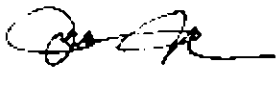


Date: 02/06/2014		AGENDA ITEM		Item: 09
<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Budget Resolution	<input checked="" type="checkbox"/> Other	
Department: Aviation And Economic Resources				
Division: Airport Services				
Subject: Lease agreement for airport food and beverage concession, RFP 13-P-107PW.				
Rick Karl Director Aviation and Economic Resources 	Jeaniene Jennings Director Purchasing  Approved in Accordance with Purchasing Policies and Procedures	Legal Robert E. Doan Approved as to Form and Legality	County Manager's Office Charlene Weaver, CPA, CFO Deputy County Manager 	
	Tammy Bong Director Management and Budget  Approved as to Budget Requirements			
Council Action:				
Modification:				
Fund Number(s)::	Description:		Amount:	
451 Db International Airport	Concession Revenue - Airport Revenue Fund - 451-000-0000-4411		\$75,000.00	
Total Item Budget: \$75,000.00				
Staff Contact(s):	Phone:		Ext.	
Rick Karl	386 248 8030		18318	
Steve Cooke	386 248 8030		1309	
Summary/Highlights:				
<p>The county received two proposals to provide an airport food and beverage concession. An evaluation committee comprised of Dave Byron, community services director; Steve Cooke, airport business manager; Donna DePeyester, accounting division director; Robert Ehrhardt, economic development director; and Don Poor, Ocean Center director reviewed the proposals and recommended award to Faber, Coe & Gregg of Florida, Inc.</p> <p>Faber has an extensive nationwide background in retail merchandising and food and beverage operations at airports, train stations, and transit facilities. It has concession operations at 17 airports located mainly in the northeast. Faber was selected last year to operate the concourse news and gift concession. It did an outstanding job with design and construction. Its concession management has increased revenue substantially.</p>				

The proposed lease is attached. The lease grants Faber an exclusive food and beverage concession within the domestic terminal, excepting prepackaged items permitted under the news and gift concession. The lease is of no effect if Faber cannot secure a liquor license. The lease term is ten years with the option for a five year renewal upon county council approval. The leased area is terminal space of 3,654 square feet in the pre-security landside area and 1,600 square feet in the post-security airside concourse. Faber will manage, operate, and market the 4,123 square feet Volusia Room as licensee but will have no leasehold interest in that facility, the use of which is retained by the county for meetings. The lease rent shall be 6% of gross receipts during the construction period, which starts at county council approval of the lease and ends 180 days from county council approval of the lease or upon the issuance of a certificate of occupancy, whichever occurs first. Faber must make capital improvements of \$800,000 during the construction period. Faber shall pay a minimum annual guarantee rent of \$75,000 (\$6,250 per month) or 7% of gross receipts, whichever is greater, for the first year after the construction period. For subsequent years, minimum annual guarantee rent shall be adjusted to 80% of total rent due in the prior year. Minimum annual guarantee rent shall be abated at Faber's option if total annual passenger volume decreases by 20% or more for an immediate preceding 12 month period. Annual percentage rent shall increase to 10% of food and beverage and 15% of alcoholic beverage sales if total enplanements exceed 600,000 for the prior 12 month period. Faber shall make an additional \$50,000 of capital improvements before the sixth lease year, and an additional \$75,000 before the expiration of the initial 10 year term.

Faber proposed a Florida theme approach for its restaurant operations, including the Junction Daytona, Sugar Mill Cafe and Java Moon Cafe. Local offerings will include Heavenly Cheesecake. Vince Carter's Restaurant would handle larger catering requirements in the Volusia Room. Name brand offerings will include Krispy Kreme Doughnuts, UNO Pizza, Boar's Head meats, and gourmet coffee offered by The Old Glory Coffee Company.

Recommended Motion: Approval.

COUNTY OF VOLUSIA, FL
Award Recommendation



ALL PROPOSALS ACCEPTED BY THE COUNTY OF VOLUSIA ARE SUBJECT TO THE COUNTY'S TERMS AND CONDITIONS. ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY RESPONDENTS MAY BE REJECTED AND MAY HAVE NO FORCE AND EFFECT. SOLICITATION BID DOCUMENTS FROM THE VENDORS LISTED HEREIN ARE THE ONLY BIDS RECEIVED TIMELY AS OF THE CLOSING DATE AND TIME. ALL OTHER PROPOSALS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, IS HEREBY REJECTED AS LATE.

RFP NUMBER: 13-P-107PW

RFP TITLE: **FOOD & BEVERAGE CONCESSION AT DAYTONA BEACH INTERNATIONAL AIRPORT**

OPENING DATE/TIME: October 9, 2013 at 3:00PM

Council Meeting Date/Time: TBD

Response 1	Response 2
<p>Faber Coe & Gregg of Florida, Inc. 550 Meadowlands Parkway Secaucus, NJ 07094-1824 Burton Friedman P: 201 330-1515 ext 209 F: 201-330-9560 bfriedman@Faber-Intl.com</p>	<p>MSE International of Florida, LLC 225 A Forrest Avenue Gainesville, GA 30501 James J. Hough P: 770 532-3301 F: 770-287-0321 jackhough@aol.com</p>

Opened by: Inga Fegley, Procurement Analyst II
Witnessed by: Ron Falanga, Procurement Analyst I
Tabulated by: Pam Wilsky, Procurement Manager
Posted: November 12, 2013
Evaluation Committee Meeting: November 14, 2013
Recommendation: Faber Coe & Gregg of Florida, Inc.
County Council Agenda Date: TBD



COMMERCIAL LEASE AND CONCESSION AGREEMENT

Food and Beverage Concession at the Daytona Beach International Airport

**COMMERCIAL LEASE AND CONCESSION AGREEMENT
BETWEEN
THE COUNTY OF VOLUSIA
A N D**

THIS COMMERCIAL LEASE AND CONCESSION AGREEMENT ("Lease") is made and entered into this _____ day of _____, 2014 ("Commencement Date"), by and between the **County of Volusia, Florida**, a political subdivision organized and existing under the laws of the State of Florida, whose office address is 123 West Indiana Avenue, DeLand, FL ("Lessor"), and **Faber, Coe & Gregg of Florida, Inc.**, a Florida Profit Corporation, whose principal address is 550 Meadowlands Parkway, Secaucus, NJ ("Lessee").

RECITALS

WHEREAS, Lessor is owner and operator of the Daytona Beach International Airport (the "Airport"); and

WHEREAS, Lessor operates and maintains a domestic passenger terminal at the Airport, which contains facilities for passenger processing and related services and amenities ("Terminal"); and

WHEREAS, Lessor has designated two (2) locations within the terminal as detailed in **Exhibit A**: 1.) pre-security area landside of the terminal measuring 3,654 square feet and, 2.) post-security in the central concourse measuring 1,600 square feet (collectively referred to as the "Food and Beverage Concession Area"); and

WHEREAS, Lessor has also designated the Volusia Room as a fully equipped multi-purpose meeting and banquet space located adjacent to the landside food and beverage concession location that can accommodate up to one hundred fifty (150) attendees for sit-down or buffet services ("Banquet Concession Area"); and,

WHEREAS, Lessor desires to lease the Food and Beverage Concession Area (hereinafter collectively referred to as the "Leased Premises") to Lessee, and Lessee hereby desires to lease the Leased Premises from Lessor under the terms and conditions set forth herein; and

WHEREAS, Lessor desires the benefit of the experience and the services of a

food manager on the terms set forth in this agreement for its Banquet Concession Area, and Lessee agrees to provide such service under the terms set forth in this agreement.

WHEREAS, this Lease is the result of a competitive solicitation process (RFP No. **13-P-107PW**), wherein Lessor sought a Lessee to occupy and renovate certain areas within the Terminal and sell food and beverage items to and for the benefit and convenience of the air travelling public; and

WHEREAS, Lessee submitted a proposal and was selected by Lessor as being qualified to occupy such areas of the Terminal for the purposes outlined herein; and

WHEREAS, the Lessee warrants to the Lessor that it is qualified to and will provide the renovations and services described herein and meet all obligations hereinafter stated; and

WHEREAS, the execution of this Lease inures to the benefit of the public; and

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and other specific consideration as set forth in this Lease, including the rents, covenants, agreements, and conditions hereinafter reserved, made and entered into, the sufficiency of which is acknowledged by the Lessor and Lessee, the parties agree and stipulate as follows:

ARTICLE 1. DEFINITIONS

The capitalized terms set forth in this Lease shall have the meanings set forth below or as set forth in the body of the Lease. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

- A. Airport. Means, collectively, the land, structures, and appurtenances of the Daytona Beach International Airport.
- B. Airport Director: Shall mean the person holding the position of Airport Director. The term also includes any person expressly designated by Lessor to exercise functions with respect to the rights and obligations of Lessor under the Concession Agreement, or such other persons, divisions, departments, bureau or

agency as may from time to time exercise said functions, equivalent or similar to those exercised by the Director.

- C. Asbestos Containing Materials. Means material in friable form containing more than one percent (1%) of the asbestiform varieties of (a) chrysolite (serpentine); (b) crocidolite (ricbeckite); (c) amostic (cummington-itegrinerite); (d) anthophyllite; (e) tremolite; and (f) actinolite.
- D. Business Days. Means all days other than Saturdays, Sundays, or legal holidays.
- E. Commencement Date. Means the day Volusia County Council approves this Lease.
- F. Lessor. Means County of Volusia, Florida.
- G. Lessor Project Manager(s). Means the Director of Aviation and Economic Resources or his/her designee. The Lessor Project Manager(s) have responsibility for the day to day administration of the Lease for the Lessor.
- H. Day. Means each calendar day or accumulation of calendar days.
- I. Environmental Regulations. Means all Laws and Regulations, now or hereafter in effect, with respect to Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, et seq.) (together with the regulations promulgated thereunder, "CERCLA"), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.) (together with the regulations promulgated thereunder, "RCRA"), the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. Section 11001, et seq.) (together with the regulations promulgated thereunder, "Title III"), the Clean Water Act, as amended (33 U.S.C. Section 1321, et seq.) (together with the regulations promulgated thereunder, "CWA"), the Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.) (together with the regulations promulgated

thereunder, "CAA"), and the Toxic Substances Control Act, as amended (915 U.S.C. Section 2601 et seq.) (together with the regulations promulgated thereunder, "TSCA"), and Chapter 403 and 376, Florida Statutes, and any other state or local similar laws and regulations and any so-called local, state or federal "superfund" or "superlien" law.

- J. Federal Aviation Administration (FAA): The Federal Aviation Administration of the United States Government or any federal agencies succeeding or acting pursuant to its jurisdiction and authority.
- K. Hazardous Materials. Means any material amount of flammable explosives, polychlorinated biphenyl compounds, heavy metals, chlorinated solvents, cyanide, radon, petroleum products, asbestos or any asbestos containing materials, methane, radioactive materials, pollutants, hazardous materials, hazardous wastes, hazardous toxins, or regulated substances or related materials, as defined in CERCLA, RCRA, CWA, CAA, TSCA and Title III, and the regulations promulgated pursuant thereto, and as are identified and defined in any other Environmental Regulations, including Chapters 403 and 376, Florida Statutes, and any rules promulgated pursuant thereto.
- L. Improvements. Means any alteration, addition, or improvement to the Leased Premises of any kind or nature. For the purposes of this Lease, Improvements shall include, but not be limited to, all fixtures and finishes necessary to render the Leased Premises fully operational, in Lessee's reasonable discretion, in accordance with the purpose and requirements of this Lease.
- M. Laws and Regulations. Means any applicable federal, state, or local law, statute, regulation, code, ordinance, order, rule, judgment or consent agreement, including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health, sanitation, air pollution, ecological matters, environmental protection, hazardous or toxic materials, substances or wastes, conservation, or restrictive covenants or other agreements affecting title to the Leased Premises.

- N. Lease. Means the Lease, resulting from negotiations between the Lessor and the Lessee, along with any written addenda and other written documents, which are expressly incorporated into this Lease by reference. The term "Agreement" shall be used synonymously with "Lease" unless the context indicates otherwise.
- O. Lease Administrator. Means the Director of Purchasing and Contracts or designee. The Lease Administrator shall be responsible for addressing any concerns within the scope of the Lease. Any changes to the resulting Lease shall be made in writing and authorized by the Director of Purchasing and Contracts or any other authorities required by applicable Lessor purchasing policies and Laws and Regulations.
- P. Lease Term. Means the Lease Term as provided in Article 3 below, and includes any renewal periods properly exercised. For purposes of calculating damages for default, however, the Lease Term shall include properly exercised renewal periods only if such periods have commenced or the parties have agreed in writing to exercise such renewal at the time of alleged default.
- Q. Lease Year. Means a year of this Lease as measured from the Commencement Date during the first year, or anniversary of such Commencement Date in subsequent years.
- R. Legal Holidays. Means New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- S. Lessee. Means Faber, Coe and Gregg of Florida Inc.
- T. Lessee's Project Manager. Means Walter Janokowicz, or his/her/its' designee or successor. The Lessee's Project Manager has responsibility for administering the Lease for the Lessee.
- U. Person or Persons. An individual, firm, partnership, corporation, association, executor, administrator, trustee or other legal entity, whether singular or plural, masculine or feminine, as the context may require.

- V. Premises or Leased Premises: Shall mean the two locations within the Airport terminal as detailed in **Exhibit A**: 1.) pre-security area landside of the terminal measuring 3,654 square feet, and; 2.) post-security in the central concourse measuring 1,600 square feet.
- W. Project. The operations and activities proposed by the Lessee as detailed in Article 4 of this Lease, together with any Improvements constructed on the Leased Premises by Lessee in accordance with this Lease.
- X. Proposal. Lessee's complete response to Lessor's RFP No. 13-P-107PW, Food and Beverage Concession at Daytona International Airport, dated September 18, 2013, and titled "Food and Beverage Concession." Such Proposal may be more specifically referenced herein by paragraph, section, subsection, or tab number as may be appropriate.
- Y. Release. Means any material amount of Hazardous Materials pumped, spilled, leaked, disposed of, emptied, discharged or released on, from or beneath the Premises.
- Z. Transportation Security Administration (TSA): The Federal agency under the Department of Homeland Security charged with maintaining security at public airports throughout the United States of America.

ARTICLE 2. LEASE DESCRIPTION

- A. The Premises. Subject to the terms and conditions set forth herein, Lessor has leased, and does by these presents demise, lease and rent unto Lessee, and Lessee does hereby lease from Lessor, two (2) locations within the Airport terminal as detailed in **Exhibit A**: 1.) pre-security area landside of the terminal measuring 3,654 square feet, and; 2.) post-security in the central concourse measuring 1,600 square feet. In addition, Lessee shall be provided those items of equipment and furnishings, both for the Premises and the Volusia Room as shown on **Exhibit B**, attached hereto and made a part hereof.

- B. No Warranties. Lessee acknowledges that it is leasing the Premises **"AS IS"** and **"WITH ALL FAULTS"**, and that Lessor has not made any representations warranties, covenants, or agreements, express or implied, regarding (a) the value, nature, quality, or condition of the Lease Premises, (b) the income to be derived from the Lease Premises, (c) the suitability of the Lease Premises for any activity or use which Lessee may conduct thereon, (d) the compliance of the Lease Premises or its operation with any applicable Laws and Regulations, or, (e) the habitability, marketability, or fitness for a particular purpose of the Lease Premises, except as otherwise set forth herein. Lessee further acknowledges and agrees that any information that the Lessor procures from a third party and provides to the Lessee with respect to the Lease Premises may be delivered without any independent investigation or verification, and Lessor makes no representations as to the accuracy or completeness of such information.
- C. Relocation. Lessor reserves the right to temporarily or permanently cause the relocation of the Concession and/or the Leased Premises due to Airport construction, expansion, renovation, or operational purposes. If relocation is required, the Lessor shall furnish reasonably comparable space in the Domestic Passenger Terminal for the Lessee's interim business activities and operations and provide reasonable relocation assistance, at Lessor's sole cost and expense. If Lessee's operations are permanently relocated from the Leased Premises for any reason, Lessor shall reimburse Lessee for the unamortized cost of the Improvements as calculated utilizing the straight-line depreciation method over ten (10) years, absent any interest that may accrue or be due in connection therewith, made to the Leased Premises as prorated for the time during which the Lessee's operations are relocated. If the Lessee's Premises are relocated permanently to a location that is not as commercially advantageous as the Leased Premises or the current location, as evidenced by a demonstrable and steady decline in Gross Receipts over three (3) months time, then Lessee shall be entitled to terminate this Lease and recover the entirety of the unamortized costs of the Improvements made to the Leased Premises as calculated utilizing the straight-line depreciation method over ten (10) years and as measured from

the commencement of relocation until the remainder of the Lease Term, absent any interest that may accrue or be due in connection therewith. If Lessee's Premises are relocated permanently to a different location to provide for another Food and Beverage Concession elsewhere in the Airport, Lessee has a right of first refusal to operate such Food and Beverage Concession under substantially identical terms as those provided by this Lease.

ARTICLE 3. TERM

The term of this Lease shall commence as of the Commencement Date and continue, except as may be terminated or discontinued as set forth herein, for a term of ten (10) years from the date that Tenant receives a Certificate of Occupancy or the date Tenant opens for business to the public, whichever is later (the "Lease Term"), and may be extended, upon the same terms and conditions and by mutual consent of both parties, for a single five (5) year subsequent term (as may be renewed, the "Lease Term"). Lessor shall notify Lessee of its intent to renew by written notice of its intent to renew given between one hundred twenty (120) and one hundred eighty (180) days prior to the end of the original Lease Term. Any renewal or extension of this Lease will be contingent upon the mutual agreement of the parties and the execution of a written addendum to this Lease by both parties.

ARTICLE 4. USE OF PREMISES

- A. General. Lessee covenants and agrees that from and after the Commencement Date, it shall continuously and without interruption use and occupy the entire Leased Premises (and not less than one hundred percent (100%) of the Leased Premises) solely for the purpose of providing food and beverage services and for no other purpose, except ancillary office use. Lessee shall have the exclusive right to operate food and beverage including alcoholic beverages concessions within the existing domestic terminal ("concession"). with the exception of those prepackaged food and drink items already permitted under the current news and gift concession as prescribed herein, which Concession shall be located upon the

Leased Premises and is subject to the terms, conditions, and requirements of this Lease. Lessee shall be permitted to use the Leased Premises and Improvements thereon in a manner consistent with the terms and conditions of this Lease and the operation of the Airport. Lessee shall not authorize, permit, or suffer use of the Leased Premises for any other purpose. This provision is in the nature of a restrictive covenant affecting real estate, and it will be unnecessary for Lessor to prove irreparable harm in order to obtain an injunction mandating compliance with this restrictive covenant. Under no circumstances shall use of the Leased Premises include any adult entertainment or gambling. Lessee shall operate its business and conduct the Project in an efficient and reputable manner in accordance with the terms, conditions, and requirements of this Lease.

If at any time after the full execution of this Commercial Lease and Concession Agreement Lessor intends to establish a nationally branded stand alone coffee shop at an alternate location in the existing terminal, Lessor shall first offer to Lessee the opportunity to enter into a Commercial Lease and Concession Agreement to lease the location for a nationally branded stand alone coffee shop of Lessee's choosing.

Lessor recognizes that the sale of alcoholic beverages from the premises is essential to Lessee's operation of the business, therefore, the parties agree that if Lessee is not issued a Liquor License from the appropriate authority, the Lease shall be null and void as of the date that Lessee notifies Lessor that it cannot obtain a Liquor License providing that upon execution of this Lease, Lessee shall promptly apply for such License and proceed with due diligence to obtain it.

Hours of operation: Lessee shall be required to keep the food and beverage concession open seven (7) days per week, three hundred sixty five (365) days per year with operating hours, staffing levels and inventory that supports reasonable passenger need and demand for food and beverage services. The minimum hours of operation for serving the public shall be ninety (90) minutes

prior to the first scheduled departure each morning until the last scheduled departure each evening has pushed away from the departure gate. The Lessor reserves the right to adjust hours of operation at any time to accommodate the reasonable needs of the air traveling public. Lessee shall be required to remain open during periods of delayed flight departures and to work with Airport Management to provide services during periods of occasional flight diversions that may need to disembark passengers from the aircraft and enter into the sterile concourse area from time to time. The Lessee shall not be permitted to close during normal business hours of 8:00 a.m. to 5:00 p.m., on any day of the week including weekends and holidays, unless approved in writing by the Airport Director.

B. Staffing Requirements:

1. Manager: Lessee shall at all times provide an experienced full-time and qualified manager for the food and beverage concession operation. The manager shall be acceptable to the Lessor. The manager shall be required to attend monthly airport managers' meetings conducted by the Airport Operations Department.
2. Lessee shall, at all times during the term of the Concession Agreement, maintain a sufficient number of properly trained personnel to ensure that all customers receive prompt, courteous, and professional service. Personnel shall be polite, clean, appropriately attired, and neat in appearance. Personnel shall wear clean and pressed uniforms for a consistent appearance and legible identification badges both of which are subject to approval by the Lessor's Project Manager.
3. Lessee shall operate the food and beverage concession with its own employees. Any exceptions to this requirement shall be submitted in writing to the Lessor Project Manager for prior approval.

- C. If Lessee wishes to utilize vending machines for the sale of food and beverage items, Lessee shall propose to do so in writing to Lessor. Lessee's written proposal shall include the proposed locations for the vending machines, the merchandise to be sold in the vending machine, the forms of payment the vending machine(s) will accept, any electrical or other connections needed, and a proposed solution in the event that vending machines must be relocated or removed to accommodate construction, renovations, rerouting of pedestrian or vehicular traffic, or security concerns within the Airport. Lessor shall review Lessee's proposal for security, aesthetics, machine location, and other relevant concerns, and provide comments to Lessee on the proposal within thirty (30) days of receipt. Within thirty (30) days of Lessor's comments being provided to Lessee, Lessor and Lessee shall meet to resolve Lessor's concerns, and the Lessee's proposal shall be revised in accordance with the mutually agreed upon resolutions, provided that no portion of such plan violates any regulations of the TSA or FAA, or any other applicable laws or regulations. Regardless of those vending machine locations identified by Lessee in its proposal, Lessor shall retain ultimate authority as to where such machines may be located within the Airport, and any suggested vending machine location outside the boundaries of the Leased Premises may be rejected in the sole discretion of the Lessor. The revised proposal, once executed by both parties, will become the "Vending Plan."

Vending machines used by Lessee shall be new, modern and attractive, and accept different forms of payment, including, but not limited to, coins, paper money, and, if economically viable, credit cards. Lessee is responsible for all licensing, permitting and other regulatory and tax requirements for the vending machines. Any revenue generated by any such vending machines, shall, as part of Lessee's proposal, be included and calculated as part of the Gross Receipts used to calculate Gross Receipts rental amounts pursuant to this Lease. Lessee shall pay the cost of extending electrical or other necessary connections to the vending machine locations agreed upon. Lessee shall further indemnify and hold harmless the Lessor for and against any damages or claims of damages arising from the placement or operation of any such machines within the Airport.

Lessor's acceptance and implementation of any vending machine proposal will be contingent upon Lessee's provision of adequate insurance and indemnification as recommended, reviewed, and approved by the Lessor's Risk Manager.

- D. Reasonable Pricing. Lessee shall provide pricing that is reasonably comparable to prices charged for similar items within the Volusia / Flagler regional market area. Reasonable pricing shall be defined as no more than ten percent (10%) higher than comparable or equal products offered outside the Airport terminal within the Volusia / Flagler regional market area. The Lessor shall have the right at any time to engage a shopper service to compare Lessee's prices and customer service with off-airport or similar airport prices and customer service to monitor performance. This comparison may be performed only using food and beverage outlets/restaurants and may not utilize special, temporary, coupon, or limited-time sales prices as a basis for comparison.
- E. Inventory: Lessee shall continuously monitor the inventory to insure there is sufficient and adequate inventory of menu items available at all times to meet the reasonable needs of airline passengers and maximize revenue.
- F. Monetary change shall be provided to the public upon request, regardless of purchase.
- G. Signs and Advertising. Lessee shall not install or display signs or advertising material on or about the Leased Premises or equipment or fixtures located thereupon without prior written approval of the Lessor, which approval shall not be unreasonably withheld or delayed. At no time shall such signs or advertising material extend or protrude from the Leased Premises or shall the Lessee be permitted to conduct its business operations or activities in the common areas of the terminal, unless authorized in writing by the Lessor. Offensive or misleading signage shall be subject to immediate removal as may be determined by the Airport Director.

- H. Conduct. Lessee shall conduct its operation hereunder in an orderly and proper manner considering the nature of such operation so as not to unreasonably annoy, disturb, endanger or be offensive to others at the Airport. Specifically, Lessee shall not use the Leased Premises hereunder, or permit the Leased Premises to be used, for any unlawful or immoral purposes, or do in or upon or about the Leased Premises, or permit the doing therein or thereon or thereabout of anything that creates or is reasonably anticipated to create a nuisance. Lessee shall take all reasonable measures to:
1. Reduce to a minimum vibrations that may damage any equipment, structure, building or portion of a building which is on the Leased Premises or is a part thereof, or is located elsewhere on the Airport; and
 2. Keep the noise and sound level of its operations on the Leased Premises as low as possible so as not to disturb neighboring Lessees, occupants, or Airport operations, and to otherwise comply with all state and federal rules and regulations, including local ordinances, regarding same; and
 3. Monitor and control the conduct, demeanor and appearance of the Lessee's employees, invitees, and all those doing business with the Lessee, and, upon the objection of the Lessor, promptly take all reasonable steps necessary to remove the cause of objection.
- I. Lessee shall maintain security of the Leased Premises within the meaning and in full compliance with 49 CFR (United States Code of Federal Regulations, Part 1540 and Part 1542). Lessee shall be required to comply with all lawful security regulations and laws or directives administered by the Transportation Security Administration (TSA), Department of Homeland Security (DHS), Airport Operations personnel, Law Enforcement Officers (LEO) personnel or comparable lawful governmental authorities and shall be required to pay any fines assessed for security violations resulting from the Lessee's actions on any part of the Airport property or otherwise through Lessee's business activities at the Airport. Lessee shall be required to execute a separate Airport Security Agreement

09 1530 Lease agreement for airport food and beverage concession, RFP 13-P-107PW.

- 09-1809-18

4. Handle, ship, store, sell, or otherwise use any flammable or volatile substances or liquids, including, but not limited to explosives such as fireworks, in violation of federal, state and local regulations;
5. Do, or permit to be done, anything that may interfere with the effectiveness or accessibility of existing or future utility systems, or portions thereof on the Leased Premises or upon Airport property, nor do or permit to be done anything which may interfere with free access and passage in the Terminal Building, such as placing objects, signs, or sales racks anywhere outside the Leased Premises, unless otherwise authorized in writing by the Lessor;
6. Do or permit to be done any activities or create any conditions upon the Leased Premises or Airport property, which, in the sole discretion of Lessor's Risk Management Division, would invalidate, conflict with, or result in a loss of coverage under any insurance policies covering the terminal or Airport property, including, but not limited to, any fire insurance policies.
7. Prohibited Sales. Lessee shall not engage in any sales, other than food and beverage sales. Without limiting the foregoing, Lessee shall not be permitted to engage in banking, display advertising, car rental(s), ground transportation services, the sale or reservation of hotel rooms, the sale or reservation of airline tickets, travel agency services, gambling and gaming activities (except for those state operated lottery activities officially sponsored by the State of Florida), internet related sales or services, or offering for sale any kind or class of items not permitted to be present in the sterile areas of commercial service airports in the United States of America pursuant to the current and future regulations of the federal Transportation Security Administration (TSA) and the federal Department of Homeland Security.

- L. Volusia Room Banquet and Meeting Facility: In addition to the airside and landside concession areas providing on-demand retail food and beverage services to the general public, Lessee shall be required to manage, operate and market the Volusia Room facilities (totaling 4,123 square feet, as shown on Exhibit A) as a licensee, with use of the Volusia Room as described herein, but without acquiring any leasehold interest in the Volusia Room space.

Lessee shall designate a qualified catering and banquet manager to market, schedule, operate and manage these facilities toward the goal of attracting and booking group meetings which include food catering. These events may include civic clubs, governmental meetings, professional associations, trade association meetings or similar venues. Lessee shall be required to produce and provide for review and approval by Lessor an annual marketing plan including, at minimum, a dedicated web page, brochures / print media and business strategy for attracting the maximum number of catering and banquet events to the Volusia Room. In this regard, events such as after-hours street parties, open-to-the-public events, events which exceed the capacity of the Volusia Room, events which end later than 10:30 p.m., parties, or events where food and beverage services are not required may only be permitted upon written approval of Lessor on a case by case basis not to be unreasonably refused. Lessee shall be prohibited from subcontracting or assigning its management responsibility and control of the Volusia Room facilities to any client who may book the use of Volusia Room facilities except the designated qualified catering and banquet manager.

Lessor shall retain the right, upon consultation with Lessee, to reserve the Volusia Room with or without food catering for meetings that pertain to the needs of the Airport, Volusia County or related meetings as may be approved and directed by Lessor on a case by case basis upon reasonable notice, depending on availability and on compensation to be paid by Lessor as agreed (if services incidental to the Lessor's use are provided by Lessee.) Lessor may provide

outside catering for its use of the Volusia Room provided food and beverage products are not sold by Lessor.

Maintenance, janitorial services, utility costs, equipment requirements, furnishings, fixtures and equipment repairs within the Volusia Room shall be the on-going responsibility of Lessor. However, Lessee shall have a general responsibility to practice good stewardship of the Volusia Room facilities and may be required to repair or replace, at Lessee's expense, any furnishings, fixtures or equipment which are lost, damaged, or rendered inoperable due to Lessee's misuse, negligence, or poor management practices, fair wear and tear excepted.

Lessee shall at all times maintain separate and accurate books and records pertaining to the Volusia Room and shall report Volusia Room Gross Receipts as a separate item on Lessee's monthly report in such format and with such detail as may be required by Lessor.

Lessor shall have the right to require management changes in the Volusia Room operation, if, in the reasonable discretion of Lessor it becomes evident that this facility is not being managed properly or operated up to its potential, or, if a pattern of service deficiencies become clearly evident to Lessor.

ARTICLE 5. REDEVELOPMENT OF LEASED PREMISES.

- A. Lessee acknowledges that Lessee has inspected the Leased Premises and the furniture, fixtures and equipment, and accepts the same "**AS IS**" and "**WITH ALL FAULTS**". Lessee shall, within one hundred and twenty (120) days after the Commencement Date, but subject to the time periods in 5 C. which could extend this construction period to approximately two hundred forty (240) days, renovate, construct or cause to be constructed improvements to the Leased Premises required to create open, inviting and functional food and beverage selling spaces in accordance with the detailed plans and specifications prepared by Lessee and approved by Lessor as specified herein. As provided in Lessee's proposal,

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year signed below.

LESSOR

WITNESSES

COUNTY OF VOLUSIA

Attest: James T. Dinneen

By: _____
Jason P. Davis, County Chair

Witness #2

Dated: _____

Approved as to form

Daniel Eckert, County Attorney


LESSEE

WITNESSES

FABER, COE AND GREGG OF
OF FLORIDA, INC.



Attest: Jeffrey Garfinkle
Controller / Secretary
Date: 1/21/14



Burton Friedman, CPA
Chief Financial Officer
Date: January 22, 2014