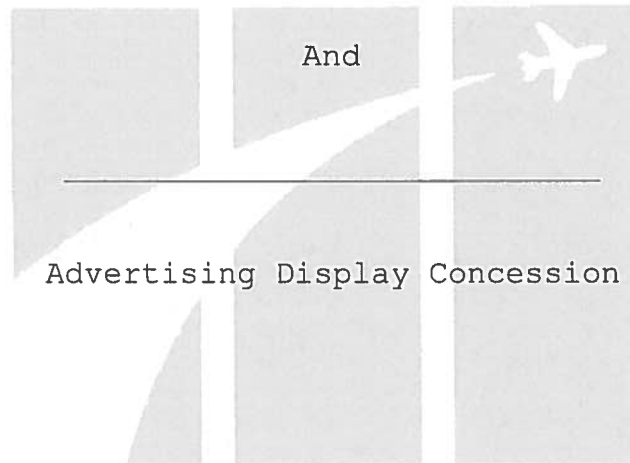


I N F O R M A T I O N A L D R A F T

CONCESSION AGREEMENT

Between

MILWAUKEE COUNTY



MILWAUKEE COUNTY
DEPARTMENT OF TRANSPORTATION
AIRPORT DIVISION

General Mitchell International Airport
Milwaukee, Wisconsin

TABLE OF CONTENTS

1. DEFINITIONS 1

2. DESCRIPTION OF THE DESIGNATED AREAS 2

3. TERM OF AGREEMENT 3

4. RIGHTS RESERVED BY COUNTY 3

5. AUTHORIZED PURPOSE 4

 A. Uses, Rights, Privileges, and Restrictions 4

 B. Exclusions 6

6. OBLIGATIONS OF CONCESSIONAIRE 6

7. OTHER BUSINESS ACTIVITIES 13

8. OBLIGATIONS OF COUNTY 13

9. RENTAL AND PRIVILEGE FEES, CHARGES, ACCOUNTING RECORDS AND
REPORTS 14

 A. Annual Rental and Privilege Fees 14

 B. Definition of Gross Receipts 15

 C. Monthly Payments 16

 D. Calculation of Monthly Percentage of Gross Receipts
 Payments and Remittance of Monthly Reports 17

 E. Delinquent Charges or Fees 19

 F. Accounting Records and Reports 20

 G. Audit 22

 H. Annual Adjustment 23

 I. Additional Fees and Charges 23

10. ENVIRONMENTAL RESPONSIBILITIES 24

 A. Definitions 24

 B. Indemnification 25

 C. Compliance with Environmental Laws 26

 D. Notification 26

 E. Right to Take Action 26

 F. Right to Investigate 27

 G. Environmentally Regulated Substances 27

11. LIQUIDATED DAMAGES 28

12. NONDISCRIMINATION 31

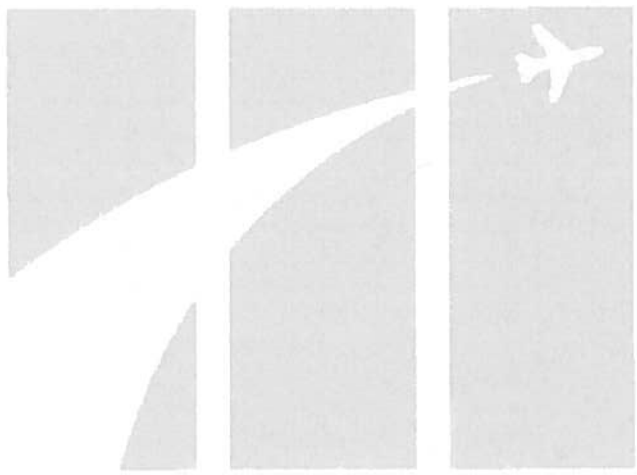
13. AFFIRMATIVE ACTION 31

14. AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE 32

15. NONDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS REQUIRED
BY GENERAL ORDINANCES OF MILWAUKEE COUNTY 33

A. Section 56.17(1a)	33
B. Section 56.17(1d)	33
16. INDEMNITY	34
17. INSURANCE	34
18. UNEMPLOYMENT INSURANCE	36
19. PERFORMANCE GUARANTEE	36
20. SURRENDER OF POSSESSION - RESTORATION OF PREMISES	37
21. LIENS AND ENCUMBRANCES	38
22. EMINENT DOMAIN	38
23. UNTENANTABLE PREMISES	39
24. LIABILITY OF COUNTY	40
25. ASSIGNMENT AND SUBLETTING	40
26. TERMINATION BY COUNTY	41
27. WAIVERS	44
28. TERMINATION BY CONCESSIONAIRE	45
29. QUIET ENJOYMENT	46
30. INTERPRETATION OF AGREEMENT	46
31. INVALID PROVISIONS	47
32. NOTICES	47
33. PARAGRAPH HEADINGS	48
34. FAMILIARITY AND COMPLIANCE WITH TERMS	48
35. SUCCESSORS AND ASSIGNS	48
36. GOVERNMENTAL FACILITIES	48
37. AIRPORT SECURITY	49
38. GOVERNMENTAL RIGHTS	49
39. AIRCRAFT NOISE AND OVERFLIGHT AND OPERATIONS	50
40. COUNTY'S RIGHT TO PERFORM LESSEE'S COVENANTS	50
41. MISCELLANEOUS	51
42. GENERAL PROVISIONS	52
A. Operations	52
B. Attorney's Fees	52
C. Relationship of Parties	52

D. Severability..... 53
43. FORCE MAJEURE 53



THIS AGREEMENT, made and entered into this _____ day of _____, 20__, by and between MILWAUKEE COUNTY, a municipal corporation in the State of Wisconsin (hereinafter referred to as "County"), and _____, a _____ corporation, whose principal office is located at _____ (hereinafter referred to as "Concessionaire").

W I T N E S S E T H:

THAT, for and in consideration of the rentals and fees to be paid by Concessionaire to County as hereinafter provided and the respective covenants of the parties hereto, it is mutually agreed and understood by and between County and Concessionaire as follows:

1. DEFINITIONS

- A. "Advertising Contract" shall mean all agreements for advertising and space contained on a standard form contract approved by the Airport Director.
- B. "Airport" shall mean General Mitchell International Airport owned and operated by Milwaukee County.
- C. "Airport Director" shall mean the Airport Director of General Mitchell International Airport and Lawrence J. Timmerman Airport, or the Airport Director's designee.
- D. "Commencement Date" shall mean the first day of the month following the month in which the County awards this Agreement at which time the obligation to pay the Percentage Fee rental under this Agreement shall commence as further described in Paragraph 9.

- E. "Concessionaire" shall mean an entity which has a contract with the County to conduct the Advertising Display Concession on Airport property.
- F. "Contract Year" shall mean the twelve-month period commencing on the Commencement Date and each anniversary thereof thereafter.
- G. "Exhibits A through D" as referenced in this Agreement are defined and described as follows:
- (1) Exhibit A contains the advertising areas and locations in the terminal building and its concourses at the Airport (the "Designated Areas").
 - (2) Exhibit B contains Concessionaire's Capital Investment Schedule.
 - (3) Exhibit C contains the Master List of all display types, locations, and monthly rental rates included in the Advertising Concession.
 - (4) Exhibit D contains the sample monthly report entitled "Calculation of Amount Due to Milwaukee County" which is to be submitted within twenty (20) days after the end of the month for which it was prepared.
- H. "Designated Areas" shall mean the areas of the Airport assigned by County to Concessionaire and described in Paragraph 2 and depicted on Exhibit A.
- I. "Terminal Building" shall mean the Airport building in which passengers enplane, deplane and collect baggage.

2. DESCRIPTION OF THE DESIGNATED AREAS

County hereby grants unto Concessionaire, and Concessionaire hereby takes and hires from County, advertising areas and locations in the terminal building and its concourses at General Mitchell International Airport, Milwaukee, Wisconsin (the

"Designated Areas"), as shown on Exhibit "A" attached hereto and made a part hereof, subject to the County's Reservation of Rights contained in Paragraph 4. Space in other areas and locations may be made available to Concessionaire for the placement of advertising displays from time to time upon prior written approval from the Airport Director.

3. TERM OF AGREEMENT

Subject to earlier termination as hereinafter provided, the Agreement shall be effective on the first day of the month after the month in which the County awards the Advertising Display Concession Agreement, and the term commences on May 1, 2014 and ends on April 30, 2019.

4. RIGHTS RESERVED BY COUNTY

- A. County's Airport Director or designee shall have the right of access to said display areas at any or all reasonable hours for the purposes of examining and inspecting the Designated Areas, making necessary repairs, determining Concessionaire's compliance with the terms of this Agreement, or for any other purpose not unduly affecting or materially interfering with the operation of said display areas by Concessionaire.
- B. Upon thirty (30) days' advance written notice from County's Airport Director, Concessionaire shall relocate or remove any advertising display or exhibit found necessary by County to be relocated or removed. Any reduction in the number of available locations for advertising shall result in a proportionate reduction in the annual guarantee. If substitute space is acceptable, County will approve

Concessionaire's relocation expenses to be deducted from payments to the Airport.

- C. County may install, or permit other Airport tenants to install display advertising in the leased areas used or occupied by such other tenants for the purpose of advertising the tenants' products and services, and the products and services of other entities with whom the tenants have an affiliation that is communicated in such display advertising. Without limiting the foregoing, County may also install, or allow Airport tenants to install display advertising outside of their leased areas which direct Airport passengers to the locations where the tenants' goods and services are sold. Such display advertising may include words, pictures, representative samples, or other images describing the goods and services offered by the tenants and may be located anywhere in the terminal, in the sole discretion of County.

5. AUTHORIZED PURPOSE

A. Uses, Rights, Privileges, and Restrictions

Concessionaire shall use the Designated Areas for no purpose other than display advertising or for other related special features provided for in Concessionaire's approved display advertising program. Nothing contained herein shall be construed as an exclusive right to sell or display advertising at the Airport. Subject to the terms, conditions, and limitations hereinafter contained, County grants to Concessionaire the following rights and privileges to sell and maintain throughout the stated term, display advertising in the Designated Areas only:

- (1) The right to sublet space in all display areas approved by County's Airport Director to qualified clients and exhibitors for the purpose of presenting to the public view the legitimate and wholesome display of goods, products, and services through such media as are adaptable to the size and capabilities of said display areas. Said clients and exhibitors and the nature and character of the displays installed or erected shall at all times be subject to the prior approval of County's Airport Director. In this respect, Concessionaire shall first submit to said Airport Director a sketch, photograph, or replica of the proposed exhibit in each instance and complete information relative to the nature of the display, including, without exclusion because of enumeration, the size, type of construction, arrangement, the written portion of the advertisement, and the proposed method of installation. No display or advertising media in any form or of any nature shall be erected, installed, or placed in any display area without the prior approval in writing of the Airport Director.
- (2) Concessionaire shall provide advertising and display equipment and fixtures that are consistent with the architectural design of the Airport, which shall be subject to Airport Director approval.
- (3) Concessionaire shall encourage its advertisers to include people of various and different ethnicities in its visual advertising presentations.
- (4) The right of ingress and egress from the Designated Areas and its officers, employees, agents, and servants, patrons, invitees, suppliers of service, and furnishers of materials. Said right is subject to the rules,

regulations, applicable laws, codes, ordinances, policies and procedures relating to the use and operation of the Airport, and subject further at all times to the Airport Director's approval and control.

B. Exclusions

The following rights are excluded from this Agreement:

- (1) Advertising on public telephones
- (2) Advertising on baggage carts.
- (3) Any television programming which offers advertising as part of its content.
- (4) Advertising in airline preferential use premises, including signs, posters, displays, banners, pamphlets, and other materials that identify and promote airline's air transportation business or that identify and promote airline's air transportation business and one or more of airline's partners in a joint marketing program.
- (5) Advertising on wireless communications devices that connect to the internet by way of the Airport's internet access and communications provider.

6. OBLIGATIONS OF CONCESSIONAIRE

- A. Concessionaire shall assume full responsibility for the rental, management, operation, and care of all display areas established by or leased exclusively to it under the terms and conditions of this Agreement. Concessionaire shall present to the Airport Director for approval all display area sublease agreement forms prior to their use by Concessionaire.
- B. All agreements for advertising and space shall be on a standard form contract ("Advertising Contract"), which has

been approved by the Airport Director. Such advertising Contract shall provide that all display advertising shall be paid for on at least a quarterly basis, in advance, and that such contract may be cancelled and the displays covered or thereby removed from the display units if and at such time as the Airport objects to the form or content of such displays; or any sum due thereunder has not been paid within thirty (30) days from the due date thereof.

- C. Any Advertising Contract which is entered into by the Concessionaire with an advertiser for the rental of advertising space in the Airport shall contain a clause stating (1) that the Advertising Contract is subordinate to the Agreement between the Airport and Concessionaire; and (2) that Advertising Contract shall terminate upon the termination of the Agreement between the Airport and Concessionaire; and (3) that the advertiser consents to the assignment of all rights of the Concessionaire in such contract to the Airport or its assigns should the Agreement be assumed by the Airport or its assigns.
- D. Concessionaire shall provide, at its cost, suitable advertising brochures, pamphlets, or other materials setting forth the services and facilities available to potential exhibitors from Concessionaire. Such advertising material shall be submitted to the Airport Director for review and approval or rejection prior to publication, which approval or rejection shall not be unduly delayed.
- E. Concessionaire shall provide, at its expense, trained and experienced design and production personnel to assure the highest level arrangement, design, construction and maintenance of all exhibits installed.

F. Concessionaire shall provide and utilize competent and experienced personnel to insure the proper installation, operation, maintenance, and dismantling of all displays installed, erected, or placed in said display areas and shall maintain the exhibits and display areas in a safe, neat, and attractive condition at all times, including the cleaning and dusting thereof. Concessionaire shall employ personnel residing in the Metropolitan Milwaukee area for the maintenance and repair function of the display areas who shall be made known to the Airport Director and who shall be available at all times. Concessionaire shall erect or arrange for all display installations and for the dismantling thereof whenever possible at hours of minimum passenger and visitor activity within the Terminal Building, or at such hours as may be specifically approved from time to time by the Airport Director. Vacant exhibits and displays should be filled immediately, as copy is changed, with either new copy, non-competitive or charitable copy or filler copy denoting the Concessionaire's name. Concessionaire shall use diligence and care in the installation, placement, and dismantling of the exhibits and the transportation thereof on the Airport premises to avoid any damage to the Airport property and agrees that, if any such damage occurs as the result of negligence on the part of Concessionaire, its employees, agents, or servants, or others having access to the display space by authorization of Concessionaire, it shall and will, at its own cost, repair all such damage without delay in a diligent and professional manner to the reasonable satisfaction of the Airport Director. Concessionaire shall provide, at its own expense, for the removal of paper or

trash or other debris from the Designated Areas to a site off the Airport premises.

- G. Concessionaire shall be responsible to ensure that a minimum of fifty percent (50%) of the advertising displays shall be sold to individuals, firms, companies or organizations whose primary place of business is located within the State of Wisconsin.
- H. Concessionaire shall provide, at its cost, all labor and materials needed for the erection, operation and maintenance of its displays, including electrical work, bracing, etc. All proposed displays require the prior written approval of the Airport Director before any installation is begun. Concessionaire shall expend a minimum capital investment in the construction, installation, and maintenance of its displays in accordance with the Capital Investment Schedule as shown on Exhibit B attached hereto and made a part hereof. Within ninety (90) days of the end of the first Contract Year, Concessionaire shall provide County with a certified statement detailing the total improvements costs, accompanied by the original paid invoices, documented contract payments and labor timesheets showing the cost of said improvements including fixtures, equipment, design fees and service, maintenance and installation fees. If the cost of said improvements is less than the Capital Investment Schedule attached hereto for any period, the difference shall be payable to County no later than May 1 of that year.
- I. Concessionaire agrees that it shall and will conduct periodic observation checks on public reaction to exhibited displays and periodic counts of public viewers as a guide to making improvements in displays and display changes, to

create and maintain public interest, and to insure the continued advertising value of the display areas available to and rented to exhibitors.

- J. In the event any displays or materials placed, installed, or erected within the Designated Areas have not been previously approved as hereinbefore provided, or that in the event such displays or materials are at any time found to be objectionable by the County's Airport Director, such displays or materials shall be removed at once from said display areas by Concessionaire upon the written order of the Airport Director.
- K. Concessionaire shall, at its cost, maintain all display areas leased to it hereunder in good condition and state of repair during the entire term of this Agreement or any extension thereof and, upon the termination of this Agreement, shall restore display areas to the same condition as when received, excepting only approved alterations, reasonable and ordinary wear and tear, and damage by the elements or by fire (not originating within or in connection with the displays and display areas). If said display areas shall not be so kept by Concessionaire, County may enter the Designated Areas (without such entering causing or constituting a termination of this Agreement or an interference with the possession of the Designated Areas by Concessionaire) and do all things necessary to restore the display areas to the condition required by this Agreement, charging the cost and expense thereof to Concessionaire, and Concessionaire shall pay to County all such costs and expenses in addition to the rents and fees herein provided. Concessionaire shall, at its own cost, furnish and replace all electric fixtures, including,

but not limited to, ballasts and starters and all electric lamps and floodlights used in or serving the display areas owned by or leased to Concessionaire herein.

- L. Concessionaire agrees that it shall comply, at its cost, with all federal, state, or local laws, ordinances, regulations, and codes and the rules and regulations of the Airport as may be now or hereafter in force and which may at any time be applicable to the operation of Concessionaire's business at the Airport under this Agreement, and shall itself obtain and pay for all permits, franchises, approvals, licenses, certificates, and other authorizations required by law and necessary for the legal and proper operation of the concession hereby granted, and shall pay all lawful fees, assessments, taxes, and charges levied under state, federal, or local laws, statutes, ordinances, or other forms of regulatory measures insofar as they are applicable, and any and all special fees or charges levied or assessed within the advertising industry or profession.
- M. By the fifteenth (15th) of every January, April, July and October during this Agreement, Concessionaire shall provide the Airport Director with a complete and detailed "Master Advertiser List" of the names of all advertisers using the Designated Areas for display advertising at the Airport. The list shall show the location of each display advertising at the Airport, the current advertiser for each display advertising, and the rates being charged to each advertiser for each display advertising. The list shall be as current as of the month during which it is submitted and shall show all additions, deletions, revisions, and substitutions in advertisers, space used, and rates

charged. The quarterly Master Advertiser List shall be in a form acceptable to the Airport Director.

- N. Concessionaire shall employ during the term of this Agreement, a local sales representative with experience in advertising and who is familiar with local business advertising needs. Concessionaire shall also provide a sales organization with the ability and experience to solicit and sell regional and national advertising.
- O. Concessionaire will not commission, install or display any work of art without the prior written approval of the Airport and without a full written waiver by the artist of all rights under Visual Artist's Rights Act of 1990, 17 U.S.C. (Sections 106A and 113). Signage shall state that County is not responsible for lost, damaged or stolen items. County reserves the right to require signage to be in multiple languages. All signage and any modification thereto shall be approved by the Airport Director, in writing, prior to installation.
- P. Concessionaire agrees and warrants that Concessionaire's operations at the Airport will conform to the highest standards of airport advertising services and shall conform to the representations, descriptions, and standards contained in Concessionaire's Proposal. Concessionaire ensures that all advertisement be of a first-class nature, in keeping with high aesthetic and ethical standards, in compliance with all applicable state, local and federal laws and regulations (including, but not limited to laws and regulations intended to protect the interest of consumers and the general public). All advertisement shall be appropriate for areas of the Airport used by the general public of all ages, and be of such high caliber as to

contribute to the establishment of the Airport's Terminals as prestige locations for commercial advertising.

7. OTHER BUSINESS ACTIVITIES

Concessionaire agrees that it shall not engage in any other business or activity on the Designated Areas or within the confines of the Airport other than those activities contemplated and specifically permitted under the terms of this Agreement without the prior written consent of the Airport Director.

8. OBLIGATIONS OF COUNTY

- A. Unless otherwise limited by federal or state statutes, executive order, rules, or regulations, County shall, at its cost, furnish ordinary heat for the terminal building twenty-four (24) hours a day to the minimum temperature required by laws or ordinances applicable to public buildings in the municipality wherein the Airport terminal building is located. In addition, County shall provide ordinary air conditioning in said building. Installation of equipment to provide any additional heat and air conditioning shall be the responsibility of Concessionaire.
- B. County, at its cost, has presently installed convenience outlets and supplies electric current for the purpose of lighting and operating authorized displays and exhibits installed by Concessionaire. The County's obligation to provide utilities shall not apply to unauthorized displays and exhibits or to displays and exhibits that use electrical current greater than that used by existing displays and exhibits. Under such circumstance, County and Concessionaire shall agree on the charge to be made for

additional utility usage. Any lighting fixtures or equipment required by Concessionaire in addition to that presently installed on the Designated Areas shall be provided by Concessionaire at its cost, provided, however, that whenever additional outlets or circuits are required, such installations shall be subject to the prior approval of the Airport Director.

- C. County agrees that it shall, at its expense, provide reasonably frequent security surveillance for the protection of said displays and their contents. County, however, shall not be liable for damage to or loss of property of Concessionaire or exhibitors from any cause whatsoever while such property is on exhibit in said display areas, while being prepared for display in or being removed from said display areas, or while being transported on or stored anywhere upon the premises of the Airport.
- D. County shall transmit to Concessionaire promptly all inquiries received by it pertaining to space rentals in the display areas.

9. RENTAL AND PRIVILEGE FEES, CHARGES, ACCOUNTING RECORDS AND REPORTS

A. Annual Rental and Privilege Fees

Beginning with the Commencement Date and continuing throughout the Term of this Agreement, Concessionaire shall pay to the County on a Contract Year basis, either a Minimum Annual Guarantee or Percentage Fee, whichever is computed to be the greater, in the amount and manner set forth herein.

(1) Minimum Annual Guarantee:

- (a) The Minimum Annual Guarantee for the first Contract Year of this Agreement shall equal _____ and ___/100 Dollars (\$_____.00).
- (b) For each subsequent Contract Year of the Agreement, the Minimum Annual Guarantee shall be adjusted to a sum of money equal to eighty-five percent (85%) of the total fees payable for the Previous Contract Year; provided, however, that in no event shall the Minimum Annual Guarantee for any Contract Year be less than the amount paid during the first Contract Year.
- (c) The applicable minimum guarantee payment required by this section shall be made in advance and without demand, on the first day of each calendar month after the commencement date of this Agreement. For any period of less than one calendar month during the term of this Agreement, said minimum guarantee fee shall be calculated on a pro rata basis. All payments herein are to be in lawful money of the United States of America.

(2) Percentage of Gross Receipts:

The Percentage of Annual Gross Receipts to be used over the term of this Agreement shall be equal to _____ % of annual gross receipts for the sale of advertising space at the Airport.

B. Definition of Gross Receipts

The term "gross receipts" as used herein shall be construed to mean the total amount charged by Concessionaire whether by cash, credit or otherwise including any separately

stated fees and charges related to Concessionaire's use of the Designated Areas at the Airport as authorized by this Agreement less advertising industry standard agency and sales commission of 15%, where applicable. Certain amounts actually paid by the advertiser to Concessionaire may be excluded from the definition of Gross Receipts, including (i) telephone service and periodic service of high-tech displays provided by third party providers, which for the purpose of this paragraph shall mean amounts actually paid by the advertiser to Concessionaire for the programming of the platform for the advertisement, digital insertion of the advertisement or insertions requiring special equipment, remote monitoring of the advertisement, and maintenance or replacement of any computer generated, motion or video displays only; (ii) revenue income owed which is deemed uncollectible by Concessionaire after prudent collection efforts have been undertaken, not to exceed 2.5% of annual sales; (iii) the printing or stocking of brochures, which brochures shall be limited to the telephone reservations board area except where otherwise authorized by County; and (iv) the amount of any federal, state, or local excise and sales taxes presently or hereafter levied upon such rentals.

C. Monthly Payments

- (1) For each month of the term of this Agreement, a monthly amount equal to one-twelfth (1/12th) of the then applicable Minimum Annual Guarantee shall be due. All monthly Minimum Annual Guarantee payments shall be made, in advance and without demand, on or before the first day of each calendar month after the commencement date of this Agreement. For any period

of less than one calendar month during the term of this Agreement, the monthly Minimum Annual guarantee payment shall be calculated on a pro rata basis.

- (2) For each month of the term of this Agreement, a monthly Percentage of Gross Receipts amount shall also be calculated as set forth in Paragraph 9.D. Payment due, if any, shall be made within twenty (20) days after the end of the calendar month for which it was calculated.
- (3) All payment of rental and privilege fees to be made by Concessionaire under this Agreement shall be made payable to the Milwaukee County Department of Public Works, Airport Division, and remitted to the General Mitchell International Airport, Milwaukee County Public Works - Airport, Box 78979, Milwaukee, Wisconsin 53278-0979. All payments are to be made in lawful currency of the United States of America.

D. Calculation of Monthly Percentage of Gross Receipts Payments and Remittance of Monthly Reports

- (1) The monthly Percentage of Gross Receipts payment must be an amount sufficient to bring the "Total Year to Date Payments Due" equal to the "Year to Date Contract Amount." The "Year to Date Contract Amount" is equal to the greater of the "Year to Date Percentage of Gross Receipts" amount or the "Year to Date Minimum Guarantee" amount.
- (2) Exhibit D provides for an example of how the monthly Percentage of Gross Receipts payments are to be calculated. Note that each month after the monthly Minimum Guarantee payment has been made, if the "Total Year to Date Payments Due" amount is greater than the

"Total Year to Date Contract Amount," then no additional monthly Percentage of Gross Receipts payment is due for that month.

- (3) A monthly report entitled "Calculation of Amount Due to Milwaukee County" (a sample of which is included as Exhibit D) must be submitted within twenty (20) days after the end of the month for which it was prepared. Such report is also referred to in Paragraph 9.F.(2). The report shall include the following information:
- (a) Month
 - (b) Monthly Gross Receipts, as Gross Receipts are defined In Paragraph 9. B.
 - (c) Monthly Percent (%) of Gross Receipts, which is set forth in Paragraph 9. A. (2)
 - (d) Monthly Minimum Guarantee, as set forth in Paragraph 9. C. (1)
 - (e) Year to Date (YTD) Gross Receipts
 - (f) Year to Date (YTD) Percent (%) of Gross Receipts
 - (g) Year to Date (YTD) Minimum Guarantee
 - (h) Year to Date (YTD) Contract Amount, as defined in Paragraph 9. D. (1)
 - (i) Monthly Minimum Guarantee Payments Due as set forth in Paragraph 9. C. (1)
 - (j) Monthly Percent (%) of Gross Receipts Payment Due as set forth in Paragraph 9. D. (1)
 - (k) Total Monthly Payments Due, the total of (i) and (j) above
 - (l) Total Year to Date (YTD) Payments Due, the total of Monthly Payments Due in (k) above

E. Delinquent Charges or Fees

(1) Interest

Unless waived by the County Board of Supervisors, Concessionaire shall be responsible for payment of interest on amounts not remitted in accordance with the terms of the agreement with Milwaukee County. The rate of interest shall be the statutory rate in effect for delinquent County property taxes (presently 1% per month or fraction of a month) as described in Subsection 74.47(1), Wis. Stats. The obligation for payment and calculation thereof shall commence upon the day following the due dates established herein.

(2) Penalty

In addition to the interest described above, Concessionaire may be responsible for payment of a penalty on amounts not remitted in accordance with the terms of the Agreement with Milwaukee County, as may be determined by the Airport Director or the Airport Director's designee. Said penalty shall be the statutory rate in effect for delinquent County property taxes (presently .5% per month, or fraction of a month) as described in Milwaukee County Ordinance Subsection 6.06(1) and Subsection 74.47(2), Wis. Stats. The obligation for the payment and calculation thereof shall commence upon the day following the due dates established herein.

(3) Audit Results

If as a result of the annual audit required herein, additional amounts are disclosed to be due and owing to Milwaukee County, interest and penalty shall be calculated thereon in accordance with the above

method. Concessionaire shall remit to Milwaukee County any additional amounts identified due and owing for the audit including interest and penalty thereon within thirty (30) days following receipt of the audit report by Milwaukee County.

(4) Nonexclusivity

This provision permitting collection of interest and penalty by Milwaukee County on delinquent payments shall not be considered Milwaukee County's exclusive remedy for Concessionaire's default or breach with respect to delinquent payment. The exercise of this remedy is not a waiver by Milwaukee County of any other remedy permitted under this Agreement or by law, including but not limited to the termination of this Agreement.

F. Accounting Records and Reports

- (1) Concessionaire agrees to keep accurate records and books of account in compliance with Generally Accepted Accounting Principles (GAAP). These reports shall show a full and complete breakdown analysis of all items included in the calculation of total gross receipts reported and such statements shall be submitted to County together with Concessionaire's payment of monthly rentals as due hereunder. In those situations where Concessionaire's records have been generated from computerized data (whether mainframe, minicomputer, or PC-based computer systems), Concessionaire agrees upon request to provide County with extracts of data files in a computer readable format on data disks, E-mail with attached files, or suitable alternative computer data exchange formats.

- (2) Within twenty (20) days after the close of each calendar month Concessionaire shall submit to County, in a form and with detail satisfactory to the Airport Director, a statement of its gross receipts during the preceding month derived from its operations at the Airport upon which the percentage payments to County set forth in Paragraph 9.A. were computed. Said statement must be signed by a responsible officer or manager of Concessionaire. Concessionaire shall keep full and accurate books and records showing all of its said gross receipts pertaining to operations at the Airport, and County shall have the right, through its representatives, and at all reasonable times, to inspect such books and records, including sales tax return records. Concessionaire hereby agrees that all such records and instruments will be made available to County for at least three (3) years after the termination of this Agreement, or in the event of a claim by County, until such claim of County has been fully ascertained, fixed, paid, and resolved. The records requirements of this section shall also extend to any of Concessionaire's subsidiaries, partners, joint venturers, and sub-Concessionaires or the like.
- (3) Concessionaire shall employ an independent certified public accountant who shall furnish, within ninety (90) days after the close of each calendar year, or portion thereof, an audit report to County certifying that in their opinion the fees paid by Concessionaire to County during the preceding year pursuant to this Agreement were made in accordance with the terms of this Agreement. The audit report shall comply with

GAAP auditing standards. Such audit report shall also contain a list of the Gross Revenues as shown on the books and records of Concessionaire, which were used to compute the fees paid to County during the period covered by the audit report.

- (4) Within thirty (30) days of receipt of the audit report required in Paragraph 9. E. (3) Concessionaire or County shall make any necessary payment, one to the other, to comply with the percentage due for each said year.
- (5) County reserves the right to prescribe or change reporting forms, their method and time of submission, and the payment schedule. The County shall first submit to Concessionaire a written description of the desired changes.

G. Audit

- (1) County reserves the right, at County's expense, to audit Concessionaire's books and records of receipts at any time for the purpose of verifying the gross receipts hereunder. If, as a result of such audit, it is established that Concessionaire has understated the gross receipts, as defined herein, by three percent (3%) or more, the entire expense of said audit shall be borne by Concessionaire. Any additional percentage fee due shall be paid by Concessionaire to County within 45 days from the date of Concessionaire's notice of such additional fee, with interest thereon at eighteen percent (18%) per annum from the date such additional percentage fee became due.
- (2) Concessionaire shall have available, within twenty (20) business days after written request, at its

Airport office for review and/or audit by County staff or its designee, full and accurate records, accounts, books, and data with respect to business done by it hereunder which shall show all of the Gross Receipts of said business, as defined herein, in sufficient detail to readily permit verification. Should travel to the Concessionaire's out of state offices be required in order for County to conduct such a review and/or audit, all reasonable costs incurred by County including but not limited to airfare, meals, lodging and local transportation shall be paid by Concessionaire.

H. Annual Adjustment

Within thirty (30) days of receipt of the statement required in Paragraph 23(b), County shall prepare and submit to Concessionaire a statement showing the total percentage fee for the preceding twelve (12) months; if the sums paid by Concessionaire during said period exceed the minimum fee or the percentage fee payments, whichever is greater, such overpayment shall be credited to the fees next thereafter due from Concessionaire.

I. Additional Fees and Charges

- (1) Concessionaire shall pay additional fees and charges under the following conditions:
 - (a) If County has paid any sum or sums or has incurred any obligation or expense which Concessionaire agreed to pay or to reimburse County;
 - (b) If County is required or elects to pay any sum or sums or incurs any obligations or expense because of the failure, neglect, or refusal of

- Concessionaire to perform or fulfill any of the conditions of this Agreement; or
- (c) If County incurs any obligation or expense on behalf of Concessionaire in order to insure Concessionaire's continuing operation of its concession at the Airport.
- (2) Concessionaire shall pay additional fees and charges related to employees including but not limited to employee parking and employee identification badges.

10. ENVIRONMENTAL RESPONSIBILITIES

A. Definitions

- (1) The term "Environmentally Regulated Substances" as used in this Agreement means any element, compound, pollutant, contaminant, or toxic or other hazardous substance, material, or waste, or any mixture thereof, designated, referenced, regulated or identified pursuant to any Environmental Law.
- (2) The term "Environmental Law" as used in this Agreement means any common law or duty, case law or ruling, statute, rule, regulation, law, ordinance or code, whether local, state or federal, that regulates, creates standards for or imposes liability or standards of conduct concerning any element, compound, pollutant, contaminant, or toxic or hazardous substance material or waste, or any mixture thereof or relates in any way to emissions or releases into the environment or ambient environmental conditions, or conduct affecting such matters.

B. Indemnification

Concessionaire hereby indemnifies and agrees to defend, protect and hold harmless County, its officers, employees or agents, any successor or successors to County's interest, (collectively "Indemnitees") from and against any and all losses, liabilities, fines, charges, damages, injuries, penalties, response costs, or claims of any and every kind whatsoever paid, incurred or asserted against, or threatened to be asserted against, any Indemnitee, in any way relating to or regarding, directly or indirectly, any Environmentally Regulated Substances or Environmental Laws, including all related claims or causes of action at common law or in equity which arise from or relate to Concessionaire's use or operations on or within the Designated Areas (hereinafter "Environmental Claims"); such matters will include without limitation: (i) all consequential damages; (ii) the costs of any investigation, study, removal, response or remedial action, as well as preparation or implementation of any monitoring, closure or other required plan or response action; and (iii) all reasonable costs and expenses incurred by any Indemnitee in connection with such matters including, but not limited to, attorney's fees and reasonable fees for professional services or fire fighting or pollution control equipment; Concessionaire further agrees to defend, protect, indemnify and hold harmless any Indemnitee for any such matters arising out of Sections C. and E. below. Such indemnification and Concessionaire's obligation hereunder, shall survive cancellation, termination or expiration of the term of this Agreement.

C. Compliance with Environmental Laws

Concessionaire shall keep and maintain and shall conduct its operations on the Designated Areas in full compliance with Environmental Laws. Concessionaire will further insure that its employees, agents, contractors, subcontractors, and any other persons conducting any activities on the Designated Areas do so in full compliance with all Environmental Laws. By virtue of its operational control of the facility, Concessionaire shall be responsible for obtaining all necessary government permits or other approvals required by Environmental Laws in its name.

D. Notification

Concessionaire shall immediately notify the Airport Director in writing of any matter that might give rise to an Environmental Claim, or if Concessionaire obtains knowledge of any release, threatened release, discharge, disposal or emission of any Environmentally Regulated Substance in, on, under or around the Designated Areas which is not in full and complete compliance with all Environmental Laws.

E. Right to Take Action

County shall have the right, but not the obligation or duty, to join or participate in, including if it so elects as a formal party, any legal or administrative or equitable proceedings or actions initiated by any person or entity in connection with any Environmentally Regulated Substance, Environmental Law, Environmental Claim pertaining to Concessionaire's operations of the Designated Areas, or if Concessionaire is not fulfilling its obligations under Section B. above, and in such case to have its reasonable

attorney's fees and costs incurred in connection therewith paid by the Concessionaire.

F. Right to Investigate

County shall have the right, but not the obligation or duty, any time from and after the date of this Agreement, to investigate, study and test to determine whether Environmentally Regulated Substances are located in, on or under the Designated Areas, or were emitted or released therefrom, which are not in compliance with Environmental Laws. Upon reasonable request of County, Concessionaire shall provide a list of any and all Environmentally Regulated Substances used in, on or under the Designated Areas, certified as true and correct, and specifying how such Environmentally Regulated Substances are used, stored, treated or disposed.

G. Environmentally Regulated Substances

- (1) The Concessionaire shall promptly advise the Airport Director in advance of any environmental findings which suggest that any Environmentally Regulated Substance may be disturbed by the performance of construction work at or on the Designated Areas. The County shall have the right to direct the Concessionaire to stop the performance of construction work at any location where it is reasonably expected such work will disturb any Environmentally Regulated Substance. The County shall thereafter promptly commence the performance of any appropriate environmental testing at such location or redirect the Concessionaire to an alternative location. The County and the Concessionaire shall promptly discuss the appropriate modifications to the construction work.

The County shall have the right to direct the Concessionaire to alter the location of any construction work in order to investigate the need for any clean-up, removal and disposal, response or remediation. The Concessionaire shall consult with the County prior to preparing its plans and specifications to minimize any disturbance to any Environmentally Regulated Substance.

- (2) As between the Concessionaire and the County, the Concessionaire shall be responsible for the clean-up or removal and disposal, response or remediation of any and all Environmentally Regulated Substances which could subject any person to liability for costs of clean-up or removal. Response or remediation under any Environmental Laws and which arise out of or result from (i) the use of occupancy of the Designated Areas by Concessionaire or its officers, employees, guests, invitees, contractors and other representatives, or (ii) any acts or omissions of the Concessionaire or any of the aforesaid in connection with the Designated Areas.

11. LIQUIDATED DAMAGES

- A. The liquidated damages required by this Section are for the inconvenience to the public and adverse effects on Airport operations, and to compensate the County and the traveling public for their expenditures, inconvenience, and additional costs associated with Concessionaire's conduct. Payment of liquidated damages shall not relieve Concessionaire of responsibility for physical damage, personal injury, or other harm caused by the tortious acts of Concessionaire, its employees, agents or contractors.

Nor shall liquidated damages constitute the County's sole remedy for Concessionaire's conduct.

- B. For non-monetary defaults under this Agreement, County at its sole reasonable discretion may determine if a violation of this Agreement has occurred and may impose the following penalties. The Airport Director shall provide written notice of each offense to Concessionaire. Failure to pay an assessment or surrender space within thirty (30) days of such notice shall constitute a default under this Agreement. Offenses in this Paragraph are cumulative over the term of this Agreement and are in addition to any other remedies County may have under this Agreement or by law.
- C. The first offense in any category will result in a warning letter. The second offense will require Concessionaire to pay County liquidated damages in the amount listed below. For a third offense in the same category, Concessionaire shall pay to County Liquidated damages in the amount listed below. For the fourth and each subsequent cumulative offense, Concessionaire shall pay to County the third violation amount plus an additional 100%. Concessionaire agrees that such amounts are fair compensation to County for such damage. County in no way waives its rights to any other remedies provided in law or equity, such as default and termination, other remedies, or other applicable law through the imposition of liquidated damages.

LIQUIDATED DAMAGES FOR VIOLATION OF OPERATING STANDRDS

VIOLATION	SECOND VIOLATION	THIRD VIOLATION
A. Unapproved advertising or placement of advertising in areas not authorized by County.	\$500.00	\$750.00
B. Late monthly reporting of gross receipts in violation of Paragraph 9. E.	\$25.00 per day	\$50.00 per day
C. Failure to deliver, on time, required items such as reports, schedules, manuals or other materials as specified in this Agreement.	\$200.00	\$300.00
D. Other non-monetary defaults that disrupt operations, traffic in terminal or customer service.	\$500.00	\$750.00
E. Bulbs burned out or advertising otherwise not in presentable conditions.	\$200.00	\$300.00
F. Late annual financial reporting in Violation of Paragraph 9.H.(3)	\$50.00 per day	\$100.00 per day

D. For any violations specified in this section with associated per diem penalties, the County agrees to provide immediate written notice via facsimile and overnight courier of any such violation.

12. NONDISCRIMINATION

Concessionaire, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination; (2) that in the construction of any improvements and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that Concessionaire shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. That in the event of breach of any of the above nondiscrimination covenants, County shall have the right to terminate the agreement and to re-enter and repossess the facilities and hold the same as if said agreement had never been made or issued.

13. AFFIRMATIVE ACTION

The Concessionaire assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Concessionaire assures that no person shall be excluded on

these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart.

The Concessionaire assures that it will require that its covered suborganizations provide assurances to the Concessionaire that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

14. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- A. Concessionaire shall comply with County's approved Disadvantaged Business Enterprise (DBE) program submitted in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Office of the Secretary, Parts 23 and 26.
- B. Concessionaire shall adhere to the DBE participation plan submitted with its proposal, which assures that 5% of the gross revenues derived from the operation of its business at the Airport be attributed to DBEs certified by the Wisconsin Unified Certification Program (UCP) as detailed in 49 CFR Parts 23 and 26. Written approval from the County is required prior to any change to the DBE participation plan submitted with Concessionaire's proposal.
- C. If Concessionaire fails to reflect a good faith effort to maintain the level of certified participation stated herein throughout the term of this License, County may consider this as a material breach of the License and may terminate the License in accordance with Article III of this License.

D. Concessionaire shall be required to comply with appropriate provisions of 49 CFR Parts 23 and 26. Concessionaire shall submit reports as required in the form specified by County for the purpose of demonstrating compliance with this Paragraph.

15. NONDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS REQUIRED BY GENERAL ORDINANCES OF MILWAUKEE COUNTY

A. Section 56.17(1a)

In the performance of work or execution of this agreement, the Concessionaire shall not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex, or handicap, which shall include but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeships. The Concessionaire will post in conspicuous places, available for employment, notices to be provided by the County setting forth the provisions of the nondiscriminatory clause. A violation of this provision shall be sufficient cause for the County to terminate the agreement without liability for the uncompleted portion or for any materials or services purchased or paid for by the Concessionaire for use in completing the agreement.

B. Section 56.17(1d)

The Concessionaire agrees that it will strive to implement the principles of equal employment opportunities through an effective affirmative action program, and will so certify prior to the award of the agreement, which program shall have as its objective to increase the utilization of women,

minorities and handicapped persons, and other protected groups, at all levels of employment in all divisions of the Concessionaire's work force, where these groups may have been previously under-utilized and under-represented. The Concessionaire also agrees that in the event of any dispute as to compliance with the aforementioned requirements, it shall be its responsibility to show that it has met all such requirements.

16. INDEMNITY

To the fullest extent permitted by law, the Concessionaire agrees to indemnify, defend, and hold harmless the County and its agents, officers, and employees from and against all losses or expenses including costs and attorney's fees by reason of liability for damages including suits at law or in equity, caused by any wrongful, intentional, or negligent acts or omissions of the Concessionaire, or its (their) agents which may arise out of or are connected with the activities covered by this Agreement. Concessionaire shall indemnify and save County harmless from any award of damages and costs against County for any action based on Title VII of the Civil Rights Act of 1964 or any other state or federal antidiscrimination law or regulation or for U.S. patent or copyright infringement related in any way to the performance of the tasks and services covered by this Agreement.

17. INSURANCE

Concessionaire agrees to evidence and maintain proof of financial responsibility to cover costs as may arise from employees. Such evidence shall include insurance coverage for

Worker's Compensation claims as required by the State of Wisconsin, including Employers Liability, and Business Insurance covering general liability and automobile coverage in the following minimum amounts:

<u>Workers Compensation (WI)</u> or Proof of All States coverage Employers Liability	<u>Statutory (Waiver of Subrogation)</u> \$100,000/500,000/100,000
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<u>Comprehensive General Liability</u> Bodily Injury & Property Damage (Incl. Personal Injury, Fire Legal & Contractual & Products/ Completed Operations)	\$1,000,000 per Occurrence \$1,000,000 General Aggregate
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<u>Automobile Liability</u> All Autos and/or Non-Owned Bodily Injury & Property Damage	\$1,000,000 per accident
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The County shall be named as additional Insured, As Its Interests May Appear, and be afforded a thirty day (30) written notice of cancellation or non-renewal. A certificate indicating the above coverages shall be submitted for review and approval by County for the duration of this agreement. Coverages shall be placed with an insurance company approved by the State of Wisconsin and rated "A" per Best's Key Rating Guide. Additional information as to policy form, retroactive date, discovery provisions and applicable retentions, shall be submitted to County, if requested, to obtain approval of insurance requirements. Any deviations, including use of purchasing groups, risk retention groups, etc., or requests for waiver from the above requirements shall be submitted in writing to the county for approval prior to the commencement of activities under this Agreement.

18. UNEMPLOYMENT INSURANCE

Concessionaire shall also furnish evidence satisfactory to said Airport Director that it carries unemployment insurance pursuant to the requirements of the Statutes of the State of Wisconsin.

19. PERFORMANCE GUARANTEE

A. Prior to the beginning of the term of this Agreement, Concessionaire shall furnish to County a valid performance bond or letter of credit in the principal sum of _____ and ___/100 Dollars (\$_____.00). The bond or letter of credit shall be issued by a surety company licensed to do such business in the State of Wisconsin. The bond or letter of credit is subject to the approval of County's Corporation Counsel, and shall be maintained and kept by Concessionaire in full force and effect during the entire term of this Agreement and three (3) months past the termination date of this Agreement and any extensions thereof. Such surety bond or letter of credit shall be conditioned to insure the faithful and full performance by Concessionaire of all the covenants, terms, and conditions of this Agreement and to stand as security for the payment by Concessionaire of all valid claims by County against Concessionaire. If at any time this Agreement terminates or is terminated, there is due and owing to County any sum payable under the terms hereof; or, if County has any claim against Concessionaire arising out of this Agreement, then said _____ and No/100 Dollars (\$_____.00) or any part thereof shall be applied in payment of the amount due or in settlement of the claim or claims of County against Concessionaire.

B. It is understood that this remedy is nonexclusive and is in addition to and not in lieu of all other rights, remedies or causes of action available to the County under this Agreement, at law or in equity, which County specifically reserves to itself.

20. SURRENDER OF POSSESSION - RESTORATION OF PREMISES

A. Upon the termination of this Agreement by lapse of time or for cause, Concessionaire shall forthwith remove from the premises leased to it hereunder all signs, equipment, goods, chattels, fixtures, and exhibits installed or placed in, on, or upon the Designated Areas and other areas or anywhere upon the premises of the Airport and restore the Designated Areas to the same condition in which they were received, approved alterations, ordinary wear and tear, and damage by fire or the elements excepted; provided that the restoration of any portion of the Designated Areas damaged by fire as provided in Paragraph 23. A. shall be the responsibility of Concessionaire without any cost to County. Title to any improvements made by Concessionaire to or within the Designated Areas and which are of such nature as cannot be removed without substantial damage to the Designated Areas shall vest in County without compensation to Concessionaire upon the termination of this Agreement. In the event of the failure of Concessionaire to restore the Designated Areas to the condition herein required and to remove from the Designated Areas all property as demanded in this Paragraph 20, County may effect such restoration and remove and store all such property at Concessionaire's expense, and Concessionaire agrees to pay all reasonable costs, attorney's fees, and all other

legitimate expenses that shall be incurred by County in connection with such restoration, removal, and storage.

- B. Concessionaire agrees to cooperate in good faith and in a commercially reasonable manner in the transition from Concessionaire's predecessor to Concessionaire at the beginning of this Agreement and in the transition from Concessionaire to Concessionaire's successor upon expiration or termination of this Agreement, as directed by County.

21. LIENS AND ENCUMBRANCES

Concessionaire shall not permit the Designated Areas to become subject to any mechanic's, laborer's, or materialman's lien on account of labor or material furnished to Concessionaire or claimed to have been furnished to Concessionaire in connection with work of any character performed or claimed to have been performed on or in the Designated Areas by, or at the direction of Concessionaire.

22. EMINENT DOMAIN

In the event that the United States of America or the State of Wisconsin shall, by exercise of the right of eminent domain or any other power, acquire title in whole or in part to the Airport, including any portion leased to Concessionaire, Concessionaire shall have no right of recovery whatsoever against County but shall make its claim for compensation solely against the United States of America or the State of Wisconsin, as the case may be.

23. UNTENANTABLE PREMISES

- A. If the Designated Areas are partially damaged by fire or other casualty, but not rendered untenable, as determined by County, County shall repair same at its own cost and expense, provided, however, that if the damage is caused by the negligent act or omission of Concessionaire its agents, or employees, Concessionaire shall be responsible for reimbursing the County for the cost and expenses incurred in such repair.
- B. If the damage is so extensive as to render the Designated Areas untenable, as determined by the County, but capable of being repaired in sixty (60) days, the same shall be repaired by County at its own cost and expense, and rentals and privilege fees payable by Concessionaire for the damaged structure shall be proportionately adjusted until such time as the Designated Areas shall be fully restored; provided, however, that if said damage is caused by the negligent act or omission of Concessionaire, its agents or employees, the rental and privilege fees due will not abate and Concessionaire shall be responsible for reimbursing the County for the costs and expense incurred in such repair.
- C. In the event the premises are completely destroyed by fire or other casualty or so damaged that they will remain untenable, as determined by County for more than sixty (60) days, Concessionaire shall have two options:
- (1) If the Designated Areas are repaired or reconstructed with due diligence by the County at its own cost and expense, the rental due hereunder for the damaged structures shall be proportionately adjusted until

such time as the building shall be fully restored, and Concessionaire may continue this Agreement; or

- (2) If after twelve (12) months from the time of such damage or destruction of the Designated Areas have not been repaired or reconstructed for Concessionaire's use, or other reasonable facilities provided in lieu thereof, Concessionaire may give the County written notice of its intention to then cancel this Agreement in its entirety or to cancel as of the date of such damage or destruction. The term "Designated Areas" as used herein refers to the area defined in Paragraph 1. F.

24. LIABILITY OF COUNTY

Except as provided in Paragraph 23 hereof, it is specifically understood and agreed that County shall have no liability to Concessionaire, its employees, agents, servants, or patrons, for damage to or loss of property of Concessionaire from any cause whatsoever, unless such damage to or loss of property shall be caused by negligence on the part of County, its employees, agents, or servants.

25. ASSIGNMENT AND SUBLETTING

Except as provided in Paragraph 6 hereof, Concessionaire is prohibited from assigning this Agreement or subletting the Designated Areas, in whole or in part, without the prior consent of County, evidenced by a resolution that has been fully adopted by its Board of Supervisors.

26. TERMINATION BY COUNTY

This Agreement shall be subject to cancellation by County in the event of the happening of any one or more of the following contingencies:

- A. If Concessionaire shall file a voluntary petition of bankruptcy; or if proceedings in bankruptcy shall be instituted against it and it is thereafter adjudicated a bankrupt pursuant to such proceedings; or if a court shall take jurisdiction of such Concessionaire and its assets pursuant to proceedings brought under the provisions of any Federal reorganization act; or if a receiver for Concessionaire's assets is appointed; or if Concessionaire shall be divested of its rights, powers, and privileges under this contract by other operation of law.
- B. If Concessionaire shall abandon and discontinue the conduct and operation of said concession at the Airport for a period of sixty (60) days or more.
- C. If Concessionaire shall default in or fail to make any payments at the times and in the amounts as required of it under this Agreement.
- D. If Concessionaire shall fail to perform, keep, and observe all of the conditions of this Agreement to be performed, kept, and observed by it, including, but not limited to, the payment of fees and other charges in the time, manner, and amount as provided in this Agreement and compliance with all applicable laws, ordinances, codes, rules, and other regulatory measures of the United States of America, the State of Wisconsin, County of Milwaukee, and City of Milwaukee, and the rules and regulations governing the use, operation, and control of the Airport.

- E. All rights, privileges, or interests acquired by Concessionaire under the terms of this Agreement may, at the option of County, following written notice of thirty (30) days, be suspended or finally terminated if such suspension or termination is found by County, acting in good faith, to be necessary to secure federal financial aid for the development and improvement of the Airport. In the instance of a suspension, Concessionaire's obligations shall be abated. In the instance of a termination, Concessionaire shall promptly be reimbursed by the County for the undepreciated portion of its investment into the advertising display program based on a straight-line ten-year depreciation schedule.
- F. During the time of war or national emergency, the County shall have the right to lease the Airport or any part thereof to the U.S. Government for military or naval use; and, if any such lease is executed, the terms and conditions of Concessionaire's agreement with County, insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended.
- G. Upon the happening of any of the contingencies recited in subsections (B) and (C) of Paragraph 26, County shall give written notice to Concessionaire to correct or cure such default, failure to perform, or breach; and if, within thirty (30) days from the date of such notice, the default, failure to perform, or breach complained of shall not have been corrected in a manner satisfactory to County's Airport Director, then, and in such event, County shall have the right, at once and without further notice to Concessionaire, effectuated by resolution adopted by County's Board of Supervisors, to declare this Agreement

terminated and to enter upon and take full possession of the Designated Areas.

- H. Upon the happening of any one of the contingencies enumerated in Paragraph 26. A. hereof, this Agreement shall be deemed to be breached by Concessionaire and without entry or any other action by County, this Agreement shall terminate, subject to be reinstated only if such involuntary bankruptcy or insolvent proceedings, petition for reorganization, trusteeship, receivership, or other legal act divesting Concessionaire of its rights under this Agreement shall be denied, set aside, vacated, or terminated in Concessionaire's favor within sixty (60) days from the happening of the contingency. Upon the happening of said latter events, this Agreement shall be reinstated as if there had been no breach occasioned by the happening of said contingencies, provided that Concessionaire shall, within ten (10) days after the final denial, vacating, or setting aside of such petition on the vacating, terminating, or setting aside of such appointment, pay or discharge any or all sums of money which may have become due under this agreement in the interim and shall then remain unpaid and shall likewise fully perform and discharge all other obligations which may have accrued and become payable in the interim.
- I. In the event that defaults, failure to perform, and breaches by Concessionaire of its obligations under this Agreement to be performed, kept, and observed by it shall recur from time to time to such extent that County's Airport Director believes that Concessionaire is an unsatisfactory Concessionaire, then, upon written recommendation by the Airport Director to County's Board of

Supervisors, County shall have the right, upon resolution fully adopted by said Board, to terminate this Agreement. Upon adoption of such resolution, County shall give written notice of such termination to said Concessionaire and this Agreement shall terminate within ten (10) days from the date of said notice.

- J. In the event there is a finding by an independent CPA firm or County's designated auditors which indicates a lack of proper internal control structure or fraudulent practices on the part of Concessionaire which results in an audit adjustment of the amount due to County of five percent (5%) or more.

27. WAIVERS

- A. The acceptance of charges and fees by County for any period or periods after a default of any of the terms, covenants, and conditions herein contained to be performed, kept, and observed by Concessionaire shall not be deemed a waiver of any rights on the part of the County to cancel this Agreement for failure by Concessionaire to so perform, keep, or observe any of the terms, covenants, or conditions hereof to be performed, kept, and observed.
- B. No waiver by County of any of the terms of this Agreement to be kept, performed, or observed by Concessionaire shall be construed to be or act as a waiver by County of any subsequent default on the part of Concessionaire.
- C. No waiver of default by either party of any of the terms, covenants, or conditions of this agreement to be performed, kept, and observed by either party, either prior to or after either party may have remedied the same, shall be construed to be or act as a waiver of any subsequent

default of any of the terms, covenants, and conditions herein contained to be performed, kept, and observed by either party.

- D. County's decision not to conduct an annual audit shall not constitute a waiver of any right or privilege arising under or as a result of this Agreement.

28. TERMINATION BY CONCESSIONAIRE

This Agreement shall be subject to termination by Concessionaire in the event of the happening of any one or more of the following contingencies:

- A. The permanent abandonment of the Airport as an air terminal.
- B. The issuance by any court of competent jurisdiction of an injunction substantially preventing or restraining the use of the Airport or of the terminal building and the remaining in force of such injunction for at least sixty (60) days.
- C. The breach by the County of any of the terms, covenants, and conditions of this agreement and the failure of County to remedy such breach within a period of sixty (60) days after written notice from Concessionaire of the existence of such breach.
- D. The assumption by the U.S. Government or the State of Wisconsin, or any authorized agency of either, of the operation, control, or use of the airport and its facilities in such a manner as to substantially restrict Concessionaire from operating said advertising display concession, if such restriction be continued for a period of three (3) months or more.
- E. Termination by Concessionaire as hereinabove provided shall take place within ten (10) days after receipt by County of

written notice of such termination from Concessionaire. No waiver of default by Concessionaire of any of the terms, covenants, or conditions hereof to be performed, kept, or observed by County shall be construed to be or act as a waiver by Concessionaire of any subsequent default of any of the terms, covenants, and conditions herein contained to be performed, kept, and observed by County.

29. QUIET ENJOYMENT

County agrees that, on payment of the fees and the performance of the covenants and agreements on the part of Concessionaire to be performed hereunder, Concessionaire shall be entitled to the quiet enjoyment of the Designated Areas and the rights and privileges with respect thereto as granted herein.

30. INTERPRETATION OF AGREEMENT

It is understood and agreed that nothing herein contained is intended or should be construed as in anywise creating or establishing the relationship of copartners between the parties hereto or as constituting Concessionaire as the agent, representative, or employee of the County for any purpose or in any manner whatsoever. Concessionaire is to be and shall remain an independent contractor with respect to all services performed under this Agreement and agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for Social Security, Worker's Compensation Insurance, Unemployment Insurance, or Old Age Retirement Benefits, Pensions, or Annuities now or hereafter imposed under any local, state or federal laws which are measured by the wages, salaries, or other remunerations paid to

persons employed by Concessionaire for work performed under the terms of this Agreement, and agrees to indemnify and save County harmless from any such contributions or taxes or liability therefore.

31. INVALID PROVISIONS

In the event any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition, or provision shall in no way affect any other covenant, condition, or provision herein contained; provided that the invalidity of such covenant, condition, or provision does not materially prejudice either County or Concessionaire in their respective rights and obligations contained in the valid covenants, conditions, or provisions of this Agreement.

32. NOTICES

Notices to the County provided for in this Agreement shall be sufficient if sent by certified or registered mail, postage prepaid, addressed to the Airport Director, General Mitchell International Airport, 5300 South Howell Avenue, Milwaukee, Wisconsin 53207; and notices to Concessionaire shall be sufficient if sent by certified or registered mail, postage prepaid, to

or to such other respective addresses as the parties may designate to each other in writing.

33. PARAGRAPH HEADINGS

The paragraph headings contained herein are for convenience in reference and are not intended to specifically define or limit the scope of any provision of this Agreement.

34. FAMILIARITY AND COMPLIANCE WITH TERMS

Concessionaire represents that it has carefully reviewed the terms and conditions of this agreement and is familiar with such terms and conditions and agrees faithfully to comply with the same to the extent to which said terms and conditions apply to its activities as authorized and required by this Agreement.

35. SUCCESSORS AND ASSIGNS

All provisions of this Agreement shall extend to bind and inure to the benefit not only of the County and of Concessionaire, but also their respective legal representatives, successors, and assigns.

36. GOVERNMENTAL FACILITIES

In the event that the Federal Government discontinues the provision and operation of air traffic controls, navigational aids, and other Airport facilities which are now or may hereafter be furnished by it, the County shall not be required or obligated to furnish such facilities and services after discontinuance thereof by the Federal Government.

37. AIRPORT SECURITY

Concessionaire covenants and agrees that it will at all times maintain the integrity of the Airport Security Plan and comply with all laws, statutes, rules, regulations and orders, including Federal Rules 49 CFR 1542, promulgated by any federal, state or local agency, authority, or officer, including the Federal Aviation Administration (FAA), the Federal Transportation Security Administration and the U.S. Department of Justice. Concessionaire, its employees agents or contractors are expressly required at all times to comply with all laws, statutes, rules, regulations and orders, including Federal Rules 49 CFR 1542, promulgated by any federal, state or local agency, authority, or officer, including the FAA, the Federal Transportation Security Administration and the U.S. Department of Justice. Should a penalty be imposed on County for an incident involving Concessionaire's breach of security, Concessionaire agrees to reimburse County for any and all such penalties including, but not limited to, civil fines which may be imposed upon the County by any state, local or federal agency, or officer, including the Transportation Security Administration.

38. GOVERNMENTAL RIGHTS

Nothing in this Agreement shall be construed or interpreted in any manner whatsoever as limiting, relinquishing, or waiving any of the rights or ownership enjoyed by the County in the Airport or in any manner waiving or limiting its control over the development, improvement, operation, and maintenance of the Airport or in derogation of such governmental rights as County

possesses, except as may be otherwise specifically provided herein.

39. AIRCRAFT NOISE AND OVERFLIGHT AND OPERATIONS

Concessionaire recognizes that the Designated Areas is located on a active airport and, as such, is subject to aircraft noise, vibration, exhaust, and overflight associated with the operation of the Airport. Concessionaire acknowledges that it has familiarized itself with the overflight, noise, vibration, and exhaust characteristics of the Designated Areas and acknowledges that it realizes that such overflight, noise, vibration, and exhaust may change during the term of this Agreement.

Concessionaire hereby releases the County, the State of Wisconsin, the FAA, the airlines operating at the Airport, and their respective directors, officers, employees, board members, and agents, from any and all claims, demands, suits, or causes of action for damages or injunctive relief arising out of, or in any way associated with, aircraft noise, vibration, and exhaust at, or aircraft overflight of the Designated Areas. It is understood between the parties that this release is a material inducement of County's decision to enter into this Agreement.

40. COUNTY'S RIGHT TO PERFORM CONCESSIONAIRE'S COVENANTS

If Concessionaire shall default in the performance of any covenant required to be performed by it by virtue of any provision in this Agreement, the County may, but shall not be obligated to, perform the same for the account and at the expense of Concessionaire after first having delivered to Concessionaire at least thirty (30) days written notice of intention to do so or such shorter written notice as may be

appropriate under emergency conditions. If County at any time is compelled to pay any sum of money or to do any act which will require the payment of any sum of money by reason of the failure of Concessionaire to comply with any provision of this Agreement, or if County elects to make any such payment or to take any such action, which payment or action is reasonably necessary for the protection of the County's interest in the Designated Areas, or if County is compelled to incur any expense, including reasonable attorneys fees, in instituting, prosecuting or defending any action or proceeding instituted by reason of any default of Concessionaire hereunder, the sum or sums so paid by County, with interest at the rate of twelve percent (12%) per annum, penalties, costs and damages, shall be deemed to be additional rent and shall be paid by Concessionaire to County on the next date following the incurring of such expenses upon which a regular monthly rental payment is due.

41. MISCELLANEOUS

This Agreement shall be interpreted and enforced under the laws and jurisdiction of the State of Wisconsin. This Agreement will not be construed more strongly against either party regardless of which party is more responsible for its preparation. This Agreement constitutes the entire understanding between the parties and is not subject to amendment unless agreed upon in writing by both parties hereto. Concessionaire acknowledges and agrees that it will perform its obligations hereunder in compliance with all applicable state, local, and federal laws, needs, regulations, and orders.

42. GENERAL PROVISIONS

A. Operations

Concessionaire acknowledges that there may be considerable changes at the Airport and disruptions due to construction during the term of this Agreement. County will endeavor to the extent practical to minimize the disruption, but County shall have no responsibility or liability for disruptions to Concessionaire's operations or temporary interruptions of Concessionaire's use of any part of the Airport due to construction activities by the County or the County's contractors or representatives.

B. Attorney's Fees

In the event any action, suit, or proceeding is brought to collect the rent or fees due or to become due hereunder or any portion thereof or to take possession of any concession space or to enforce compliance with this Agreement or for failure to observe any of the covenants of this Agreement, Concessionaire agrees to pay the County such sum as the court may adjudge reasonable as attorney's fees to be allowed in the suit, action or proceeding.

C. Relationship of Parties

It is understood and agreed that nothing herein contained is intended or shall be construed as in anyway creating or establishing the relationship of co-partners between the parties hereto, or as constituting the Concessionaire as the agent, representative or employee of the County for any purpose or in any manner whatsoever. The Concessionaire is to be and shall remain an independent contractor with respect to all services performed under this Agreement.

D. Severability

If any part of this Agreement shall be held invalid this does not affect the validity of the remaining parts of this Agreement, provided that such invalidity does not materially prejudice either the County or Concessionaire under the remaining parts of this Agreement.

43. FORCE MAJEURE

Neither the Airport nor the Concessionaire shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages or materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control.

IN WITNESS WHEREOF, the authorized parties hereto have caused this Agreement to be executed as of the day and year first written above, and pursuant to the resolution adopted by County's Board of Supervisors on _____, 20____, File No. ____ - _____.

APPROVED:

MILWAUKEE COUNTY
a municipal corporation

Airport Director Date

By _____
Brian Dranzik
Director
Department of Transportation

Corporation Counsel Date

Risk Manager Date

By _____
Joseph J. Czarnezki
County Clerk

Community Partners Date
Business Development Director

COUNTY

_____, a
_____ corporation

By _____
Title _____

By _____
Title _____

CONCESSIONAIRE

STATE OF WISCONSIN)
) ss
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____, 20__,
the above named Brian Dranzik, Director, Department of Transportation
for Milwaukee County, to me known to be the person who executed the
foregoing instrument and to me known to be such Director of the
Department of Transportation for Milwaukee County, and acknowledged
that he executed the foregoing instrument as such officer as the deed
of said Milwaukee County, by its authority.

Notary Public, Milwaukee County, Wis.
My commission expires _____

STATE OF WISCONSIN)
) ss
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____,
20__, the above named Joseph J. Czarnezki, County Clerk of Milwaukee
County, to me known to be the person who executed the foregoing
instrument and to me known to be such County Clerk, and acknowledged
that he executed the foregoing instrument as such officer as the deed
of said Milwaukee County, by its authority.

Notary Public, Milwaukee County, Wis.
My commission expires _____

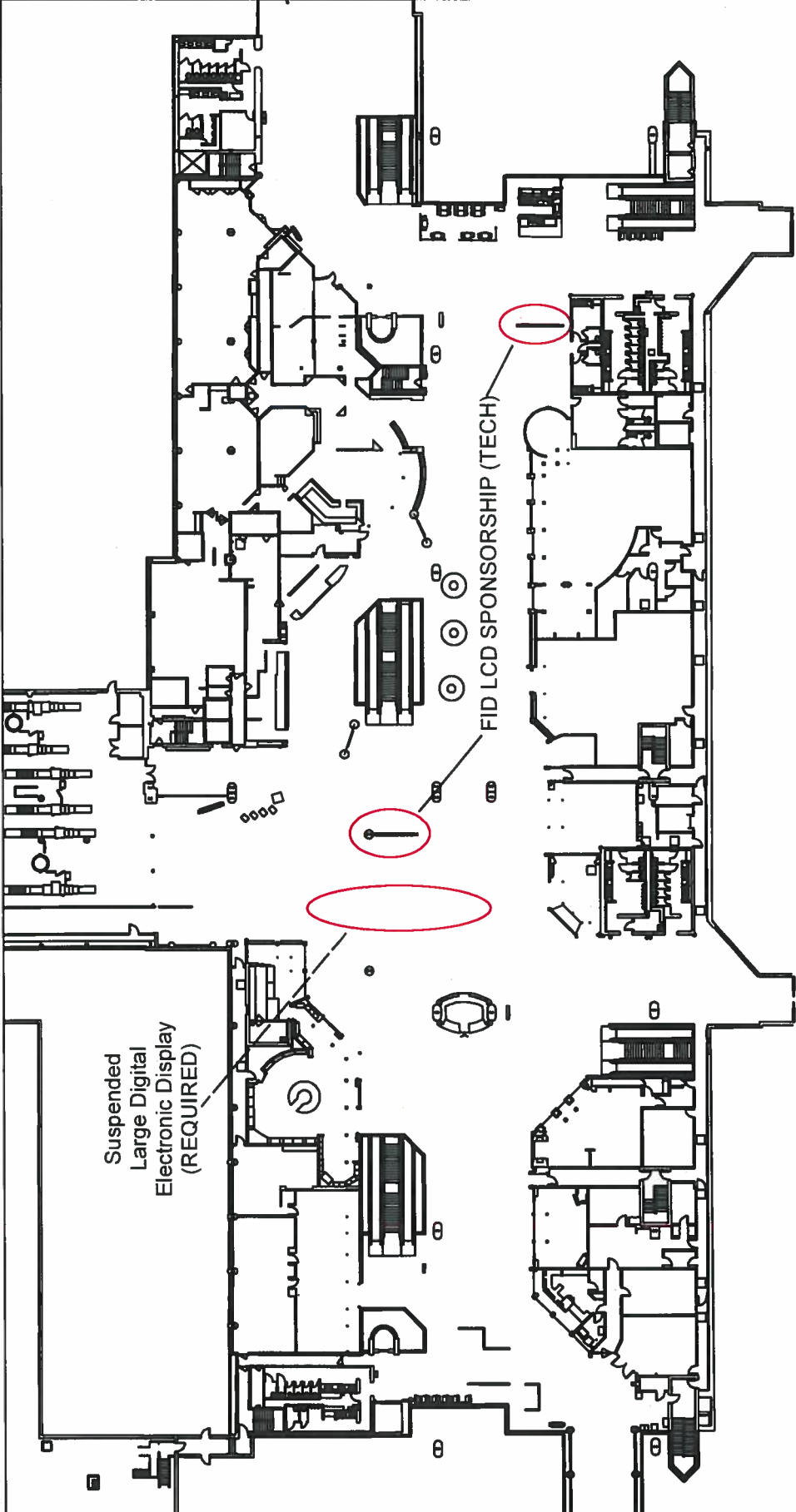
STATE OF _____)
) ss
 COUNTY OF _____)

Personally came before me this _____ day of _____,
 200____, _____,
 (Name) (Title)

and _____,
 (Name) (Title)

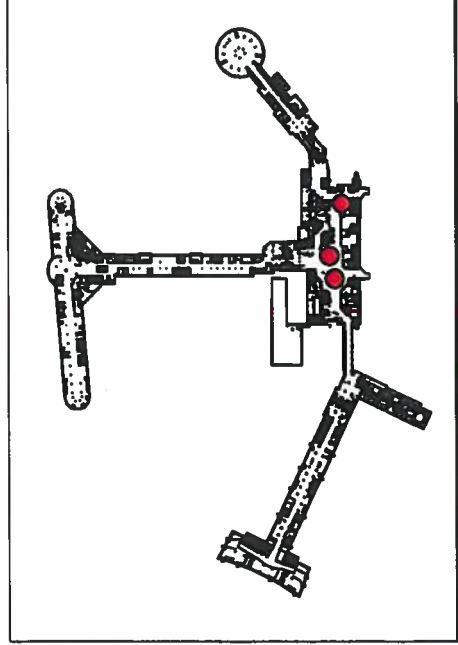
of _____, to me known to be the
 persons who executed the foregoing instrument and to me known to be
 such officers of said corporation, and acknowledged that they
 executed the foregoing instrument as such officers as the deed of
 said corporation, by its authority.

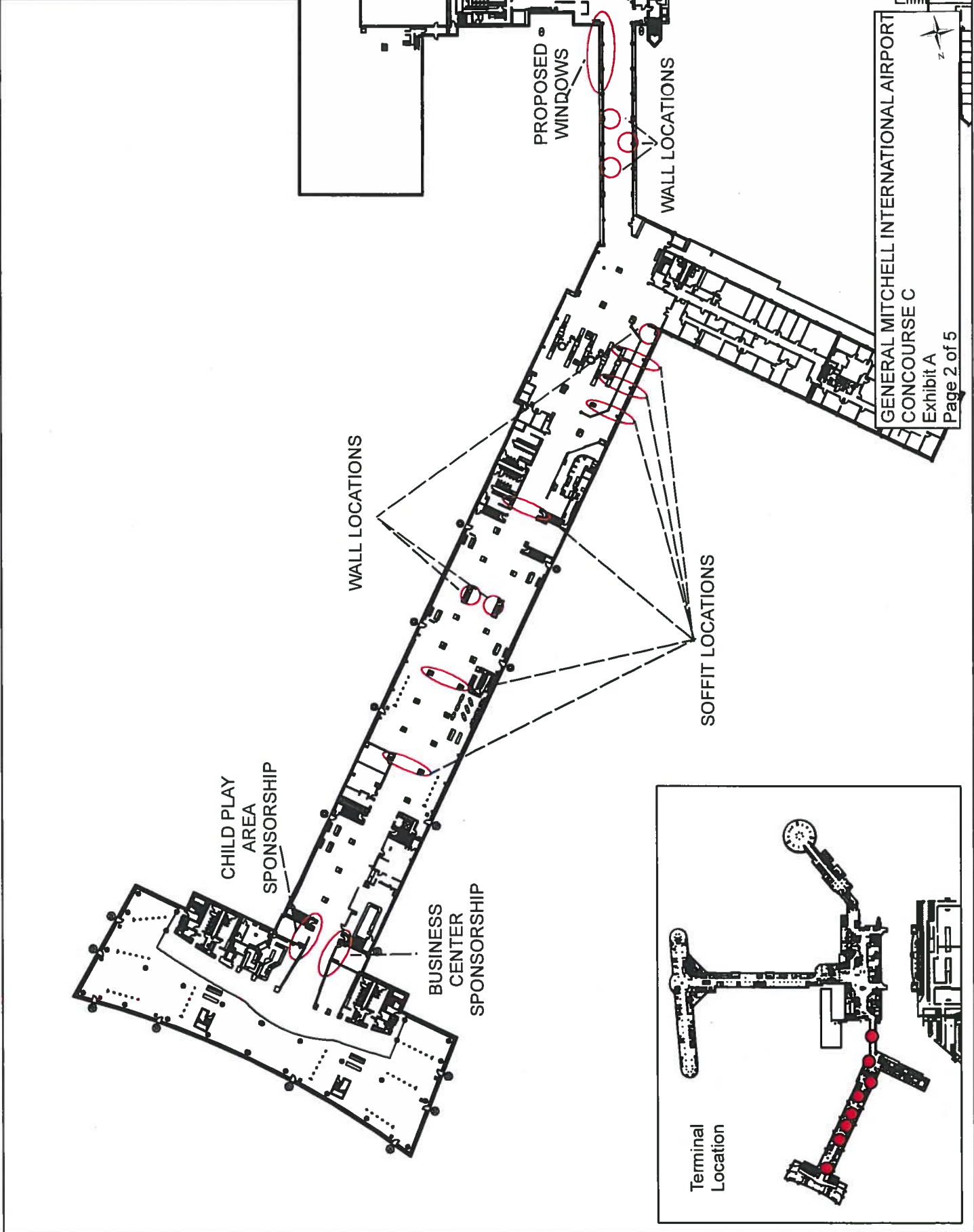
 Notary Public, _____
 My commission expires _____



Suspended Digital Large Electronic Display (REQUIRED)

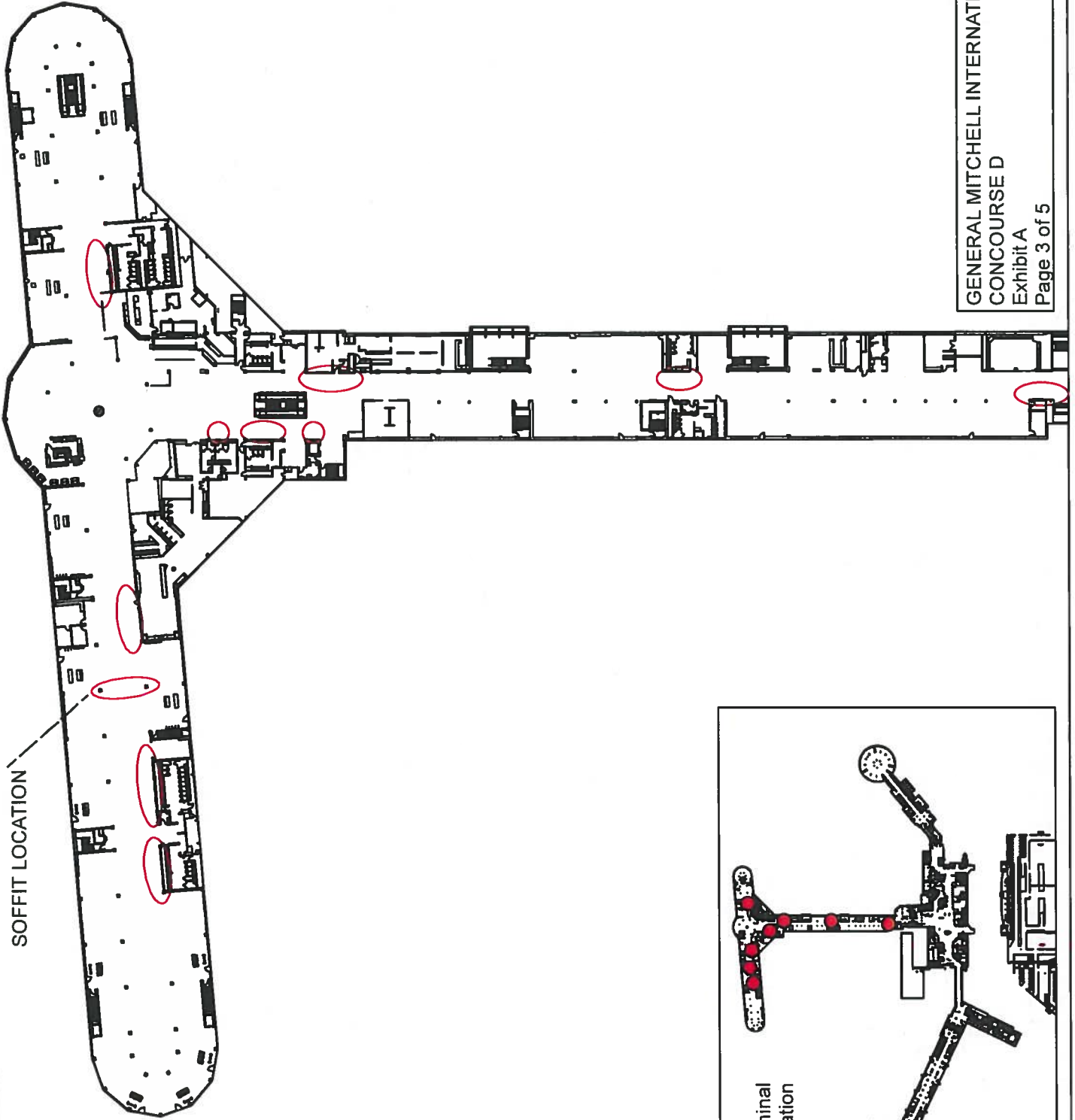
FID LCD SPONSORSHIP (TECH)



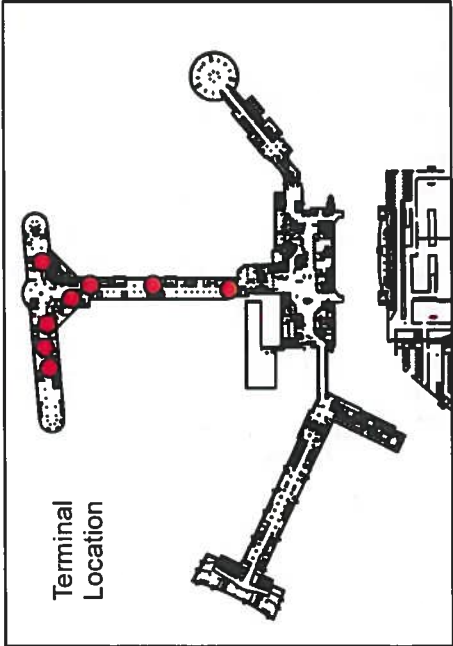


GENERAL MITCHELL INTERNATIONAL AIRPORT
CONCOURSE C
Exhibit A
Page 2 of 5

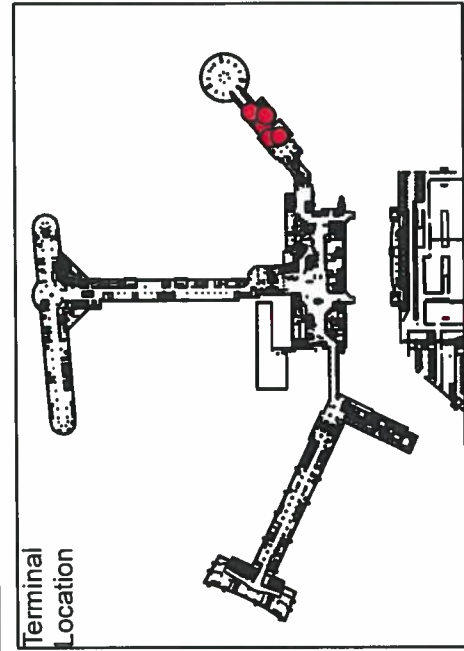
Terminal
Location



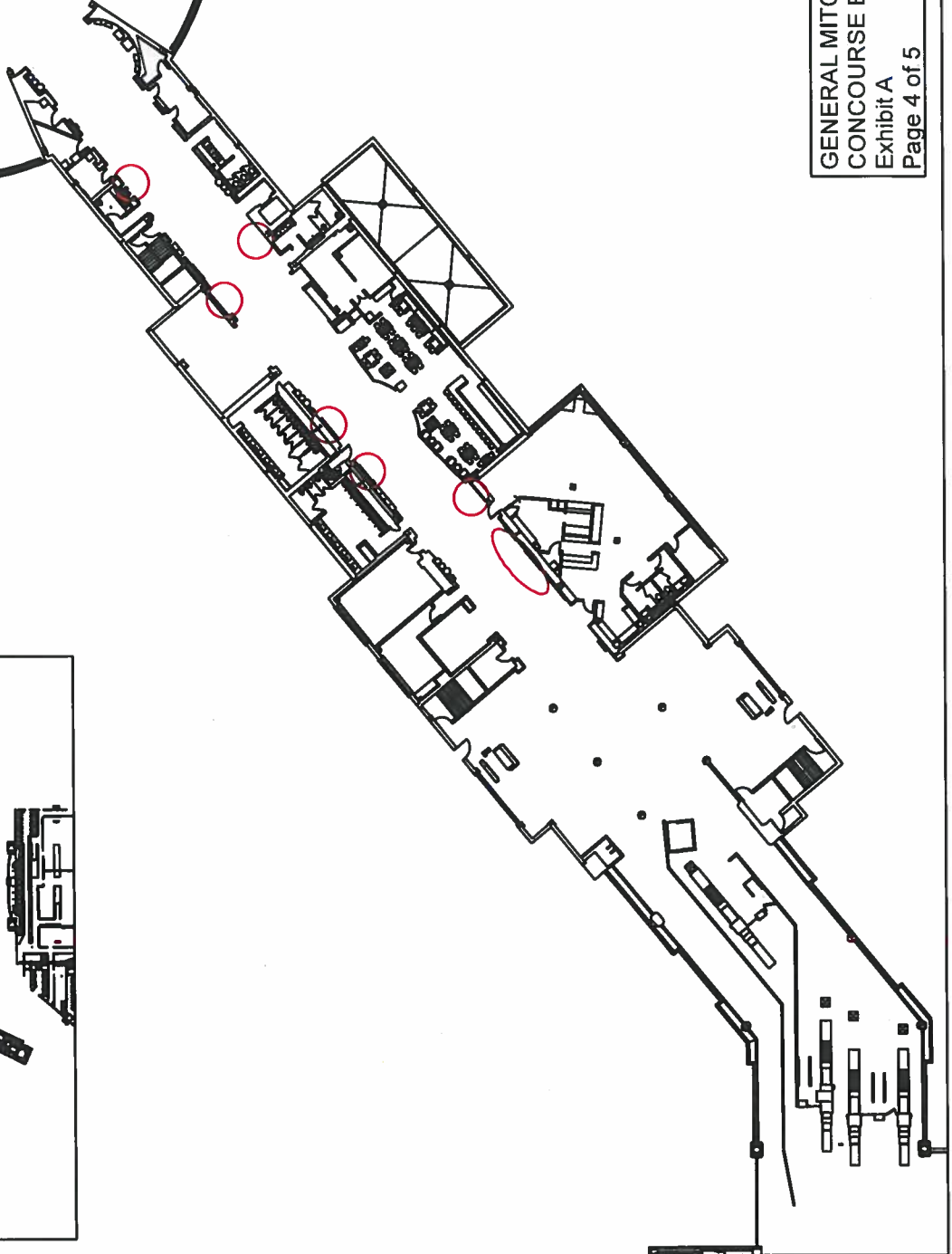
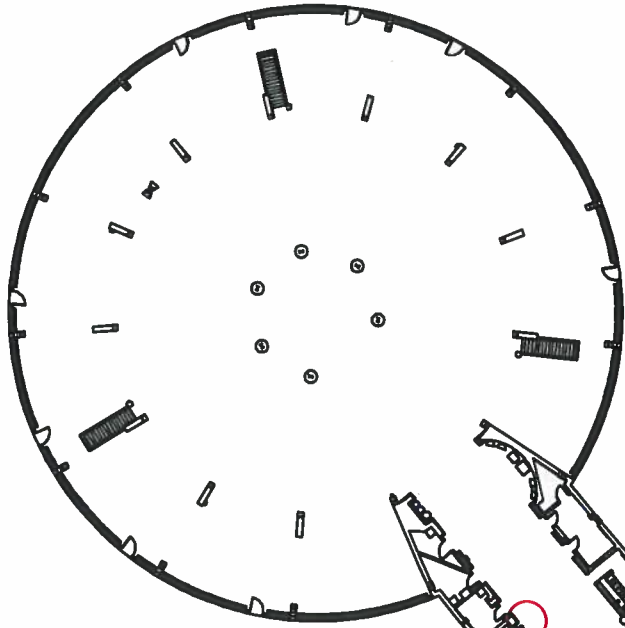
SOFFIT LOCATION



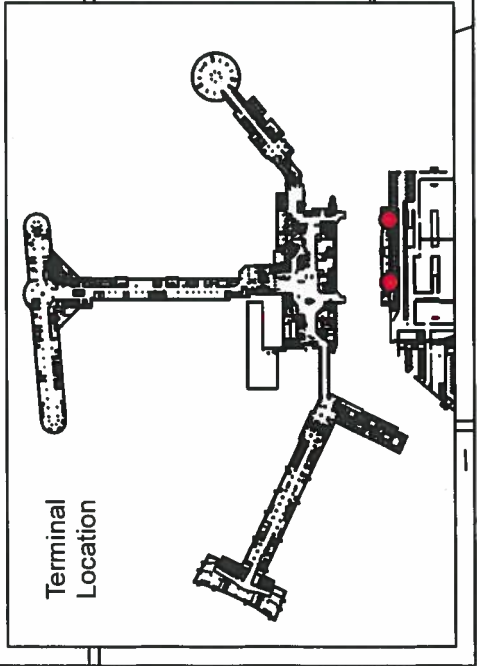
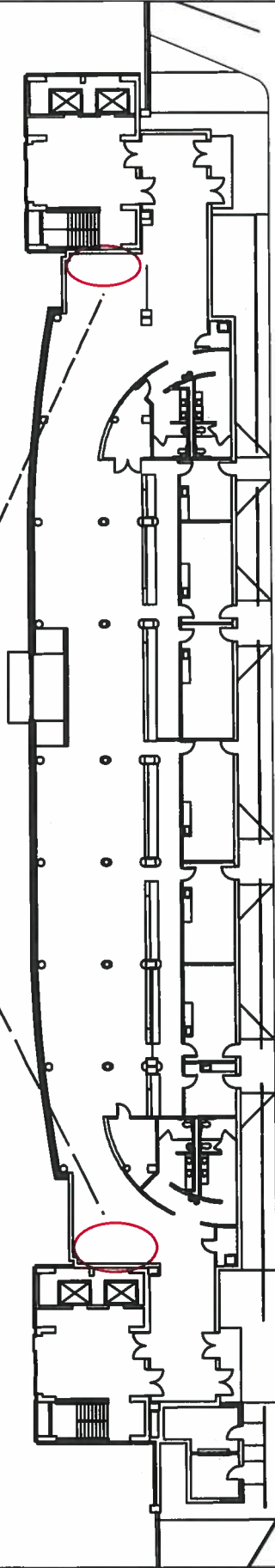
Terminal
Location



Terminal
Location



WALL LOCATIONS



Terminal Location



EXHIBIT B
CAPITAL INVESTMENT SCHEDULE

EXHIBIT C

DISPLAY TYPE MASTER LIST

EXHIBIT D

MILWAUKEE COUNTY AIRPORT
 SAMPLE CALCULATION OF AMOUNT DUE TO MILWAUKEE COUNTY
 ASSUMING A 10% OF MINIMUM GROSS RECEIPTS AGREEMENT

MONTH	MONTHLY AMOUNTS			YEAR TO DATE (YTD) AMOUNTS			PAYMENTS DUE				
	MONTHLY GROSS RECEIPTS	MONTHLY % OF GROSS RECEIPTS 10%	MONTHLY MINIMUM GUARANTEE	YTD GROSS RECEIPTS	YTD % OF GROSS RECEIPTS 10%	YTD MINIMUM GUARANTEE	YTD CONTRACT AMOUNT	MONTHLY MINIMUM GUARANTEE PAYMENTS DUE	MONTHLY % OF GROSS RECEIPTS DUE	TOTAL MONTHLY PAYMENTS DUE	TOTAL YTD PAYMENTS DUE
JAN	\$40,500	\$4,050	\$4,000	\$40,500	\$4,050	\$4,000	\$4,050	\$4,000	\$50	\$4,050	\$4,050
FEB	\$38,000	\$3,800	\$4,000	\$78,500	\$7,850	\$8,000	\$8,000	\$4,000		\$4,000	\$8,050
MAR	\$39,000	\$3,900	\$4,000	\$117,500	\$11,750	\$12,000	\$12,000	\$4,000		\$4,000	\$12,050
APR	\$37,000	\$3,700	\$4,000	\$154,500	\$15,450	\$16,000	\$16,000	\$4,000		\$4,000	\$16,050
MAY	\$49,000	\$4,900	\$4,000	\$203,500	\$20,350	\$20,000	\$20,350	\$4,000	\$300	\$4,300	\$20,350
JUN	\$44,800	\$4,480	\$4,000	\$248,300	\$24,830	\$24,000	\$24,830	\$4,000	\$480	\$4,480	\$24,830
JUL	\$44,300	\$4,430	\$4,000	\$292,600	\$29,260	\$28,000	\$29,260	\$4,000	\$430	\$4,430	\$29,260
AUG	\$49,000	\$4,900	\$4,000	\$341,600	\$34,160	\$32,000	\$34,160	\$4,000	\$900	\$4,900	\$34,160
SEPT	\$50,000	\$5,000	\$4,000	\$391,600	\$39,160	\$36,000	\$39,160	\$4,000	\$1,000	\$5,000	\$39,160
OCT	\$65,000	\$6,500	\$4,000	\$456,600	\$45,660	\$40,000	\$45,660	\$4,000	\$2,500	\$6,500	\$45,660
NOV	\$38,000	\$3,800	\$4,000	\$494,600	\$49,460	\$44,000	\$49,460	\$4,000	\$800	\$4,800	\$49,660
DEC	\$50,000	\$5,000	\$4,000	\$544,600	\$54,460	\$48,000	\$54,460	\$4,000		\$4,800	\$54,460
TOTAL	\$544,600	\$54,460	\$48,000					\$48,000	\$6,460	\$54,460	\$54,460

EXHIBIT D

* * *YTD Contract Amount* is equal to the greater of *YTD % of Gross Receipts* or *YTD Minimum Guarantee*