

**AMENDMENT NO. 8
DISADVANTAGED BUSINESS ENTERPRISE NEWS/SUNDRIES/GIFT
CONCESSION AGREEMENT
ORLANDO INTERNATIONAL AIRPORT**

THIS AMENDMENT NO. 8 TO THE DISADVANTAGED BUSINESS ENTERPRISE NEWS/SUNDRIES/GIFT CONCESSION AGREEMENT by and between **THE GREATER ORLANDO AVIATION AUTHORITY** ("Aviation Authority") and **HG ORLANDO AS-1, JV** ("Company"), is made and entered into as of the 25 day August, 2023, and shall be effective upon the execution of the parties hereto.

WHEREAS, on or about September 25, 2002, the Aviation Authority and Keys Airport Business, Inc. entered into that certain DISADVANTAGED BUSINESS ENTERPRISE NEWS/SUNDRIES/GIFT CONCESSION AGREEMENT, as subsequently amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No. 5, Amendment No. 6 and Amendment No. 7, (collectively, together with all amendments thereto, referred to herein as the "Concession Agreement") to provide Company the right, privilege, and obligation to rent, occupy, equip, furnish, and maintain a news/sundries/gift concession at designated locations in the North Terminal Complex at Orlando International Airport; and

WHEREAS, by that certain Assignment of Lease and the Consent to Assignment, effective December 20, 2012, Company assumed all rights, obligations and interests in the Concession Agreement and the Aviation Authority provided consent to the assignment conditioned upon the obligations set forth in said Consent to Assignment; and

WHEREAS, in response to the COVID-19 pandemic, the Aviation Authority adopted a Resolution on April 15, 2020, which was subsequently amended and restated by the Amended and Restated Resolution adopted May 20, 2020 (collectively, the "Resolution"); and

WHEREAS, the Resolution granted the Company the following options: (1) Limited Waiver of the Minimum Annual Concession Fee ("MACF"), (2) Deferral of the MACF ("Limited Deferral Option"), or (3) Pay in Full and On Time; and

WHEREAS, on May 29, 2020, the Company executed and delivered its signed acceptance of the **Limited Deferral Option** (the "Signed Acceptance"), a copy of which is attached hereto as Exhibit A; and

WHEREAS, the Company's election of the Limited Deferral Option extended the Term of the Concession Agreement nine months after the scheduled concession term expiration date of January 31, 2022; and

WHEREAS, pursuant to the Resolution, the Term of the Concession Agreement was set to expire on October 31, 2022; and

WHEREAS, the Company and the Aviation Authority further extended the Term of the Concession Agreement to December 31, 2023, pursuant to the Aviation Authority's Board approval on September 21, 2022 ("Board Extension"); and

WHEREAS, on April 19, 2023, the Aviation Authority's Board approved Consent Agenda Item L ("Board Approval"), providing for among other things, extending the Term of the Concession Agreement to May 31, 2024, retaining the Aviation Authority's right at its sole discretion, to terminate the Concession Agreement, with 120 days' notice and requiring the Company's obligation to refurbish the premises, as needed, to ensure attractive and welcoming locations; and

WHEREAS, Company and the Aviation Authority now desire to enter into this Amendment No. 8 to memorialize the resulting change to the Term of the Concession Agreement pursuant to the Resolution, Signed Acceptance, Board Extension, and Board Approval.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, the parties do hereby agree to amend the Concession Agreement as follows:

1. **Definitions.** Article 1 of the Concession Agreement, entitled "Definitions," is incorporated herein by reference. Capitalized terms used but not defined or amended in this Amendment No. 8 including, without limitation, the recitals hereto, shall have the meanings assigned to such terms in the Concession Agreement.
2. **Incorporation of Recitals.** The above recitals are hereby incorporated herein by reference as part of this Amendment No. 8.
3. **Incorporation of Resolution, Signed Acceptance, Board Extension, and Board Approval.** The Resolution, Signed Acceptance, Board Extension, and Board Approval are hereby incorporated herein by reference as part of this Amendment No. 8.
4. **Amendment to Term.** Article 4 of the Concession Agreement, entitled "Term" shall be deleted in its entirety and replaced with the following:

ARTICLE 4 – TERM

This Agreement shall become effective upon execution by the parties thereto. The Term of this Agreement shall commence on the Commencement Date and shall end on May 31, 2024, hereinafter referenced to as the "Term," unless sooner terminated in accordance with the terms and provisions hereof. In addition to all other rights and remedies afforded to the Aviation Authority in the Agreement, the Aviation Authority retains the right in its sole discretion to terminate this Agreement with 120 days' notice to the Company.

5. **Entire Agreement.** The Concession Agreement, together with Amendment No.1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No. 5, Amendment No. 6, Amendment No. 7, and this Amendment No. 8, constitute the entire agreement between the parties hereto with respect to the matters set forth herein. There have been no additional oral or written representations or agreements.
6. **Applicability of Remaining Provisions; Ratification.** Any provisions of the Concession Agreement not amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No. 5, Amendment No. 6, Amendment No. 7, or this Amendment No. 8 shall remain unaffected and in full force and effect. In the event of a conflict between the provisions of this Amendment No. 8, Amendment No. 7, Amendment No. 6, Amendment No. 5, Amendment No. 4, Amendment No. 3, Amendment No. 2, Amendment No. 1, and the Concession Agreement, the provisions of this Amendment No. 8 shall control.
7. **Counterparts.** This Amendment No. 8 may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

[THIS SECTION INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE FOLLOWING]

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 8 to be executed the day and year first above written.

ATTEST:


boxSIGN 4270Y1684-186P130Q2

Anna Farmer
Board Manager

[Corporate Seal]

GREATER ORLANDO AVIATION AUTHORITY




By:  3V3Q2R14-186P130Q2
Kevin J. Thibault, P.E., F.ASCE
Chief Executive Officer

Date: Aug 25, 2023, 20

APPROVED AS TO FORM AND LEGALITY

On the 22nd day of August, 20 23
for the use and reliance of the Greater Orlando
Aviation Authority, only.



By:  4Y8W4P8-186P130Q2
Camille M. Evans, Esq., Virtus LLP

ATTEST: 

Printed Name: Michael Blakely

Title: SUP, Business Development

OR

TWO WITNESSES:

(1)

Printed Name:

(2)

Printed Name:

HG ORLANDO AS-1 JV

By: 

Printed Name: Courtney Thornton

Title: SUP, Business Development

Date: 7/25, 20 23

EXHIBIT A
SIGNED ACCEPTANCE
AND BOARD APPROVAL ON
THE FOLLOWING PAGES



**AMENDED AND RESTATED RESOLUTION
Greater Orlando Aviation Authority
Granting Limited Waiver or Limited Deferral of Terminal Complex Concession
Fees in Response to the COVID-19 Pandemic**

WHEREAS, domestic and international flights in and out of Orlando International Airport (MCO) have been dramatically impacted by the COVID-19 pandemic.

WHEREAS, the President of the United States, the Governor of the State of Florida, Mayor of Orange County, and Mayor of the City of Orlando have issued emergency declarations regarding the pandemic.

WHEREAS, public health officials, including the National Institutes of Health, United States Centers for Disease Control, Florida Department of Health and local health officials have warned U.S. residents and visitors to maintain social distancing and to avoid travel. International organizations have issued similar warnings to people around the globe. International air travel is also suspended.

WHEREAS, all of these actions correspond with significant decreases in air travel to and from MCO. Passenger traffic since mid-March has decreased over 90% compared to the same period in 2019.

WHEREAS, airlines serving MCO have dramatically decreased flight operations. The limited flights being conducted are operating at less than 10% of capacity.

WHEREAS, the Aviation Authority adopted a Resolution on April 15, 2020 granting limited deferral of Terminal Complex Concession Fees. This Amended and Restated Resolution supersedes and replaces entirely the April 15, 2020 Resolution granting a limited deferral of Terminal Complex Concession Fees.

WHEREAS, the continued impacts of the COVID-19 Pandemic justify additional voluntary action by the Aviation Authority to address the reduction in passenger traffic in the terminal.

WHEREAS, the Aviation Authority seeks to balance the impact of the COVID-19 Pandemic upon the Terminal Complex Concession Companies with the Aviation Authority's financial and legal obligations.

NOW THEREFORE LET IT BE RESOLVED that the Greater Orlando Aviation Authority (Aviation Authority), subject to the conditions established below hereby grants a limited waiver of Terminal Complex Concession Fees in response to the COVID-19 pandemic as set forth below:

A. Scope of Resolution

1. This Resolution applies to those companies who currently have a Food and Beverage or Retail Concession Agreement with the Aviation Authority for operation of a food and beverage, lounge, or retail concession in the Terminal Complex (singularly referred to as an "In-Terminal Concessionaire" or "ITC").

2. All capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in the applicable concessions agreement ("Concessions Agreement").

3. This Resolution provides for certain optional alterations in the rights and obligations of the ITC and the Aviation Authority under the Concessions Agreement. An ITC may take advantage of the provisions of this Resolution or may continue to abide by the original terms and conditions of ITC's Concessions Agreement, at the ITC's option. An ITC may opt into this Resolution by signing a copy of this Resolution in the space provided below and returning the signed copy to the Chief Executive Officer of the Aviation Authority no later than June 2, 2020 at 11:59 p.m. By signing and returning this Resolution, an ITC agrees that the terms of this Resolution constitute an amendment to the ITC's Concession Agreement with the Aviation Authority. The unmodified terms and conditions of ITC's Concessions Agreement shall apply to any ITC that fails to comply with the Resolution, whether or not such ITC has initially opted in to the alternative provisions of the Resolution.

B. Scope of Relief: Limited Waiver of Minimum Annual Concession Fee Option

1. Under this Resolution, an ITC may elect to have the ITC's Minimum Annual Concession Fee monthly installments (the "MACF") due in May, June and July 2020 waived (the "Waived Amount"). An ITC may elect to waive MACF for fewer months.

2. To qualify for the waiver option, the ITC must verify that it has not received and does not have a pending claim for any business interruption insurance proceeds that is based in whole or in part upon the business interruption at the MCO concession.

3. If an ITC elects to waive any monthly MACF, then the term of the ITC's Concession Agreement will be shortened as follow:

i. For those Concession Agreements that, as of May 1, 2020, have a remaining term of 24 months or less, the term of the Concession Agreement shall be shortened by one (1) month for each month the MACF is waived;

ii. For those Concession Agreements that, as of May 1, 2020, have a remaining term of more than 24 months, but less than 49 months, the term of the Concession Agreement shall be shortened by two (2) months for each month the MACF is waived; or

iii. For those Concession Agreements that, as of May 1, 2020, have a remaining term of 49 months or more, the term of the Concession Agreement shall be shortened by three (3) months for each month the MACF is waived.

An ITC may restore the term of its Concession Agreement by paying in full the Waived Amount no later than July 31, 2021.

4. If future legislation entitles an ITC to grants or financial relief under an amendment to the CARES Act or other federal or state legislation, the MACF waiver shall become immediately null and void and convert to deferral as described in the next section.

5. An ITC which selects the waiver option and subsequently defaults on any obligation to the Aviation Authority will be barred from submitting a proposal for an Aviation Authority concession until such time as all past due amounts claimed by the Aviation Authority are paid in full, including interest and late fees, plus 180 days from the date of repayment. This bar shall include all parents and guarantors of the ITC, affiliates of the parent or guarantor, and any single-purpose entity using those parent's, guarantor's or affiliated entities' experience or financial capability in a proposal.

C. Scope of Relief: Limited Deferral Option

1. As an alternative under this Resolution, an ITC may elect to defer the ITC's MACF due in May, June and July 2020 (the "Deferred Amount"). An ITC may elect to defer MACF for fewer months. The ITC shall repay the Deferred Amount in twelve (12) equal monthly installments beginning September 1, 2020 and continuing on the first day of each month thereafter until paid in full. The Aviation Authority will waive any right to interest or late fees if all installment payments are timely made. If an ITC elects the deferment option, then the term of the ITC's Concession Agreement will remain unchanged.

2. An ITC which elects the Limited Deferral Option shall be entitled to an extension of the ITC's concession term. For those concessions, which currently expire on or before May 31, 2023, the extension will be for nine (9) months after the currently scheduled concession term expiration date. For those concessions, which currently expire after May 31, 2023, the extension will be for six (6) months after the currently scheduled concession term expiration date. In case of any default, including but not limited to repayment of the Deferred Amount, the concession term will end as scheduled before this Resolution was adopted.

D. Resolution Conditions. Any waiver or deferral is subject to the following additional terms and conditions:

1. The ITC must have paid all amounts, which were due on or before April 30, 2020 and otherwise be current on all of the ITC's obligations to the Aviation Authority by June 2, 2020. Any ITC which has not fully paid the amounts due on or before April 30, 2020 by June 2, 2020 is in default and is not eligible for either option.

2. In the event the waiver of MACF offered above gives rise to a claim by the surety provider of one or more of the ITCs that the waiver either reduces a claim by the Aviation Authority against the surety by an amount greater than the Waived Amount or voids the contract bond or letter of credit provided by the surety to secure the ITC's obligations under the Concessions Agreement, then the waiver of MACF shall be void ab initio. The parties shall proceed as though the waiver had neither been offered nor accepted. Additionally, in the event an ITC files for bankruptcy protection, then the waiver of MACF Fees shall also be void ab initio.

3. The Aviation Authority's intention and expectation is that all companies participating in the operation of concessions benefit from this Resolution. As such, this Resolution shall only be available to ITCs that commit to share the benefit of the waiver or deferral of fees and rents with all participants in a joint venture (regardless of legal structure), particularly with ACDBE joint venture partners.

4. The Aviation Authority's intention and expectation also is that all ITCs participating in this waiver or deferral will treat fairly local and small businesses and individuals, which supply material, services and labor to the ITCs. As such, this Resolution shall only be available to ITCs that commit to paying in a timely manner local and small businesses and individuals, which supply material, service and labor to the ITC.

5. Any Retail Management Agreement operator opting into this Resolution shall extend the benefits of this Resolution to all of the sub-concessionaires or sub-tenants operating under the agreement for the same time period as offered by the Aviation Authority.

6. The Aviation Authority shall have the right to audit the application of waiver or deferrals of fees to ensure compliance with the provisions of this Resolution. Audits shall be performed in accordance with the terms of audit provisions in the ITC's Concession Agreement.

7. The Aviation Authority reserves the right to terminate the waiver or deferral option and demand strict compliance with the ITC's Concession Agreement including declaring the Waived Amount or Deferred Amount and all accrued interest immediately due and payable, for any ITC, which does not meet the conditions set forth in this Resolution. The Aviation Authority shall provide at least ten (10) days written notice and an opportunity to cure before declaring any ITC in default under this Resolution.

8. To secure the safety, health and welfare of all persons using Aviation Authority facilities, those accepting the relief contained herein are required to follow, to the extent applicable to its business, the Centers for Disease Control's "Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19)" and, for those operating restaurants and bars, the Centers for Disease Control's guidance entitled, "Considerations for Restaurants and Bars" (as both are amended or re-titled from time-to-time) and the directions of state and local officials to respond to COVID-19.

9. Any question or dispute regarding the interpretation of this Resolution shall be decided by the Aviation Authority's Chief Executive Officer.

E. Option to Pay in Full and On Time

1. An ITC might decline both Scope of Relief Option B and Option C. For those ITCs which do not choose Option B or Option C, pay all amounts past due by June 2, 2020, and remain current on all future obligations to the Aviation Authority, the term of their concession will be extended by twelve (12) months. The extension will be memorialized by separate agreement between the ITC and the Aviation Authority.

GREATER ORLANDO AVIATION AUTHORITY:

BY:



Domingo Sanchez, Chairman

ATTEST:

BY:



Phillip N. Brown, Chief Executive Officer

MAY 20, 2020 BOARD RESOLUTION

ACCEPTANCE

By signing below, ITC accepts all terms and conditions of this Resolution and agrees that the Concession Agreement between the ITC and the Aviation Authority is amended by the terms of this Resolution. I hereby represent that I am fully authorized to accept this Resolution on behalf of ITC named below and I verify that the ITC is qualified to accept the terms and conditions of this Resolution option selected.

LIMITED WAIVER OF MINIMUM ANNUAL CONCESSION FEE OPTION

AGREED AND ACCEPTED

THIS ____ DAY OF _____ 2020

COMPANY NAME: _____

By: _____

Name: _____

Title: _____

LIMITED DEFERRAL OPTION

AGREED AND ACCEPTED

THIS 29th DAY OF May 2020

COMPANY NAME: HG-Orlando ASI JV
(Airside 1 News & Gift Lease- District 193)

By: Michael R. Mullaney

Name: Michael R. Mullaney

Title: EVP, Corporate Strategy & Development

APPROVED AS TO FORM:

BY: Natalie Aronov

Natalie Aronov, Hudson Senior Counsel

PAY IN FULL AND ON TIME OPTION ON NEXT PAGE

PAY IN FULL AND ON TIME OPTION

AGREED AND ACCEPTED

THIS ____ DAY OF _____ 2020

COMPANY NAME: _____

By: _____

Name: _____

Title: _____

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GREATER ORLANDO AVIATION AUTHORITY

Orlando International Airport
One Jeff Fuqua Boulevard
Orlando, Florida 32827-4392

MEMORANDUM

TO: Members of the Aviation Authority

FROM: Tracy Harris, Vice President, Concessions

DATE: April 19, 2023

ITEM DESCRIPTION

Request to Extend Certain Concession Agreements to Align with Finalization of the Aviation Authority's Strategic Plan and North Terminal Visioning Study

BACKGROUND

The last comprehensive concessions program revision for Orlando International Airport occurred in 2003. The Aviation Authority has embarked upon an update of its Strategic Plan and, in conjunction with the development of the Strategic Plan, a North Terminal Visioning Study. Both are anticipated to be completed this year. The majority of the Terminals A and B concession agreements will expire between 2023 and 2028. In support of the CEO's leadership and vision for the Strategic Plan, Staff recommends aligning expiration dates of specific concessions expiring in the near term to comprehensively redevelop the Terminals A and B Concessions Program after completion of the Strategic Plan and North Terminal Visioning Study.

ISSUES

In order to allow time for the Strategic Plan and North Terminal Visioning Study to fully develop, it is necessary to extend certain concession agreements expiring in 2023 until May 31, 2024. Simultaneously, Staff, in conjunction with the Aviation Authority's Concession Consultant, is working on a plan to modernize the overall concessions program to provide more impactful spaces with concepts and experiences that will increase customer satisfaction and revenue generation. Upon completion of the plans, Staff will engage with the Aviation Authority Board on future needs for extensions necessary for aligning concession terms with the Aviation Authority's needs and interests for optimal packaging. Except for the anticipated strategic alignments, no other Terminal A or B concessions lease terms will be extended.

The below requested extensions would be subject to termination, at the Aviation Authority's sole discretion, upon 120 days' notice. Concessionaires would be required to refurbish the units, as needed, to ensure that they present attractive and welcoming locations.

Concessionaire	Concept	Current Expiration
OTG	AS 4 Cibo Market	05/31/23
Air Sun Joint Venture	AS 2 Sunglass Hut	06/30/23
Former URW Spaces	LS Non-Themed Specialty Retail	06/30/23

Prepango	AS Automated Retail	06/30/23
Sea World Parks & Entertainment	LSE Sea World	06/30/23
TAJ 2	AS 2 FarmAir Markets Snack Bars	06/30/23
Stellar Partners	AS 4 Stellar News/LSE Hudson News	07/31/23
Perez of Florida, Inc.	AS 1&3 ZaZa's Snack Bars	08/02/23
HG Orlando	AS 1 Hudson News	12/31/23
Hudson Newburns	AS 2 Hudson News/LSW Orlando Market	12/31/23

SMALL BUSINESS

All agreements would maintain their existing ACDBE goals.

ALTERNATIVES

No reasonable alternatives are under consideration at this time.

FISCAL IMPACT

The Aviation Authority would continue to receive the revenue stipulated in the agreements.

RECOMMENDED ACTION

It is respectfully requested that the Aviation Authority Board resolve to (1) extend certain concession agreements to align with finalization of the Aviation Authority's Strategic Plan and North Terminal Visioning Study;(2) authorize Staff to enter into negotiations to extend certain concession agreements expiring in 2023 until May 31, 2024, while retaining the right, at the Aviation Authority's sole discretion, to terminate with 120 days' notice; and (3) authorize an Aviation Authority Officer or the Chief Executive Officer to execute the necessary documents following satisfactory review by Legal Counsel.