

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	<u>(\$250)</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$250)</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

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

Budget Account No: Fund 4100 Department 120 Unit 8340 RSource 4467
 Reporting Category _____

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

The fiscal impact of the Off-Airport Parking Lot Operator Ground Transportation Permit was a \$250.00 application fee. We are unable to estimate the fiscal impact at this time of the ten percent (10%) permit fee of all gross revenues associated with off-airport parking.

C. Departmental Fiscal Review: *Wendy Duncan*

III. REVIEW COMMENTS

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

Sam M... 9/12/21
 9-9-21 OFMB *(initials)* 9-9-21

John J. Jacobson 9/14/21
 Contract Dev. and Control

B. Legal Sufficiency:

Anne Nelson 9/14/21
 Assistant County Attorney

C. Other Department Review:

 Department Director

REVISED 11/17

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

AFFIDAVIT OF LIMITED LIABILITY COMPANY

STATE OF FLORIDA

COUNTY OF PALM BEACH

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

1. AD1 Management, Inc., a Florida corporation is the Director of AD1 PB Airport Hotels, LLC a limited liability company organized and existing under the laws of the State of Delaware ("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 director managed limited liability company.
5. AD 1 Management , Inc., a Florida corporation is authorized 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. Jose D. Berman, President of AD 1 Management, Inc., has the right and authority to enter into that certain Palm Beach International Airport Off-Airport Parking Lot Operator Ground Transportation Permit 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.

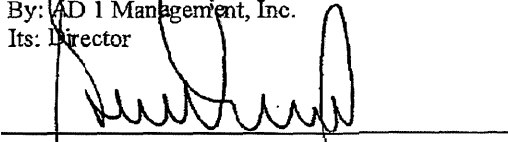
9. The undersigned acknowledges that affiant is familiar with the nature of an oath and the penalties provided by the laws of the State of Florida and that this Affidavit is being given to induce Palm Beach County to enter into the Agreement.

FURTHER AFFIANT SAYETH NAUGHT,

AD1 PB Airport Hotels, LLC

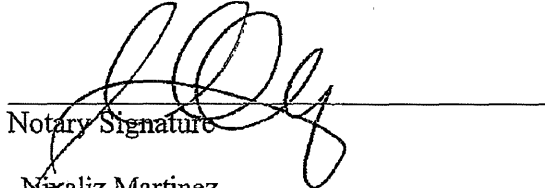
By: AD 1 Management, Inc.

Its: Director



Jose Daniel Berman, Individually and as
President

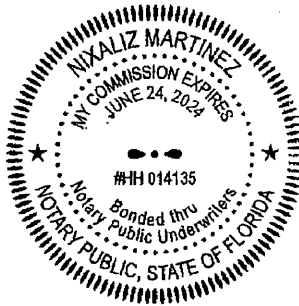
Sworn to (or affirmed) and subscribed before me by means of physical
presence -OR- online notarization, this 19 day of May, 2021,
by Jose Daniel Berman,
President of AD 1 Management, Inc. as Director for
AD1 PB Airport Hotels, LLC, on behalf of the Company, who is personally
known to me and who take an oath.


Notary Signature
Nixaliz Martinez
Print Notary Name

NOTARY PUBLIC
State of Florida at large

My Commission Expires:

#HH 014135



🔍 Search

👤 Insured

Insured Name

AD1 PB Airport Hotels, LLC (DX00001581)



AD1 PB Airport Hotels, LLC

Active Records Only

Advance Search

Insured Tasks Admin Tools

View

👤 Insured

📄 Notes

🔄 History

☰ Deficiencies

📶 Coverages

★ Requirements

🔄 Contract Screen

Add

Edit

Help

Video Tutorials

Name: AD1 PB Airport Hotels, LLC
👤

Account Number: DX00001581

Address: 1301 Belvedere Rd., WestPalm Beach, FL, 33405

Status: Currently in Compliance.

Insured ▲

Business Unit(s)

DBA Number

Print Insured Info

Print Compliance Report

Account Information

Account Number: DX00001581

Risk Type: Standard - General Services

Do Not Call: Address Updated:

Address Information

Mailing Address

Physical Address

Insured: AD1 PB Airport Hotels, LLC

Address 1: 1301 Belvedere Rd.

Address 2:

City: WestPalm Beach

State:	FL	
Zip:	33405	
Country:		
Contract Information		
Contract Number:		
Contract Start Date:		Contract End Date:
Contract Effective Date:		Contract Expiration Date:
Description of Services:	PBI-AD-21-01 PBIA Off-Airport Parking Permit	Safety Form II:
Contact Information		
Contact Name:	Milton Ferreira	Misc:
Phone Number:	5616593880	Alt Phone Number:
Fax Number:		
E-Mail Address:	mferreira@holidayinnpalmbeach.com	
Approval Date:		
Rush:	No	
Contract on File:	No	
Certificate Received:	Yes	
Indemnification Agreement:	No	
Tax Id:		

This Account created by e59 on 08/18/2021.

**PALM BEACH INTERNATIONAL AIRPORT
OFF-AIRPORT PARKING LOT OPERATOR
GROUND TRANSPORTATION PERMIT**

THIS OFF-AIRPORT PARKING LOT OPERATOR GROUND TRANSPORTATION PERMIT (this "Permit") is made and entered into this 26th day of August, 2021, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and AD1 PB Airport Hotels, LLC ("Permittee"), having its office and principal place of business at 1955 Harrison Street, Suite 200, Hollywood, FL 33020.

W I T N E S S E T H:

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

WHEREAS, Resolution No. R-2014-1142, adopted by the Palm Beach County Board of County Commissioners on August 19, 2014, authorizes Department to issue this Permit; and

WHEREAS, County, as the owner and operator of the Airport, has the power and authority to regulate the use of the Airport roadways to ensure the traveling public has access to an orderly ground transportation system and to ensure efficient use of the limited capacity of the Airport roadways; and

WHEREAS, Permittee is the owner and operator of the Holiday Inn Palm Beach Airport Hotel, located at 1301 Belvedere Road, West Palm Beach, FL 33405, telephone 561-659-3880, ext. 7117, where Permittee provides paid parking services to Airport customers and derives substantial commercial benefit from the Airport's operations; and

WHEREAS, Permittee desires to obtain a permit to access the Airport roadways, in connection with a ground transportation operation in support of Permittee's off-Airport parking operation; and

WHEREAS, Permittee has submitted a written application to the Department for a permit to engage in ground transportation and shuttle activities on the Airport, in connection with Permittee's off-Airport parking operation; and

NOW, THEREFORE, in consideration of the promises 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:

ARTICLE 1
RECITALS

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

ARTICLE 2
DEFINITIONS

- 2.01 "Airport" means the Palm Beach International Airport.
- 2.02 "Annual Report" has the meaning ascribed to it in Section 5.08.
- 2.03 "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.
- 2.04 "Department" means the Palm Beach County Department of Airports.
- 2.05 "FAA" means the Federal Aviation Administration or any successor agency.
- 2.06 "Gross Revenues" means all amounts paid or payable (whether received or receivable, whether cash or credit and regardless of where or by whom the payment is made) arising out of Permittee's operations conducted at, to or from the Airport. Unless revenues are expressly and specifically excluded from Gross Revenues, all revenues that derive from, arise out of or become payable on account of this Permit, whether directly or indirectly, shall be included in Gross Revenues, including, but not limited to, amounts paid or payable for:
- A. Parking or storage of vehicles;
 - B. Any and all fees and charges for equipment, supplies and incidental items that are made available and charged for in connection with the parking or storage of vehicles, including, but not limited to: car covers, car washing and detailing services, and any other incidental items and services;
 - C. Use of a Shuttle Vehicle transporting customers to or from the Airport; and
 - D. Recovery of the Permit Fees payable hereunder, including, but not limited to, the fees referred to in Section 5.11.
 - E. Service charges, reservation or booking charges, convenience fees, or other add-on fees of any type, whether paid to Permittee directly, or to a third-party such as a broker or other agent.

Gross Revenues shall not include:

- 1. The amount of any sales taxes or other similar excise taxes, now or hereafter levied or imposed, which are separately stated and collected from customers; or
- 2. Any sums received as insurance proceeds, or payments from Permittee's customers or insurers for damage to vehicles or other property of Permittee.

- 2.07 “Payment Security” has the meaning ascribed to it in Section 5.12.
- 2.08 “Permit” means this Permit 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 Permit, refer to this Permit as a whole, unless context otherwise requires.
- 2.09 “Permit Fees” has the meaning ascribed to it in Section 5.02.
- 2.10 “Permit Year” means the twelve (12) month period, beginning on October 1 and ending on September 30 and each twelve (12) month period thereafter, until the termination of this Permit.
- 2.11 “Shuttle Vehicle” means any vehicle used to transport customers between the Airport and Permittee’s off-Airport business location(s), including, but not limited to, vans, shuttle buses, limousines, automobiles and rental vehicles.
- 2.12 “Statement of Gross Revenues” has the meaning ascribed to it in Section 5.03.
- 2.13 “Terminal” means the passenger terminal building located at the Airport.
- 2.14 “TSA” means the Transportation Security Administration or any successor agency.

ARTICLE 3
TERM

This Permit shall be effective on the 26th day of August, 2021, and shall terminate on September 30th, 2021, except as otherwise provided for herein. Provided that Permittee is not in violation of the terms and conditions of this Permit and has paid all applicable fees, this Permit shall automatically renew on a yearly basis (October 1st through September 30th), unless either party hereto, with Department acting on behalf of County, shall advise the other party at any time by at least thirty (30) days’ advance written notice of its intent to terminate this Permit.

ARTICLE 4
PRIVILEGES AND OBLIGATIONS

- 4.01 Privileges. Subject to the terms and conditions of this Permit, Permittee is authorized by this non-exclusive Permit to operate its Shuttle Vehicles on the Airport’s Terminal access roadways by the most direct authorized route in the transportation of customers between the Airport and Permittee’s off-Airport business location(s).
- 4.02 Operational Standards.
- A. Permittee shall operate on the Airport in a clean, orderly and safe fashion. Permittee shall keep its Shuttle Vehicles clean and well maintained.
 - B. Permittee shall load and unload its passengers on its Shuttle Vehicles only in those areas designated by Department. Permittee shall load and unload its passengers on its Shuttle Vehicles as quickly and efficiently as possible under the circumstances to ensure the availability of the designated areas for use by other Airport users.

Shuttle Vehicles shall not be permitted to park or loiter on the Airport. Drivers shall remain in the Shuttle Vehicle except to assist Permittee's customers in the loading or unloading of their baggage.

- C. Permittee shall cause its drivers, agents, and other employees to conduct themselves at all times in a courteous manner towards the public and to provide prompt, efficient, and safe service. Permittee shall not allow its drivers, agents, or other employees to engage in open or public disputes or conflicts tending to be incompatible with the best interests of the public at the Airport. Department shall have the right to resolve all such disputes or conflicts, and its determinations shall be binding upon Permittee.

4.03 Solicitation. Permittee shall not allow its drivers, agents, or other employees to solicit business in any manner whatsoever on the Airport, including, but not limited to, solicitation of passengers or customers and solicitation of employees on the Airport for parking or shuttle transportation services.

4.04 Business Operations.

- A. Permittee shall not conduct any vehicle parking or Shuttle Vehicle operations, or any other business on the Airport, except as expressly authorized by this Permit, without first entering into an agreement with County. Permittee shall not maintain an office on the Airport as a subtenant or subcontractor of any Airport tenant, unless otherwise approved by Department.
- B. Permittee acknowledges and agrees that as an express condition of this Permit, it has submitted a written application to the Department, which is incorporated herein by reference, and which application contains a complete description of Permittee's off-Airport parking operations, including, but not limited to the following:
 - (i) Identification of any third-party agents and/or website advertising tools;
 - (ii) A description of all services and amenities offered to customers;
 - (iii) A summary of Permittee's rates and charges, including those charges listed in Section 2.06(A) thru (E), above.
 - (iv) Identification of the area(s) where Permittee will conduct its off-Airport parking operations, including the number of parking spaces, along with written confirmation from applicable permitting and regulating authorities that Permittee's off-Airport parking or related operations are in compliance with all applicable zoning, permitting or other approval requirements.

Permittee shall make no changes to the information in items (i) thru (iv) above, either temporary or permanent, without written acknowledgement from the Department, which shall be considered incorporated as part of this Permit without formal amendment thereto. For any change in the nature, or the location or number of parking spaces, associated with Permittee's off-Airport parking or related operations, Permittee shall provide written confirmation from applicable permitting and regulating authorities that Permittee's operations are in compliance with all applicable zoning and permitting requirements.

- 4.05 Advertising. Permittee shall not solicit business on the Airport other than indirectly by advertising through the Airport's Advertising Concessionaire. Permittee may, subject to the Department's approval, advertise through the Airport's Advertising Concessionaire. Advertising fees and charges remitted to the Airport's Advertising Concessionaire shall be in addition to the Permit Fees payable hereunder.
- 4.06 Customer Identification. Upon request by an authorized representative of Department, Permittee's drivers, agents or other employees shall provide said representative with the names of its customers and other information applicable to the reservation(s).
- 4.07 Airport Decal. Upon issuance of this Permit, and upon annual renewal of this Permit as provided in Article 3 above, Department may issue to Permittee one (1) windshield decal per Shuttle Vehicle intended to be used by Permittee on the Airport. Permittee shall affix one (1) decal to the windshield of each of its Shuttle Vehicles as demonstrable proof that Permittee is afforded the privileges of this Permit. Permittee shall pay a non-refundable decal issuance fee of Ten Dollars (\$10.00) to Department for each decal issued. Permittee shall not operate any Shuttle Vehicle on the Airport without properly displaying the required decal and may be required to remove any Shuttle Vehicle that is not in compliance with the requirements of this Permit. Department may limit the number of Shuttle Vehicles operating on the Airport.
- 4.08 Vehicle Identification. Permittee shall not use marks, logos or symbols similar to those used to identify the Airport on any Shuttle Vehicles. Permittee shall not use the name "Palm Beach International Airport" or "Palm Beach Airport" or any variation thereof that will likely cause confusion with the name of the Airport on any Shuttle Vehicles. Permittee must include a statement on all Shuttle Vehicles identifying that such Shuttle Vehicles are Privately Owned and Operated by AD1 PB Airport Hotels, LLC, or Holiday Inn Palm Beach Airport Hotel, as applicable, with lettering that is two inches (2") or higher. All Shuttle Vehicle markings shall be professionally painted or affixed as a decal.
- 4.09 Vehicle Inspection. By accepting this Permit, Permittee hereby consents to the inspection of its Shuttle Vehicles operating under this Permit by County and its authorized representatives as to size, engine exhaust, radio communication, passenger access, registration, driver's license, license tag and Permit, and other matters pertaining to the efficient and safe operation of the vehicles at the Airport.
- 4.10 Non-Exclusive Rights. The privileges granted under this Permit are non-exclusive, and the County reserves the right to grant similar privileges to other Permittees or users of Airport facilities. No greater privileges with respect to the use of the Airport or any part thereon are granted or intended to be granted to the Permittee by this Permit, other than the privileges expressly and specifically granted herein.
- 4.11 Access. For security reasons or as required by the TSA or the Palm Beach County Sheriff's Department, Department may at any time deny Permittee access on the Airport, or direct Permittee's Shuttle Vehicles to take alternate routes on the Airport.

ARTICLE 5
PERMIT FEES AND AUDITS

- 5.01 Application Fee. Permittee shall pay a non-refundable application fee of Two Hundred Fifty Dollars (\$250.00) with submission of Permittee's application for this Permit. In the event this Permit expires or is otherwise terminated, Permittee shall be required to pay an additional application fee at the then current rate. Permittee acknowledges and agrees that the fees and charges payable hereunder may be modified from time to time and that Permittee shall be responsible for payment of such modified fees without formal amendment to this Permit.
- 5.02 Permit Fees. For the privileges granted herein, Permittee shall pay to Department monthly permit fees equal to ten percent (10%) of monthly Gross Revenues ("Permit Fees"). Permit Fees shall be paid without demand, deduction, holdback or setoff.
- 5.03 Monthly Statements. Permittee shall submit to Department by the fifteenth (15th) day of each month throughout the term of this Permit, and for that month immediately following the expiration or termination of this Permit, a statement certified by an authorized officer of Permittee, in a form and detail satisfactory to Department, detailing Permittee's Gross Revenues, and any exclusion(s) from Gross Revenues, for the preceding month ("Statement of Gross Revenues"). Permittee shall remit to Department the Permit Fees for the preceding month with the Statement of Gross Revenues. This Section 5.03 shall survive the termination of this Permit until all fees payable to County prior to the termination of this Permit have been paid. The Department may require the Statement of Gross Revenues to be submitted electronically.
- 5.04 Interest. If Permittee fails to pay any fees required herein when due and payable in accordance with the terms of this Permit, interest at the rate of one and one-half percent (1.5%) per month shall accrue against the delinquent payment(s) from the date due until the date payment is received by Department. Notwithstanding the foregoing, Department shall not be prevented from terminating this Permit for failure to make payment(s) when due to Department pursuant to this Permit, or from exercising any other remedies contained herein or implied by law.
- 5.05 Place of Payment. All payments due under this Permit shall be made payable to "Palm Beach County" and delivered to the Finance Division, Department of Airports, 846 Palm Beach International Airport, West Palm Beach, Florida 33406-1470, or to such other office or address as may be designated by the Department.
- 5.06 Company Records. Permittee shall keep all books of accounts and records customarily used in this type of operation in accordance with Generally Accepted Accounting Principles prescribed by the American Institute of Certified Public Accountants or any successor agency thereto. Said books of accounts and records shall be retained and be available to Department for three (3) years from the end of each Permit Year, including three (3) years following the expiration or termination of this Permit. Department shall have the right to audit and examine during normal business hours all such books of accounts and records relating to Permittee's operations herein. Permittee shall maintain a numerical sequence of contracts, both issued and non-issued. Permittee shall store its books of accounts and records sequentially, or in such other manner approved by the Department to provide reasonable and expeditious access for audit purposes herein. If Permittee keeps its books of accounts and records at locations outside Palm Beach County,

Permittee shall, at its sole cost and expense, arrange for them to be brought to a location convenient to Department's auditors for Department to conduct the audits and inspections as set forth in this Article 5. The obligations arising under this Section 5.06 shall survive the expiration or termination of this Permit.

5.07 Vehicle Parking and Customer Records. For each transaction, Permittee shall maintain a record of customer and the service(s) provided. Said records shall be retained and be available to Department for three (3) years from the end of each Permit Year, including three (3) years following the expiration or termination of this Permit. Permittee shall maintain a daily log of all customer vehicles parked at Permittee's facility. The obligations arising under this Section 5.07 shall survive the expiration or termination of this Permit.

5.08 Annual Report. On or before December 31st of each calendar year, Permittee shall provide to Department a report for the prior fiscal year (October 1st through September 30th) of its annual Gross Revenues ("Annual Report"). The Annual Report may be prepared by Permittee's chief financial officer when Permittee's annual Gross Revenues are less than Twenty-Five Thousand Dollars (\$25,000) during the preceding fiscal year. When Permittee's annual Gross Revenues during the preceding fiscal year are equal to or exceed Twenty-Five Thousand Dollars (\$25,000), Permittee shall hire at its own expense a Certified Public Accountant to prepare the Annual Report in accordance with the Generally Accepted Auditing Standards prescribed by the American Institute of Certified Public Accountants or any successor agency thereto. The Annual Report shall include the following items:

- A. A schedule summarizing the total number of vehicle parking or storage transactions by month;
- B. A schedule of Gross Revenues by month;
- C. A schedule of payments to County by month;
- D. The Annual Report shall include an opinion on the schedules required by this Section 5.08.

The failure of Permittee to timely deliver a complete Annual Report, or the delivery of an Annual Report containing 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, shall be deemed to be a material breach of this Permit.

5.09 Adverse Report Opinion and Insufficient Payment. Permittee's submission of an Annual Report containing 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 shall be a violation of this Permit. If the Annual Report indicates that the amount of Permit Fees (together with any sales taxes thereon) due and owing for any Permit Year is greater than the amount paid by Permittee to Department during said Permit Year, the Permittee shall pay the difference to Department concurrent with its submission of the Annual Report.

- 5.10 Audit by County. Notwithstanding any provision in this Permit to the contrary, County or its representative(s) may at any time perform audits of all or selected operations performed by Permittee under the terms of this Permit. To facilitate the audit performed by County, Permittee shall arrange with the Certified Public Accountant, who is responsible for preparing the Annual Report on behalf of Permittee pursuant to Section 5.08 above, to make available to County or its representative(s) any and all working papers relevant to the audit performed by the Certified Public Accountant. County or its representative(s) shall provide Permittee a copy of the audit report prepared by or on behalf of County. Permittee shall have thirty (30) days from the date of receipt of the audit report to submit a written response to the conclusions of County's audit report. Permittee's failure to submit a written response to County within the thirty (30) day period shall constitute Permittee's acceptance of the audit report as issued.
- 5.11 Permit Recoupment Fee. The fees levied in this Permit are fees imposed on Permittee and not on Permittee's customers. Accordingly, Permittee may not separately charge or collect from its customers, or state or list on its contracts, any amount that purports to be a fee, surcharge, tax or any other charge imposed on the customer by County or Department. Permittee may elect to charge and collect separately a fee to recoup the amounts due County, so long as this fee is not labeled or referred to, nor held out as an "airport fee," "airport tax" or the like. Permittee shall be entitled to charge and collect a fee to recoup from its customers only in accordance with the requirements of this Section 5.11.
- 5.12 Payment Security. Permittee shall submit a security deposit to County simultaneous to the submission of its executed Permit ("Payment Security"). Notwithstanding anything to the contrary contained herein, the minimum amount of the Payment Security shall be Two Thousand Dollars (\$2,000). No interest shall be paid to Permittee on the Payment Security. Department may increase the amount of the Security Deposit upon thirty (30) days' prior written notice to the Permittee, based on actual monies paid to County under this Permit equal to three (3) months of reported Permit Fees that are at least twenty-five percent (25%) more than the actual posted Payment Security amount. The Payment Security shall be in the form of cash, a clean, Irrevocable Letter of Credit ("Letter of Credit"), or a Surety Bond ("Bond"). If Permittee fails to pay any sums to County when due or fails to perform any of its obligations under this Permit or is otherwise in violation of this Permit, 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 Payment Security and apply same to all amounts owed. Department shall notify Permittee of any such draw, whereupon Permittee shall immediately replace the Payment Security with cash, a new Letter of Credit, or a Bond in the full amount of the Payment Security required herein. Not less than thirty (30) days prior to any expiration date of the Letter of Credit or Bond, Permittee shall submit evidence in form satisfactory to County that such security instrument has been renewed. Failure to renew a Letter of Credit or Bond as required by this Section 5.12 shall: (a) entitle County to draw down the full amount of the Payment Security, and (b) be a violation of this Permit entitling County to all available remedies. The Payment Security shall not be returned to Permittee until Permittee performs and satisfies all obligations under this Permit. The obligations arising under this Section 5.12 shall survive the expiration or termination of this Permit.

ARTICLE 6
INSURANCE

- 6.01 Insurance Requirements, Coverage, Limits and Certificates of Insurance. Permittee shall maintain, on a primary basis and at its sole expense, at all times during the Term, the insurance coverages and limits set forth in Exhibit "A" (the "Insurance Requirements"), attached hereto and incorporated herein.
- 6.02 Rights of Review and Rejection. Palm Beach County's Risk Management Department ("Risk Management") may review, modify, reject or accept any required insurance policies, including, but not limited to, limits, coverages and endorsements required by this Article 6. Risk Management may also reject any insurer or self-insurance plan providing coverage or intending to do so because of poor financial condition or failure to operate legally. In such event, County shall provide Permittee a written notice of rejection, and Permittee shall acknowledge said rejection within thirty (30) days of receipt of the notice.
- 6.03 No Representation of Coverage Adequacy. Permittee acknowledges that the limits, coverages and endorsements stated in and required by this Article 6 are intended to minimize liability for County. Permittee shall not rely upon the requirements of this Article 6 when determining the appropriate types, extent or limits of insurance coverage to protect Permittee against loss.

ARTICLE 7
RELATIONSHIP OF THE PARTIES

Permittee is and shall be deemed to be an independent contractor and operator and shall be solely responsible to all parties for its respective acts or omissions. County shall in no way be liable or responsible therefor.

ARTICLE 8
INDEMNIFICATION

Permittee shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officers, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines or damages (including attorney fees at trial and appellate levels), and causes of action of every kind and character against, or in which County is named or joined, arising out of this Permit or Permittee's use of the Airport, including without limitation those arising because 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, incident to or in connection with Permittee's acts, omissions or operations hereunder, or the performance, non-performance or purported performance of Permittee or any breach of the terms of this Permit. Provided, however, Permittee shall not be responsible to County for damages resulting out of damages to property or bodily injury (including death) that are judicially determined to be solely attributable to the negligence of County, its respective employees or agents. Permittee shall also hold harmless and indemnify County for any fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from or in any way arising out of or because of Permittee's activities or operations or use of the Airport whether or not Permittee 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 include all deliverers, suppliers, furnishers of material, or anyone acting for, on behalf of or at the request of Permittee. Permittee recognizes the broad

nature of this indemnification and hold-harmless provision, acknowledges that County would not enter into this Permit 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 Article 8 shall survive the expiration or termination of this Permit.

ARTICLE 9
ASSIGNMENT

Permittee shall not in any manner assign, transfer or otherwise convey an interest in this Permit. Any such attempt shall be null and void.

ARTICLE 10
TERMINATION OF PERMIT, DEFAULT AND REMEDIES

10.01 Termination. This Permit shall terminate as provided for in Article 3.

10.02 Default. The occurrence of any one or more of the following events shall constitute a violation of this Permit by Permittee:

- A. Permittee's failure to make payment of any fees or charges required to be made by Permittee under this Permit, as and when due.
- B. The failure by Permittee to observe or perform any of the covenants, conditions or provisions of this Permit to be observed or performed by Permittee, including, without limitation to, Section 11.02.
- C. The discovery by Department that any information given by Permittee to County relating to this Permit was materially false.
- D. A default by Permittee of any other agreement, permit or lease between County and Permittee, which default has not been cured within the applicable cure period provided in such agreement, permit or lease.
- E. Operation by Permittee of off-Airport parking operations beyond the scope or extent identified in Permittee's application, as provided in Section 4.04(B) of this Permit.
- F. The failure by Permittee to maintain an approved, active, business operation and/or location.

10.03 Remedies. In the event Permittee is in violation of this Permit, County, with Department acting on behalf of County, may immediately terminate this Permit by giving Permittee written notice to this effect. Upon such termination, Permittee shall immediately cease its operations on the Airport. Such termination shall be without prejudice to any of County's remedies for arrearages, payments due herein, or any other damages or remedies whatsoever.

- 10.04 County's Right to Terminate. This Permit is issued upon the terms and conditions required by County for all Permittees on the Airport that engage in the activities permitted herein. Upon ten (10) days' prior written notice, County may, at any time, terminate this Permit and at County's option issue a new Permit to Permittee upon such modified terms and conditions as County shall uniformly apply to all other similarly situated Permittees.
- 10.05 Termination for Convenience. This Permit may be terminated for convenience by either Permittee or County upon twenty (20) days prior written notice to the other party, whereupon the parties shall be relieved of all further obligations hereunder with the exception of those obligations accruing prior to the date of such termination and those obligations which expressly survive termination of this Permit.

ARTICLE 11
LAWS, PERMITS AND LICENSES, AND SAFETY REGULATIONS

- 11.01 Compliance with Law. Throughout the term of this Permit, Permittee shall be and 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 without limitation, as now or hereafter amended, including, but not limited to, FAA Advisory Circulars and Airport Rules and Regulations (County Resolution No. R-98-220), as now or hereafter amended.
- 11.02 Permits and Licenses. **Permittee expressly acknowledges this Permit is limited solely to authorization to use the Airport roadways for ground transportation shuttle activities associated with Permittee's off-Airport parking lot and related operations. Nothing in this Permit shall be construed as County or Departmental approval, including, but not limited to, permits, licenses, zoning, site plan or other approvals or authorizations, necessary for Permittee to conduct its off-Airport parking lot or related operations.** Permittee shall at its sole cost and expense be strictly liable and responsible for obtaining, paying for, fully complying with, and maintaining current any and all permits, licenses or other governmental approvals or authorizations, however designated, as may be required at any time throughout the term of this Permit by any Federal, State or local governmental entity or any court of law having jurisdiction over Permittee or Permittee's operations and activities, for any activity or operation conducted by Permittee on the Airport, or in connection with its off-Airport parking or related operations. **Upon written request by Department, Permittee shall provide complete copies of any and all permits, approvals and/or licenses.**
- 11.03 Safety Regulations. Permittee shall conduct its activities and operations under this Permit in a safe manner and in compliance with all safety regulations of Department and with safety standards imposed by applicable Federal, State and local laws and regulations. Permittee shall also require the observance thereof by all employees, agents and invitees. Permittee 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 over the Airport. Neither Permittee, nor employee, agent, or any person working for or on behalf of Permittee, shall require any personnel engaged in the performance of Permittee's operations to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to individual safety or health, 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.

11.04 FAA and TSA Regulations. Permittee shall observe all security regulations and other requirements of any agency of the Federal government, including, but not limited to, the FAA and TSA, as such regulations or requirements have been or may be amended including, without limitation, Title 14, Part 139 and Title 49, Part 1500 of the Code of Federal Regulations. Permittee shall comply with such rules and regulations as may be reasonably prescribed by County to take such steps as may be necessary or directed by County to ensure that its employees observe these requirements. Permittee shall conduct background checks of its employees to the extent required by any Federal, State or local law or if, to the extent permitted by law, required by County. County shall have the right to order the removal or replacement of any employee of Permittee on the Airport that County has reasonably determined may present a risk to public safety or to the security of the Airport. If as a result of the acts or omissions of Permittee, County incurs any fines and/or penalties imposed by the FAA or TSA; any expense in enforcing the regulations of the FAA or TSA or the rules or regulations of County; or any expense in enforcing the Airport Security Program, then Permittee agrees to pay to County all such costs and expenses, including all costs of administrative proceedings, court costs, and attorneys fees and all costs incurred by County in enforcing this provision. Permittee further shall rectify any security deficiency or other deficiency as may be determined by County, the FAA or TSA. If Permittee fails to remedy any such deficiency, County may do so at the cost and expense of Permittee. Permittee acknowledges and agrees that County may take whatever action is necessary to rectify any security deficiency or any other deficiency identified by County, the FAA or TSA.

ARTICLE 12
DISCLAIMER OF LIABILITY

COUNTY HEREBY DISCLAIMS, AND PERMITTEE HEREBY RELEASES COUNTY, 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 PERMITTEE, ITS EMPLOYEES, AGENTS, OR INVITEES DURING THE TERM OF THIS PERMIT INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE, OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF PERMITTEE OR PERMITTEE'S BUSINESS INVITEES THAT MIGHT BE LOCATED OR STORED ON THE AIRPORT, UNLESS SUCH LOSS, DAMAGE, OR INJURY IS CAUSED SOLELY BY COUNTY'S SOLE NEGLIGENCE. THE PARTIES 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 ASSIGNMENT OF THE AIRPORT TO PERMITTEE PURSUANT TO THIS PERMIT. PERMITTEE ACKNOWLEDGES AND AGREES THAT COUNTY SHALL HAVE NO LIABILITY WHATSOEVER AND PERMITTEE COVENANTS AND AGREES TO HOLD HARMLESS COUNTY FROM ANY AND ALL LIABILITY RELATING TO ANY INFORMATION PROVIDED BY COUNTY RELATING TO THIS PERMIT. FURTHERMORE, PERMITTEE ACKNOWLEDGES AND AGREES THAT ITS USE OF ANY SUCH INFORMATION, WHETHER PREPARED OR PROVIDED BY COUNTY OR OTHERWISE, IN DETERMINING WHETHER TO ENTER INTO THIS PERMIT, WAS AT ITS SOLE RISK.

ARTICLE 13
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 sent by United States 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:

(a) If to the County at:

Palm Beach County Department of Airports
846 Palm Beach International Airport
Attn: Director of Airports
West Palm Beach, FL 33406-1470
Fax: (561) 471-7427

(b) If to Permittee at:

AD1 PB Airport Hotels, LLC
Holiday Inn Palm Beach Airport Hotel
Attn: Milton Ferreira
1301 Belvedere Road
West Palm Beach, FL 33405
Email: mferreira@holidayinnpalmbeach.com
Phone: 561-659-3880, ext. 7117

Either party may change the address to which notices under this Permit shall be given, upon three (3) days’ prior written notice to the other party. Permittee shall maintain a current address, telephone number, and name of a contact person with the Department.

ARTICLE 14
NON-DISCRIMINATION

14.01 Non-Discrimination in County Contracts. The 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, the Permittee warrants and represents that throughout the term of the Permit, 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 Permit.

- 14.02 Federal Nondiscrimination Covenants. Permittee shall comply with all applicable requirements of the Federal Nondiscrimination Requirements set forth in Exhibit "B".

ARTICLE 15
MISCELLANEOUS

- 15.01 County Not Liable. County shall not be responsible or liable to Permittee for any claims for compensation or any losses, damages or injury sustained by Permittee resulting from: (a) cessation for any reason of air carrier operations on the Airport, or (b) diversion of passenger traffic to any other facility. County shall not be responsible or liable to Permittee for any claims for compensation or any losses, damages or injury whatsoever sustained by Permittee including, but not limited to, those resulting from an act of God, state of war, terrorism, civilian commotion or riot or any cause beyond the control of County.
- 15.02 Authorized Uses Only. Notwithstanding anything to the contrary herein, Permittee shall not use or permit the use of the Airport for any illegal or improper purpose or for any purpose that would invalidate any insurance policies mentioned herein, existing now or hereafter. Permittee shall not use or permit the use of the Airport in any manner that would interfere with or adversely affect the operation or maintenance of the Airport, or would otherwise constitute a hazard.
- 15.03 Waivers. County's failure to insist on a strict performance of any of the agreements, terms, covenants and conditions herein shall not be deemed a waiver of any rights or remedies that County may have for any subsequent breach, default, or non-performance. County's right to insist on strict performance of this Permit shall not be affected by any previous waiver or course of dealing.
- 15.04 Subordination to Bond Resolution. This Permit and all rights granted to Permittee herein are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by County in the Bond Resolution. County and Permittee agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representatives shall exercise any and all rights of County hereunder to the extent such possession, enjoyment and exercise are necessary to ensure compliance by County and Permittee with the terms and provisions of this Permit and Bond Resolution.
- 15.05 Subordination to State/Federal Agreements. This Permit shall be subject and subordinate to all the terms and conditions of any instrument and documents under which the County acquired the Airport or improvements thereon, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Permittee understands and agrees that this Permit shall be subordinate to the provisions of any existing or future agreement between County and the United States of America, the State of Florida or any of their respective 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 federal funds for the development of the Airport.
- 15.06 County's Governmental Authority. Nothing in this Permit shall be construed to waive or limit County's governmental authority as a political subdivision of the State of Florida to regulate Permittee or its operations.

- 15.07 Consent or Action. In the event this Permit is silent as to the standard for any consent, approval, determination, or similar discretionary action, the standard shall be at the sole, absolute and unfettered discretion of the County or Department, rather than any implied standard of good faith, fairness or reasonableness. Wherever this Permit requires the County or Department's consent or approval or permits the County or Department to act, such consent, approval or action may be given or performed by the Airport Director. If Permittee requests the County or Department's consent or approval pursuant to any provision of this Permit and County or Department fails or refuses to give such consent, Permittee shall not be entitled to any damages as a result of such failure or refusal, whether or not unreasonable.
- 15.08 County's Right to Develop. County reserves the right to develop or improve the Airport and any and all part thereof as it sees fit, regardless of the desires or views of Permittee and without interference or hindrance.
- 15.09 Rights Reserved to County. All rights not specifically granted Permittee by this Permit are reserved to County.
- 15.10 Invalidity of Clauses. The invalidity of any portion, article, paragraph, provision, clause, or any portion thereof of this Permit shall have no effect upon the validity of any other part or portion hereof.
- 15.11 Venue. To the extent allowed by law, the venue for any action arising from this Permit shall be in Palm Beach County, Florida.
- 15.12 Governing Law. This Permit shall be governed by and in accordance with the laws of the State of Florida.
- 15.13 Remedies Cumulative. The rights and remedies of the parties with respect to any of the terms and conditions of this Permit shall be cumulative and not exclusive, and shall be in addition to all other rights and remedies of the parties.
- 15.14 Paragraph Headings. The headings of the various articles and sections of this Permit 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 Permit or any part(s) of this Permit.
- 15.15 Performance. The parties expressly agree that time is of the essence in this Permit and the failure by Permittee to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of County without liability, in addition to any other rights or remedies, relieve County of any obligation to accept such performance.
- 15.16 Public Entity Crimes. As provided in Section 287.132-133, Florida Statutes, by entering into this Permit or performing any work in furtherance hereof, Permittee 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. This notice is required by Section 287.133(3)(a), Florida Statutes.

- 15.17 Entirety of Permit. The parties agree that this Permit sets forth the entire understanding between the parties and that there are no other promises or understandings apart from those stated herein. None of the provisions, terms and conditions contained in this Permit may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.
- 15.18 Survival. Upon termination or expiration of this Permit, Permittee shall remain liable for all obligations and liabilities that have accrued prior to the date of termination or expiration. Notwithstanding any provision of this Permit to the contrary, no obligation that accrued but has not been satisfied under any prior agreement between the parties, shall terminate or be considered cancelled upon execution of this Permit. Rather, such obligation shall continue as if it had accrued under this Permit until the obligation is satisfied.
- 15.19 Inspector General. Palm Beach 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 the Permittee, 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.
- 15.20 No Third Party Beneficiaries. No provision of this Permit 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 Permit, including but not limited to any citizen or employees of County and/or Permittee.
- 15.21 Scrutinized Companies. As provided in Florida Statutes (F.S.) 287.135, by entering into this Permit or performing any work in furtherance hereof, the Permittee 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 Permittee is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Permit may be terminated at the option of the County. When contract value is greater than \$1 million, as provided in F.S. 287.135, by entering into this Permit or performing any work in furtherance hereof, Permittee 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 the County determines, using credible information available to the public, that a false certification has been submitted by Permittee, this Permit may be terminated and a civil penalty equal to the greater of \$2 Million Dollars or twice the amount of this Permit shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of any Permit renewal, if applicable.

{Remainder of page intentionally left blank}

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

**PALM BEACH COUNTY,
a political subdivision of the State of Florida,
by its Department of Airports**

By: *[Signature]*
Director

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: *[Signature]*
County Attorney

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

[Signature]
Witness Signature

Nixaliz Martinez
Typed or printed name

[Signature]
Witness Signature

2000c Volovinsky
Typed or printed name

[Signature]
(Seal)



**PERMITTEE:
AD1 PB Airport Hotels, LLC**

By: AD 1 Management, Inc. (Director)

By: *[Signature]*
Signature

JOSE DANIEL BERMAN

Title: President

EXHIBIT "A"
INSURANCE REQUIREMENTS

- A. Business Automobile Insurance. Permittee shall maintain in full force and effect throughout the Term of this Permit automobile liability insurance covering all owned, hired, and non-owned vehicles, with a combined single limit per occurrence for bodily injury (including death) and property damage liability of not less than One Million and 00/100 Dollars (\$1,000,000).
- B. Workers' Compensation and Employer's Liability Insurance. Permittee shall maintain workers' compensation and employer's liability insurance in accordance with applicable law. This coverage shall be provided on a primary basis.
- C. Additional Insured Endorsement. Permittee shall endorse County as "Additional Insured" on all liability policies, with the exception of Workers' Compensation/Employer's Liability, to the extent of Permittee's contractual obligations hereunder. 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", or as otherwise approved or modified by County.
- D. Certificate of Insurance. Permittee shall deliver to County or County's designated contractor certificate(s) of insurance, evidencing the coverages and amounts required hereunder prior to the Commencement Date. Permittee shall promptly deliver to County or its designated contractor certificate of insurance(s) with respect to each renewal policy, as necessary, to demonstrate continued compliance with the requirements of this Permit. Renewal certificate(s) shall be delivered to County or its designated contractor not less than five (5) business days prior to the expiration date of any policy. Each insurance policy must be endorsed to provide that the coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after ten (10) days written notice in the case of non-payment of premiums, or thirty (30) days written notice in all other cases, has been given to County. The foregoing notice requirement shall not be construed to waive the insurance requirements contained herein. County may change the contractor designated for receipt of required insurance certificate(s) hereunder and modify endorsement language required herein from time-to-time upon written notice to Permittee. The Certificate Holder address shall read: "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, and Employees, c/o Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406-1470 (properties@pbia.org)", or as otherwise approved or modified by County.
- E. Waiver of Subrogation. Permittee hereby waives its right of subrogation for each of the insurance policies required by this Exhibit "A" during the Term of this Permit. When mandated by the insurer or should an insurance policy condition not allow a pre-loss agreement to waive subrogation without an endorsement, Permittee shall notify its insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. Notwithstanding the foregoing, this waiver of subrogation requirement shall not apply to any policy that includes a condition prohibiting such an endorsement or that voids coverage should Permittee enter into such an agreement on a pre-loss basis.

- F. Deductibles, Coinsurance and Self-Insured Retention. Permittee 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 an insurance policy.
- G. Rights of Review and Rejection. Palm Beach County's Risk Management Department ("Risk Management") may review, modify, reject or accept any required insurance policies, including, but not limited to, limits, coverages and endorsements required by this Exhibit "A". Risk Management may also reject any insurer or self-insurance plan providing coverage or intending to do so because of poor financial condition or failure to operate legally. In such event, County shall provide Permittee a written notice of rejection, and Permittee shall acknowledge said rejection within thirty (30) days of receipt of the notice.
- H. No Representation of Coverage Adequacy. Permittee acknowledges that the limits, coverages and endorsements stated in and required by this Exhibit "A" are intended to minimize liability for County. Permittee shall not rely upon the insurance requirements set forth in this Exhibit "A" when determining the appropriate types, extent or limits of insurance coverage to protect Permittee against loss.

EXHIBIT “B”
FEDERAL NONDISCRIMINATION REQUIREMENTS

A. Title VI Clauses for Compliance with Nondiscrimination Requirements.

During the performance of this Permit, Permittee, for itself, its assignees, and successors in interest, agrees as follows:

1. **Compliance with Regulations:** Permittee 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 Permit.
2. **Nondiscrimination:** Permittee, with regard to the work performed by it during this Permit, 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. Permittee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when this Permit 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 Permittee 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 Permittee of Permittee’s obligations under this Permit and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** Permittee 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, Permittee 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 Permit, 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 Permittee under this Permit until Permittee complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** Permittee 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. Permittee 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 Permittee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Permittee may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, Permittee 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 Permit, Permittee, 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. Permittee 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 Permittee will use the Permittee 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 Permit and to enter or re-enter and repossess the Permittee Premises and any License Area and the facilities thereon, and hold the same as if this Permit had never been made or issued.

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

Permittee 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 Permit 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 Permittee 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 Permit and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if this Permit had never been made or issued.

E. Airport Concession Disadvantaged Business Enterprises (“ACDBE”).

This Permit 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. Permittee 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. Permittee 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.

Permittee 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 Permittee transfers its obligation to another, the transferee is obligated in the same manner as Permittee. This provision obligates Permittee for the period during which the property is owned, used or possessed by Permittee 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.