninety-Six and 48/100 Dollars (\$42,796.48). Nothing herein shall construed as preventing Concessionaire from seeking a refund of any overpayment of sales taxes from the State of Florida, which may be no longer payable by virtue of this Amendment.
- B. For Lease Year 2021, the Minimum Annual Guarantee shall be One Million, Four Hundred Sixty-Six Thousand, Six Hundred Ninety Dollars (\$1,466,690). Commencing on November 15, 2020, and no later than the fifteenth (15<sup>th</sup>) day of each month thereafter, Concessionaire shall pay to County an amount not less than the Monthly Percentage Payment (together with applicable sales taxes thereon) for the preceding calendar month. Concessionaire shall not be required to remit monthly payments of the Minimum Annual Guarantee to County during Lease Year 2021. In the event the Percentage Payment for Lease Year 2021 is less than One Million, Fifty Thousand Dollars (\$1,050,000) ("Reduced MAG"), Concessionaire shall pay to County the difference between the Reduced MAG (together with applicable sales tax thereon) and the Percentage Payment on or before October 31, 2021. Provided that Concessionaire pays the Monthly Percentage Payments and Reduced MAG (together with applicable sales taxes thereon), to County in accordance with the requirements of this paragraph B, the remainder of the Minimum Annual Guarantee for Lease Year 2021, in the amount of Four Hundred Sixteen Thousand, Six Hundred Ninety Dollars (\$416,690), shall be considered automatically abated by County without formal amendment hereto. Nothing in this paragraph shall be construed as waiving or reducing Concessionaire's obligation to pay the Percentage Payment for Lease Year 2021.

- C. For that period commencing on October 1, 2021, and ending on September 30, 2022 (“Lease Year 2022”), the Minimum Annual Guarantee shall be the greater of: (i) eighty percent (80%) of the Percentage Payment for Fiscal Year 2021; or (ii) One Million, One Hundred Seventy-Three Thousand, Three Hundred Fifty-Two Dollars (\$1,173,352). Commencing Lease Year 2022, and each Lease Year thereafter through the remainder of the Primary Term, Concessionaire shall remit payments of Concession Fees (together with applicable sales taxes thereon) to County on a monthly basis in accordance with the requirements of the Twelfth Amendment to the Agreement dated October 2, 2020.
- D. Commencing October 1, 2022, and each October 1 thereafter through the remainder of the Primary Term, the Minimum Annual Guarantee shall be adjusted in accordance with Article 4.01(B)(2) of the Agreement.

4. Article 6.06, **County’s Right to Reclaim Concession Areas**, of the Agreement is hereby deleted in its entirety and replaced with the following:

6.06 County’s Right to Reclaim Concession Areas.

- A. County shall have the right to terminate Concessionaire’s right to use and occupy any concession areas leased hereunder, in whole or in part, (“Recaptured Premises”) in accordance with the provisions of this Article 6.06 prior to the expiration of the Primary Term. County shall give Concessionaire no less than six (6) months’ prior written notice of County’s decision to terminate Concessionaire’s right to use and occupy any concession area leased hereunder. The Minimum Annual Guarantee shall be reduced as hereinafter provided, unless the parties negotiate an amendment to this Agreement for the relocation of Concessionaires’ operations to another location within the Terminal. The Minimum Annual Guarantee reduction shall become effective on the date of surrender of the Recaptured Premises by Concessionaire and shall be calculated as follows:

$$\left( \begin{array}{c} \text{Minimum Annual Guarantee} \\ \text{as of the date of surrender} \end{array} \right) \times \left( \frac{\text{Percentage Payment Attributable to} \\ \text{Recaptured Premises for Prior Year}}{\text{Prior Year's Total Percentage Payment}} \right)$$

***Example of Minimum Annual Guarantee reduction calculation:***

Minimum Annual Guarantee is \$3,000,000 as of the date the Recaptured Premises are surrendered to County. The prior year’s total Percentage Payment was \$2,000,000. The portion of the total Percentage Payment attributable to the Recaptured Premises was \$200,000, or 10% of the total Percentage Payment. The Minimum Annual Guarantee would be reduced by 10% or \$300,000; therefore, the Minimum Annual Guarantee would be \$2,700,000. Stated numerically: \$3,000,000 minus [\$3,000,000 times (\$200,000/\$2,000,000)] = \$2,700,000.



Notwithstanding the foregoing, the Minimum Annual Guarantee shall continue to be adjusted in accordance with Article IV of the Agreement, subject to the reduction provided for in this Article 6.06.

- B. The provisions of this Article 6.06 shall not apply to early termination of Concessionaire's right to use and occupy any part(s) of the Assigned Premises due to Concessionaire's default or noncompliance with this Agreement or to any voluntary relocation or return of concession area(s) by Concessionaire. Notwithstanding any provision of this Agreement to the contrary, the provisions of this Article 6.06 shall only apply to the termination of Concessionaire's right to use and occupy permanent concession areas included in the Assigned Premises prior to the expiration of the Primary Term and shall not apply to office, storage or temporary concession areas.

5. **Security for Payment.** Concessionaire shall maintain a Security for Payment in an amount not less than \$916,682.00, until adjustment of the Minimum Annual Guarantee scheduled to occur on October 1, 2022. Thereafter, the required amount of Security for Payment shall be adjusted in accordance with Article 4.04 of the Agreement.

6. **Waiver.** Except as expressly provided herein, 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.

7. **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.

8. **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.

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

10. **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.

11. **Effective Date.** This Amendment shall be considered effective when signed by all parties and approved by the Palm Beach County Board of County Commissioners

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

**ATTEST:**  
**Joseph Abruzzo,**  
**Clerk of the Circuit Court & Comptroller**

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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Dave Kerner, Mayor

(SEAL)

**APPROVED AS TO FORM AND**  
**LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS**  
**AND CONDITIONS**

By: Anne Delgant  
County Attorney

By: Laura Buba  
Director - Department of Airports

(Seal)

**CONCESSIONAIRE:**  
**Host International, Inc.**

By: \_\_\_\_\_

Paul Mamalian  
Typed or Printed Name of Corporate Officer

Title: President

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

[Signature]  
Witness Signature

Philip Fletcher  
(Typed or Printed)

[Signature]  
Witness Signature

Joan Bennett  
(Typed or Printed)