

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

GW/MW 6-0  
MCB 665  
R-2024-0719

Meeting Date: June 11, 2024

[ ] Consent [X] Regular  
[ ] Workshop [ ] Public Hearing

Submitted By: Department of Airports

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: an Airport Ground Transportation Management Agreement (Agreement) with SP Plus Corporation (SP+), a Delaware corporation, commencing on July 1, 2024, and expiring on September 30, 2025, with the option to renew for up to four additional years, for the administration, operation and management of the ground transportation at the Palm Beach International Airport (PBI) in an amount not to exceed \$1,100,000 during the initial term.

**Summary:** The Agreement provides for the administration, operation and management of all modes of ground transportation at PBI, including services provided by on-demand and pre-arranged ground transportation providers and transportation network companies. Request for Proposals (RFP) PB 23-9 for an Airport Ground Transportation Management Agreement was issued on November 20, 2023. SP+ was the sole responsive proposer to the RFP. The term of the Agreement commences on July 1, 2024, and expires on September 30, 2025, with the option to renew for up to four additional years. The Agreement provides for payment of a fixed management fee of \$199,500 for the initial term payable in equal monthly installments, employee expenses based on a fully burdened hourly rate by category of employee, and specified reimbursable expenses for a total not to exceed amount of \$1,100,000. SP+ will be responsible for all aspects of the ground transportation program at PBI, including the on-site dispatching for on-demand ground transportation, management of the ground transportation management system (GTMS), enrollment of drivers into the GTMS, ensuring compliance with airport regulations and permit requirements, assisting passengers as needed with ground transportation services, responding to customer complaints and ensuring ground transportation services remain available to satisfy passenger demand. The Department of Airports is also recommending (via separate item included in this same agenda) the award of the On-Demand Ground Transportation Agreement to 4R Services LLC (4R Services) for the provision of taxicab and non-metered luxury sedan services. 4R Services is the incumbent on-demand ground transportation service provider pursuant to an Airport Ground Transportation Services Agreement (R-2021-0416, as amended and assigned) and currently provides on-site dispatching services for on-demand ground transportation. In order to provide an orderly transition to SP+, 4R Services will continue to provide on-site dispatching services on an interim basis until SP+ completes its hiring and training process. The agreement with 4R Services for dispatching services will be terminated upon completion of the process, which is anticipated to take 30 to 45 days. An Airport Concession Disadvantaged Business Enterprise (ACDBE) contract goal of 10% was established for this Agreement. SP+ committed to 20% ACDBE participation. Pursuant to changes to Chapter 332, Florida Statutes, effective July 1, 2023, a governing body of a medium hub commercial service airport may not approve purchases of contractual services in excess of \$1,000,000 on a consent agenda. This Agreement exceeds the threshold amount and must be approved on the regular agenda. Item 3F-5 on this agenda is a companion to this item. Countywide (AH)

**Background and Justification:** In order to consolidate the management of ground transportation services, RFP PB 23-9 was issued for administration, operation and management of all modes of ground transportation at PBI.

**Attachments:**

1. Agreement (3)

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

*Laura Becker*  
Department Director

5/30/24  
Date

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

*David P. Ayala*  
County Administrator

6/4/24  
Date



## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>
Capital Expenditures					
Operating Costs	<u>\$220,000</u>	<u>\$880,000</u>			
Operating Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	<u>\$220,000</u>	<u>\$880,000</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  
Does this item include the use of state funds? Yes    No X

Budget Account No: Fund 4100 Department 120 Unit 1340 Object 3401

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

The fiscal impact above assumes equal monthly payments for a period of 15 months with three payments occurring in FY2024 and 12 payments occurring in FY2025. Actual payments will be based on expenses in accordance with a budget approved by the Department of Airports.

### C. Departmental Fiscal Review:

Debbie Duncan

## III. REVIEW COMMENTS

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

ASD 5/16/24  
OFMB  
KK 5/16

Trudi Mack 5/21/24  
Contract Dev. and Control  
Tm 5/20/24

### B. Legal Sufficiency:

Anne Heland 5-22-24  
Assistant County Attorney

### C. Other Department Review:

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

REVISED 11/17

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

**AIRPORT GROUND TRANSPORTATION MANAGEMENT AGREEMENT  
AT THE PALM BEACH INTERNATIONAL AIRPORT**

**R2024 0719**

**JUN 11 2024**

**Between**

**Palm Beach County  
a political subdivision of the State of Florida**

**and**

**SP Plus Corporation**

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**AIRPORT GROUND TRANSPORTATION MANAGEMENT AGREEMENT  
AT THE PALM BEACH INTERNATIONAL AIRPORT**

**R2024 0719**

JUN 11 2024

This Airport Ground Transportation Management Agreement ("Agreement") is made and entered into this 11<sup>th</sup> day of June, 2024 by and between Palm Beach County ("County"), a political subdivision of the State of Florida, and SP Plus Corporation, a Delaware corporation ("Operator"), having its office and principal place of business at 2300 East Randolph Street, Suite 7700, Chicago, IL 60601.

**WITNESSETH:**

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

**WHEREAS**, Operator submitted a response to County's request for proposals for Airport Ground Transportation Management Agreement, RFP PB 23-9, issued on November 20, 2023 ("RFP"); and

**WHEREAS**, Operator has demonstrated the ability to properly manage, staff and provide airport ground transportation management services in accordance with the terms and conditions of this Agreement.

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

**ARTICLE 1 - RECITALS**

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

**ARTICLE 2 - DEFINITIONS**

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

- 2.01 "ACDBE" means Airport Concession Disadvantaged Business Enterprise as defined in 49 CFR Part 23, as now or hereafter amended.
- 2.02 "Administrative Assistant" has the meaning set forth in Section 9.07.



- 2.03 “Agreement” means this Airport Ground Transportation Management Agreement, and all exhibits and addenda hereto, which are incorporated herein by this reference. Words such as “herein,” “hereafter,” “hereof,” “hereby” and “hereunder” when used with reference to this Agreement, refer to this Agreement as a whole, unless context otherwise requires.
- 2.04 “Airport” means the Palm Beach International Airport located in Palm Beach County, Florida.
- 2.05 “Airport Director” means the Director of Airports, Senior Deputy Director or acting Director of the Palm Beach County Department of Airports.
- 2.06 “Airport Rules and Regulations” means the Palm Beach County Airport Rules and Regulations adopted by Resolution No. R-98-220, as now or hereafter amended, and any successor ordinance or resolution regulating activities or operations on the Airport.
- 2.07 “Americans with Disabilities Act” or “ADA” includes the Americans with Disabilities Act of 1990, as now or hereafter amended, and all implementing regulations, standards and policies and applicable provisions of 49 CFR Parts 37 and 38 and 36 CFR Part 1192, as now or hereafter amended.
- 2.08 “Annual Report” has the meaning set forth in Section 7.02.
- 2.09 “Assigned Premises” means the office space(s) assigned to Operator for its administrative and business operations, areas where Ground Transportation Desks are located, Vehicle Queue Area(s) and Passenger Loading Areas (including control devices) and other areas as may be designated by County for the provision of the Management Services required by this Agreement.
- 2.10 “Assignment” has the meaning set forth in Section 15.07.
- 2.11 “Bond Resolution” means the Palm Beach County Airport System Revenue Bond Resolution dated April 3, 1984 (R-84-427), as amended and supplemented, which is hereby incorporated herein by reference and made a part hereof.
- 2.12 “Commencement Date” has the meaning set forth in Section 3.02.
- 2.13 “Concessionaire GTP” means a company with a concession agreement with County for the provision of On-Demand Ground Transportation Services.
- 2.14 “Contract Administrator” means the person(s) designated by the Airport Director to manage and oversee this Agreement and shall include such person’s supervisors.
- 2.15 “Contract Year” means each twelve (12) month period beginning on October 1, 2025, and each twelve (12) month period thereafter until the expiration or earlier termination of this Agreement.
- 2.16 “County” means Palm Beach County, a political subdivision of the State of Florida.



- 2.17 "County-Managed GTP" means TNCs operating pursuant to a permit with County; Concessionaire GTPs; Courtesy Shuttles; and any other GTP identified by County in writing to Operator as a County-Managed GTP.
- 2.18 "Courtesy Shuttle" is a GTP providing Ground Transportation Services pursuant to an agreement or permit with County at the Airport at no cost or charge to the passenger, which includes courtesy shuttles operated by hotels and rental car companies.
- 2.19 "Curbside Areas" means the curb areas located adjacent to the Terminal designated by County for the operation of GTVs.
- 2.20 "Daily Report" means the reports required to be submitted on a daily basis as set forth in Section 7.01.
- 2.21 "Damages" has the meaning set forth in Article 13.
- 2.22 "Department" means the Palm Beach County Department of Airports, the County department responsible for the operation and management of the Airport.
- 2.23 "Director of Finance" means the Department's Deputy Director of Finance and Administration or designee.
- 2.24 "Dispatcher" means Operator's employee(s) responsible for the dispatching of On-Demand GTVs and loading of passengers therein. Dispatchers shall have the duties set forth in this Agreement and other duties as may be assigned by County or Operator.
- 2.25 "Division of Consumer Affairs" or "DCA" means the Palm Beach County Division of Consumer Affairs.
- 2.26 "Driver" means an individual providing Ground Transportation Services at the Airport.
- 2.27 "Driver Rotation" means the order or rotation of Drivers of one or more GTPs, whether individually, or by class of service, for dispatch by the Dispatcher to the Passenger Loading Areas to provide Ground Transportation Services.
- 2.28 "Effective Date" has the meaning set forth in Section 3.01.
- 2.29 "Employee" or "employee" means any person working for, or on behalf of, Operator in the provision of the Management Services, which includes, but is not limited to, Local Manager, Supervisors, Dispatchers, and Administrative Assistant and any other person providing services at the Airport for or on behalf of Operator, whether or not such person is an independent contractor or receives compensation directly from Operator.
- 2.30 "Employee Benefits" means Federal and State unemployment compensation benefits, worker's compensation insurance and group health insurance, but does not include FICA taxes.



- 2.31 "Employee Parking Area" means the area(s) designated by County for parking by Employees.
- 2.32 "Enroll" or "Enrollment" is the process of authorizing a GTP and its Drivers and GTVs to perform Ground Transportation Services at the Airport, which includes, but is not limited to collecting and entering all required data into the GTMS.
- 2.33 "Enrollment Standards" means the standards, criteria and requirements established by the Department for enrollment in GTMS, as may be updated from time to time on prior written notice by the Department to Operator.
- 2.34 "Enrolled GTP" and "Enrolled Driver" mean any entity or driver licensed by DCA, or otherwise permitted to provide Ground Transportation Services under the Vehicle for Hire Ordinance, and actively Enrolled under the GTMS.
- 2.35 "Enrolled GTV" means a vehicle licensed by DCA, or otherwise permitted to provide Ground Transportation Services under the Vehicle for Hire Ordinance, and actively Enrolled under the GTMS.
- 2.36 "Fully-Burdened Hourly Rates" means all Employee costs and expenses incurred by Operator to provide the Management Services, including, but not limited to, salaries, wages, Employee Benefits, overtime, and fringe benefits.
- 2.37 "Ground Transportation Areas" includes the Curbside Areas, Holding Areas/Lots, Passenger Loading Areas, Vehicle Queue Areas and any other area on the Airport designated by County for the operation of GTVs, as may be modified or relocated by County from time to time upon written notice to Operator.
- 2.38 "Ground Transportation Desk(s)" means the desk or kiosks provided at the Airport for use by Operator in connection with the provision of the Management Services hereunder.
- 2.39 "Ground Transportation Management System" or "GTMS" means the vehicle dispatch, Trip tracking and financial system deployed at the Airport in connection with this Agreement, including hardware, software applications and data storage elements, as well as the mechanical, electronic, and/or computer equipment, including mobile devices such as phones and tablets, used to dispatch Ground Transportation Services at the Airport.
- 2.40 "Ground Transportation Management System Contractor" or "GTMS Contractor" means the County's contractor responsible for the provision of GTMS.
- 2.41 "Ground Transportation Program" means the rules, regulations, policies and procedures, standards, agreement and permit requirements established by County and the Department, including, but not limited to, the Airport Rules and Regulations and Vehicle for Hire Ordinance, for each category of GTP providing Ground Transportation Services at the Airport.



- 2.42 “Ground Transportation Provider” or “GTP” means any entity or individual providing Ground Transportation Services at the Airport or operating GTV(s) at the Airport, including any On-Demand GTP(s) operating at the Airport pursuant to an agreement with County.
- 2.43 “Ground Transportation Services” includes the following modes of ground transportation services at the Airport: (a) Taxicab; (b) Luxury Sedan/SUV/Limousine; (c) Shuttle; (d) TNC; or (e) Courtesy Shuttle, whether Prearranged or On-Demand.
- 2.44 “Ground Transportation Vehicle” or “GTV” means commercial vehicles providing Ground Transportation Services, including Taxicabs, non-metered Prearranged GTP vehicles, Courtesy Shuttles, TNC vehicles and all other commercial Vehicles for Hire authorized to provide Ground Transportation Services at the Airport.
- 2.45 “Holding Area” or “Holding Lot” means the area(s) established by the Airport for the pre-staging of GTVs.
- 2.46 “Initial Term” has the meaning set forth in Section 3.02.
- 2.47 “LEP” means limited English proficiency and refers to an individual with a limited ability to communicate in English.
- 2.48 “Letter of Credit” has the meaning set forth in Article 8.
- 2.49 “Living Wage Ordinance” means County Ordinance No. 2014-018, as amended, or any successor ordinance pertaining to the same or similar subject.
- 2.50 “Local Manager” means the person responsible for ensuring the day-to-day performance of the Management Services in accordance with the terms and conditions of this Agreement on behalf of Operator. Such duties are further detailed in Article 9 of this Agreement, and include, but are not limited to: providing direct supervision of Employees; ensuring all Service Standards and Reporting Requirements are timely satisfied; and ensuring compliance with all applicable safety and security requirements of this Agreement by Operator Parties.
- 2.51 “Luxury Sedan/SUV” has the meaning set forth in in the Vehicle for Hire Ordinance. A Luxury Sedan/SUV shall be unequipped with a taximeter, and shall not display the word “taxicab,” “taxi,” or “cab” on the vehicle exterior or interior.

- 2.52 “Management Fee” has the meaning set forth in Section 6.01 and, except as otherwise provided for herein, shall include all profit and costs and expenses incurred by Operator for the provision of the Management Services, including, but not limited to, direct costs, overhead costs and profit of Operator with respect to Management Services under this Agreement, including corporate and regional overhead and administration costs; the cost of insurance required by this Agreement; finance and interest expenses; legal, accounting and bookkeeping costs; cost of the Performance Security and Annual Report; equipment required to perform the Management Services required by this Agreement; and general office expenses. Notwithstanding any provision of this Agreement to the contrary, the Management Fee shall not include any costs identified as a Reimbursable Expense or any Employee costs, which shall be included in the Fully Burdened Hourly Rates.
- 2.53 “Management Services” means the services required to be performed by Operator pursuant to this Agreement for the operation and management of Ground Transportation Services at the Airport.
- 2.54 “Manifest” means a written, verifiable record of a passenger’s request to be picked up at the Airport by a Prearranged Trip. A Manifest may be in paper or electronic form. Upon the full implementation of the GTMS, Enrolled GTPs providing Prearranged Ground Transportation Services shall obtain an electronic permit to pick up passengers at the Airport, which shall also service as the Manifest.
- 2.55 “Notices” has the meaning set forth in Section 22.10.
- 2.56 “On-Demand” means Ground Transportation Services provided by a GTP on a “walk-up” basis, without the need for a reservation.
- 2.57 “On-Demand GTV” means an Enrolled GTV providing Ground Transportation Services on an On-Demand basis, including Concessionaire GTPs providing Taxicab Services and Ground Transportation Services with a Luxury Sedan/SUV.
- 2.58 “Operation” means the nonexclusive provision of Management Services as described in this Agreement.
- 2.59 “Operator” has the meaning set forth in the preamble to this Agreement.
- 2.60 “Operator Party” or “Operator Parties” means Operator and its contractors, subcontractors, suppliers, employees, officers, licensees, agents and invitees (excluding the general public).
- 2.61 “Operator Vehicle” has the meaning set forth in Section 5.09.
- 2.62 “Operations and Procedures Manual” has the meaning set forth in Section 4.01(F).
- 2.63 “Passenger Loading Areas” means those areas on the Airport designated by County for the loading and unloading of passengers and their luggage.



- 2.64 “PBSO” means the Palm Beach County Sheriff’s Office.
- 2.65 “Performance Security” has the meaning set forth in Article 8.
- 2.66 “Per Trip Fee” means the fee charged by County for each Trip, as may be adjusted from time to time by County upon written notice to Operator. As of the Effective Date of this Agreement, the Per Trip Fee to be charged for each Trip is \$3.50.
- 2.67 “Prearranged” means Ground Transportation Services provided under an advance arrangement, such as a reservation, versus On-Demand. Such advanced arrangement shall be made prior to the GTV entering the Airport, as documented by the Manifest.
- 2.68 “Prearranged GTP” means a GTP who performs services on an advanced, pre-arranged or reservation basis, versus on-demand, excluding TNCs.
- 2.69 “Proposal” means the proposal submitted by or on behalf of Operator in response to the RFP.
- 2.70 “Public Areas” has the meaning set forth in Section 4.03(A).
- 2.71 “Rate Schedule” means the rates and charges a Concessionaire GTP may charge to Airport passengers for the provision of Ground Transportation Services from the Airport, pursuant to a rate and charges schedule established by County.
- 2.72 “Reimbursable Expense” has the meaning set forth in Section 6.03.
- 2.73 “Reporting Requirements” has the meaning set forth in Section 15.08.
- 2.74 “Renewal Term” has the meaning set forth in Section 3.03.
- 2.75 “RFP” has the meaning set forth in the recitals to this Agreement.
- 2.76 “RFP Response” means Operator’s response to County’s RFP.
- 2.77 “Risk Management Department” means the Palm Beach County Risk Management Department.
- 2.78 “Service Standards” has the meaning set forth in Section 15.08.
- 2.79 “Staffing Plan” has the meaning set forth in Section 9.08.
- 2.80 “Supervisor” has the meaning set forth in Section 9.05.
- 2.81 “Surge Event” means an unanticipated increase in passenger demand, including by aircraft diversions, etc.

- 2.82 “Taxicab” has the meaning set forth in the in the Vehicle for Hire Ordinance.
- 2.83 “Taxicab Services” means Ground Transportation Services provided by GTPs utilizing Taxicabs.
- 2.84 “Term” means the Initial term and any Renewal Term.
- 2.85 “Terminal” means the Airport’s commercial passenger terminal building.
- 2.86 “Trade Dress” has the meaning set forth in the Vehicle for Hire Ordinance.
- 2.87 “Training Program” has the meaning set forth in Section 9.09.
- 2.88 “Transition Plan” means the plan for implementation of the Management Services required by this Agreement, as detailed in the RFP Response.
- 2.89 “Transportation Network Company” or “TNC” means a GTP that uses a smartphone or online-enabled platform to connect passengers with drivers.
- 2.90 “Trip” means each time a GTV operated by, or on behalf of, an Enrolled GTP providing On-Demand Taxicab Services, including Concessionaire GTPs, enters the Passenger Loading Area for the purpose of picking up a passenger to provide Ground Transportation Services on an On-Demand basis, and each time a GTV operated by, or on behalf of, an Enrolled GTP enters the Airport for the purpose of picking up a passenger to provide Ground Transportation Services on a Prearranged basis.
- 2.91 “TSA” means the Transportation Security Administration.
- 2.92 “Vehicle for Hire Ordinance” means the Palm Beach County Vehicle for Hire Ordinance, as codified in the Palm Beach County Code, Chapter 19, Article IX, as now or hereafter amended and supplemented, and any successor ordinance or law adopted by County or the State of Florida regulating GTPs or “Vehicles for Hire.”
- 2.93 “Vehicle Queue Areas” means those areas on the Airport designated by County for the queuing of GTVs before entering the Passenger Loading Areas. These areas shall be considered an extension of the Passenger Loading Areas, but shall not be used for passenger loading and may include, but not be limited to, those areas commonly referred to as the “ground transportation loops”.
- 2.94 “Wait Time” means the amount of time measured as beginning when a passenger requests On-Demand Taxicab Services and the time the Driver begins loading the passenger and the passenger’s baggage.



### **ARTICLE 3 - EFFECTIVE DATE/TERM**

- 3.01 Effective Date. This Agreement shall become effective when signed by all parties and approved by the Palm Beach County Board of County Commissioners ("Effective Date").
- 3.02 Term. The term of this Agreement shall commence on July 1, 2024 ("Commencement Date") and shall terminate on September 30, 2025 ("Initial Term"), unless terminated sooner pursuant to the terms and conditions of this Agreement.
- 3.03 Renewal Term. Upon the expiration of the Initial Term, County shall have the option, in its sole and absolute discretion, to renew this Agreement for up to four (4) additional years. County, in its sole and absolute discretion, may elect to renew this Agreement on a year-to-year basis or upon an alternative basis, provided that the total renewal period does not exceed a total of four (4) additional years (each a "Renewal Term"). In the event County elects to exercise its option to renew this Agreement, the parties shall enter into an amendment to this Agreement, which shall be upon the terms and conditions provided for herein. In the event County elects not to renew this Agreement at the end of the Initial Term or any Renewal Term, this Agreement shall terminate at the end of the Initial Term or such Renewal Term, and Operator shall have no further rights hereunder.

### **ARTICLE 4 - REQUIRED SERVICES/ASSIGNED PREMISES**

4.01 Required Services.

- A. Operator shall be responsible for the administration, management and operation of the Ground Transportation Program in accordance with the terms and conditions this Agreement and all applicable laws, rules and regulations, and policies and procedures adopted by County, as now or hereafter amended. Operator acknowledges and agrees that Operator shall not be permitted to engage in Ground Transportation Services at the Airport during the Term of the Agreement; provided, however, nothing herein shall prohibit or limit Operator's responsibilities pursuant to that certain Airport Parking Facilities Management Agreement (R2023-0981, as may be supplemented or replaced), including operation of the shuttle to and from the economy parking lot at the Airport.
- B. Operator shall be responsible for administering, monitoring, managing, and operating the GTMS on behalf of County, including enrollment, suspension and termination of GTPs and GTVs in accordance with the requirements the GTMS, this Agreement and all applicable laws, rules, regulations, policies and procedures as now or hereafter amended; accounting, data collection, entry and reporting functions; tracking and reporting of Trips to County; and ensuring proper fee collection in accordance with the established GTMS and County policies and procedures. Operator shall be responsible for training sufficient staff to perform all database functions, troubleshooting problems with the GTMS application and software, and/or components, and coordinating necessary repairs or technical support resolution through County and GTMS Contractor. County may replace or modify the GTMS or require use of additional or upgraded functions or features of

the GTMS in its sole and absolute discretion from time-to-time throughout the Term of this Agreement.

- C. Operator shall be responsible for routine monitoring and management of all Ground Transportation Areas to ensure compliance with the Ground Transportation Program, including properly managing Passenger Loading Areas to ensure passengers and their luggage are safely and efficiently loaded into their desired mode of GTV; and monitoring and managing Passenger Loading and Vehicle Queue Areas to ensure a sufficient number of On-Demand GTVs are available to satisfy passenger demand.
- D. Operator shall be responsible for the day-to-day monitoring and management of County-Managed GTPs, including, but not limited to, ensuring Driver compliance with the terms and conditions of the Ground Transportation Program and applicable agreement and permit requirements of County.
- E. Except as otherwise expressly provided for herein, Operator shall be responsible for providing, at Operator's sole cost and expense, all personnel, equipment, supplies, furnishings and fixtures necessary for Operator to perform the Management Services required hereunder. Equipment shall include, but is not limited to, all necessary computer equipment and mobile devices with internet, global positioning, and cellular capabilities required to properly monitor, manage and operate the GTMS.
- F. Not less than thirty (30) days prior to the Commencement Date of this Agreement, Operator shall prepare and submit to County, for County's review and approval, an Operations and Procedures Manual detailing the procedures and guidelines related to the overall provision of the Management Services, which shall include, but shall not be limited to:
  - 1. Operational Overview;
  - 2. Organizational Chart;
  - 3. Staffing Plan, including employee position descriptions and job duties;
  - 4. Employee Standards of Conduct, including appearance and disciplinary guidelines;
  - 5. Standard Operating Procedures for the provision of the Management Services, including, but not limited to, procedures for ensuring GTPs performing Prearranged Ground Transportation Services at the Airport have a reservation for pickup prior to picking up a passenger, directing passengers to their desired Ground Transportation Services, dispatching Concessionaire GTPs to provide On-Demand Ground Transportation Services as required by this Agreement, including any Driver Rotation requirements if applicable, managing traffic in Ground Transportation



Areas, managing lost and found items, addressing customer complaints and managing Driver disputes;

6. Employee Training, including training on use of GTMS;
7. Employee Uniforms;
8. GTMS Management, including, but not limited to, enrollment, suspension and termination procedures;
9. Contingency Plans, including for GTMS outages, Surge Events, etc.;
10. Reporting Process and Procedures, including activity reports required pursuant to Section 7.01;
11. Ground Transportation Program orientation for employees, GTPs and Drivers;
12. Procedures for conducting periodic patrols of Ground Transportation Areas and other areas where GTPs and Drivers are likely to frequent;
13. Emergency Preparedness (including both man-made and natural disasters);
14. Incident and Safety Management, including, but not limited to incidents involving passengers, vehicles and employees; and
15. Customer Service and Assistance.

The Operations and Procedures Manual may be modified and revised as necessary to reflect changes in the operating environment. All Operations and Procedures Manual revisions shall be subject to written approval of County prior to incorporation into the Operations and Procedures Manual. County, in its sole discretion, may reasonably amend the Operations and Procedures Manual from time to time. Operator acknowledges that County shall be the sole judge of Operator's compliance with the Operations and Procedures Manual.

- G. Notwithstanding any provision of this Agreement to the contrary, Operator acknowledges and agrees that all Management Services provided hereunder by Operator shall be subject to the review and approval of County. Operator shall not engage in any activity upon the Airport not specifically authorized by this Agreement.

- 4.02 Use of the Assigned Premises. Commencing on the Effective Date, Operator shall have a revocable license to use the Assigned Premises for the provision of the Management Services required to be provided by Operator hereunder and for no other purpose whatsoever. Authorized uses include activities required for the start of operations such as employee interviews and training. Operator shall make no improvements, alterations or

additions to the Assigned Premises whatsoever, without the prior written consent of the Department, which may be granted or withheld in the Department's sole and absolute discretion. Operator acknowledges and agrees that the Assigned Premises, or portions thereof, may be reduced, expanded, relocated or otherwise modified by County from time-to-time.

4.03 Description of General Privileges, Uses and Rights. In addition to the specific privileges granted to the Operator as to the Assigned Premises, County hereby grants to Operator:

- A. the non-exclusive use of the Public Areas within the Terminal for Operator, its employees, contractors, patrons, invitees, suppliers of service, agents and authorized sublessees, if any, in connection with its operations hereunder. For purposes of this Agreement, "Public Areas" means the public corridors, restrooms and other areas within the Terminal that the general public has the right to access. Public Areas shall at all times be subject to the exclusive control and management of County. County shall have the full right and authority to make all rules and regulations as County may in its sole discretion deem proper, pertaining to the proper operation and maintenance of the Public Areas; and
- B. the non-exclusive right of ingress to and egress from the Terminal over and across public roadways and walkways serving the Airport for Operator, its employees, contractors, patrons, invitees, suppliers of service, agents and authorized sublessees, if any, in connection with its operations hereunder.

4.04 Condition of Assigned Premises. Operator expressly acknowledges and agrees that it has inspected the Assigned Premises and that Operator accepts the same in "As Is" condition, together with all defects, latent and patent, if any. Operator further acknowledges that County has made no representations or warranties of any nature regarding the condition of the Assigned Premises.

4.05 Quality Assurance.

- A. County shall have the right to conduct quality assurance reviews of Operator's operations hereunder. Operator shall fully cooperate in these reviews and to immediately take whatever actions are necessary to correct any deficiencies discovered as a result of such reviews.
- B. Operator shall, upon request by County, or upon its own initiative, maintain a passenger comment feedback system, passenger surveys and/or employ independent third parties to conduct "secret shopper", "tester" or passenger survey services, which may include evaluation of Operator's services under this Agreement, or the services of GTPs providing On-Demand Ground Transportation Services. Any and all costs associated with such secret shopper or passenger survey services shall be a Reimbursable Expense. The scope of such efforts or services, including the methods and content, shall be subject to prior written approval by County, and the results of such efforts shall be provided directly to County by the provider of such survey services. Requests for reimbursement shall be accompanied



by documentation reasonably satisfactory to County, evidencing the costs incurred by Operator, which may include original invoices and receipts issued by the contractor, vendor or supplier.

- C. County shall have the right to approve any personnel or supplier hired or contracted to perform any of the services, duties or responsibilities required to be performed by Operator pursuant to this Agreement. In addition, County shall have the right to require the removal and/or replacement of any employee, supplier, subcontractor or other agent of Operator used in the provision of Management Services.
- D. Operator shall not interfere with or otherwise disturb the operations and activities of County or its agents or employees, or any other Airport user.

4.06 Limitations. Nothing contained herein shall be construed to give Operator any right to expand its operations; modify the Assigned Premises, or to relocate Operator's operations to any other location on the Airport; or to grant to Operator the right to use any space or area that is not specifically assigned for Operator's use hereunder. The parties agree that this Agreement is an agreement for services and nothing in this Agreement shall be construed as granting Operator any title, interest or estate in the Airport or the Assigned Premises.

4.07 Improvements, Equipment and Furnishings. County agrees to provide the following for Operator's use in connection with this Agreement at no cost to Operator:

- A. Office space, located within areas of the Assigned Premises designated by County for the conduct of administrative and business functions, including, but not limited to, GTP enrollment. County will provide electricity and air conditioning to the office space; however, Operator shall be responsible for the cost of all other utilities including internet and telephone service.
- B. Ground Transportation Desks for use by Dispatchers actively managing Ground Transportation Services at the Airport.
- C. Access to a GTMS.

Except as otherwise expressly set forth herein, Operator shall be responsible for providing, at Operator's sole cost and expense, all necessary furnishings, fixtures, equipment and supplies for provision of the Management Services required by this Agreement.

## **ARTICLE 5 - SERVICE AND OPERATING STANDARDS**

### **5.01 General Services and Operating Standards.**

- A. Operator shall provide assistance to Airport passengers as needed, including offering each passenger with information regarding the types of Ground Transportation Services available at the Airport and the applicable fares and rates for each such service, seven (7) days a week, including holidays, at hours approved in advance by County. Operator shall maintain an up-to-date list of all GTPs authorized to provide Ground Transportation Services at the Airport at the Ground Transportation Desks, along with the GTPs contact information for use by the Dispatchers in assisting passengers. Operator shall maintain a computer or tablet at the Ground Transportation Desks to monitor arriving flights to anticipate the need for On-Demand Ground Transportation Services. Operator's Employees shall be knowledgeable about the names, services and locations within the Terminal of airlines and other tenants at the Airport, as well as general information pertaining to parking garages and other services. Operator shall provide general informational and directional assistance to Airport passengers as needed.
- B. Operator shall immediately report any immediate security or safety issues identified by Operator or its employees at the Airport, including, but not limited to, the Assigned Premises and Ground Transportation Areas to the Airport Communications Center or Contract Administrator, as appropriate.
- C. At County's request, Operator shall meet with County to review any complaints or concerns and to promptly correct any deficiencies regarding operations under this Agreement. County's determination as to the quality of Management Services shall be conclusive and curative measures shall be implemented by Operator as expeditiously as possible.
- D. Operator shall be responsible for monitoring and managing traffic within the Passenger Loading and Vehicle Queue Areas and shall provide assistance monitoring traffic in the Holding Lot upon County's request during peak periods. Traffic control includes, but is not limited to, directing traffic to available spaces when certain areas are full, setting up and taking down cones or barricades, and placement of signs to manage the flow of traffic.
- E. Operator shall promptly investigate and resolve all complaints regarding Ground Transportation Services provided from the Airport and all complaints regarding the Management Services provided for hereunder. Operator shall maintain a written log of all complaints or claims received by Operator, whether received from County, a passenger or the general public, and shall provide County with written documentation summarizing any complaint or claim received in writing or orally within three (3) business days after Operator's receipt of the complaint. Operator shall also supply to County documentation of its investigation of the complaint or claim and its response to the complainant. Operator shall make a good faith attempt to explain, resolve, or rectify the cause of the complaint.



- F. Operator shall safeguard all found personal property left at the Assigned Premises or left in a GTV that could not be returned to the owner by the GTP. All such found personal property shall be documented in a written log and if not returned to the property owner within two (2) hours, such property shall be delivered to Department's Security and Badging Office in the Terminal.
- G. Operator shall not discriminate against any person on the basis of disability in the provisions of its services, programs, or activities hereunder. Operator shall ensure Drivers provide Ground Transportation Services to all passengers with disabilities requesting Ground Transportation Services and shall comply with the requirements of the ADA. Operator shall ensure that GTPs provide Ground Transportation Services at fares and rates which do not differ from fares and rates for passengers without disabilities. Operator shall ensure that all employees are trained to properly assist passengers with disabilities. Employees shall have training on proper use of equipment used in the provision of services to the disabled appropriate to the duties of each employee, including, but not be limited to, training in the use of wheelchair lift and securement devices, ramps and systems to facilitate communication with passengers with visual and hearing disabilities. Passengers with service animals shall be accommodated in all modes of transportation. Operator shall ensure that Enrolled Drivers assist with stowing wheelchairs and other mobility devices at no extra charge to the passenger. Operator shall immediately notify the Contract Administrator of any GTPs or Drivers failing to comply with the requirements of this paragraph.
- H. Operator shall purchase any personal property and equipment identified in the annual operating budget necessary for the performance of the Management Services, except as may be purchased and provided by County. Title to all personal property and equipment included in the annual operating budget (and/or for which Operator has received reimbursement from County) shall be vested in County upon delivery or installation of same. Upon request of County, Operator shall provide County with a bill of sale or other evidence of the transfer of ownership of the property and/or equipment. In the event that revised operating procedures require additional or replacement equipment be obtained, Operator agrees to procure such equipment in the time and manner prescribed by County.
- I. Upon the expiration or earlier termination of this Agreement, Operator agrees to peacefully surrender the Assigned Premises; cooperate in the transition to a new Operator; and return all County-owned badges, equipment, keys, operating manuals, and maintenance manuals to County.

#### 5.02 GTMS Management and Enrollment Services.

- A. Operator shall be responsible for performing Enrollment in accordance with the terms and conditions of this Agreement, including the schedule established by County for transition to the use of the GTMS, which shall include: (a) Enrolling all GTPs performing On-Demand and Prearranged Ground Transportation Services at

the Airport into the GTMS; (b) ensuring the proper management, accounting and reporting of Trips performed by Enrolled GTPs performing On-Demand and Prearranged Ground Transportation Services through the GTMS; and (c) removing and/or suspending Enrolled GTPs and Drivers who fail to comply with the requirements of the Ground Transportation Program. Operator shall coordinate approval of any removal or suspension with the Contract Administrator prior to removing or suspending any County-Managed GTPs from the GTMS.

- B. Upon ten (10) days' prior written notice to Operator, Operator shall commence enrolling GTPs desiring to provide Prearranged Ground Transportation Services into the GTMS. Implementation of GTMS for management of GTPs engaging in Prearranged Ground Transportation Services may be delayed by County in its sole and absolute discretion until such time as County deems appropriate.
- C. Operator shall ensure data and information is properly entered into GTMS for all Enrolled GTPs at all times to ensure proper billing through the GTMS. Operator shall not be permitted to accept any payments directly from any GTP or Driver. Payment of Per Trip Fees by GTPs providing Prearranged Ground Transportation Services shall be managed through the GTMS unless otherwise directed by County. County may require County-Managed GTPs to pay County based on periodic invoices or may require payment of Per Trip Fees through the GTMS in its sole and absolute discretion. Operator shall not allow any GTP desiring to perform On-Demand or Prearranged Ground Transportation Services to operate at the Airport without enrolling into the GTMS unless otherwise directed by the Department.
- D. Operator shall immediately notify the Contract Administrator when significant problems occur with the GTMS, including, but not limited to, problems occurring with:
  - 1. Connectivity issues with the application software;
  - 2. Equipment failures of GTMS devices, computers and validators;
  - 3. System reboots;
  - 4. Internet connectivity;
  - 5. Entrance or exit gate arms/equipment; and
  - 6. License plate reader or radio frequency identification equipment.

In the event of problems with the GTMS, resulting in an inability to properly account for Trips, Operator shall implement a system to manually account for all Trips, which may include use of the County's gate report, if available, to ensure accurate Trip reporting and requiring GTPs providing Prearranged Ground Transportation Services to check in with a Dispatcher prior to picking up passengers. In the event Operator fails to properly manage the GTMS in



accordance with the requirements of this Agreement, Operator shall be responsible for rectifying any discrepancies or losses to County at Operator's sole cost and expense.

5.03 On-Demand Ground Transportation Services.

- A. In addition to the duties set forth in Article 9, Dispatchers shall be responsible for: (a) queuing and dispatching On-Demand GTVs to the Vehicle Queue Areas and Passenger Loading Areas; (b) controlling the flow of On-Demand GTVs to Passenger Loading Areas so that a sufficient number of On-Demand GTVs are available for passengers to meet demand without impeding the flow of traffic on the Airport; and (c) conducting spot inspections of each On-Demand GTV for cleanliness and adherence to the Ground Transportation Program requirements before allowing the Driver to load passengers.
- B. Operator shall ensure Dispatchers perform dispatch functions in accordance with the process and procedures established by County, which may include Driver Rotation requirements for dispatching of Trips in County's sole and absolute discretion.
- C. Operator shall ensure Dispatchers assist passengers as needed, and facilitate the safe and efficient flow of pedestrians and vehicles along the terminal curb/sidewalk including coordinating the flow of On-Demand GTVs between the Vehicle Queue Areas and Passenger Loading Areas. Operator shall ensure Dispatchers load no more than one (1) passenger to each On-Demand GTV, except for pre-formed groups traveling together, a Surge Event, or unless otherwise approved or directed by the Contract Administrator.
- D. Unless otherwise approved or directed by County in writing, Operator shall ensure Dispatchers commence dispatching services at the Airport one (1) hour prior to the first scheduled arriving flight, which services shall continue to be provided for no less than one (1) hour after the last arriving flight. Dispatchers shall be staged at the Ground Transportation Desk(s) at all times when dispatching services are being provided by Operator. Operator shall check with each airline and the flight information displays to anticipate demand and ensure that adequate staffing and On-Demand GTVs are available to meet the On-Demand requirements, which shall include monitoring flight delays.
- E. Upon the arrival of the first Dispatcher, Operator shall cause the Airport Communication Center to be contacted for the purpose of notifying County of the status and availability of On-Demand GTV services. Prior to the departure of last Dispatcher, Operator shall cause the Airport Communication Center to be contacted to notify County when the last passenger utilizing On-Demand GTVs has departed and to confirm that no additional arrivals are anticipated. Dispatchers shall not leave the Ground Transportation Desk(s) until the Airport Communication Center has confirmed all anticipated flights have arrived and the Terminal is clear of arriving passengers. In the event of Surge Events, Operator shall ensure that

Dispatchers maintain contact with the Airport Communication Center to provide updated information regarding On-Demand GTV availability. In the event of an emergency situation, which may include Surge Events, County may recall Dispatchers to the Airport to ensure Ground Transportation Services are available.

- F. Operator shall schedule a sufficient number of Dispatchers at all times to satisfy the requirements of this Agreement, including adequate staffing for all required hours of operation.
- G. Dispatchers shall assign passengers to On-Demand GTVs on a fair and nondiscriminatory basis. Operator shall require Drivers to accept any and all passengers assigned to them by Operator, regardless of the passenger's destination, and shall require Drivers to promptly and carefully load or unload passenger baggage.
- H. Operator shall post Operator's contact information at Ground Transportation Desk(s), which shall include a 24-hour telephone number in the event of emergencies, to file a complaint or to report lost item(s).
- I. Dispatchers shall be responsible for monitoring and managing Driver behavior in Passenger Loading and Vehicle Queue Areas. Dispatchers shall ensure Drivers:
  - 1. Do not loiter outside their GTVs or in the Terminal while awaiting a Trip;
  - 2. Do not engage in loud, disruptive or boisterous activities in Passenger Loading and Vehicle Queue Areas.
  - 3. Engage with Airport passengers in a polite and professional manner at all times.
  - 4. Assist with the loading of passengers and their luggage.
  - 5. Maintain their GTVs in a neat, clean and sanitary condition.
  - 6. Are properly attired in accordance with the Ground Transportation Program requirements.
  - 7. Do not refuse to accept any passenger, regardless of the passenger's intended destination.
  - 8. Do not refuse to accommodate service animals.
  - 9. Do not leave trash or refuse in Passenger Loading and Vehicle Queue Areas.
  - 10. Politely and professionally comply with Dispatcher directions in the provision of Ground Transportation Services.



11. Comply with all Ground Transportation Program requirements in the provision of Ground Transportation Services.
- J. Dispatchers may require any Driver to leave the Passenger Loading and Vehicle Queue Areas for failure to comply with the Ground Transportation Program requirements, including refusing to provide Ground Transportation Services to any passenger assigned to a GTV for any reason whatsoever. Dispatchers shall document the circumstances of the Driver's failure and notify Operator who may temporarily suspend or permanently remove the Driver, subject to the review and concurrence of the Contract Administrator.

5.04 TNC Services.

- A. Operator shall cause periodic patrols of designated Ground Transportation Areas to be conducted to ensure TNC Drivers: (a) operate solely within Passenger Loading Areas designated for TNC operations; (b) comply with all Ground Transportation Program requirements applicable to TNC operations; (c) do not leave GTVs unattended within in any area adjacent to the Terminal (including interior and exterior curbs at Arrival and Departure Levels); and (d) do not loiter at Passenger Loading Areas or obstruct the flow of traffic. Operator shall also ensure the interior and exterior curbs on the Arrivals and Departures Level and the Holding Lot are inspected each day to ensure compliance with County permit requirements.
- B. County will provide a list of all TNCs authorized to operate at the Airport to Operator within thirty (30) days of the Effective Date of this Agreement and provide a copy of the standard form TNC permit detailing permit terms and conditions. The Contract Administrator shall notify the Operator in writing when new TNCs are authorized to operate at the Airport, when permit conditions change, and when TNCs are no longer authorized to operate at the Airport.
- C. In the event a TNC Driver fails to comply with the direction of the Operator or its employees, Operator may contact the Airport Communication Center to request assistance from the Airport Operations Division and/or PBSO. The Operator shall also notify the Contract Administrator in writing of any TNC Driver failing to comply with instructions or Ground Transportation Program requirements, which should include the name of the GTP operating the TNC, the license plate number, name of the TNC Driver and brief description of the TNC's failure to comply with instructions or Ground Transportation Program requirements.
- D. County may, in its sole discretion, require TNCs to be enrolled into the GTMS by Operator upon no less than thirty (30) days' prior written notice. In such event, the parties will update the Operations and Procedures Manual to reflect any additional Management Services Operator will be required to perform for TNCs engaging in Ground Transportation Services at the Airport.



- 5.05 Prearranged GTPs. Operator shall monitor and manage Prearranged GTP activities and operations on the Airport to ensure Drivers: (a) operate solely within Passenger Loading Areas designated for Prearranged Ground Transportation Services; (b) comply with all Ground Transportation Program requirements applicable to Prearranged Ground Transportation Services; (c) do not leave GTVs unattended within in any area adjacent to the Airport (including interior and exterior curbs at Arrival and Departure Levels); (c) have a Manifest evidencing a proper Prearranged Trip; and (d) do not loiter or solicit for passengers at the Airport, including inside the Terminal or interior and exterior curbs at Arrival and Departure Levels. Upon full implementation of the GTMS, Enrolled GTPs shall be required to check-in at the Ground Transportation Desk with the Dispatcher with a copy of the electronic permit issued by the GTMS for each passenger pickup.
- 5.06 Courtesy Shuttles. Operator shall cause periodic patrols of Passenger Loading Areas designated for Courtesy Shuttles to be conducted, to confirm Courtesy Shuttles display required decals and assist County in ensuring that Courtesy Shuttles observe applicable Ground Transportation Program requirements. Prior to the Effective Date, the Contract Administrator shall provide a list of all Courtesy Shuttles authorized to operate at the Airport as well as a copy of permit requirements applicable to Courtesy Shuttles. The Contract Administrator shall notify the Operator in writing when permit or agreement conditions change, when new Courtesy Shuttle operator(s) are authorized to operate at the Airport, and when Courtesy Shuttle operator(s) are no longer authorized to operate at the Airport.
- 5.07 Fees and Charges.
- A. The Rate Schedule shall be established by County, and shall be subject to change by County in its sole and absolute discretion. Upon County's request, Operator shall change all rate signs, and produce and issue notices of Rate Schedule changes to GTPs providing On-Demand Ground Transportation Services, notifying of such change(s) and. Operator's actual, necessary expenses for such production of signs and materials shall be a Reimbursable Expense.
- B. Operator acknowledges and agrees that the Rate Schedule shall control the rate and fees Concessionaire GTPs may charge to Airport passengers for On-Demand Ground Transportation Services originating from the Airport. Operator shall ensure that GTPs and their Drivers providing On-Demand Ground Transportation Services charge Airport passengers in accordance with the then-current Rate Schedule provided to Operator by County. Operator shall ensure all Concessionaire GTPs engaging in On-Demand Taxicab Services at the Airport conspicuously advertise all rates and charges on the exterior of the GTV, and that such advertised rates do not exceed the Rate Schedule. Upon notice by County of a change to the Rate Schedule, Operator shall notify all Concessionaire GTPs providing On-Demand Taxicab Services at the Airport changes to the Rate Schedule and the need to update advertised rates on the exterior of their GTVs. Operator may suspend any Driver performing On-Demand Ground Transportation Services for failing to charge Airport passengers in accordance with the then current Rate Schedule or require the removal of any On-Demand GTV providing Taxicab



Services that is not properly displaying the approved rates and fees as listed on the then current Rate Schedule. Operator shall notify the Contract Administrator of all suspensions and removals and include any information or evidence supporting the suspension or removal.

5.08 Failure to Comply with Requirements.

- A. With the exception of County-Managed GTPs, Operator shall suspend any GTP and/or Driver for failure to satisfy the Enrollment Standards and/or failure to pay any and all required fees, including Per Trip Fees, unless otherwise approved by County. The time of any period of suspension shall be determined by the Operator, and subject to approval by the Contract Administrator, based on the severity of the offense, repeated offenses, whether all required fees have been paid and other similar factors. Suspensions shall be subject to written appeal to the Contract Administrator. The provisions of this paragraph shall not apply to County-Managed GTPs.
- B. In the event of a violation by a County-Managed GTP of the Enrollment Standards, Airport Rules and Regulations, County permit or agreement, or Vehicle for Hire Ordinance, Operator shall document and promptly refer such violations to the Contract Administrator for action and shall comply with the direction of the Contract Administrator regarding any further action(s) required to be taken by Operator.

5.09 Operator-owned Equipment. Operator shall provide and maintain, at Operator's sole cost and expense, one (1) new four (4) door vehicle to be used solely for the provision of the Management Services ("Operator Vehicle") by Operator's employees. The Operator Vehicle shall be maintained in good working order and like-new condition throughout the Term of this Agreement with no visible damage or excessive wear, including seating, carpeting and exterior paint. The Operator Vehicle shall be replaced when it reaches 100,000 miles at no cost to the County. In the event the Operator Vehicle is damaged beyond reasonable repair, shows excessive wear and tear or remains out of service due to excessive maintenance as determined by County, Operator shall be required to provide a replacement Operator Vehicle at no cost to County. Operator shall equip the Operator Vehicle with appropriate signage and an internet-based, real time global positioning fleet tracking system approved by County. Operator shall also cause an operable with a two-way radio and a beacon to be permanently mounted to the Operator Vehicle. The costs associated with the Operator Vehicle and insurance for such vehicle shall not be subject to reimbursement hereunder, including, but not limited to, fuel, maintenance, repair and required equipment costs. Smoking shall be prohibited in the Operator Vehicle. The Operator Vehicle shall be stored at the Airport in a location approved by the Department and shall not be utilized as a "take-home" vehicle.

5.10 Consultant Services. In recognition that Operator possesses specialized knowledge in the management and operation of Management Services, County may at any time require Operator to provide information and guidance with respect to the operation and management of Ground Transportation Program. In such event, Operator agrees to fully



cooperate with such inquires and to be available to County, including attending meetings. No hourly or fixed payment shall be paid by County to Operator; however, any travel expenses and other related costs resulting from Operator's compliance with this provision, subject to the terms, conditions and limitations set forth in County policies and procedures applicable to travel, shall be considered Reimbursable Expenses.

- 5.11 Security. Operator acknowledges and accepts full responsibility for the security and protection of the Assigned Premises and all inventory, equipment and facilities now existing or hereafter assigned to Operator, and for the prevention of unauthorized access to its facilities and expressly agrees to comply with all rules and regulations of County and of any and all other governmental entities that now or may hereafter have jurisdiction over such security. Operator fully understands that the police security protection provided by County is limited to that provided by PBSO, to any other business situated at the Airport, and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection shall be the sole responsibility of Operator and shall involve no cost to County.
- 5.12 FAA Regulations and Security. Operator agrees to observe all safety and security requirements and other requirements of the Federal Aviation Administration, Transportation Security Administration, County, and to take such steps as may be necessary or directed by County to ensure that subcontractors, employees, contractors, agents, invitees and guests observe these requirements, including, but limited to, any security directives issued by the Department. If, as a result of the acts or omissions of Operator or its subcontractors, employees, contractors, agents, invitees or guests, County incurs any fines or penalties imposed by the Federal Aviation Administration or Transportation Security Administration; any expense in enforcing the regulations of the Federal Aviation Administration or Transportation Security Administration, including, but not limited to, Title 14, Code of Federal Regulations, Part 139 and Title 49, Code of Federal Regulations, Parts 1500, et seq.; or any expense in enforcing the Airport Security Program, Operator shall pay County all such costs and expenses, including all costs of administrative proceedings, court costs, and attorney's fees and all other costs incurred by County. Operator further agrees to rectify any safety or security deficiency or other deficiency as may be determined by the Federal Aviation Administration, Transportation Security Administration or County. In the event Operator fails to rectify any safety or security deficiency or other deficiency, County reserves the right to take whatever action is necessary, the cost of which shall be payable by Operator, together with a twenty-five percent (25%) administrative charge, which amount, at County's sole option, may be deducted by County from payment(s) otherwise due Operator.
- 5.13 Additional Equipment/Services for Ground Transportation Management. County may require Operator to purchase, install, manage, operate and/or maintain additional equipment and services for use in the provision, management and/or operation of Ground Transportation Services, ground transportation loops located on the East and West ends of the Terminal, Passenger Loading Areas, Holding Lot(s) and/or Assigned Premises, including, but not limited to, ground transportation management systems, equipment and associated components, security/monitoring/video services and signage. Costs related to the purchase and maintenance of such additional equipment shall be considered Reimbursable Expenses.



## **ARTICLE 6 - ANNUAL OPERATING BUDGET**

- 6.01 **Management Fee.** In consideration of the provision of Management Services as required by this Agreement, County shall pay to Operator a management fee in an equal to the amount set forth below ("**Management Fee**"):

<b>Management Fee</b>	
<b>Initial Term</b>	<b>Management Fee</b>
Initial Term (Commencement Date – September 30, 2025)	\$188,688
<b>Renewal Terms</b>	<b>Management Fee</b>
First Renewal Term	\$142,552
Second Renewal Term	\$146,829
Third Renewal Term	\$151,233
Fourth Renewal Term	\$155,770

Payment of the Management Fee shall be prorated and paid in equal monthly installments. The Management Fee will be paid by County to Operator within forty-five (45) days of the Department's receipt of a complete monthly invoice, including all required backup documentation, from Operator. Operator acknowledges and agrees that submission of an incomplete invoice will delay processing of Operator's invoice by County.

6.02 **Fully Burdened Hourly Rates.**

- A. Reimbursement of all Employee costs shall be based on a fixed dollar amount per employee work hour by job classification at the Fully Burdened Hourly Rates, as stated in Exhibit "A", attached hereto and incorporated herein. The total amount to be paid by County under this Agreement for the Management Services, including the Management Fee, Reimbursable Expenses and Employee costs provided hereunder shall not exceed One Million, One Hundred Thousand Dollars (\$1,100,000.00) for the Initial Term. Operator acknowledges and agrees that the aforementioned not-to-exceed amount does not constitute budgetary approval for purposes of Section 6.04. Excluding Reimbursable Expenses and payment of Employee costs, the Management Fee shall include all costs necessary for the provision of the Management Services hereunder by Operator. In the event County elects to renew this Agreement, the parties shall enter into an amendment, which shall establish the new mutually agreed upon not-to-exceed amounts applicable during the Renewal Term.
- B. Operator shall invoice County on a monthly basis in arrears for Management Services provided by Operator during the preceding month, which shall include the monthly Management Fee and all Employee costs at the Fully Burdened Hourly Rates. Operator shall separately invoice County for Reimbursable Expenses on a monthly basis for costs incurred. Invoices for Management Services shall include payroll documentation in a form and detail acceptable to County evidencing the actual number hours worked by each individual employee in the provision of the Management Services. Invoices shall be submitted to County

along with required documentation no later the tenth (10<sup>th</sup>) day of each month for the preceding month, unless otherwise approved by County. Operator shall provide proof of payment in a form and substance acceptable to County, such as invoices accompanied by original sales receipts or invoices issued by the contractor, vendor or supplier and signed by an authorized officer of Operator, certifying that all expenses claimed have been paid by Operator. County may utilize any method necessary to verify any purchase or amount claimed on expense invoices. Reimbursement of any disputed expense item may be withheld until such time, if any, that such dispute is satisfactorily resolved. In the event that an expense item is disputed, a written notice of such shall be forwarded to Operator. Operator agrees to diligently pursue the satisfactory resolution of such disputes within such time as may be specified by County.

#### 6.03 Reimbursable Expenses.

- A. The necessary, reasonable costs of the goods and services listed below shall be subject to reimbursement hereunder as a Reimbursable Expense, subject to the terms, conditions and limitations of this Agreement, which limitations include inclusion of such costs in the approved annual operating budget, unless otherwise approved by County in advance in accordance with the requirements of this Agreement:
1. Office furniture for use in the designated on-site office space located within the Assigned Premises shall be considered a Reimbursable Expense.
  2. Replacement and repair of the Ground Transportation Desks shall be considered a Reimbursable Expense, provided that Operator shall be responsible for the cost of any repairs that are the result of any damage caused by Operator or its Employees.
  3. Directional or location signage requested by County shall be considered a Reimbursable Expense, including, but not limited to, digital signage, including the cost of installation and internet and electrical connections, if required.
  4. Extension of internet or telephone service to the designated on-site office space located within the Assigned Premises shall be considered a Reimbursable Expense; provided, however, monthly charges for usage shall not be considered a Reimbursable Expense and shall be provided at Operator's sole cost and expense.
  5. The cost associated with any subcontracted services needed to fulfill a requirement imposed by County during the Term of this Agreement, including, but not limited to, any subcontracted services used to fulfill the services described in this Agreement, but excluding janitorial or pest control services (which shall be included in the Management Fee), shall be



considered a Reimbursable Expense; provided, however, the cost of Employees provided by a third-party contractor providing staffing services shall be reimbursed at the Fully Burdened Hourly Rate based on the category of Employee.

6. The cost associated with required orientation of the Ground Transportation Program and use of the GTMS, including informational training materials, for employees, GTPs and Drivers.
  7. The initial cost of employee badges, together with the cost of routine renewal(s), but excluding the cost of replacement or lost badges.
  8. The cost of items expressly identified as a Reimbursable Expense hereunder, which are not specifically listed in this Section, shall be considered a Reimbursable Expense.
  9. The cost of goods and services requested by the Department in support of the Ground Transportation Program, including, but not limited to, ground transportation management systems and equipment, access control devices and equipment, cameras and license plate readers, shall be considered Reimbursable Expenses.
- B. Notwithstanding any provision of this Agreement to the contrary, Operator acknowledges and agrees that the following shall not be considered Reimbursable Expenses and shall be provided at Operator's sole cost and expense:
1. Administrative computer/office equipment, printers, copiers, telephones, tablets, mobile devices, radio communication equipment and office supplies.
  2. Legal costs and expenses.
  3. Home office expenses, including, but not limited to, home office administration, bookkeeping, legal, travel, accommodation and moving expenses.
  4. Voice, data, cellular and fax communication charges, except as otherwise provided for in Section 6.03(A)(4) above.
  5. Performance Security required pursuant to Article 8 of this Agreement, and Insurance required pursuant to Article 8 of this Agreement.
  6. The cost and expense for Operator-owned equipment and the Operator Vehicle, including, but not limited to, any costs or expenses associated with the Operator-owned equipment or Operator Vehicle such as insurance, maintenance, repair, replacement, associated equipment and fuel.

7. The cost of any permits and licenses as may be required by any governing authority.
  8. Expenses for items utilized for the general convenience of Operator's employees, including, but not limited to, paper supplies, desk supplies, nameplates, personal sanitation and janitorial or pest control supplies or services for administrative offices.
  9. The cost of providing County with the Annual Report required by Section 7.02.
  10. The cost of providing a time keeping system for its employees.
  11. The replacement cost of employee badges.
  12. Employee uniforms.
  13. Costs arising or resulting from the negligence, disregard, failure, inattention or carelessness of Operator or its employees, subcontractors or agents.
  14. Any other costs or expenses that are not expressed identified as Reimbursable Expenses. Non-reimbursable costs or expenses shall be considered included in the Management Fee.
- C. Any Reimbursable Expense included in the annual operating budget that costs Two Thousand Five Dollars (\$2,500) or more shall be approved in writing by the Director of Finance and Contract Administrator prior to purchase. Any Reimbursable Expense that is not included in the annual operating budget shall be approved in writing by the Contract Administrator and Director of Finance prior to purchase to ensure sufficient budget is available for reimbursement. All goods and services subject to reimbursement hereunder as a Reimbursable Expense shall be purchased in accordance with the requirements of this Agreement, including, but not limited to, the procurement requirements set forth in Section 6.04(G) below. County, in its sole and absolute discretion, may elect not to reimburse the cost of any Reimbursable Expense that is not purchased in accordance with the requirements of this Agreement.
- D. Any items purchased as a Reimbursable Expense hereunder shall become the property of County. Operator shall provide a bill of sale or other documentation recognizing the transfer of ownership to County upon request and shall ensure items are properly identified as County assets, including the installation of any necessary identification tags, in accordance with County policies and procedures. Operator shall be responsible for the prompt replacement of any such items at Operator's sole cost and expense in the event such items are lost, stolen or damaged. In the event Operator fails to replace any lost, stolen or damaged items, County, in its sole discretion, may elect to deduct costs incurred for the loss, theft or damage of any lost, stolen or damaged items, plus a twenty-five percent (25%) administrative overhead charge, from amounts due to Operator under this



Agreement, or County may elect to invoice Operator for such costs and administrative overhead and Operator shall reimburse County within thirty (30) days of the date of County's invoice.

- E. All Reimbursable Expenses approved in the annual operating budget and other Reimbursable Expenses, which are not budgeted, but are specifically approved by Director of Finance and Contract Administrator in writing, shall be reimbursed to Operator within forty-five (45) days from County's receipt of Operator's complete monthly expense invoices with all required backup documentation. Operator shall submit requests for reimbursement within sixty (60) days of the date of the sales receipt or invoice issued by the contractor, vendor or supplier. County shall not be responsible for payment or reimbursement of late fees incurred by Operator and may deny reimbursement of any expenses that are not submitted within sixty (60) days of the date of the sales receipt or invoice issued by the contractor, vendor or supplier. Operator shall provide proof of payment in a format and substance acceptable to County, such as invoices accompanied by original sales receipts or invoices issued by the contractor, vendor or supplier and signed by an authorized officer of Operator, certifying that all expenses claimed have been paid by Operator. County may utilize any method necessary to verify any purchase or amount claimed on expense invoices. Reimbursement of any disputed expense item may be withheld until such time, if any, that such dispute is satisfactorily resolved. In the event that an expense item is disputed, a written notice of such shall be forwarded to Operator. Operator agrees to diligently pursue the satisfactory resolution of such disputes within such time as may be specified by County.

6.04 Budget. No later than January 1, 2025 and each January 1st of each year thereafter, Operator shall prepare and submit for the County's review and approval, an annual operating budget for the upcoming Contract Year in a form and detail satisfactory to County, which shall include all employee costs at the Fully Burdened Hourly Rates and Reimbursable Expenses. The annual operating budget for the Initial Term shall be provided for review and approval of County no less than thirty (30) days prior to the Commencement Date of this Agreement. The annual operating budget submitted by Operator shall be a line item budget that lists each individual expense category (line item) separately along with the amount budgeted for each category. Approval of the annual operating budget may only be provided by the Director of Finance, Airport Senior Deputy Director or Airport Director on behalf of County.

- A. The annual operating budget approved by County may be increased or decreased by County from time to time, including budget line item(s), but only to the extent that County, in its sole discretion, deems such revisions necessary and appropriate under this Agreement.
- B. The annual operating budget must reflect operations in accordance with the Operations and Procedures Manual approved by County. The annual operating budget shall be subject to approval of County and shall be subject to review from time to time if requested by either Operator or County. If County fails to approve the proposed annual operating budget prior to the commencement of the new Contract Year, then the annual operating budget for the prior Contract Year shall



be used by the parties until a new annual operating budget is approved unless Operator fails to timely provide the annual operating budget to County. In the event Operator fails to timely provide the annual operating budget, the annual operating budget shall be determined by County and shall be binding on Operator.

- C. All revisions to the annual operating budget by County shall be set forth in writing and shall thereafter be binding upon Operator. Unless approved in writing by the Director of Finance, any expenditure(s) in excess of the line items in the approved budget, as may be revised by County, shall not be reimbursed by County and shall be at Operator's expense. County shall also have the right to disapprove and/or otherwise modify specific line items within the annual operating budget.
- D. Concurrent with the submission of the annual operating budget, Operator shall submit wage and salary details for each of its employees, and a summary of the benefits given and/or offered to each class of employee, including management, supervisory and subcontract employees. Operator acknowledges and agrees that all Operator's employees, including subcontract employees, shall be paid no less than the greater of: (a) the Living Wage, as annually adjusted and defined in Palm Beach County Living Wage Ordinance, as codified in Chapter 2, Article IV, Division 3 of the Palm Beach County Code, as may be amended or superseded ("Living Wage Ordinance"), notwithstanding the fact the Management Services are not defined as "Covered Services" as defined in the Living Wage Ordinance; or (b) Florida's minimum wage rates. Operator shall maintain payroll records and basic records relating thereto for each employee, including any subcontract employees hired by Operator to provide Management Services under this Agreement, and shall preserve the records through the Term of the Agreement and for a period of no less than five (5) years thereafter. The aforementioned records for employees shall be made available to County upon request and shall contain:
  - 1. Each employee's name and address.
  - 2. Each employee's job title and classification.
  - 3. The number of hours worked each day by each employee.
  - 4. The gross wages and deductions made for each employee.
  - 5. Annual wages paid to each employee.

In the event of a conflict between this Agreement and applicable State and/or Federal laws or regulations related to wages and benefits, the parties acknowledge and agree that the applicable laws or regulations shall prevail; provided, however, the parties acknowledge and agree that the provisions of wages that exceed the minimum requirements shall not be deemed a conflict of this Agreement unless expressly defined as such by applicable laws or regulations. The wage and benefit requirements of this Agreement are intended to be contractual in nature, and not regulatory, and shall not create a private right of action against County or Operator.



Furthermore, neither employees nor subcontractors shall be considered third party beneficiaries of this Agreement. As of the date of issuance of the RFP, the parties acknowledge and agree that the provisions of the Living Wage Ordinance do not apply to this Agreement; therefore, Operator's obligation to comply with the wage requirements of the Living Wage Ordinance are based solely on the requirements of this Agreement. Operator's failure to comply with the wage requirements of this Agreement shall be a material default of this Agreement, entitling County to exercise all available remedies, including, but not limited to termination of this Agreement, but would not be considered a violation of the Living Wage Ordinance as of the date of issuance of the RFP. Notwithstanding the foregoing, Operator acknowledges that Operator is required to comply with all applicable laws as now or hereafter amended, including the Living Wage Ordinance to the extent applicable in the future.

E. Operator shall provide all employees, who are considered full time (work a minimum of thirty (30) hours per week), with the following benefits:

1. Healthcare Coverage - Operator will offer a health insurance benefit to provide, at a minimum, benefits equivalent to a "Gold Plan" as defined under the Patient Protection and Affordable Care Act of 2010" (PPACA) to all full-time employees. Coverage shall be deemed adequate and affordable as defined by PPACA, and shall be in full compliance. Operator's employees shall become eligible for the healthcare coverage the first (1<sup>st</sup>) day of the month following the employee's first ninety (90) days of employment. Operator shall, at a minimum, ensure the employee's portion of employee-only (single) coverage does not exceed nine and one-half percent (9.5%) of the employees annual taxable income, and offer coverage for the other members of each employee's family at the employee's option and expense. County reserves the right to modify coverage levels and participatory cost structure of the health care program in its sole discretion. Operator shall be provided reasonable prior written notice of any such modifications. In addition to PPACA, the Operator shall comply with all applicable regulatory requirements under the Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA), and Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any and all additional applicable statutory and regulatory requirements applicable to its employees and employee benefits.
2. Paid Time Off - All full-time employees, who have successfully completed the probationary period set forth in Section 9.02, shall be provided two and one-tenths (2.1) hours of paid time off for each bi-weekly pay period worked; provided no more than fifty-four and six-tenths (54.60) hours of unused time shall be held at any time. The Local Manager shall be provided with seven (7) hours of paid time off for each semi-monthly pay period worked; provided no more than one hundred sixty-eight (168) hours of unused time shall be held at any time. Amounts for non-full time employees shall be fifty percent (50%) of the amounts provided herein. Operator shall



pay out all accrued paid time off to its employees in the employees' last paycheck following the termination of this Agreement, which obligation shall survive the termination of this Agreement until satisfied by Operator.

3. Holiday Pay - All full-time employees working on a holiday shall receive an additional fifty percent (50%) of base pay for each hour of the shift worked on the following holidays: New Year's Day (January 1<sup>st</sup>); Memorial Day (last Monday in May); Fourth of July (July 4<sup>th</sup>); Labor Day (1<sup>st</sup> Monday in September); Thanksgiving (4th Thursday in November); and Christmas Day (December 25<sup>th</sup>).
- F. Operator acknowledges that the wage and benefit requirements of this Agreement are established by County acting in its proprietary capacity for the purposes of ensuring Operator is capable of hiring and retaining qualified employees at the Airport and to reduce absenteeism. Operator further acknowledges the wage and benefit requirements of this Article are minimum requirements, and Operator may establish hourly wages at rates higher than those provided for herein and may provide benefits in excess of those required by this Agreement; provided, however, Operator shall require all of its subcontractors providing services hereunder to provide the minimum hourly wages and benefits set forth in this Article.
- G. Except during circumstances of bona-fide emergency or sole source supply, Operator shall solicit at least three (3) competitive quotes for any one-time or annual expenditure for any goods or services of more than Five Thousand Dollars (\$5,000), but less than One Hundred Thousand Dollars (\$100,000). Unless otherwise approved in writing by County, such goods or services shall be obtained from the contractor, vendor or supplier having submitted the lowest quote. The procurement of goods or services equal to or greater than One Hundred Thousand Dollars (\$100,000) shall be procured through a solicitation process consistent with the requirements of the Palm Beach County Purchasing Code, as now or hereafter amended. All one-time purchases or annual expenditures for goods or services in excess of Two Thousand Five Hundred Dollars (\$2,500) must be pre-approved by the Director of Finance and Contract Administrator prior to any purchase commitments. No purchase shall be artificially divided so as to avoid the requirements of this subsection. Requests for reimbursement shall be submitted in accordance with Section 6.03. All supplies, vehicles, equipment and other items purchased by Operator in use of the operation and management of the Management Services and reimbursed by County shall be considered property of County.

## **ARTICLE 7 - RECORDS AND REPORTING**

- 7.01 Activity Reporting. Unless otherwise approved by County in writing, Operator shall prepare and submit to the Contract Administrator the reports listed below at the frequencies required by this Section, which report(s) shall be in a form and content approved by County.



- A. Daily Shift Report, which is a list of names of all Employees scheduled for work during each shift by job category each day. The Daily Shift Report shall be submitted daily, no later than 4:00 p.m. for the preceding calendar day.
- B. Daily GTMS Report, which summarizes daily enrollment and other administrative activities associated GTMS, occurring during the preceding twenty-four (24) hour period. The Daily GTMS Report shall be submitted daily, no later than 4:00 p.m. for the preceding calendar day
- C. Daily Trip Report, which summarizes the total number of Trips and Per Trip Fees by GTP occurring during the preceding twenty-four (24) hour period, including a summary of any requests for waiver of Per Trip Fee(s). The Daily Trip Report shall be submitted daily, no later than 4:00 p.m. for the preceding calendar day
- D. Monthly Report, detailing the following for the preceding month: total number of Trips and Per Trip Fees due from Enrolled GTP and vehicle category; a summary of Enrolled GTPs, including terminations and suspensions from GTMS; and summary of complaints. The Monthly Report shall be provided concurrent with the monthly invoice for Management Services.

7.02 Annual Report. Operator shall deliver to the Department an audit relating to its operations under this Agreement ("Annual Report") in accordance with the provisions of this Section. The first Annual Report shall cover the Initial Term and shall be provided not later than December 31, 2025. Each Annual Report thereafter shall cover the preceding Contract Year and shall be delivered to the Department no later than ninety (90) days after the close of each Contract Year, unless otherwise approved in writing by the Department based on circumstances beyond the reasonable control of Operator in which event the Department may grant a reasonable extension to the timeframe for delivery to the Department. The Annual Report shall be in a form and detail acceptable to the Department and completed by an independent Certified Public Accountant, not a regular employee of Operator, acceptable to County. The Audit shall include the following:

- A. A schedule detailing the total number of Trips by Enrolled GTP and month.
- B. A schedule detailing the total number of Trips by Enrolled GTP and month during each month a GTMS failure occurred, if any.
- C. A schedule detailing the total amount of any requested waiver of Per Trip Fees by month and by category (i.e., due to system errors, overcharges, non-load trips, etc.).
- D. A schedule detailing the total number of employee hours worked by employee and month, including a summary of work hours for each category of employee (i.e. Manager, Supervisor, Dispatcher, etc.) by month based on Operator's payroll records.
- E. A schedule detailing the total number of employee hours invoiced to County by employee and month at the Fully Burdened Hourly Rates and the difference (if any) between actual hours worked and hours charged.



F. A schedule detailing Reimbursable Expenses by category and month.

The Audit shall include an opinion regarding the information contained in schedules listed above. The Annual Report shall not contain a qualified opinion, an adverse opinion, or a disclaimer of opinion, as defined by the American Institute of Certified Public Accountants or any successor agency thereto, regarding the information contained in the required schedules. In the event the Annual Report indicates County has been overcharged for employee hours, Operator shall reimburse County any amount due to County concurrent with delivery of the Annual Report. County reserves the right to review and modify the Annual Report requirements contained herein, which modifications shall become effective upon receipt of written notice by the Airport Director to Operator. Such modifications shall be limited to changes necessary for clarification of Annual Report requirements and objectives, to comply with Generally Accepted Accounting Principles, or Statement on Standards Attestation Engagements. The obligations arising under this paragraph shall survive the expiration or earlier termination of this Agreement until satisfied.

- 7.03 Audit by County. Notwithstanding any provision in this Agreement to the contrary, County or its representative(s) may at any time perform audits of all or selected operations performed by Operator under the terms of this Agreement. To facilitate the audit performed by County, Operator agrees to make suitable arrangements with the Certified Public Accountant, who is responsible for preparing the audit report on behalf of Operator pursuant to Section 7.02 above, to make available to County's representative(s) any and all working papers relevant to the audit performed by the Certified Public Accountant. County or its representative(s) shall make available to Operator a copy of the audit report prepared by or on behalf of County. Operator shall have thirty (30) days from receipt of the audit report from County or its representative(s) to provide a written response to County regarding the audit report. Operator agrees that failure of Operator to submit a written response to the audit report in accordance with the requirements of this Section shall constitute acceptance of the audit report as issued.
- 7.04 Personnel Records. Operator shall maintain accurate personnel records for all employees and staff working at the Airport, including subcontractor employees, pursuant to this Agreement and shall make the records available to County for examination upon request. The personnel records shall be maintained at the Airport. Personnel records shall include, but shall not be limited to, names and addresses, dates of hire, wages, salaries and benefits paid, background checks, pre-employment drug testing, training received, performance reviews, passenger complaints/compliments, and any disciplinary actions.
- 7.05 Record Storage. All source records, including, but not limited to: (computer-generated or manually prepared) shall be retained and securely stored by Operator at a location conducive to easy retrieval. All such records shall be maintained by Operator for a minimum of thirty-six (36) months. Thereafter, Operator shall deliver such records to County for further disposition. County will provide Operator with storage locations for the records, if available. If County is unable to store such records, County will reimburse Operator for storage and transport of records at a commercial storage facility.



7.06 Public Records. Notwithstanding anything contained herein, as provided under Section 119.0701, Florida Statutes, if Operator: (a) provides a service; and (b) acts on behalf of the County as provided under Section 119.011(2), Florida Statutes, Operator shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. Operator is specifically required to:

- A. Keep and maintain public records required by County to perform services as provided under this Agreement.
- B. Upon request from County's Custodian of Public Records, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. Operator further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
- C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement and following completion of the Agreement, if Operator does not transfer the records to County.
- D. Upon completion of the Agreement, Operator shall transfer, at no cost to County, all public records in possession of Operator unless notified by County's representative/liaison, on behalf of County's Custodian of Public Records, to keep and maintain public records required by County to perform the service. If Operator transfers all public records to County upon completion of the Agreement, Operator shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If Operator keeps and maintains public records upon completion of the Agreement, Operator shall meet all applicable requirements for retaining public records. All records stored electronically by Operator must be provided to County, upon request of County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to County.

Failure of Operator to comply with the requirements of this Section shall be a material breach of this Agreement. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. Operator acknowledges that it has familiarized itself with the requirements of Chapter 119, Florida Statutes, and other requirements of state law applicable to public records not specifically set forth herein.

**IF THE OPERATOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE OPERATOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF**



**PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.**

#### **ARTICLE 8 - PERFORMANCE SECURITY**

Prior to the Commencement Date of this Agreement, Operator shall submit to County and maintain throughout the Term of this Agreement a surety bond or a clean irrevocable letter of credit, in form and substance and issued by a company satisfactory to County, in an amount equal to One Hundred Thousand Dollars (\$100,000.00) ("Performance Security") as security for the performance of Operator's obligations hereunder. In the event of any failure by Operator to perform any of its obligations hereunder or other default under this Agreement, including a failure to timely pay liquidated damages, then in addition to any other rights and remedies available to County at law or in equity, County shall be entitled to draw upon the Performance Security. Upon notice of any such draw, Operator shall immediately replace the Performance Security with a new letter of credit or surety bond in the full amount of the Performance Security required hereunder. The Performance Security shall be kept in full force and effect throughout the Term of this Agreement and for a period of six (6) months after the expiration or earlier termination of this Agreement. In such event, Operator shall submit such adjusted Performance Security within sixty (60) days of receipt of County's notice thereof. Not less than forty-five (45) days prior to any expiration date of a letter of credit or surety bond, Operator shall submit evidence in form satisfactory to County that such security instrument has been renewed. Failure to submit evidence that such security instrument has been renewed in accordance with the requirements of this Article shall: (a) entitle County to draw down the full amount of such Performance Security, and (b) constitute a default of this Agreement entitling County to all available remedies. The Performance Security shall not be returned to Operator until all obligations under this Agreement are performed and satisfied. Operator's failure to provide and maintain current Performance Security shall constitute a material default by Operator and shall be grounds for immediate termination of this Agreement.

#### **ARTICLE 9 - PERSONNEL**

- 9.01 General. Operator shall retain qualified, competent and experienced employees at the Airport to conduct its operations hereunder. Operator shall employ a sufficient number of employees to properly manage and provide the Management Services in accordance with the operational and service standards established by County and this Agreement, including weekends and holidays. Operator shall provide for the addition or reduction of employees at County's request.
- 9.02 Employment History. Operator shall verify the employment history of all persons hired or contracted by Operator to provide services under this Agreement. Proof of such verification shall be provided to County upon request. County shall have the right to require the removal, suspension and/or replacement of any employee or contractor, including, but not limited to the Local Manager, Supervisors, supplier, subcontractor or other agent of Operator. All employees shall be required to successfully complete a one hundred eighty



(180) day probationary period prior to be offered permanent employment status with Operator.

- 9.03 Criminal History Background Checks. Operator acknowledges and agrees that Operator and its employees, contractors and agents may be subject to Federal and State criminal history records checks. Operator shall comply with, and shall require its employees, agents and contractors to comply with, all criminal history records check requirements of County, and of all Federal, State and local laws or regulations applicable to Operator or its employees, agents or contractors, as may now exist or as may hereinafter enacted or amended, including, but not limited to, the Palm Beach County Criminal History Record Check Ordinance (Chapter 2, Article IX, Palm Beach County Code), and any access restrictions imposed thereunder.

9.04 Local Manager.

- A. The management of the Management Services shall at all times be under the direct supervision and control of a full-time, on-site Local Manager ("Local Manager"). In addition to the Local Manager, Operator shall employ full-time, on-site Supervisors, who shall be capable of managing the provisions of the Management Services in the absence of the Local Manager. The Local Manager and Supervisors shall at all times be subject to the direction and control of Operator. For purpose of this Section, "full-time" means forty (40) hours per week.
- B. No later than thirty (30) days prior to the Commencement Date of the Agreement and any subsequent change in such management, Operator shall provide to County for review and approval the resume and qualifications of the candidate proposed to be hired as the Local Manager. County shall have the right to disapprove the hire of any candidate proposed to be hired as the Local Manager. In such event, Operator shall continue to propose other candidates until such time that County approves of a candidate's hire. The Local Manager's duties and responsibilities shall be limited to only those for which this Agreement has been entered into and the Local Manager shall not be assigned to or in any way be responsible for any other operation or facility. The Local Manager shall cooperate with County regarding any matters pertaining to the provisions of this Agreement.
- C. The Local Manager shall meet the following minimum criteria:
1. Have an Associate's Degree or sixty (60) college credit hours and have at least three (3) years' direct management and supervisory experience over ground transportation staff performing similar services at facility of comparable size and complexity; or be a high school graduate and have at least five (5) years' direct management and supervisory experience over ground transportation staff performing similar services at facility of comparable size and complexity;
  2. Be able to read, write and speak English fluently;

3. Have a comprehensive and operating knowledge of Microsoft Office;
  4. Have experience with scheduling staff on a 24/7/365 schedule, and resolving passenger inquiries and complaints;
  5. Be knowledgeable of all applicable Federal, State, and local laws and regulations regarding matters that may be encountered in the performance of the Management Services; and
  6. Be knowledgeable of ground transportation procedures and practices, including dispatching operations.
- D. The Local Manager shall be responsible for ensuring the Management Services are performed in accordance with the requirements of this Agreement and the Operations and Procedures Manual, including, but not limited to:
1. The day-to-day performance of this Agreement;
  2. Supervision, employee administration, training, and scheduling of all Management Services;
  3. Compliance with safety requirements;
  4. Reporting, including, but not limited to financial reports;
  5. Dispatch scheduling;
  6. Developing and updating staffing level plans;
  7. Inventory management;
  8. Acting as liaison with County on all Agreement matters; and
  9. Recommending improvements to the procedures and the Ground Transportation Program to improve customer service and operating efficiencies.
- E. The Local Manager, or Supervisor when the Local Manager is not available, shall be on-call at all times for emergencies and must be capable of reporting within one (1) hour to the Airport in the event of an emergency. The Local Manager, or Supervisor when Local Manager is not available, shall be available via cellular telephone twenty-four (24) hours a day, seven (7) days a week to County in the event of an emergency.
- F. The Local Manager shall be available to discuss performance of the Management Services or other provisions of this Agreement with County.



- G. Operator shall provide County with the names, addresses, telephone numbers (office and cellular) and e-mail addresses of the Local Manager and Supervisors. Operator shall provide prompt notice of any changes to the Local Manager's and Supervisors' contact information to the Contract Administrator.
- H. The Local Manager shall be assigned exclusively to the provision of Management Services under the Contract and shall not be assigned to perform functions outside the Airport by Operator.
- I. The Local Manager shall serve as the primary contact for County and shall coordinate the provision of the Management Services with the Contract Administrator. The Local Manager shall be responsible for promptly addressing any County concerns regarding the performance of the Management Services.

9.05 Supervisors.

- A. Operator shall provide a sufficient number of trained, qualified supervisors capable of providing competent supervision of the Management Services. In the absence of the Local Manager, a qualified, competent shift Supervisor shall be responsible for the provision of Management Services under this Agreement. Shift supervisors shall be full-time employees and shall be assigned only to the Airport.
- B. Supervisors shall meet the following minimum criteria:
  - 1. Be a high school graduate and have at least one (1) years' direct management and supervisory experience in ground transportation or related field;
  - 2. Be able to read, write and speak English fluently;
  - 3. Have an operating knowledge of Microsoft Office;
  - 4. Have experience with scheduling staff and resolving passenger inquiries and complaints; and
  - 5. Be knowledgeable of ground transportation procedures and practices, including dispatching operations.
- C. In addition to overseeing the Management Services in the absence of a Local Manager, Supervisor responsibilities shall include, but are not limited to:
  - 1. Overseeing and supervising Dispatchers and providing dispatching services as needed to provide Dispatchers relief for break periods or as otherwise may be required to ensure the uninterrupted provision of dispatching services;

2. Periodically roving the Ground Transportation Areas and any other areas frequented by GTVs and Drivers, including interior and exterior curbs on the Arrival and Departure Levels, Holding Areas, the Airport parking facilities, baggage claim, and the passenger meet and greet areas outside the security checkpoints, to identify and correct violations of the Ground Transportation Program;
  3. Documenting failure(s) of Drivers to comply with the Ground Transportation Program in writing and notifying Operator and the Contract Administrator of such failure(s);
  4. Assisting passengers as needed to identify the location of authorized Ground Transportation Services;
  5. Notifying the Airport Communication Center and Contract Administrator of any safety or security issues;
  6. Assisting Dispatchers as needed;
  7. Providing or assisting with administrative or enrollment duties as needed; and
  8. Notifying the Contract Administrator of any Ground Transportation Areas or parking areas in need of janitorial attention.
- D. In the event a Driver or GTP fails to follow direction of a Supervisor, the Supervisor may request assistance from the Airport Operations Division and/or PBSD through the Airport Communication Center.

9.06 Dispatchers.

- A. Operator shall provide a sufficient number of trained, qualified Dispatchers who shall be responsible for the following duties:
1. Managing Passenger Loading Areas and Vehicle Queue Areas established for On-Demand Ground Transportation Services;
  2. Coordinating the dispatch of sufficient number of Taxicabs to the Airport to satisfy passenger demand;
  3. Randomly inspecting GTVs at Passenger Loading Areas to ensure the GTVs satisfy the requirements of the Ground Transportation Program, including, but not limited to, ensuring rates and charges are conspicuously displayed on the exterior of all Taxicabs and are in accordance with then current Rate Schedule, Drivers are properly attired, and GTVs are in a neat and clean condition;



4. Politely and professionally addressing passenger complaints and questions, including proper documentation of complaints regarding GTPs, GTVs and/or Drivers;
  5. Immediately notifying Operator and Contract Administrator of any issues with GTMS functionality;
  6. Managing Driver behavior, including ensuring Drivers remain with their GTVs, assisting passengers with the loading of baggage, managing Driver disputes with other Drivers and/or passengers;
  7. Notifying the Operator and Contract Administrator of any Drivers violating the Ground Transportation Program;
  8. Ensuring the Passenger Loading and Vehicle Queue Areas remain in a neat and clean condition, including, but not limited to, Ground Transportation Desks and ground areas;
  9. Immediately notifying the Airport Communication Center of any safety or security issues, including issues related to management of public curbside traffic; and
  10. Implementing contingency plans in the event of a GTMS or gate outage, unanticipated surge in passenger demand based on a diversion and other similar events.
- B. Operator shall establish procedures to ensure Dispatchers are continuously engaged in work assignments during regular working hours, are not permitted to loiter in areas of the Airport outside their assigned work areas or engage in non-work activities during working hours.
- 9.07 Administrative Assistant. Operator shall provide one (1) trained, qualified Administrative Assistant to manage the GTMS; performing enrollment services, including data entry into the GTMS; answering Driver and GTP questions regarding enrollment processes and procedures; answer public inquiries; completing and providing reports to the Contract Administrator and other similar duties. The Administrative Assistant shall be available Monday through Friday, excluding County holidays and during approved leave, from 8:00 a.m. until 5:00 p.m. with one (1) hour unpaid lunch period. Local Manager and/or Supervisors shall be responsible for completing the Administrative Assistant's duties when the Administrative Assistant is not available during the Administrative Assistant's regularly scheduled hours. Operator shall provide contact information to County for enrollment services and public inquiries, including a public telephone number and e-mail address(es), which will be made available on the Airport's website along with Operator's hours of operation for enrollment services.
- 9.08 Staffing. Operator shall include a detailed staffing plan by job category in the Operations and Procedures Manual required pursuant to Section 4.01(F)(3) ("Staffing Plan"). Operator shall employ a sufficient number of qualified, competent and experienced personnel, in



accordance with the Staffing Plan, to provide Management Services under this Agreement in a first-class manner to meet the demands of the public and to properly perform all duties and responsibilities as required by this Agreement in an expeditious and professional manner. The Contract Administrator, by written notice to Operator, shall have the right to require Operator to increase or decrease the number of personnel scheduled during any shift, the number of shifts operated per day and the number of hours during any shift.

- 9.09 Training Program. Operator shall include a detailed employee training program in the Operations and Procedures Manual required pursuant to Section 4.01(F) ("Training Program") to be successfully completed by each of Operator's employees within two (2) weeks of the date of hire as a condition of continued employment, unless otherwise approved in writing by County. The Training Program shall include a passenger service component to provide employees with the knowledge, skills, and competencies required to increase overall passenger satisfaction. The Training Program shall also include disability sensitivity training relevant to each employee's job duties, information regarding Operator's non-discrimination obligations under this Agreement, training on how to effectively assist LEP individuals, and information regarding Operator's and County's policies and procedures applicable to Operator's employees at the Airport. Operator shall provide to County copies of all updates made to its training materials throughout the Term of this Agreement for County's review and approval. Operator shall, at its sole cost and expense, require each of its employees providing services to the public at the Airport, including, but not limited to, the Local Manager, Supervisors, Dispatchers and Administrative Assistant, have successfully completed the Training Program, and shall advise all such employees that their continued employment as a part of this Agreement is conditioned upon their successful completion of the Training Program. All employees with direct day-to-day contact with the public shall complete a "refresher" passenger service and disability sensitivity training course no less than once a year, and any employee who receives two (2) or more complaints, regardless of the outcome of any investigation or resolution of such complaints, shall be required to attend the next available "refresher" course. Upon request by County, Operator shall provide County a complete list of all employees who have successfully completed the Training Program and any "refresher" courses. County, in its sole and absolute discretion, may require passenger service training to be provided to Operator's employees by a third party provider reasonably acceptable to County specializing in such services, which shall be considered a Reimbursable Expense if required by County to be provided by a third party provider.
- 9.10 Staffing at Ground Transportation Desks. In the event that additional staffing of Ground Transportation Desks is necessary to prevent passenger waiting times from exceeding ten (10) minutes, Operator shall immediately assign additional staffing (which may include, but shall not be limited to, the Local Manager, Supervisor(s), or Administrative Assistant and take such other actions as may be necessary to assure minimal waiting times.
- 9.11 Conduct/Appearance. Operator shall be responsible for the neat appearance, courtesy and efficient conduct of all Operator's employees at the Airport, as well as enforcing the Ground Transportation Program through the Operations and Procedures Manual. Employees must be uniformed and must wear nametags at all times when on duty. All uniforms and nametags shall be approved by County. Under no circumstances shall any



employee or representative of Operator be loud or boisterous or use profane or abusive language at the Airport. Operator shall promptly remove any employee who is discourteous or displays performance or behavior inconsistent with County's high level of passenger service, or who fails to support a professional image of the Airport. Operator and Operator's employees shall be courteous and helpful and conduct themselves in a professional manner at all times that reflects positively upon Operator, the Airport and County. County may require any employee to be removed from service at the Airport who is found in the sole and absolute discretion of County to be unsatisfactory.

- 9.12 Ability to Communicate in English. Each of Operator's employees, who is anticipated to have contact with the public and County staff, shall be capable of communicating orally and in writing in clearly understandable English at a level consistent with the effective and efficient performance of such employee's job duties.
- 9.13 Identification Badges. All employees of Operator shall be required to have an identification badge, which shall be worn above the waist on the outermost garment, in such a manner as to be visible at all times and shall be considered part of the employee's uniform. If required by the Department or TSA, Operator shall obtain Airport-issued identification badges for its employees as required by the Airport Security Program at Operator's sole cost and expense. The Department shall have the right to require removal of any employee of Operator at the Airport determined by the Department in its sole discretion to present a risk to public safety or security at the Airport. The Airport-issued identification badges and keys shall remain the property of County and shall be returned to County upon termination of the employee's employment by Operator or the termination of this Agreement. Operator shall be responsible for all costs associated with identification badges that are lost or not returned.
- 9.14 Time System. A timekeeping system, acceptable to County, shall be furnished by Operator and placed in a location conveniently accessible by all hourly employees, who shall clock-in not more than five (5) minutes prior to the beginning of their scheduled shift and shall clock-out no more than five (5) minutes after their scheduled shift. Hourly employees shall be required to clock-in and clock-out for lunch breaks.
- 9.15 Employee Parking. Employee parking shall be limited to the area(s) designated by County for employee parking and shall be utilized by the employees of Operator, at no cost to Operator, in common with other authorized Airport personnel. Employee parking shall be utilized by employees of Operator only during such times as the employee is scheduled to be on-duty.
- 9.16 Theft/Dishonesty. Operator shall report to County any possible theft by employees or any allegations of employee dishonesty within twenty-four (24) hours after Operator becomes aware of the theft or allegations of employee dishonesty. Specifically, Operator shall inform County and local law enforcement agency, in writing, within twenty-four (24) hours of any report, discovery, or investigation of any theft or fraud, or damage to County or private property. Operator shall submit to County a report which describes the theft, fraud or damage as best as can be determined, the action Operator has taken or intends to take, and in the case of theft, fraud or deliberate damage by an employee of Operator, the name



and job title of the employee who committed the theft, fraud or damage, in addition to the information required above. For the purposes of this Agreement, theft shall include, but shall not be limited to: theft or intentional misuse of materials or equipment, including electronic devices, provided by County to Operator to provide the services under this Agreement; intentionally altering the rotation of Enrolled Drivers for the purpose of favoring a particular individual or company; intentional misquoting of approved fares, rates or charges for Ground Transportation Services to passengers; misuse of credit card or Enrolled GTP or Driver information; intentional falsification of records; taking any article left at the Airport, including in or on a GTV; or any actions that may compromise the integrity of the GTMS or the GTMS revenue generation or control process.

- 9.17 Gratuities. Operator's employees may not accept tips from passengers and shall not, under any circumstances, solicit or request a tip from a passenger, including, but not limited to, maintaining a "tip jar" or displaying cash such that it may suggest tips are solicited.
- 9.18 Drug-Free Workplace. Operator agrees to establish and maintain throughout the Term of this Agreement a drug-free workplace program in accordance with Section 287.087, Florida Statutes, as now or hereafter amended.
- 9.19 Performance Reviews. The Local Manager, in coordination with the Contract Administrator, shall conduct annual performance reviews of Operator's employees at the Airport. Completed performance reviews shall be maintained by Operator and be made available to County upon request.
- 9.20 Transition. To facilitate the transition of Management Services to a new provider, Operator, if directed by County, shall be required to train and/or make assigned areas available to the new provider of Management Services at the Airport for a period of time not to exceed thirty (30) days prior to the expiration of this Agreement.

#### **ARTICLE 10 - MAINTENANCE AND UTILITIES**

- 10.01 Operator Maintenance Responsibilities. Operator shall be responsible for the routine maintenance and repair of the Assigned Premises, Ground Transportation Desks and all equipment used in the provision of the Management Services. Maintenance and repair of the Assigned Premises shall include, but is not limited to, painting the interior of the Assigned Premises, replacement of carpeting, wall repairs, and replacement of fixtures and lightbulbs. Routine maintenance and repairs by a third party contractor shall be considered Reimbursable Expenses, if approved in advance in accordance with Article 6.
- 10.02 Cleanliness of Premises. Operator shall keep the Assigned Premises, office equipment and administrative support and storage areas in a safe, clean, neat, orderly and attractive condition, which includes, but is not limited to, janitorial and pest control services at Operator's sole cost and expense. Operator shall conduct weekly, one (1) daytime and one (1) nighttime inspection of all Ground Transportation Areas. Written reports of such inspections shall be completed and submitted to County, in a form and detail satisfactory to County, which shall include a detailed list of any Ground Transportation Areas requiring maintenance and/or repair, including, but not limited to, parking surfaces in need of repair



or re-striping, lighting outages, potential safety hazards, graffiti, cleanliness and any other pertinent information. Notwithstanding the foregoing, Operator shall immediately notify County of any potential safety hazards upon discovery of such hazards.

- 10.03 Utilities. Operator shall provide all data lines and communication services required for the performance of Operator's obligations under this Agreement. Any and all utilities used by Operator in the performance of its obligations under this Agreement shall be paid by County, with the exception of voice, fax, data, internet and communications charges, which shall be paid by Operator at Operator's sole cost and expense.

#### **ARTICLE 11 - INSURANCE**

- 11.01 Maintenance of Insurance. Operator shall maintain, on a primary basis, at all times during the Term of this Agreement and any extension thereof, the following insurance coverages, limits and endorsements described in this Article. The requirements contained herein, as well as County's review or acceptance of insurance maintained by Operator is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Operator under this Agreement.
- 11.02 Insurance Expense. All insurance coverages, limits and endorsements described in this Article shall be paid at Operator's sole cost and expense.
- 11.03 Commercial General Liability. Operator shall maintain Commercial General Liability Insurance at a limit of liability of not less than One Million Dollars (\$1,000,000) each occurrence. Coverage shall not contain any endorsement(s) excluding or limiting Premises/Operations, Personal Injury, Product/Completed Operations, Contractual Liability, Severability of Interests or Cross Liability. Coverage shall be provided on a primary basis.
- 11.04 Business Automobile Liability. Operator shall maintain Business Automobile Liability Insurance at a limit of liability of not less than One Million Dollars (\$1,000,000) each occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Operator does not own automobiles, Operator shall maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy. In the event vehicles are owned by County, coverage shall include Liability and Physical Damage coverage for all County-owned vehicles in the care, custody and control of Operator. Coverage shall be provided on a primary basis.
- 11.05 Worker's Compensation Insurance & Employers Liability. Operator shall maintain Worker's Compensation Insurance & Employers Liability in accordance with Chapter 440, Florida Statutes, as now or hereafter amended. Coverage shall be provided on a primary basis.



- 11.06 Comprehensive Crime Insurance. Operator shall maintain comprehensive crime insurance including employee theft, premise, transit, and depositor's forgery coverage, with third party coverage for Client, Palm Beach County Board of Commissioners' Property, and limits as to any given occurrence of One Million Dollars (\$1,000,000.00).
- 11.07 Additional Insured. Operator shall endorse County as an Additional Insured with a "CG026 Additional Insured - Designated Person or Organization" endorsement to the Commercial General Liability and Business Auto policies. "Additional Insured" endorsement shall read: "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, and Employees, c/o Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406-1470 ([properties@pbia.org](mailto:properties@pbia.org))", or as otherwise approved or modified by County..
- 11.08 Waiver of Subrogation. Operator agrees by entering into this Agreement to a Waiver of Subrogation for each policy required herein. When required by the insurer, or should a policy condition not permit Operator to enter into any pre-loss agreement to waive subrogation without an endorsement, then Operator shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Operator enter into such an agreement on a pre-loss basis.
- 11.09 Certificate(s) of Insurance. Operator shall deliver to County or County's designated contractor certificate(s) of insurance, evidencing the coverages and amounts required hereunder prior to the Effective Date. Operator 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 Article. 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 pursuant to this Article from time-to-time upon written notice to Operator.
- 11.10 Umbrella or Excess Liability. Operator may satisfy the minimum liability limits required above for Commercial General Liability and Business Auto Liability Insurance under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the annual aggregate limit shall not be less than the highest "Each Occurrence" limit for the Commercial General Liability and Business Auto Liability Insurance. Operator shall endorse County as an "Additional Insured" on the Umbrella or Excess Liability, unless the certificate of insurance states the Umbrella or Excess Liability provides coverage on a pure/true "Follow-Form" basis.



- 11.11 Deductibles, Coinsurance, & Self-Insured Retention. Operator shall be fully and solely responsible for any deductible, coinsurance penalty, or self-insured retention; including any losses, damages, or expenses not covered due to an exhaustion of limits or failure to comply with the policy.
- 11.12 Right to Review. County reserves the right, but not the obligation, to review and revise any insurance requirement, including, but not limited to, limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage, or changes in the scope of work / specifications affecting the applicability of coverage. Additionally, County reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due to its poor financial condition or failure to operate legally. Upon written request, Operator shall provide insurance policies to County with confidential material redacted.
- 11.13 Subcontractor's Insurance. Operator shall cause each subcontractor employed by Operator to purchase and maintain Business Automobile Liability insurance of the type and amount specified herein, unless Operator's insurance provides coverage on behalf of the subcontractor. When requested by County, Operator shall obtain and furnish copies of certificates of insurance evidencing coverage for each subcontractor.
- 11.14 No Representation of Coverage Adequacy. Operator acknowledges the limits, coverages and endorsements required by this Article are intended to minimize liability for County. Operator agrees that it will not rely upon the requirements of this Article when assessing the extent or determining appropriate types or limits of insurance coverage to protect Operator against any loss exposures, whether as a result of this Agreement or otherwise.

#### **ARTICLE 12 - RELATIONSHIP OF THE PARTIES**

Operator is and shall be deemed to be an independent contractor and Operator responsible to all parties for its respective acts or omissions, and County shall in no way be responsible therefore. This Agreement is an agreement for Management Services and does not constitute a lease of any premises, including, but not limited to, the Assigned Premises, and Operator shall have no right whatsoever to lease or sublease any areas described in this Agreement.

#### **ARTICLE 13 - INDEMNIFICATION**

Operator shall protect, defend, reimburse, indemnify and hold County and its elected officers, employees and agents and each of them free and harmless at all times from and against any and all liability, losses, expenses, costs, suits, claims, judgments, fines and damages (including reasonable attorney fees at trial and appellate levels) and causes of action of every kind and character (hereinafter collectively referred to as, "Damages"), or in which County is named or joined, arising out of a breach of this Agreement by Operator; the acts, omissions or conduct of Operator or an Operator Party; or the use or occupancy of the Ground Transportation Areas, Assigned Premises or Airport by Operator or an Operator Party, including, but not limited to, those arising by reason of any damage to property or the environment, or bodily injury (including death) incurred or sustained by any party hereto, any agent or employee of any party hereto, and/or any third party



or other person whomsoever; provided, however, Operator shall not be responsible for Damages that are determined by a court of competent jurisdiction to be attributable to the negligence or willful misconduct of County or its elected officers, employees and agents or a direct result of a breach of this Agreement by County. Each party shall give to the other reasonable notice of any such claims or actions. Operator recognizes the broad nature of this indemnification and hold-harmless clause, and acknowledges that County would not enter into this Agreement without the inclusion of such clause, and voluntarily make this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by County in support of this indemnification in accordance with the laws of the State of Florida. The obligations arising under this Article shall survive the expiration or termination of this Agreement.

#### **ARTICLE 14 - DAMAGE OR DESTRUCTION**

- 14.01 Operator's Obligations. If the Assigned Premises, or any portion thereof, during the Term of this Agreement or any extension thereof, shall be damaged by the act, default, or negligence of an Operator Party, Operator shall at its sole cost and expense restore the Assigned Premises to the condition existing prior to such damage. If Operator fails to restore the Assigned Premises as required above, County shall have the right to perform the necessary restoration, and Operator hereby expressly agrees that it shall fully assume and be liable to County for payment of the costs therefore, plus twenty-five percent (25%) administrative overhead. County, in its sole discretion, may elect to deduct the costs plus the administrative overhead from amounts due to Operator under this Agreement, or County may elect to invoice Operator for such costs and administrative overhead, and Operator shall pay County within thirty (30) days of the date of County's invoice.
- 14.02 Insurance Proceeds. Upon receipt by Operator of the proceeds of any insurance policy or policies, the proceeds shall be deposited in an escrow account approved by County so as to be available to pay for the cost of such repair, replacement, or rebuilding. Such proceeds shall be disbursed during construction to pay the costs of such work. If the amount of such insurance proceeds is insufficient to pay the costs of the necessary repair, replacement or rebuilding of such damaged improvements or property, Operator shall pay any additional sums required into said escrow account. If the amount of such insurance proceeds is in excess of the costs thereof, the amount of such excess shall be remitted to Operator.
- 14.03 Termination upon Destruction or Other Casualty. In the event that the Airport, or any portion thereof, shall be destroyed or damaged in whole or part by fire, water, or any other cause, or if any other casualty or unforeseen occurrence shall likewise render the fulfillment of this Agreement, in whole or in part, by County impossible, then County shall have the option of terminating this Agreement and shall pay only such fees to Operator as are due and owed up to the time of such termination, and Operator hereby waives any claim for damages or compensation should this Agreement be so terminated.



## **ARTICLE 15 - TERMINATION, DEFAULT AND ASSIGNMENT**

- 15.01 **Termination.** This Agreement shall automatically terminate and expire at the end of the Initial Term, unless renewed in accordance with Section 3.03. In the event this Agreement is renewed, this Agreement shall automatically terminate at the end of the Renewal Term.
- 15.02 **Default.** The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by Operator:
- A. The failure by Operator to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by Operator where such failure shall continue for a period of fifteen (15) days after written notice from County to Operator (except in those instances where a different cure period is expressly provided for herein for such failure); provided, however, that if the nature of Operator's default is such that more than fifteen (15) days are reasonably required for its cure, then Operator shall not be deemed to be in default if Operator commenced such cure within such fifteen (15) day period and thereafter diligently pursues such cure to completion. Notwithstanding any provision of this Agreement to the contrary, Operator acknowledges and agrees that the aforementioned fifteen (15) day cure period shall not apply to any other defaults listed in this Section.
  - C. To the extent permitted by law, (a) the making by Operator or any guarantor hereof of any general assignment, or general arrangement for the benefit of creditors; (b) the filing by or against Operator of a petition to have Operator adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy [unless, in the case of a petition filed against Operator, the same is dismissed within sixty (60) days]; (c) the appointment of a trustee or receiver to take possession of substantially all of Operator's assets located at the Assigned Premises or of Operator's interest in this Agreement, where possession is not restored to Operator within thirty (30) days; or (d) the attachment, execution or other judicial seizure of substantially all of Operator's assets located at the Assigned Premises or of Operator's interest in this Agreement, where such seizure is not discharged within thirty (30) days.
  - C. The discovery by County that any information given to County by Operator relating to the RFP or this Agreement was materially false.
  - D. The material default of any other agreement or permit with County by Operator, which default has not been cured within the applicable cure period.
- 15.03 **Remedies.** In the event of any such material default or breach by Operator, County may, with or without notice or demand, pursue any available right or remedy under this Agreement, at law or in equity, including the right, at County's option, to immediately terminate this Agreement, by giving written notice to that effect. Upon such termination, Operator shall immediately surrender the Assigned Premises to County and shall cease its operations at the Airport. Upon termination of this Agreement, County shall have the right to engage another Operator to provide the services required hereunder for such period or periods at such fees and upon other terms and conditions as County may, in good faith, deem advisable.



- 15.04 Termination for Convenience by County. County may terminate this Agreement for convenience upon not less than thirty (30) days prior written notice to Operator, 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 Agreement. Notwithstanding the foregoing, County shall reimburse Operator for the actual, reasonable and necessary costs and expenses incurred by Operator, which were approved by County as part of Operator's annual operating budget and will remain outstanding following the date of County's termination for convenience; provided, however, Operator shall take all reasonable actions to mitigate and minimize such costs and expenses.
- 15.05 Cancellation by Operator. Operator may cancel this Agreement, if Operator is not in default of this Agreement, by providing County not less than sixty (60) days advance written notice to be served as hereinafter provided, upon or after the happening of any one of the following events:
- A. Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport for Airport purposes, and the remaining in force of such injunction for a period of at least ninety (90) days.
  - B. The default by County in the performance of any covenant or agreement herein required to be performed by County and the failure of County to remedy such default for a period of ninety (90) days after receipt from Operator of written notice to remedy same; provided, however, that no notice of cancellation, as provided herein, shall be of any force or effect if County shall have remedied the default prior to receipt of Operator's notice of cancellation.
  - D. The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control, or use of the Airport and facilities, or any substantial part or parts thereof, in such a manner as to substantially restrict Operator from operating thereon for a period of at least six (6) months.
- 15.06 Surrender of Premises. Notwithstanding the obligations of Operator and rights of County provided in this Article, Operator expressly agrees that it shall, upon termination or cancellation of this Agreement, immediately surrender the Assigned Premises to County in good and fit condition, depreciation and wear from ordinary use for the purpose for which the premises were assigned being excepted. In addition, Operator shall complete all repairs and obligations for which Operator is responsible shall be completed by the earliest practical date prior to surrender. Operator, upon the termination of this Agreement, shall remove all of its personal property. Any personal property of Operator not removed in accordance with this Article may be removed and placed in storage by County at the sole cost of Operator. Failure on the part of Operator to reclaim its personal property as provided by law shall constitute a gratuitous transfer of title to County for whatever disposition is deemed to be in the best interest of County.



15.07 Assignment, Transfer and Subcontracting.

- A. Operator shall not sell, transfer, assign, pledge, or otherwise encumber this Agreement, or any portion thereof, or any of its rights and privileges hereunder, or contract for the performance of any of the services to be provided by it under this Agreement (collectively, an "Assignment"), or permit any such Assignment to occur by operation of law, without County's prior written consent, which consent may be granted or withheld by County in the exercise of its sole discretion or conditioned upon such additional terms and conditions as County, in its sole discretion, may seek to impose, including, but not limited to: (a) an assessment of whether or not any proposed assignee or other party meets the standards and qualifications as proposed by Operator during the initial selection; (b) a requirement that any proposed assignee or other party have a net worth in excess of the net worth of Operator; (c) a requirement that Operator pay to County all or any portion of any fees Operator receives from any purchaser, assignee, subcontractors, transferee or other parties; and/or (d) a requirement that Operator not be in default under any of the terms, covenants, and conditions herein contained. In the event of any Assignment, Operator shall not be released of any liability hereunder. In the event of any Assignment between Operator and an affiliate of Operator, County shall require the execution by Operator of a Payment and Performance Guaranty, in form and substance satisfactory to County, whereby Operator guarantees the performance of all obligations hereunder and the payment of all sums due hereunder.
- B. For purposes of this Article, an Assignment shall include any transfer of this Agreement by merger, consolidation or liquidation or by operation of law, or if Operator is a corporation (except if Operator is a corporation whose stock is publicly traded) any change in ownership of or power to vote a majority of the outstanding voting stock or Operator from the owners of such stock or those controlling the power to vote such stock on the date of this Agreement, or if Operator is a limited or general partnership or joint venture, any transfer of an interest in the partnership or joint venture which results in a change in control of such partnership or joint venture from those controlling such partnership or joint venture on the date of this Agreement. Notwithstanding the foregoing, a transfer of stock of Operator among its current stockholders or among its current stockholders and their immediate families, any transfer of stock resulting from the death of a stockholder, a transfer of partnership or joint venture interests in Operator among existing partners or among existing partners or joint ventures and their immediate families, or any transfer of such interest resulting from the death of a partner or joint venture, shall not be deemed an Assignment for purposes of this Article.
- C. In the event that any Assignment shall occur without the prior written consent of County, then in addition to all other available remedies, County shall be entitled to immediately terminate this Agreement. Any written consent required hereunder shall not be effective unless evidenced by a document of equal dignity with and executed with the same formality as this Agreement.



- 15.08 Liquidated Damages. The parties acknowledge and agree that: (a) failure of Operator and its employees to comply with the service, operational and security standards and requirements set forth in this Agreement (hereinafter collectively referred to as "Service Standards") may result in a loss of goodwill, patronage and negatively impact the Airport's reputation; and (b) failure to timely provide accurate reports and audits in accordance with the terms and conditions of this Agreement or to properly compile or maintain the records required to complete such reports and audits in accordance with the terms and conditions of this Agreement (hereinafter collectively referred to as "Reporting Requirements") may result in a significant loss and reputational damage to the County and Airport in the event issues are not timely identified and rectified. In the event Operator fails provide a service as required by the Service Standards, and such failure is within the reasonable control of Operator, as determined by County in its reasonable discretion, County may assess liquidated damages in the amount of One Hundred Dollars (\$100.00) per occurrence. In the event such failure reoccurs within a twenty-four (24) hour period, County may assess liquidated damages in the amount of Two Hundred Dollars (\$200.00) per occurrence, not to exceed One Thousand Dollars (\$1,000.00) per day, in the event such failure is of a nature that it has resulted in continuing and repeated impacts to more than five (5) airport passengers or constitutes a violation of any security requirements. In the event Operator fails to timely require with the Reporting Requirements as provided in this Agreement, County may assess liquidated damages in the amount of Fifty Dollars (\$50.00) per day until such required report or audit is delivered to County, unless Operator has requested, and County has approved, an extension to such deadline for delivery in writing. The parties agree that the liquidated damage amounts are a reasonable estimate of the damages to the Airport's goodwill and reputation that would be incurred by County, and Operator agrees to pay to County liquidated damages in accordance with this Section upon demand by County. The amount is not intended to be a penalty, but a reasonable measure of damages incurred by County. County, in its sole discretion, may elect to deduct liquidated damages from amounts due to Operator under this Agreement, or County may elect to invoice Operator for such liquidated damages, and Operator shall pay County within thirty (30) days of the date of County's invoice. Failure to timely pay liquidated damages as required by this Section shall be considered a material default of this Agreement. The availability of liquidated damages shall not preclude County from exercising other remedies, such as termination of this Agreement, due to default. Nothing in this Section shall be constructed as preventing County from recovering any direct costs incurred by County due to Operator's default or non-performance.

#### **ARTICLE 16 - IMPROVEMENTS AND SIGNS**

- 16.01 Alterations or Additions. Operator shall make no alterations, additions, or improvements to the Assigned Premises or any other location on the Airport without the prior written consent of County. Any such alterations, additions or improvements shall be made in accordance with the requirements set forth in County's prior written consent.
- 16.02 Signs. No signs, posters, or similar devices shall be erected, displayed, or maintained by Operator in the view of the general public in, on, or about the Assigned Premises or elsewhere on the Airport, without prior written approval of County. Any such signs not approved by County shall be immediately removed at the sole cost and expense of



Operator. Operator shall be responsible for providing and installing all signage required for the provision of the Management Services, including directional and informational signage, which shall be subject to the prior written approval of County and be considered Reimbursable Expenses.

#### **ARTICLE 17 - LAWS, REGULATIONS, PERMITS AND TAXES**

- 17.01 General. Operator agrees that throughout the Term of this Agreement, Operator shall at all times be and shall remain in full and complete compliance with all applicable federal, state and local laws, statutes, regulations, rules, rulings, orders, ordinances and directives of any kind or nature without limitation, as now or hereafter amended or promulgated, including, without limitation, the Americans with Disabilities Act, FAA Advisory Circulars and Airport Rules and Regulations.
- 17.02 Permits and Licenses Generally. Operator agrees that it shall, at its sole cost and expense, obtain, comply with and maintain current any and all permits, licenses and other governmental authorizations required for its operations and activities on the Airport. Upon the written request of County, Operator shall provide County with certified copies of any and all permits and licenses requested by County pursuant to this Section.
- 17.03 Air and Safety Regulation. Operator shall conduct its operations and activities under this Agreement in a safe manner and shall comply with all safety regulations and standards imposed by applicable federal, state and local laws and regulations and shall require the observance thereof by all employees, contractors, invitees and all other persons transacting business with or for Operator resulting from, or in any way related to, the conduct of Operator's business on the Airport.
- 17.04 Fire Safety. Operator 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. Operator agrees that neither Operator, nor its employees or contractors or any person working for or on behalf of Operator, shall require any personnel engaged in the performance of Operator's operations to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health or safety, as determined by standards adopted pursuant to the Occupational Safety and Health Act of 1970, as now or hereafter amended, as well as all applicable State and local laws, regulations, and orders relative to occupational safety and health.
- 17.05 Payment of Taxes. Operator shall pay any and all taxes and other costs lawfully assessed against its operations under this Agreement. Operator shall have the right to contest the amount or validity of any tax or assessment payable by it by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying, or extending Operator's covenants to pay any such tax or assessment, unless the legal proceedings shall operate to prevent the collection of the tax or assessment. Upon termination of such legal proceedings, Operator shall pay the amount of any such tax or assessment, or part thereof, as finally determined in such proceedings, the payment of which may have been deferred during the prosecution thereof, together with any costs, fees, interest, penalties, or other liabilities in connection therewith.



## **ARTICLE 18 - DISCLAIMER OF LIABILITY**

COUNTY HEREBY DISCLAIMS, AND OPERATOR 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 ANY OPERATOR PARTY DURING THE TERM OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF OPERATOR OR OPERATOR'S BUSINESS INVITEES THAT MIGHT BE LOCATED OR STORED ON THE ASSIGNED PREMISES OR AIRPORT, UNLESS SUCH LOSS, DAMAGE OR INJURY IS CAUSED SOLELY BY COUNTY'S SOLE NEGLIGENCE. THE PARTIES HERETO EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR ANY OTHER DAMAGE RELATED TO THIS AGREEMENT. OPERATOR ACKNOWLEDGES AND AGREES THAT COUNTY SHALL HAVE NO LIABILITY WHATSOEVER AND OPERATOR RELEASES AND AGREES TO HOLD HARMLESS COUNTY FROM ANY AND ALL LIABILITY RELATING TO ANY INFORMATION PROVIDED BY COUNTY OR CONTAINED IN THE RFP RELATING TO THIS AGREEMENT. FURTHERMORE, OPERATOR ACKNOWLEDGES AND AGREES THAT ITS USE OF ANY SUCH INFORMATION, WHETHER PREPARED OR PROVIDED BY COUNTY OR OTHERWISE, IN DETERMINING WHETHER TO SUBMIT A PROPOSAL, OR IN CALCULATING SUCH PROPOSAL, WAS AT ITS SOLE RISK.

## **ARTICLE 19 - GOVERNMENTAL RESTRICTIONS**

- 19.01 Federal Right to Reclaim. In the event a United States governmental agency shall demand and take over the entire facilities of the Airport for public purposes, then this Agreement shall thereupon terminate and County shall be released and fully discharged from any and all liability hereunder. This Section shall not act or be construed as a waiver of any rights Operator may have against the United States as a result of such taking.
- 19.02 Federal Review. This Agreement is subject to audit by the Federal Aviation Administration to determine satisfactory compliance with federal law. This Agreement shall be in full force and effect and binding upon both parties pending review and audit by the Federal Aviation Administration, if applicable; provided, however, that upon such review all parties hereto agree to modify any of the terms hereof which shall be determined by the Federal Aviation Administration to be in violation of existing laws, regulations, or other legally binding requirements.
- 19.03 County Tax Assessment Right. None of the terms, covenants and conditions of this Agreement shall in any way be construed as a release or waiver on the part of County, as a political subdivision of the State of Florida, or any of the public officials of Palm Beach County, of the right to assess, levy, and collect any license, personal, intangible, occupation, or other tax which shall be lawfully imposed on the business or property of Operator.



- 19.04 Right of Flight. County reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property previously described together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used, for navigation of or flight in the said airspace for landing on, taking off from, or operating on the Airport.
- 19.05 Operation of Airport. Operator expressly agrees for itself, its subcontractors, successors and assigns, to prevent any use of the Assigned Premises which would interfere with or adversely affect the operation, maintenance, or development of the Airport or otherwise constitute an airport hazard.
- 19.06 Release. Operator acknowledges that noise and vibration are inherent to the operation of Airport and hereby releases County from any and all liability relating to the same.

## **ARTICLE 20 - NON-DISCRIMINATION**

- 20.01 Non-Discrimination in County Contracts. 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 R-2017-1770, as may be amended, the Operator 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.
- 20.02 Non-Discrimination. Operator shall comply with all applicable requirements of the Federal Nondiscrimination Provisions set forth in Exhibit "B".
- 20.03 Airport Concession Disadvantaged Business Enterprises ("ACDBE"). This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. Operator 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. Operator 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 business to similarly include the statements in further agreements.
- 20.04 Airport Concession Disadvantaged Business Enterprise Participation Goal.
- A. Operator agrees that the ACDBE participation in this Agreement shall be at least equal to twenty percent (20%) of purchases of goods and services by Operator, or Operator shall clearly demonstrate to County its good faith efforts to achieve the ACDBE goal. "Good faith efforts" are those efforts that could reasonably be expected to result in ACDBE participation. Operator shall actively seek to obtain ACDBE participation in this Agreement and shall document those efforts. Efforts



that are merely "pro forma" are not considered good faith efforts in meeting the ACDBE goal. In determining whether or not an Operator has made such good faith efforts, County will refer to the description of good faith efforts as provided in 49 CFR Parts 23 and 26.

- B. For the purpose of verifying Operator's good faith efforts, Operator shall keep and maintain such books of account and records as necessary to document compliance with 49 CFR Part 23, as now or hereafter amended or any successor regulation, and this Section. County and its representatives shall have the right to inspect and audit such books of account and records upon reasonable notice to Operator at a location convenient for County and its representatives.
- C. Operator shall not terminate an ACDBE firm without County's prior written consent. Operator may only terminate an ACDBE firm for good cause. Prior to submitting a request to terminate an ACDBE firm to County, Operator shall give written notice to the ACDBE firm, with a copy to County, of its intent to terminate and the reason(s) for the termination. Operator shall give the ACDBE firm five (5) days to respond to Operator and County with the reasons, if any, why the ACDBE firm objects to the proposed termination and why County should not consent to the proposed termination.
- E. Operator shall provide written quarterly reports on or before the 20<sup>th</sup> of each reporting month (January, April, July and October of each Contract Year) to County, in a form and detail satisfactory to County, as to the participation of ACDBE's in this Agreement. The quarterly reports shall include certification of receipt payment from the ACDBE firms participating in this Agreement, in a form and detail satisfactory to County. In the event the ACDBE participation level drops below the established ACDBE participation goal, Operator shall take immediate corrective measures to ensure that the ACDBE participation is increased to the established ACDBE participation goal. Operator shall document its good faith efforts to achieve the ACDBE participation goal and provide written reports to County documenting such good faith efforts.
- E. Operator shall provide County with copies of all subcontracts and agreements with ACDBE firms providing goods or services under this Agreement upon request.

#### **ARTICLE 21 - COUNTY NOT LIABLE**

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



injury sustained by Operator resulting from (a) cessation for any reason of air carrier operations at the Airport, or (b) diversion of passenger traffic to any other facility.

## **ARTICLE 22 - MISCELLANEOUS**

- 22.01 Authorized Uses. Notwithstanding anything to the contrary herein, Operator shall not use or permit the use of the Assigned Premises or any other area of the Airport for any illegal or improper purpose or for any purpose which would invalidate any policies of insurance, now existing or hereafter written on the Assigned Premises or the Airport for County or Operator.
- 22.02 Non-waiver. The failure of County to insist on a strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed waiver of any rights or remedies that County may have for any subsequent breach, default, or non-performance, and County's right to insist on strict performance of this Agreement shall not be affected by any previous waiver or course of dealing.
- 22.03 Subordination to Bond Resolution. This Agreement and all rights granted to Operator hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by County in the Bond Resolution, and County and Operator 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 exercise is necessary to ensure compliance by Operator and County with the terms and provisions of this Agreement and Bond Resolution.
- 22.04 Subordination to Governmental Agreements. This Agreement shall be subject and subordinate to all the terms and conditions of any instrument or document under which County acquired the land or improvements thereon, of which the Assigned Premises are a part, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Operator understands and agrees that this Agreement shall be subordinate to the provisions of any existing or future agreement between County and the United States of America or State of Florida, or any of their agencies, relative to the operation or maintenance of the Airports, the execution of which has been or may be required as a condition precedent to the expenditure of state or federal funds for the development of the Airports.
- 22.05 Governmental Authority. Nothing in this Agreement shall be construed to waive or limit County's governmental authority as a political subdivision of the State of Florida to regulate Operator or its operations. All rights not specifically granted to Operator by this Agreement are reserved to County.
- 22.06 Invalidity of Clauses. The invalidity of any portion, article, paragraph, provision, clause or any portion thereof of this Agreement shall have no effect upon the validity of any other part or portion hereof.

- 22.07 Venue. To the extent allowed by law, the venue for any action arising from this Agreement shall be in Palm Beach County, Florida.
- 22.08 Governing Law. This Agreement shall be governed by and in accordance with the laws of the State of Florida.
- 22.09 Inspections. The authorized employees and representatives of County and any applicable Federal, State, and local governmental entity having jurisdiction hereof shall have the right of access to the Assigned Premises at any time for the purposes of inspection for compliance with the provisions of this Agreement.
- 22.10 Notices. All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or overnight mail, telecopied or faxed (provided in each case a receipt is obtained), or alternatively shall be 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 5:00 p.m. (EST or EDT, whichever is in use) on a business day and on the next business day if transmitted after 5:00 p.m. (EST or EDT, whichever is in use) 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 designated 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:

To County:

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

With a copy to:

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

To Operator:

SP Plus Corporation  
Attn: Robert Reiser, President – East Airports  
16200 Brookpark Road, 2<sup>nd</sup> Floor  
Cleveland, OH 44135



With a copy to:  
SP Plus Corporation - Attn: Legal Department  
200 East Randolph Street, Suite 7700  
Chicago, IL 60601

Either party may change the address to which notices under this Agreement shall be given, upon three (3) days prior written notice to the other party.

- 22.11 Consent or Action. In the event this Agreement 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 County or Department, rather than any implied standard of good faith, fairness or reasonableness. Wherever this Agreement requires County or Department's consent or approval or permits County or Department to act, such consent, approval or action may be given or performed by the Airport Director, including, but not limited to, termination and assessment of liquated damages.
- 22.12 Paragraph Headings. The headings of the various articles and sections of this Agreement, and its Table of Contents, 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 Agreement or any part or parts of this Agreement.
- 22.13 Binding Effect. The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their permitted successors, assigns, and subcontractors, if any. This provision shall not constitute a waiver of any conditions against assignment, subletting or subcontracting.
- 22.14 Performance. The parties expressly agree that time is of the essence in this Agreement and the failure by Operator 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.
- 22.15 Non-Exclusivity of Remedies. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or inequity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
- 22.16 Construction. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof, shall be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.
- 22.17 Incorporation by References. All terms, conditions and specifications of the RFP; Operator's Proposal; and all exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Agreement by reference.



- 22.18 Conflict. In the event of any conflict and for the purpose of resolving any disputes which may arise regarding this Agreement, the RFP and/or Operator's Proposal, as referenced above, the order-of-precedence shall be (i) this Agreement; (ii) the RFP; and (iii) Operator's Proposal.
- 22.19 Entire Agreement. The parties agree that this Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.
- 22.20 Annual Appropriation. This Agreement and all obligations of County hereunder are subject to and contingent upon annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners.
- 22.21 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 Operator 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. .
- 22.22 Public Entity Crimes. As provided in Section 287.132-133, Florida Statutes by entering into this Agreement or performing any work in furtherance hereof, Operator 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.
- 22.23 Scrutinized Companies. As provided in Section 287.135, Florida Statutes (F.S.) by entering into this Agreement or performing any work in furtherance hereof, the Operator 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 Section 215.4725, F.S. Pursuant to Section 287.135(3)(b), F.S., if Operator is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Agreement may be terminated at the option of the County. When contract value is greater than \$1 million, as provided in Section 287.135, F.S., by entering into this Agreement or performing any work in furtherance hereof, the Operator 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 Section 215.473, F.S., 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 Operator, this Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed, pursuant to Section 287.135, F.S. Said certification must also be submitted at the time of Agreement renewal, if applicable.

- 22.24 E-Verify Employment Eligibility. Operator warrants and represents that it is in compliance with Section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of Operator's subcontractors performing the duties and obligations of this Agreement are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

Operator shall obtain from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in Section 448.095(1)(k), Florida Statutes, as may be amended. Operator shall maintain a copy of any such affidavit from a sub for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Agreement which requires a longer retention period.

County shall terminate this Agreement if it has a good faith belief that Operator has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If County has a good faith belief that Operator's subcontractor has knowingly violated Section 448.09(1), Florida Statutes, as may be amended, County shall notify Operator to terminate its contract with the subcontractor and Operator shall immediately terminate its contract with the subcontractor. If County terminates this Agreement pursuant to the above, Operator shall be barred from being awarded a future contract by County for a period of one (1) year from the date on which this Agreement was terminated. In the event of such contract termination, Operator shall also be liable for any additional costs incurred by County as a result of the termination.

- 22.25 No Third Party Beneficiaries. No provision of this Agreement 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 Agreement, including but not limited to any citizen or employees of County and/or Operator.
- 22.26 Survival. Notwithstanding any early termination of this Agreement, Operator shall remain obligated hereunder to perform any duty, covenant or obligation imposed upon Operator hereunder arising prior to the date of such termination.

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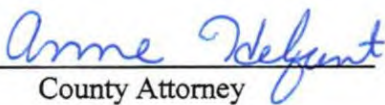
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

ATTEST:  
JOSEPH ABRUZZO,  
CLERK OF THE CIRCUIT COURT  
AND COMPTROLLER

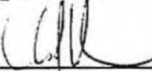
By:   
Deputy Clerk



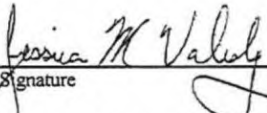
APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By:   
County Attorney

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

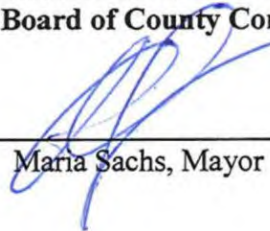
  
Signature

Chuck Voase Digitally signed by Chuck Voase  
Date: 2024.05.10 15:29:14 -04'00'  
Print Name

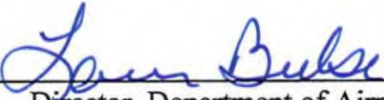

  
Signature

Jessica Valesky Digitally signed by Jessica Valesky  
Date: 2024.05.10 15:30:45 -04'00'  
Print Name

R2024 0719 JUN 11 2024  
PALM BEACH COUNTY, a political  
subdivision of the State of Florida,  
by its Board of County Commissioners

By:   
Maria Sachs, Mayor

APPROVED AS TO TERMS  
AND CONDITIONS

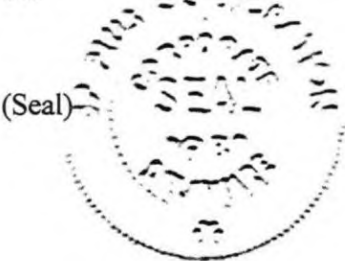
By:   
Director, Department of Airports 

OPERATOR

By:   
Signature

Robert Reiser Digitally signed by Robert Reiser  
Date: 2024.05.10 15:27:52 -04'00'  
Print Name

President – East Airports  
Title





**EXHIBIT "A"**  
**FULLY BURDENED HOURLY RATES**

Employee Category	Initial Term (7/1/24 – 9/30/25)	Contract Year 1 (10/1/25 – 9/30/26)	Contract Year 2 (10/1/26 – 9/30/27)	Contract Year 3 (10/1/27 – 9/30/28)	Contract Year 4 (10/1/28 – 9/30/29)
Local Manager	\$47.96	\$50.16	\$52.49	\$54.96	\$57.57
Supervisor	\$31.13	\$32.83	\$34.01	\$35.23	\$36.51
Dispatcher	\$26.58	\$27.97	\$28.92	\$29.91	\$30.95
Administrative Assistant	\$28.43	\$29.58	\$30.78	\$32.04	\$33.36

**EXHIBIT "B"**  
**TO THE AGREEMENT**  
**FEDERAL NONDISCRIMINATION REQUIREMENTS**

- A. **Title VI Clauses for Compliance with Nondiscrimination Requirements.** During the performance of this Agreement, Operator, for itself, its assignees, and successors in interest, agrees as follows:
1. **Compliance with Regulations:** Operator 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:** Operator, 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. Operator 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 Operator 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 Operator of Operator's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
  4. **Information and Reports:** Operator 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, Operator 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 Operator under this Agreement until Operator complies; and/or
    - b. Cancelling, terminating, or suspending a contract, in whole or in part.
  6. **Incorporation of Provisions:** Operator 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. Operator 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 Operator becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Operator may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, Operator 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, Operator, 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. Operator 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 Operator will use the Assigned Premises 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 Assigned 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.** Operator 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 Operator 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. General Civil Rights Provision.**

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