



AGENDA STAFF REPORT

ASR Control 23-000815

MEETING DATE: 10/17/23
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 5
SUBMITTING AGENCY/DEPARTMENT: John Wayne Airport (Approved)
DEPARTMENT CONTACT PERSON(S): Charlene V. Reynolds (949) 252-5183
 Amy Goethals (949) 252-6036

SUBJECT: Selection of Concession Operators for Negotiation of Lease Terms

CEO CONCUR Concur	COUNTY COUNSEL REVIEW No Legal Objection	CLERK OF THE BOARD Discussion 3 Votes Board Majority
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Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A
Staffing Impact: No **# of Positions:** **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A **County Audit in last 3 years:** No
Levine Act Review Completed: Yes
Prior Board Action: 2/11/2020 #13

RECOMMENDED ACTION(S):

1. Select a qualified Food and Beverage Concession operator for Food and Beverage Package Two for the Concession Development Program at John Wayne Airport.
2. Select a qualified Retail Concession operator for Retail Package One for the Concession Development Program at John Wayne Airport.
3. Select a qualified Retail Concession operator for Retail Package Two for the Concession Development Program.
4. Authorize the Airport Director or designee to negotiate Lease agreements with selected operators and return to the Board of Supervisors for approval and award of Lease agreements.
5. Authorize the Airport Director or designee to negotiate Food and Beverage Package One with qualified Food and Beverage operator(s) and return to the Board of Supervisors for award of Lease agreement(s).

SUMMARY:

Selection of Concession operators will allow the County to negotiate Lease agreements for the purpose of redeveloping and revitalizing the Concession Program at John Wayne Airport.

BACKGROUND INFORMATION:

In 2019, John Wayne Airport (JWA) proposed a comprehensive four-phase Concession Development Program (CDP) that encourages local concepts and brands to participate in its quick-serve, retail and casual dining opportunities.

On February 11, 2020, the Board authorized the release of Phase II RFQ and RFP to qualified respondents; however, the RFP process was withdrawn due to the COVID-19 pandemic. JWA retained the services of airport planning and consulting firm Unison Consulting, LLC (Unison) to assist with evaluating the existing concession program. In assessing the concession program to the current economic climate, Unison found that larger packages would yield stronger sales in order to maximize interest from proposers. Unison and JWA staff recommended a total of four packages for the solicitation (two Food and Beverage and two Retail, with automated locations throughout).

Request For Proposal Process:

JWA staff conducted numerous outreach meetings with the local Orange County business community to inform them about the CDP and the upcoming opportunities at JWA. Additionally, JWA staff has coordinated with potential operators on the Airport Disadvantaged Business Enterprise Program (ACDBE).

On March 26, 2023, the CDP Request for Proposal (RFP) was released to the public and on July 17, 2023, JWA received two qualified proposals for Food and Beverage Package 2, two qualified proposals for Retail Package 1 and three qualified proposals for Retail Package 2. Food and Beverage Package 1 did not receive a responsive proposal.

Some of the Key elements and goals for this RFP are as follows:

- Establish a sense of place that reflects the County of Orange
- Create extraordinary experience, quality and value for guests of JWA
- Provide new food and beverage options that reflect the evolving tastes and preferences of travelers, including a mix of local, regional and national brands
- Design and build innovative facilities that complement the existing Terminal architecture
- Provide opportunities for small business, local business, veteran-owned small business and airport concession disadvantaged business enterprises to participate in the program

The RFP established minimum qualifications and all qualified proposals were scored using the criteria below:

RFP Scoring	
Minimum Qualifications	Pass/Fail
Proposed Concepts/Executive Summary	350 Points
Business Plan, Design Intention and Capital Investment	200 Points
Management Experience	150 Points
Sustainability	75 Points

Operations Plan, Customer Service, Employee Retention	125 Points
Question and Answer Panel Review	100 Points
Total	1,000 Points

A five-member evaluation committee comprised of public and private sector subject matter experts reviewed and rated the proposals and participated in the interview process. The evaluation committee carefully considered the information provided by each proposer, including the responses provided during the interviews. The evaluation committee provided the following scores based upon the evaluation criteria set forth in the RFP:

Food and Beverage Package Two (12 spaces, total 12,457 square feet):

Proposer	Host International, Inc	SSP America, SNA, LLC
Aggregate Score	788	803
Ownership Structure	Prime with Joint Venture	Prime with Joint Venture
ACDBE	Will achieve 33.5% ACDBE participation by employing Joint Venture agreements. Panera will operate under HMS Host and all ACDBE partners.	Will achieve a minimum of 30% ACDBE participation by employing Joint Venture agreements. Upon selection they plan to conduct additional outreach events to engage suppliers, sub-contractors.
ACDBE Partners	S&C Robinson Enterprise, LLC Albright International, Inc. Kind Hospitality, Inc.	S. Levy Foods, LLC E&K Retail, Inc. Make Good Company, LLC
Concepts	Mama's Comfort Food & Cocktails, The Duck's Breakaway Bar, Cellar Society, Left Coast Brewing, The Habit Burger Grill, Auntie Anne's Pretzel Perfect, Bonchon Korean Chicken, OC To-Go, Dunkin, and Panera Bread.	Blinking Owl Distillery, Five Vines, Peet's Coffee, Mustard Café Featuring Lavazza coffee, Coco & Anne, Ike's Sandwiches, Bambuza Vietnam Kitchen, Cappy's Café, Brewery X, The Trough, Orange Co To GO and Mustard Café Express
Experience	Serves 2.3 billion passengers in	SSP is a division of SSP Group,

	more than 75 countries in 5,500 outlets across 1,200 Airports. 80 years of operations.	a leading operator of food and beverage concessions in travel locations worldwide.
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Retail Package 1 (5 locations, total 4,675 square feet):

Proposer	Hudson Group (HG) Retail, LLC	Paradies Lagardere @ SNA, LLC
Aggregate Score	791	763
Ownership Structure	Prime with Joint Venture	Prime with Joint Venture
ACDBE	Will exceed 27.7% ACDBE with two certified firms. Firms will handle daily operations of assigned locations.	Will exceed 27.7% with ACDBE certified firms. ACDBE will be responsible for directing, overseeing and approving merchandising operations.
ACDBE Partners	Martinez-Niebla, LLC Albright International Inc.	Performance Excellence Partners, LLC Pacific Partners, LLC
Concepts	Hudson Group (HG) Retail, LLC portfolio submittal includes, PCH Provisions, MAC, Jo Malone & Sunglass Hut, Boutique Del Mar, Brookstone, and Orange Coast Magazine by Hudson.	OC Essentials, SNA Supply Co, Living Wise, The Goods Express @ SNA with Just Walk Out & Istore Express.
Experience	Hudson has over 30 years of concessions operations throughout the U.S and Canada. Operates over 1,000 locations/88 locations in Airports.	Opened first airport store in 1960. Currently operate in more than 1,000 locations across North America.

Retail Package 2 (4 locations, total 4,684 square feet):

Proposer	Hudson Group (HG) Retail, LLC	Marshall Retail Group	Paradies Lagardere @ SNA, LLC
Aggregate Score	773	826	793
Ownership Structure	Prime with Joint Venture	Prime with Joint Venture	Prime with Joint Venture
ACDBE	Will exceed 27.7% ACDBE with two certified firms. Firms will handle daily operations of assigned locations.	Will exceed 27.7% ACDBE with three certified firms. ACDBE firms will enhance guest experience, technology, empowerment, and client satisfaction.	Will exceed 27.7% with ACDBE certified firms. ACDBE will be responsible for directing, overseeing and approving merchandising operations.
ACDBE Partners	Martinez-Niebla, LLC Albright International Inc.	Mail Safe Express, LLC, Skyline Concessions, Inc. Enjoy Repeat, Inc.	Performance Excellence Partners, LLC Pacific Business Partners, LLC
Concepts	Crystal Cove Collection, Hudson Non-Stop Santa Ana Mkt, Welcome to OC, HWY1 OC	Five Piers Trading Co, Lido Village Artesian Market, Pacific Playground, Rivera Orange County.	Harbor Exchange, Market 949 + The Goods Express, The Goods @ SNA, SoCAL Essentials.
Experience	Hudson has over 30 years of concessions operations throughout the U.S and Canada. Operates over 1,000 locations/88 locations in Airports.	In 1955, founded Marshall Retail Group as a family-owned business. More than 300 store locations in the US and Canada.	Opened first airport store in 1960. Currently operate in more than 1,000 locations across North America.

Proposed Lease Terms:

Proposers agreed to the County-proposed master lease structure that is outlined below:

- Term - 15 years with concept review and refurbishment year seven
- Pricing - street pricing plus 15 percent
- Base Rent - \$75 per square foot (PSF) annually
- Storage Rent - \$74.09 PSF annually (Terminal Rental Rate)
- Marketing Fund - 0.5 percent of gross receipts
- Annual Rent - the greater of:
 - Tiered percentage rent or Space rent of \$75 PSF annually

Negotiation of Lease Terms:

Airport Director will review merchandising plans, staffing plans, and the development/phasing structure, finalize the leases, and return to the Board for final award. This review will provide for timely implementation of the concession program development and will quickly transform the passenger experience at John Wayne Airport.

Compliance with CEQA:

This action is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The approval of this agenda item does not commit the County to a definite course of action in regard to a project since the project consists of selecting concession operators for negotiation of lease terms. Any future action connected to this approval that constitutes a project will be reviewed for compliance with CEQA.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

- Attachment A – Individual Score Sheets with Evaluation Criteria
- Attachment B – Concession Development Program Request for Proposals
- Attachment C – Addendums 1-12

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 1**

Panel 1

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

- 0 Totally unresponsive, does not meet minimum requirements.
- 1 Well below average, barely meets minimum requirements.
- 2 Slightly below average, meets minimum requirements.
- 3 Average, meets minimum requirements, exceeds minimum requirements in some areas.
- 4 Above average, exceeds minimum requirements in many or all areas.
- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)	
		HG JWA_JV	Paradies
Proposed Concepts/Executive Summary	350	20	18
Sense of Place	88	4	3
Brands/Concepts	122	4	3
Interior/Exterior Design Renderings	70	4	3
Emerging and innovative technology	35	4	5
Methodologies for staying current with market trends	35	4	4
Business Plan, Design Intention and Capital Investment	200	14	12.75
a. Description of Proposed Design	50	4	4
b1. Financial Compensation	60	2	3
b2. Financial Capability	40	3	0.75
b3. Capital Investment Plan	50	5	5
Management Experience	150	17	17
Company Background and Experience	45	5	5
Organization/Staffing Chart	52	3	3
Relevant Experience in public facilities (i.e. Airport, stadiums)	23	5	5
ACDBE Plan (if applicable)	30	4	4
Sustainability Plan	75	11	17
Environmental/Recycling Plan	10	4	4
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	3	3
Ties to the community	23	3	3
Biodegradable packaging options	8	0	3
Food waste diversion plan	8	1	4
Operations Plan, Customer Service, Employee Retention	125	23	28
Phasing and Temporary Program	30	3	3
Staffing Plan	25	3	4
Logistics & Maintenance Plan	6	3	4
Disaster Minimization Plan	13	3	4
Customer Service Plan	13	3	4
Customer Communication and Product Offering Plan	13	4	4
Staffing and Employee Plan	25	4	5
Interview	100	4	5
Interview	100	4	5
TOTAL	1000	89	97.75

EVALUATION CRITERIA	MAX POINTS	HG JWA_JV	Paradies
Proposed Concepts/Executive Summary	350	280	231
Business Plan, Design Intention and Capital Investment	200	138	132
Management Experience	150	123	123
Sustainability Plan	75	39	49
Operations Plan, Customer Service, Employee Retention	125	83	99
Interview	100	80	100
TOTAL	1000	743	734

**City of Orange - John Wayne Airport
Request for Proposals**

Retail Package 2

Panel 1

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

- 0 Totally unresponsive, does not meet minimum requirements.
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EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)		
		HG JWA_JV	MRG	Paradies
Proposed Concepts/Executive Summary	350	21	23	19
Sense of Place	88	4	5	3
Brands/Concepts	122	3	5	3
Interior/Exterior Design Renderings	70	5	5	4
Emerging and innovative technology	35	5	4	5
Methodologies for staying current with market trends	35	4	4	4
Business Plan, Design Intention and Capital Investment	200	15	12.75	15.25
a. Description of Proposed Design	50	4	5	4
b1. Financial Compensation	60	3	0	5
b2. Financial Capability	40	3	2.75	1.25
b3. Capital Investment Plan	50	5	5	5
Management Experience	150	17	18	17
Company Background and Experience	45	5	5	5
Organization/Staffing Chart	52	3	3	3
Relevant Experience in public facilities (i.e. Airport, stadiums)	23	5	5	5
ACDBE Plan (if applicable)	30	4	5	4
Sustainability Plan	75	11	16	17
Environmental/Recycling Plan	10	4	4	4
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	3	3	3
Ties to the community	23	3	3	3
Biodegradable packaging options	8	0	3	3
Food waste diversion plan	8	1	3	4
Operations Plan, Customer Service, Employee Retention	125	23	28	28
Phasing and Temporary Program	30	3	4	3
Staffing Plan	25	3	4	4
Logistics & Maintenance Plan	6	3	4	4
Disaster Minimization Plan	13	3	4	4
Customer Service Plan	13	3	4	4
Customer Communication and Product Offering Plan	13	4	4	4
Staffing and Employee Plan	25	4	4	5
Interview	100	4	5	5
Interview	100	4	5	5
TOTAL	1000	91	102.75	101.25

EVALUATION CRITERIA	MAX POINTS	HG JWA_JV	MRG	Paradies
Proposed Concepts/Executive Summary	350	277	336	245
Business Plan, Design Intention and Capital Investment	200	150	122	160
Management Experience	150	123	129	123
Sustainability Plan	75	39	47	49
Operations Plan, Customer Service, Employee Retention	125	83	100	99
Interview	100	80	100	100
TOTAL	1000	751	834	776

City of Orange - John Wayne Airport

Request for Proposals

Food & Beverage Package 2

Panel 1

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

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EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)	
		HMS Host	SSP
Proposed Concepts/Executive Summary	350	21	24
Sense of Place	88	4	4
Brands/Concepts	122	4	5
Interior/Exterior Design Renderings	70	4	5
Emerging and innovative technology	35	5	5
Methodologies for staying current with market trends	35	4	5
Business Plan, Design Intention and Capital Investment	200	14.75	16
a. Description of Proposed Design	50	5	5
b1. Financial Compensation	60	2	3
b2. Financial Capability	40	2.75	3
b3. Capital Investment Plan	50	5	5
Management Experience	150	17	19
Company Background and Experience	45	5	5
Organization/Staffing Chart	52	3	4
Relevant Experience public facilities (i.e. Airport, stadiums)	23	5	5
ACDBE Plan (if applicable)	30	4	5
Sustainability Plan	75	18	15
Environmental/Recycling Plan	10	3	3
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	3	3
Ties to the community	23	4	3
Biodegradable packaging options	8	4	3
Food waste diversion plan	8	4	3
Operations Plan, Customer Service, Employee Retention	125	27	31
Phasing and Temporary Program	30	5	3
Staffing Plan	25	3	5
Logistics & Maintenance Plan	6	3	5
Disaster Minimization Plan	13	5	4
Customer Service Plan	13	3	5
Customer Communication and Product Offering Plan	13	4	4
Staffing and Employee Plan	25	4	5
Interview	100	5	2
Interview	100	5	2
TOTAL	1000	102.75	107

EVALUATION CRITERIA	MAX POINTS	HMS Host	SSP
Proposed Concepts/Executive Summary	350	287	332
Business Plan, Design Intention and Capital Investment	200	146	160
Management Experience	150	123	140
Sustainability Plan	75	53	45
Operations Plan, Customer Service, Employee Retention	125	100	108
Interview	100	100	40
TOTAL	1000	809	825

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 1**

Respondent	Aggregate Score
HG JWA_JV	791
Paradies	763

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 2**

Respondent	Aggregate Score
HG JWA_JV	773
MRG	826
Paradies	793

**City of Orange - John Wayne Airport
Request for Proposals
Food & Beverage Package 2**

Respondent	Aggregate Score
HMS Host	788
SSP	803



Panel #1 Signature

Date

8/21/2023

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 1**

Panel 2

Scoring Instructions:

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- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)	
		HG JWA_JV	Paradies
Proposed Concepts/Executive Summary	350	25	19
Sense of Place	88	5	3
Brands/Concepts	122	5	3
Interior/Exterior Design Renderings	70	5	3
Emerging and innovative technology	35	5	5
Methodologies for staying current with market trends	35	5	5
Business Plan, Design Intention and Capital Investment	200	15	11.75
a. Description of Proposed Design	50	5	3
b1. Financial Compensation	60	2	3
b2. Financial Capability	40	3	0.75
b3. Capital Investment Plan	50	5	5
Management Experience	150	20	20
Company Background and Experience	45	5	5
Organization/Staffing Chart	52	5	5
Relevant Experience in public facilities (i.e. Airport, stadiums)	23	5	5
ACDBE Plan (if applicable)	30	5	5
Sustainability Plan	75	20	20
Environmental/Recycling Plan	10	4	4
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	4	4
Ties to the community	23	4	4
Biodegradable packaging options	8	4	4
Food waste diversion plan	8	4	4
Operations Plan, Customer Service, Employee Retention	125	28	28
Phasing and Temporary Program	30	4	4
Staffing Plan	25	4	4
Logistics & Maintenance Plan	6	4	4
Disaster Minimization Plan	13	4	4
Customer Service Plan	13	4	4
Customer Communication and Product Offering Plan	13	4	4
Staffing and Employee Plan	25	4	4
Interview	100	5	5
Interview	100	5	5
TOTAL	1000	113	103.75

EVALUATION CRITERIA	MAX POINTS	HG JWA_JV	Paradies
Proposed Concepts/Executive Summary	350	350	238
Business Plan, Design Intention and Capital Investment	200	148	122
Management Experience	150	150	150
Sustainability Plan	75	60	60
Operations Plan, Customer Service, Employee Retention	125	100	100
Interview	100	100	100
TOTAL	1000	908	770

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 2**

Panel 2

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

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EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)		
		HG JWA_JV	MRG	Paradies
Proposed Concepts/Executive Summary	350	22	25	19
Sense of Place	88	4	5	3
Brands/Concepts	122	5	5	4
Interior/Exterior Design Renderings	70	4	5	3
Emerging and innovative technology	35	5	5	5
Methodologies for staying current with market trends	35	4	5	4
Business Plan, Design Intention and Capital Investment	200	15	12.75	14.25
a. Description of Proposed Design	50	4	5	3
b1. Financial Compensation	60	3	0	5
b2. Financial Capability	40	3	2.75	1.25
b3. Capital Investment Plan	50	5	5	5
Management Experience	150	20	20	20
Company Background and Experience	45	5	5	5
Organization/Staffing Chart	52	5	5	5
Relevant Experience in public facilities (i.e. Airport, stadiums)	23	5	5	5
ACDBE Plan (if applicable)	30	5	5	5
Sustainability Plan	75	20	20	20
Environmental/Recycling Plan	10	4	4	4
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	4	4	4
Ties to the community	23	4	4	4
Biodegradable packaging options	8	4	4	4
Food waste diversion plan	8	4	4	4
Operations Plan, Customer Service, Employee Retention	125	28	28	28
Phasing and Temporary Program	30	4	4	4
Staffing Plan	25	4	4	4
Logistics & Maintenance Plan	6	4	4	4
Disaster Minimization Plan	13	4	4	4
Customer Service Plan	13	4	4	4
Customer Communication and Product Offering Plan	13	4	4	4
Staffing and Employee Plan	25	4	4	4
Interview	100	5	5	5
Interview	100	5	5	5
TOTAL	1000	110	110.75	106.25

EVALUATION CRITERIA	MAX POINTS	HG JWA_JV	MRG	Paradies
Proposed Concepts/Executive Summary	350	311	350	255
Business Plan, Design Intention and Capital Investment	200	150	122	150
Management Experience	150	150	150	150
Sustainability Plan	75	60	60	60
Operations Plan, Customer Service, Employee Retention	125	100	100	100
Interview	100	100	100	100
TOTAL	1000	871	882	815

**City of Orange - John Wayne Airport
Request for Proposals
Food & Beverage Package 2**

Panel 2

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

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- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)	
		HMS Host	SSP
Proposed Concepts/Executive Summary	350	21	23
Sense of Place	88	3	5
Brands/Concepts	122	4	5
Interior/Exterior Design Renderings	70	5	4
Emerging and innovative technology	35	5	5
Methodologies for staying current with market trends	35	4	4
Business Plan, Design Intention and Capital Investment	200	13.75	16
a. Description of Proposed Design	50	4	5
b1. Financial Compensation	60	2	3
b2. Financial Capability	40	2.75	3
b3. Capital Investment Plan	50	5	5
Management Experience	150	20	20
Company Background and Experience	45	5	5
Organization/Staffing Chart	52	5	5
Relevant experience in public facilities (i.e. Airport, stadiums)	23	5	5
ACDBE Plan (if applicable)	30	5	5
Sustainability Plan	75	20	20
Environmental/Recycling Plan	10	4	4
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	4	4
Ties to the community	23	4	4
Biodegradable packaging options	8	4	4
Food waste diversion plan	8	4	4
Operations Plan, Customer Service, Employee Retention	125	28	28
Phasing and Temporary Program	30	4	4
Staffing Plan	25	4	4
Logistics & Maintenance Plan	6	4	4
Disaster Minimization Plan	13	4	4
Customer Service Plan	13	4	4
Customer Communication and Product Offering Plan	13	4	4
Staffing and Employee Plan	25	4	4
Interview	100	4	3
Interview	100	4	3
TOTAL	1000	106.75	110

EVALUATION CRITERIA	MAX POINTS	HMS Host	SSP
Proposed Concepts/Executive Summary	350	283	329
Business Plan, Design Intention and Capital Investment	200	136	160
Management Experience	150	150	150
Sustainability Plan	75	60	60
Operations Plan, Customer Service, Employee Retention	125	100	100
Interview	100	80	60
TOTAL	1000	809	859

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 1**

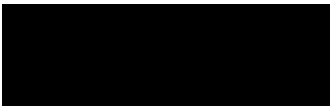
Respondent	Aggregate Score
HG JWA_JV	791
Paradies	763

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 2**

Respondent	Aggregate Score
HG JWA_JV	773
MRG	826
Paradies	793

**City of Orange - John Wayne Airport
Request for Proposals
Food & Beverage Package 2**

Respondent	Aggregate Score
HMS Host	788
SSP	803


Panel #2 Signature

Date 8/23/2023

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 1**

Panel 3

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

- 0 Totally unresponsive, does not meet minimum requirements.
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- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)	
		HG JWA_JV	Paradies
Proposed Concepts/Executive Summary	350	17	17
Sense of Place	88	4	4
Brands/Concepts	122	3	3
Interior/Exterior Design Renderings	70	3	3
Emerging and innovative technology	35	4	4
Methodologies for staying current with market trends	35	3	3
Business Plan, Design Intention and Capital Investment	200	14	12.75
a. Description of Proposed Design	50	4	4
b1. Financial Compensation	60	2	3
b2. Financial Capability	40	3	0.75
b3. Capital Investment Plan	50	5	5
Management Experience	150	16	16
Company Background and Experience	45	4	4
Organization/Staffing Chart	52	4	4
Relevant Experience public facilities (i.e. Airport, stadiums)	23	4	4
ACDBE Plan (if applicable)	30	4	4
Sustainability Plan	75	15	15
Environmental/Recycling Plan	10	3	3
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	3	3
Ties to the community	23	3	3
Biodegradable packaging options	8	3	3
Food waste diversion plan	8	3	3
Operations Plan, Customer Service, Employee Retention	125	22	25
Phasing and Temporary Program	30	3	3
Staffing Plan	25	3	4
Logistics & Maintenance Plan	6	3	3
Disaster Minimization Plan	13	4	4
Customer Service Plan	13	3	4
Customer Communication and Product Offering Plan	13	3	4
Staffing and Employee Plan	25	3	3
Interview	100	3	4
Interview	100	3	4
TOTAL	1000	87	89.75

EVALUATION CRITERIA	MAX POINTS	HG JWA_JV	Paradies
Proposed Concepts/Executive Summary	350	235	235
Business Plan, Design Intention and Capital Investment	200	138	132
Management Experience	150	120	120
Sustainability Plan	75	45	45
Operations Plan, Customer Service, Employee Retention	125	78	88
Interview	100	60	80
TOTAL	1000	675	699

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 2**

Panel 3

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

- 0 Totally unresponsive, does not meet minimum requirements.
- 1 Well below average, barely meets minimum requirements.
- 2 Slightly below average, meets minimum requirements.
- 3 Average, meets minimum requirements, exceeds minimum requirements in some areas.
- 4 Above average, exceeds minimum requirements in many or all areas.
- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)		
		HG JWA_JV	MRG	Paradies
Proposed Concepts/Executive Summary	350	18	22	19
Sense of Place	88	4	5	4
Brands/Concepts	122	4	4	4
Interior/Exterior Design Renderings	70	3	5	4
Emerging and innovative technology	35	4	4	4
Methodologies for staying current with market trends	35	3	4	3
Business Plan, Design Intention and Capital Investment	200	15	12.75	15.25
a. Description of Proposed Design	50	4	5	4
b1. Financial Compensation	60	3	0	5
b2. Financial Capability	40	3	2.75	1.25
b3. Capital Investment Plan	50	5	5	5
Management Experience	150	16	16	16
Company Background and Experience	45	4	4	4
Organization/Staffing Chart	52	4	4	4
Relevant Experience public facilities (i.e. Airport, stadiums)	23	4	4	4
ACDBE Plan (if applicable)	30	4	4	4
Sustainability Plan	75	15	17	15
Environmental/Recycling Plan	10	3	3	3
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	3	3	3
Ties to the community	23	3	4	3
Biodegradable packaging options	8	3	4	3
Food waste diversion plan	8	3	3	3
Operations Plan, Customer Service, Employee Retention	125	22	28	25
Phasing and Temporary Program	30	3	4	3
Staffing Plan	25	3	4	4
Logistics & Maintenance Plan	6	3	4	3
Disaster Minimization Plan	13	4	4	4
Customer Service Plan	13	3	4	4
Customer Communication and Product Offering Plan	13	3	4	4
Staffing and Employee Plan	25	3	4	3
Interview	100	3	4	4
Interview	100	3	4	4
TOTAL	1000	89	99.75	94.25

EVALUATION CRITERIA	MAX POINTS	HG JWA_JV	MRG	Paradies
Proposed Concepts/Executive Summary	350	259	312	273
Business Plan, Design Intention and Capital Investment	200	150	122	160
Management Experience	150	120	120	120
Sustainability Plan	75	45	51	45
Operations Plan, Customer Service, Employee Retention	125	78	100	88
Interview	100	60	80	80
TOTAL	1000	712	785	766

**City of Orange - John Wayne Airport
Request for Proposals
Food & Beverage Package 2**

Panel 3

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

- 0 Totally unresponsive, does not meet minimum requirements.
- 1 Well below average, barely meets minimum requirements.
- 2 Slightly below average, meets minimum requirements.
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- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)	
		HMS Host	SSP
Proposed Concepts/Executive Summary	350	18	21
Sense of Place	88	4	4
Brands/Concepts	122	3	4
Interior/Exterior Design Renderings	70	4	4
Emerging and innovative technology	35	4	5
Methodologies for staying current with market trends	35	3	4
Business Plan, Design Intention and Capital Investment	200	13.75	15
a. Description of Proposed Design	50	4	4
b1. Financial Compensation	60	2	3
b2. Financial Capability	40	2.75	3
b3. Capital Investment Plan	50	5	5
Management Experience	150	14	14
Company Background and Experience	45	4	4
Organization/Staffing Chart	52	3	3
Relevant Experience public facilities (i.e. Airport, stadiums)	23	3	3
ACDBE Plan (if applicable)	30	4	4
Sustainability Plan	75	18	17
Environmental/Recycling Plan	10	4	4
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	3	3
Ties to the community	23	4	3
Biodegradable packaging options	8	4	4
Food waste diversion plan	8	3	3
Operations Plan, Customer Service, Employee Retention	125	28	30
Phasing and Temporary Program	30	4	3
Staffing Plan	25	4	4
Logistics & Maintenance Plan	6	4	5
Disaster Minimization Plan	13	4	4
Customer Service Plan	13	4	5
Customer Communication and Product Offering Plan	13	4	4
Staffing and Employee Plan	25	4	5
Interview	100	4	2
Interview	100	4	2
TOTAL	1000	95.75	99

EVALUATION CRITERIA	MAX POINTS	HMS Host	SSP
Proposed Concepts/Executive Summary	350	249	287
Business Plan, Design Intention and Capital Investment	200	136	150
Management Experience	150	105	105
Sustainability Plan	75	53	49
Operations Plan, Customer Service, Employee Retention	125	100	103
Interview	100	80	40
TOTAL	1000	723	733

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 1**

Respondent	Aggregate Score
HG JWA_JV	791
Paradies	763

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 2**

Respondent	Aggregate Score
HG JWA_JV	773
MRG	826
Paradies	793

**City of Orange - John Wayne Airport
Request for Proposals
Food & Beverage Package 2**

Respondent	Aggregate Score
HMS Host	788
SSP	803



Panel #3 Signature

Date

8/22/2023

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 1**

Panel 4

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

- 0 Totally unresponsive, does not meet minimum requirements.
- 1 Well below average, barely meets minimum requirements.
- 2 Slightly below average, meets minimum requirements.
- 3 Average, meets minimum requirements, exceeds minimum requirements in some areas.
- 4 Above average, exceeds minimum requirements in many or all areas.
- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)	
		HG JWA_JV	Paradies
Proposed Concepts/Executive Summary	350	23	21
Sense of Place	88	5	4
Brands/Concepts	122	5	4
Interior/Exterior Design Renderings	70	4	4
Emerging and innovative technology	35	4	5
Methodologies for staying current with market trends	35	5	4
Business Plan, Design Intention and Capital Investment	200	15	13.75
a. Description of Proposed Design	50	5	5
b1. Financial Compensation	60	2	3
b2. Financial Capability	40	3	0.75
b3. Capital Investment Plan	50	5	5
Management Experience	150	20	18
Company Background and Experience	45	5	5
Organization/Staffing Chart	52	5	4
Relevant Experience in public facilities (i.e. Airport, stadiums)	23	5	5
ACDBE Plan (if applicable)	30	5	4
Sustainability Plan	75	19	18
Environmental/Recycling Plan	10	4	4
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	4	4
Ties to the community	23	5	4
Biodegradable packaging options	8	3	3
Food waste diversion plan	8	3	3
Operations Plan, Customer Service, Employee Retention	125	32	32
Phasing and Temporary Program	30	4	5
Staffing Plan	25	5	5
Logistics & Maintenance Plan	6	5	4
Disaster Minimization Plan	13	4	5
Customer Service Plan	13	5	4
Customer Communication and Product Offering Plan	13	4	4
Staffing and Employee Plan	25	5	5
Interview	100	4	5
Interview	100	4	5
TOTAL	1000	113	107.75

EVALUATION CRITERIA	MAX POINTS	HG JWA_JV	Paradies
Proposed Concepts/Executive Summary	350	329	287
Business Plan, Design Intention and Capital Investment	200	148	142
Management Experience	150	150	134
Sustainability Plan	75	61	57
Operations Plan, Customer Service, Employee Retention	125	114	119
Interview	100	80	100
TOTAL	1000	882	838

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 2**

Panel 4

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

- 0 Totally unresponsive, does not meet minimum requirements.
- 1 Well below average, barely meets minimum requirements.
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- 3 Average, meets minimum requirements, exceeds minimum requirements in some areas.
- 4 Above average, exceeds minimum requirements in many or all areas.
- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)		
		HG JWA_JV	MRG	Paradies
Proposed Concepts/Executive Summary	350	17	24	20
Sense of Place	88	3	5	4
Brands/Concepts	122	3	5	4
Interior/Exterior Design Renderings	70	3	5	4
Emerging and innovative technology	35	4	4	4
Methodologies for staying current with market trends	35	4	5	4
Business Plan, Design Intention and Capital Investment	200	15	12.75	15.25
a. Description of Proposed Design	50	4	5	4
b1. Financial Compensation	60	3	0	5
b2. Financial Capability	40	3	2.75	1.25
b3. Capital Investment Plan	50	5	5	5
Management Experience	150	18	20	19
Company Background and Experience	45	5	5	5
Organization/Staffing Chart	52	4	5	5
Relevant Experience in public facilities (i.e. Airport, stadiums)	23	5	5	5
ACDBE Plan (if applicable)	30	4	5	4
Sustainability Plan	75	17	18	16
Environmental/Recycling Plan	10	3	3	3
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	4	4	4
Ties to the community	23	4	5	3
Biodegradable packaging options	8	3	3	3
Food waste diversion plan	8	3	3	3
Operations Plan, Customer Service, Employee Retention	125	28	32	27
Phasing and Temporary Program	30	5	5	4
Staffing Plan	25	4	5	4
Logistics & Maintenance Plan	6	4	4	4
Disaster Minimization Plan	13	3	3	3
Customer Service Plan	13	4	5	4
Customer Communication and Product Offering Plan	13	4	5	4
Staffing and Employee Plan	25	4	5	4
Interview	100	4	5	5
Interview	100	4	5	5
TOTAL	1000	99	111.75	102.25

EVALUATION CRITERIA	MAX POINTS	HG JWA_JV	MRG	Paradies
Proposed Concepts/Executive Summary	350	224	343	280
Business Plan, Design Intention and Capital Investment	200	150	122	160
Management Experience	150	134	150	144
Sustainability Plan	75	55	59	50
Operations Plan, Customer Service, Employee Retention	125	103	119	97
Interview	100	80	100	100
TOTAL	1000	746	893	832

**City of Orange - John Wayne Airport
Request for Proposals
Food & Beverage Package 2**

Panel 4

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

- 0 Totally unresponsive, does not meet minimum requirements.
- 1 Well below average, barely meets minimum requirements.
- 2 Slightly below average, meets minimum requirements.
- 3 Average, meets minimum requirements, exceeds minimum requirements in some areas.
- 4 Above average, exceeds minimum requirements in many or all areas.
- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)	
		HMS Host	SSP
Proposed Concepts/Executive Summary	350	18	21
Sense of Place	88	4	5
Brands/Concepts	122	4	4
Interior/Exterior Design Renderings	70	3	4
Emerging and innovative technology	35	4	4
Methodologies for staying current with market trends	35	3	4
Business Plan, Design Intention and Capital Investment	200	13.75	16
a. Description of Proposed Design	50	4	5
b1. Financial Compensation	60	2	3
b2. Financial Capability	40	2.75	3
b3. Capital Investment Plan	50	5	5
Management Experience	150	19	18
Company Background and Experience	45	5	5
Organization/Staffing Chart	52	5	4
Relevant experience public facilities (i.e. Airport, stadiums)	23	5	5
ACDBE Plan (if applicable)	30	4	4
Sustainability Plan	75	21	20
Environmental/Recycling Plan	10	5	4
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	4	4
Ties to the community	23	4	5
Biodegradable packaging options	8	3	3
Food waste diversion plan	8	5	4
Operations Plan, Customer Service, Employee Retention	125	31	30
Phasing and Temporary Program	30	5	4
Staffing Plan	25	4	4
Logistics & Maintenance Plan	6	4	5
Disaster Minimization Plan	13	5	4
Customer Service Plan	13	4	5
Customer Communication and Product Offering Plan	13	5	4
Staffing and Employee Plan	25	4	4
Interview	100	4	2
Interview	100	4	2
TOTAL	1000	106.75	107

EVALUATION CRITERIA	MAX POINTS	HMS Host	SSP
Proposed Concepts/Executive Summary	350	259	298
Business Plan, Design Intention and Capital Investment	200	136	160
Management Experience	150	144	134
Sustainability Plan	75	62	63
Operations Plan, Customer Service, Employee Retention	125	111	104
Interview	100	80	40
TOTAL	1000	792	798

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 1**


Respondent	Aggregate Score
HG JWA_JV	791
Paradies	763

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 2**

Respondent	Aggregate Score
HG JWA_JV	773
MRG	826
Paradies	793

**City of Orange - John Wayne Airport
Request for Proposals
Food & Beverage Package 2**

Respondent	Aggregate Score
HMS Host	788
SSP	803



Panel #4 Signature

Date 8/21/2023

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 1**

Panel 5

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

- 0 Totally unresponsive, does not meet minimum requirements.
- 1 Well below average, barely meets minimum requirements.
- 2 Slightly below average, meets minimum requirements.
- 3 Average, meets minimum requirements, exceeds minimum requirements in some areas.
- 4 Above average, exceeds minimum requirements in many or all areas.
- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)	
		HG JWA_JV	Paradies
Proposed Concepts/Executive Summary	350	19	19
Sense of Place	88	4	3
Brands/Concepts	122	3	4
Interior/Exterior Design Renderings	70	4	4
Emerging and innovative technology	35	4	4
Methodologies for staying current with market trends	35	4	4
Business Plan, Design Intention and Capital Investment	200	14	12.75
a. Description of Proposed Design	50	4	4
b1. Financial Compensation	60	2	3
b2. Financial Capability	40	3	0.75
b3. Capital Investment Plan	50	5	5
Management Experience	150	16	16
Company Background and Experience	45	4	4
Organization/Staffing Chart	52	4	4
Relevant experience in public facilities (i.e. Airport, stadiums)	23	4	4
ACDBE Plan (if applicable)	30	4	4
Sustainability Plan	75	11	20
Environmental/Recycling Plan	10	4	4
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	4	4
Ties to the community	23	3	4
Biodegradable packaging options	8	0	4
Food waste diversion plan	8	0	4
Operations Plan, Customer Service, Employee Retention	125	25	28
Phasing and Temporary Program	30	3	4
Staffing Plan	25	4	4
Logistics & Maintenance Plan	6	3	4
Disaster Minimization Plan	13	3	4
Customer Service Plan	13	4	4
Customer Communication and Product Offering Plan	13	4	4
Staffing and Employee Plan	25	4	4
Interview	100	5	5
Interview	100	5	5
TOTAL	1000	90	100.75

EVALUATION CRITERIA	MAX POINTS	HG JWA_JV	Paradies
Proposed Concepts/Executive Summary	350	256	262
Business Plan, Design Intention and Capital Investment	200	138	132
Management Experience	150	120	120
Sustainability Plan	75	43	60
Operations Plan, Customer Service, Employee Retention	125	90	100
Interview	100	100	100
TOTAL	1000	746	774

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 2**

Panel 5

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

- 0 Totally unresponsive, does not meet minimum requirements.
- 1 Well below average, barely meets minimum requirements.
- 2 Slightly below average, meets minimum requirements.
- 3 Average, meets minimum requirements, exceeds minimum requirements in some areas.
- 4 Above average, exceeds minimum requirements in many or all areas.
- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)		
		HG JWA_JV	MRG	Paradies
Proposed Concepts/Executive Summary	350	20	18	18
Sense of Place	88	4	4	3
Brands/Concepts	122	4	4	3
Interior/Exterior Design Renderings	70	4	4	4
Emerging and innovative technology	35	4	3	4
Methodologies for staying current with market trends	35	4	3	4
Business Plan, Design Intention and Capital Investment	200	15	11.75	15.25
a. Description of Proposed Design	50	4	4	4
b1. Financial Compensation	60	3	0	5
b2. Financial Capability	40	3	2.75	1.25
b3. Capital Investment Plan	50	5	5	5
Management Experience	150	16	17	16
Company Background and Experience	45	4	4	4
Organization/Staffing Chart	52	4	4	4
Relevant Experience in public facilities (i.e. Airport, stadiums)	23	4	4	4
ACDBE Plan (if applicable)	30	4	5	4
Sustainability Plan	75	11	18	20
Environmental/Recycling Plan	10	4	3	4
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	4	4	4
Ties to the community	23	3	3	4
Biodegradable packaging options	8	0	4	4
Food waste diversion plan	8	0	4	4
Operations Plan, Customer Service, Employee Retention	125	25	28	28
Phasing and Temporary Program	30	3	4	4
Staffing Plan	25	4	4	4
Logistics & Maintenance Plan	6	3	4	4
Disaster Minimization Plan	13	3	4	4
Customer Service Plan	13	4	4	4
Customer Communication and Product Offering Plan	13	4	4	4
Staffing and Employee Plan	25	4	4	4
Interview	100	5	4	5
Interview	100	5	4	5
TOTAL	1000	92	96.75	102.25

EVALUATION CRITERIA	MAX POINTS	HG JWA_JV	MRG	Paradies
Proposed Concepts/Executive Summary	350	280	266	238
Business Plan, Design Intention and Capital Investment	200	150	112	160
Management Experience	150	120	126	120
Sustainability Plan	75	43	53	60
Operations Plan, Customer Service, Employee Retention	125	90	100	100
Interview	100	100	80	100
TOTAL	1000	783	737	778

**City of Orange - John Wayne Airport
Request for Proposals
Food & Beverage Package 2**

Panel 5

Scoring Instructions:

Enter a score (0 to 5) in each evaluation criteria:

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- 1 Well below average, barely meets minimum requirements.
- 2 Slightly below average, meets minimum requirements.
- 3 Average, meets minimum requirements, exceeds minimum requirements in some areas.
- 4 Above average, exceeds minimum requirements in many or all areas.
- 5 Outstanding, far exceeds minimum requirements in most areas.

EVALUATION CRITERIA	MAX POINTS	PANEL SCORING AREA (Scoring 1-5)	
		HMS Host	SSP
Proposed Concepts/Executive Summary	350	20	21
Sense of Place	88	4	4
Brands/Concepts	122	4	5
Interior/Exterior Design Renderings	70	4	4
Emerging and innovative technology	35	4	4
Methodologies for staying current with market trends	35	4	4
Business Plan, Design Intention and Capital Investment	200	12.75	15
a. Description of Proposed Design	50	3	4
b1. Financial Compensation	60	2	3
b2. Financial Capability	40	2.75	3
b3. Capital Investment Plan	50	5	5
Management Experience	150	18	18
Company Background and Experience	45	5	5
Organization/Staffing Chart	52	4	4
Relevant experience in public facilities (i.e. Airport, stadiums)	23	4	4
ACDBE Plan (if applicable)	30	5	5
Sustainability Plan	75	21	19
Environmental/Recycling Plan	10	5	5
Demonstrate and provide a sustainable design to CalGreen Tier I (Exhibit J)	26	4	4
Ties to the community	23	4	4
Biodegradable packaging options	8	4	3
Food waste diversion plan	8	4	3
Operations Plan, Customer Service, Employee Retention	125	29	27
Phasing and Temporary Program	30	4	3
Staffing Plan	25	4	4
Logistics & Maintenance Plan	6	4	4
Disaster Minimization Plan	13	5	4
Customer Service Plan	13	4	4
Customer Communication and Product Offering Plan	13	4	4
Staffing and Employee Plan	25	4	4
Interview	100	5	3
Interview	100	5	3
TOTAL	1000	105.75	103

EVALUATION CRITERIA	MAX POINTS	HMS Host	SSP
Proposed Concepts/Executive Summary	350	280	304
Business Plan, Design Intention and Capital Investment	200	126	150
Management Experience	150	135	135
Sustainability Plan	75	62	59
Operations Plan, Customer Service, Employee Retention	125	103	94
Interview	100	100	60
TOTAL	1000	806	802

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 1**

Respondent	Aggregate Score
HG JWA_JV	791
Paradies	763

**City of Orange - John Wayne Airport
Request for Proposals
Retail Package 2**

Respondent	Aggregate Score
HG JWA_JV	773
MRG	826
Paradies	793

**City of Orange - John Wayne Airport
Request for Proposals
Food & Beverage Package 2**

Respondent	Aggregate Score
HMS Host	788
SSP	803



Panel #5 Signature

Date 8/22/2023

COUNTY OF ORANGE
John Wayne Airport

Concession Development Program

Request for Proposals for
(2) Food & Beverage Packages
(2) Retail Packages

<p>3160 Airway Avenue Costa Mesa, CA 92626</p>	<p>PROPOSALS MUST BE RECEIVED ON OR BEFORE</p> <p>July 17, 2023</p> <p>By</p> <p>4:00 P.M. PST</p> <p>PM 1121-0345-0034</p>	<p>Issued: March 27, 2023</p>
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JOHN WAYNE AIRPORT
ORANGE COUNTY



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PART 1 WELCOME AND GENERAL INFORMATION

A Word from the Airport Director, Charlene Reynolds

John Wayne Airport (“JWA or “Airport”) has been a major cornerstone of Orange County, CA for 100 years, serving as the aviation gateway to the world. We provide more than 33,000 jobs to local workers and bring billions of dollars to the local economy. In 2022, we served more than 11.36 million annual passengers, flying to more than 40 non-stop destinations throughout the U.S., Mexico, and Canada.

JWA is consistently ranked among the best airports in North America, rated first in overall customer satisfaction among large airports in 2017 and 2018, and second in 2019, 2020, and 2022. There’s no question that we strive every day to deliver a superior guest experience, with a wide variety of services and amenities, first class convenience from check-in to the gate, and concessions that embrace the unparalleled character of our community and strengthen local business.

Our commitment to our guests never ends and that is why we’re always looking at new ways to improve.

In 2023, we have a pivotal opportunity to transform the JWA program with 80% of the concession program being redeveloped with long-term leases that will shape and define the unique essence and diversity of this world-class airport. The County of Orange evokes many colorful images, and everyone has their own list, but some of the highlights include:

- Legendary, world renown tourist attractions
- Stunning beach communities, each with its own vibe
- Trendy, eclectic food scene as diverse as the community it serves
- World class and chic retail
- Spectacular outdoor activities within easy driving distance
- Focus on healthy lifestyles
- And of course, near perfect weather



We are diligently seeking business partners that share our vision and can provide extraordinary food, beverage and retail options that reflect and showcase what makes this stunning part of Southern California so special.

Thank you for your interest in John Wayne Airport. I encourage you to thoroughly review this entire Request for Proposals (“RFP”) that establishes clear guidelines to ensure each Proposer has an equal opportunity to be a part of JWA’s future.

A. SOLICITATION OPPORTUNITY

The Airport, owned and operated by the County of Orange (“County”), is requesting proposals for its Concession Development Program (“Proposals”). The JWA Concession Development Program (“CDP”) will consist of a total of two (2) Food & Beverage Lease Packages and two (2) Retail Lease Packages. The RFP Evaluation Panel will score and create a slate of responsive Proposals that will be provided to the County’s Board of Supervisors (“Board”) for consideration. Pursuant to California Government Code Section 25536, the Board has the plenary authority to award leases to the Proposers it deems qualified, regardless of the Evaluation Panel’s recommendation. Project design and permitting will begin immediately after lease execution, with projected construction completion and opening dates in 2024. Through this RFP process, the Airport will: (1) solicit Proposals from qualified entities to operate concessions at JWA; (2) evaluate and score responsive Proposals pursuant to the criteria set forth in this RFP; and (3) present slate of qualified Proposers to the Board for selection and award.

B. TIMELINE

▪ Outreach Meeting	February 16, 2023
▪ Solicitation Advertised/Released	March 27, 2023
▪ Pre-Proposal/Site Tour Meeting	April 12, 2023
▪ Questions Deadline (Must be received by 4 p.m. PST)	April 28, 2023
▪ Response Deadline (Must be received by 4 p.m. PST)	July 17, 2023
▪ Minimum Qualifications/RFP Conformance Review	July 19, 2023
▪ Evaluation Panel Meeting	On or about August 10, 2023
▪ Interviews	August 2023
▪ Selection and Award	October/November 2023
▪ Agreement Commencement	January 2024

*All dates are subject to change at the Airport’s sole discretion.
Proposals received after the due date and time shall not be considered.*

PART 2 ABOUT JOHN WAYNE AIRPORT

A. AIRPORT INFORMATION

John Wayne Airport is the only commercial airport in Orange County, California. The Airport is located approximately 35 miles south of Los Angeles, bordered by the cities of Costa Mesa, Newport Beach, and Irvine.

JWA spans approximately 510 acres and its two runways serve commercial and general aviation (i.e., private) aircraft. The Airport serves the major commercial airlines throughout the 730,505 linear square foot, multi-level, Thomas F. Riley Terminal facility. Terminals A, B, and C provide 20 commercial passenger gates and two commuter passenger terminals at the north and south ends. A passenger can walk all three terminals in less than eight minutes which provides attractive and efficient access for all concessions throughout the Airport. The Airport operates as “common use” and it includes six baggage carousels, two airline club lounges (American and United), and a federal inspection facility to accommodate international arrivals. In 2022, JWA served more than 11.36 million annual passengers.

The Airport has four parking garages on-site, with 6500 parking spaces, including 51 electric vehicle charging stations. The off-site parking lot includes 1921 spaces, with 10 EV charging stations. Curbside valet is also available in two locations on the Departure Level.

B. SETTLEMENT AGREEMENT BACKGROUND

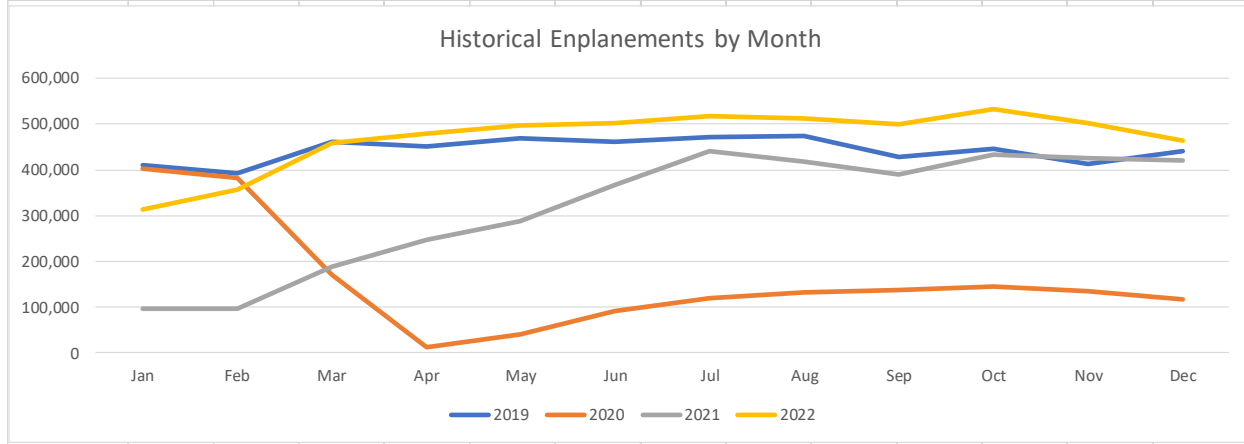
The 1985 “Settlement Agreement” between the County of Orange, the City of Newport Beach, and two community groups establishes guidelines to which facility and operational improvements can be implemented at JWA.

The 2014 Settlement Agreement Amendment authorizes the Airport to serve up to 11.8 Million Annual Passengers (MAP) through December 31, 2025. Effective January 1, 2026, through December 31, 2030, the Airport will be permitted to serve up to 12.5 MAP. Commercial airline departures at JWA are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 10:00 p.m. Arrivals are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 11:00 p.m.

Please reference the following link for more information on the 1985 Settlement Agreement and associated documents: <https://www.ocair.com/about/administration/settlement-agreement/>

Monthly Enplanements

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2019	409,972	393,441	462,074	450,680	469,225	460,390	470,962	473,104	428,516	445,258	413,996	440,669	5,318,287
2020	402,291	381,771	171,445	12,633	41,164	90,600	119,946	131,073	136,590	145,149	135,213	115,738	1,883,613
2021	95,256	96,928	189,185	247,596	289,080	366,078	439,645	417,070	389,625	433,153	424,785	420,797	3,809,198
2022	314,300	357,029	458,677	478,347	497,682	502,831	516,843	511,369	498,822	533,481	502,437	463,652	5,635,470



Annual Passenger History and Projection



D. COUNTY OF ORANGE DEMOGRAPHICS

Approximately 32,000 passengers depart and arrive out of JWA daily. The Airport is currently experiencing growth, with passenger counts exceeding pre-COVID levels by 6.3%.

As of the 2020 census, the population of Orange County was 3,186,989, making it the **third-most-populous county in California** and the sixth largest county in the United States by total population. The county's three most-populous cities are Anaheim, Santa Ana, and Irvine. **The average annual household income in Orange County is \$134,610**, while the median household income sits at \$102,756 per year. Residents aged 25 to 44 earn \$107,390, while those between 45 and 64 years old have a median earning of \$118,796.

The County is a legendary tourist destination, with attractions like Disneyland, Knott's Berry Farm, Mission San Juan Capistrano, Modjeska House, Segerstrom Center for the Arts, Yost Theater, Bowers Museum, Balboa Island, Angel Stadium, Downtown Santa Ana, Crystal Cove Historic District, Honda Center, Old Orange County Courthouse, Irvine Ranch Natural Landmarks, and several popular beaches along its more than 40 miles of coastline.

PASSENGER SURVEY RESULTS

JWA recently conducted a passenger survey in August 2022. Historically a biannual assessment, the survey measures traveler preferences and satisfaction with their Airport experience.

The 2022 Passenger Survey results confirm John Wayne Airport continues to earn consistently high approval ratings from travelers, both visitors and residents alike. The findings include:

Focus on Customer Satisfaction

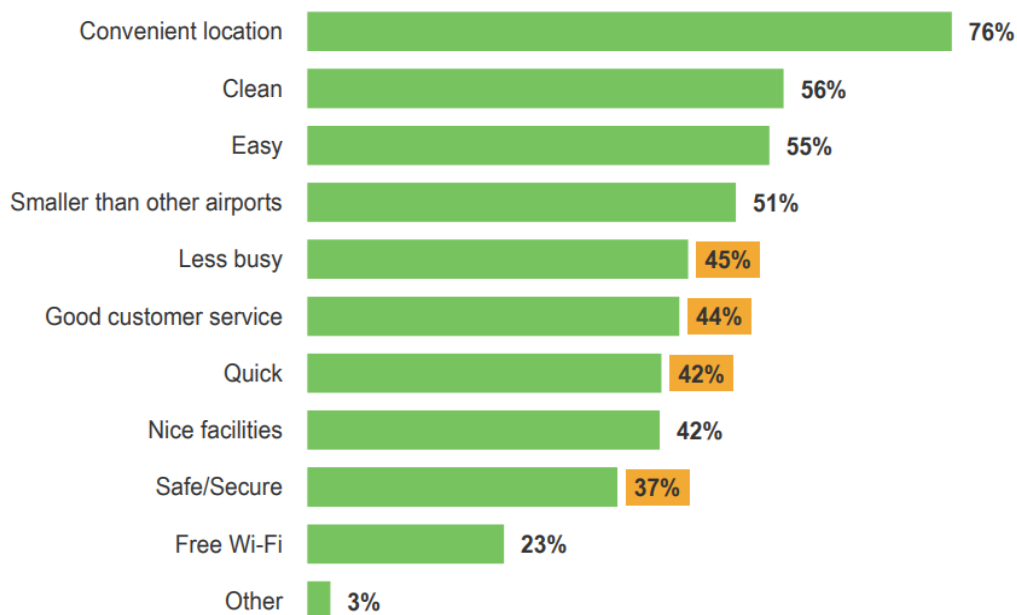
Overall, **73% of on-site passengers rated JWA as 5 out of 5 (on a 5-point scale)**, a significant increase over the 2019 survey results, with 94% rating it a 4 or a 5. With these high customer satisfaction ratings, the gross revenue potential at JWA is an appealing opportunity for business operators.

Convenience Driven

The predominant reason both visitors and residents choose JWA is its **convenient location**, with 76% of residents and 65% of passengers indicating proximity as their primary motivation.



Reasons for High Satisfaction Rating Among Passengers Giving a Positive Rating (4 or 5)



This year's data is compared to data collected in 2019 at the 95% confidence level. Significant differences are indicated by teal (significantly higher) or orange (significantly lower) highlighting

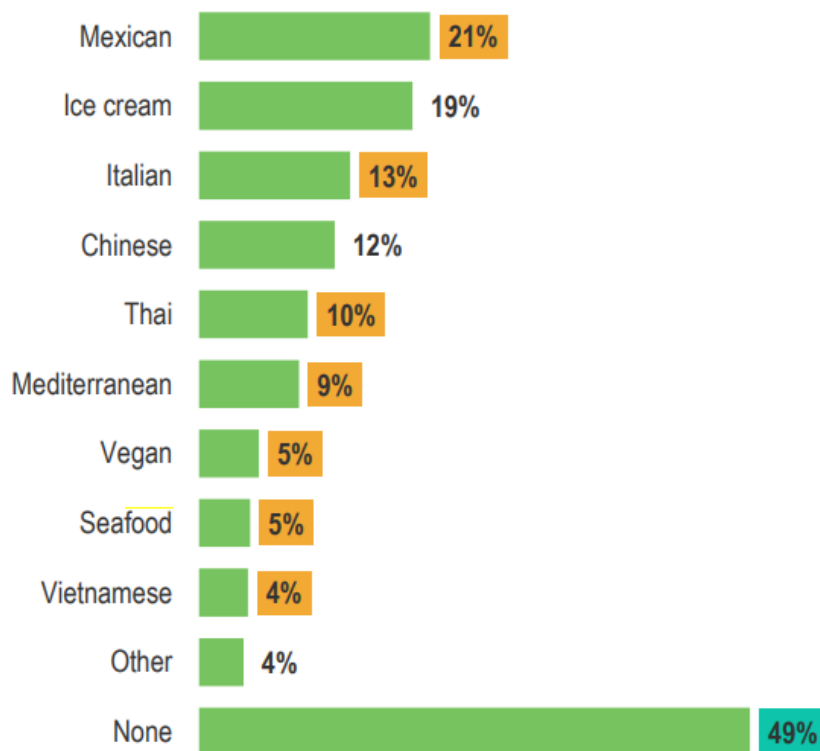
JWA passengers arrive an average 2 hours and 6 minutes before their scheduled flight departure, providing ample time to enjoy shopping and dining amenities within the terminals.

FOOD DESIRED

In a recent passenger survey, **21% of JWA passengers** indicated they **desire more Mexican food** options.



Food Venue Additions Desired Among All Passengers



Shift to Leisure

Travel for pleasure/leisure has increased and is the largest proportion of on-site passengers surveyed, at **55%**. Leisure travel has come back faster and stronger than business travel due to post-COVID-19 conditions. However, it remains to be seen if this is a long-term trend at JWA.

Frequent Travelers

68% of passengers are visitors. The average passenger had flown out of JWA four or more times in the past year.

	2019	2022
Sample Size	599	505
Q14: Primary Purpose of Trip		
Business	26%	31%
Pleasure/Leisure	53%	55%
School/Education	1%	4%
Military	0%	0%
Personal	17%	7%
Other	3%	3%
Q27: Flown out of JWA Past 12 Months (incl. today)		
Average (Mean)	3.0	4.6
1	51%	35%
2	18%	18%
3	10%	13%
4	4%	7%
5	2%	4%
6	4%	4%
7	2%	3%
8	1%	1%
9	1%	1%
10 - 15	4%	5%
16 - 20	1%	3%
Over 20	1%	5%

To view the complete JWA 2022 passenger survey:
<https://www.ocair.com/news/2022/11/18/2022-passenger-survey-results/>

E. CONCESSIONS DEVELOPMENT PROGRAM

On August 27, 2019, the Board awarded Leases for the Phase I Concessions Development Program that consisted of two (2) casual dining/bar locations, one (1) quick-service location, two (2) coffee locations, one (1) acai bowl kiosk, and two (2) specialty retail locations. Phase I is currently under development and concepts will open in Q2-Q3 of 2023. The remaining concession locations are included in this RFP and will consist of the final phase redevelopment of approximately eighty percent (80%) of the CDP.



F. VISION

The final phase CDP will feature food, beverage, and retail options that truly represent the culture and feel of Orange County. Each city within the County exudes its own distinct and unique sense of place. The County expects the food, beverage, and retail options at JWA to embody the unique attributes of Southern California.

G. GOALS AND OBJECTIVES

- Establish a sense of place that reflects Orange County
- Create extraordinary experience, quality, and value for guests of the Airport
- Provide new food and beverage options that reflect the evolving tastes and preferences of travelers, including a mix of local, regional, and national brands
- Design and build innovative facilities that complement the existing terminal architecture
- Provide uninterrupted service to the traveling public during all phases of the renovation
- Explore specialty retail concepts that highlight merchandise from the County of Orange and Southern California
- Promote sustainability through design and operational improvements such as biodegradable packaging options, food-waste diversion, and phasing out single-use plastics
- Provide opportunities for small business, local business, veteran-owned small business, and airport concession disadvantaged business enterprises to participate in the program
- Optimize concession sales and Airport revenues
- Provide innovative and cutting-edge technology into the CDP

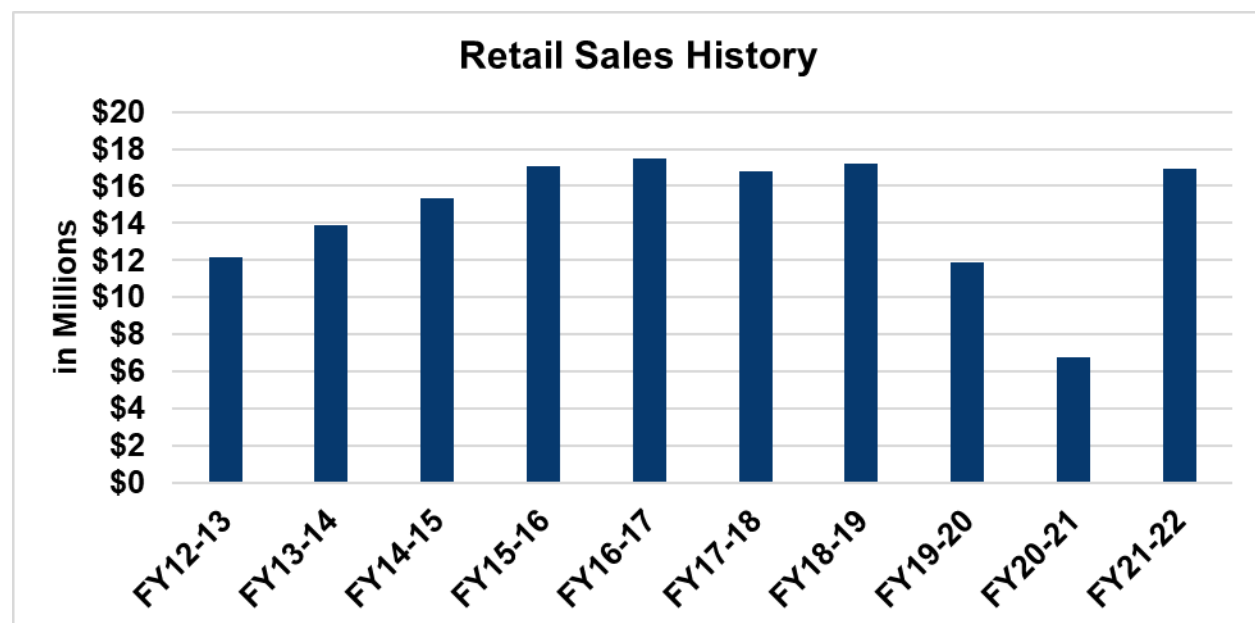
H. EXISTING INVENTORY AND PERFORMANCE

Current Retail Concessions

Concessionaire	Concept	Location(s)
Hudson	News & Gift and Specialty Retail	CNN (Terminal A - Pre-Security) Hudson News wall (Terminal A) Sunglass Hut/Rip Curl (Terminal A) Orange County Market (Terminal A) Hudson News (Terminal A) Brookstone (Terminal B) OC Marketplace (Terminal C) Tech on the Go (Terminal C) CNN (Terminal C)
Paradies	News & Gift and Specialty Retail	CNBC (Terminal B - Pre-Security) South Coast News (Terminal B) OC TravelMart (Terminal C - Pre-Security) CNBC News wall (Terminal C)
La Boutique	Specialty Retail	La Boutique (Terminal B) (under development) La Boutique (Terminal C) (under development)

Retail Gross Receipts

(Fiscal Year is July through June)



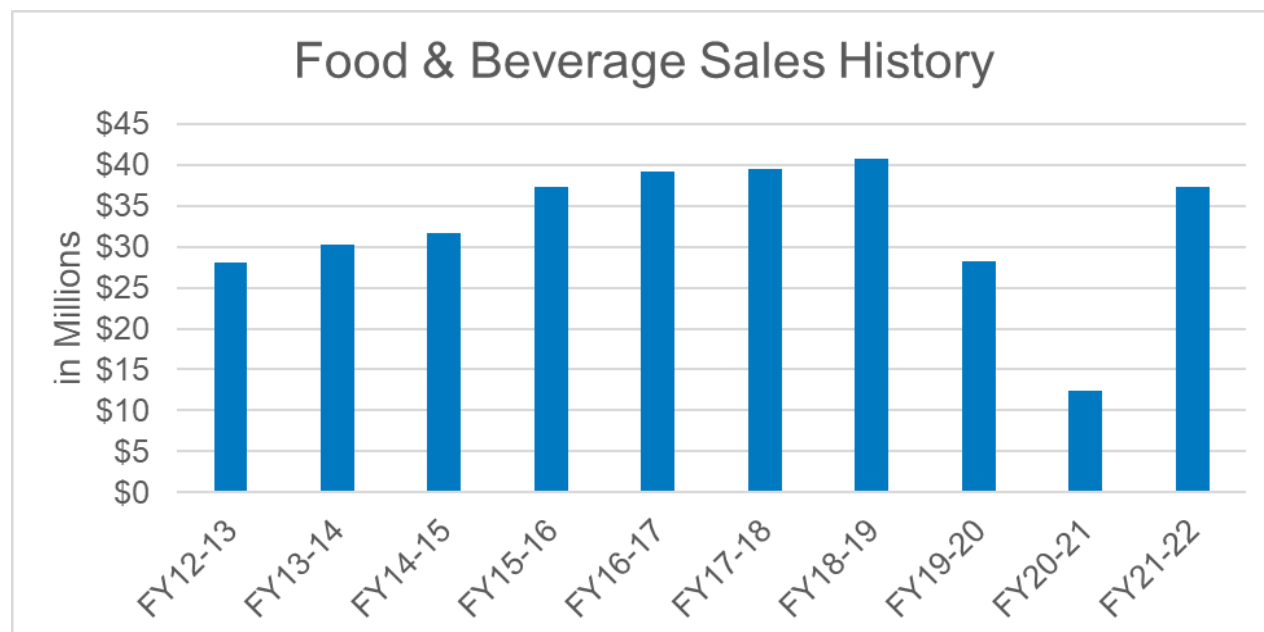
New retail opportunities can reinvigorate revenue growth at JWA. **New concepts highlighting merchandise from Orange County and Southern California will create a fresh retail experience.**

Current Food & Beverage Concessions

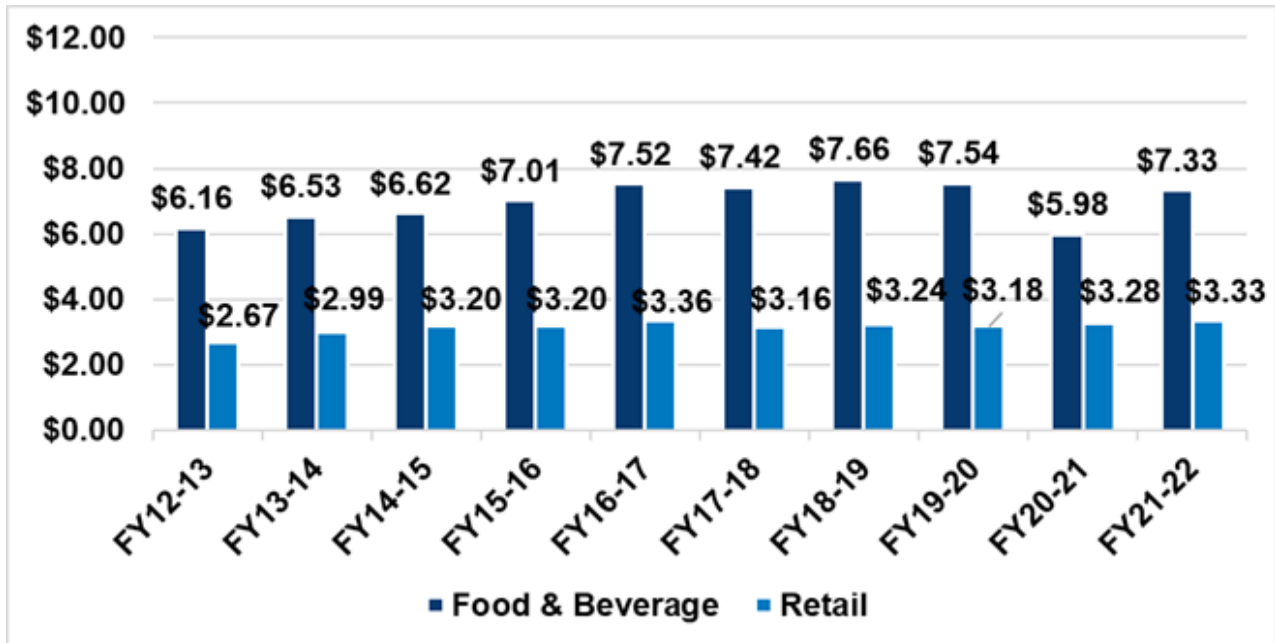
Concessionaire	Concept	Location(s)
Host	Primary Food & Beverage	California Pizza Kitchen (Terminal A) Ruby's Diner (Rotated Square) Farmers Market (Rotated Square) Starbucks (Terminal B) Hobie's Sand Bar (Terminal B) Stella Bar (Terminal C) Ciao (Terminal C) Ducks Bar (Terminal C)
Fly Away Foods	Food & Beverage	OC Pizza (Terminal C) Qdoba (Terminal C) Jamba Juice (Terminal C)
McDonald's	Quick Service	Terminal A Terminal B
Vino Volo	Specialty	Terminal B
Carl's Jr.	Quick Service	Terminal C
Brodard	Quick Service	Terminal C (under development)
Mission Yogurt	Casual Dining & Bar	Taps Fish House (Terminal C) (under development) Greenleaf (Terminal A) (under development)
Bambuza	Specialty Coffee/Acai	(2) Coffee Bean & Tea Leaf (Terminal C) Sambazon Acai (Terminal B) (under development)

Food & Beverage Gross Receipts

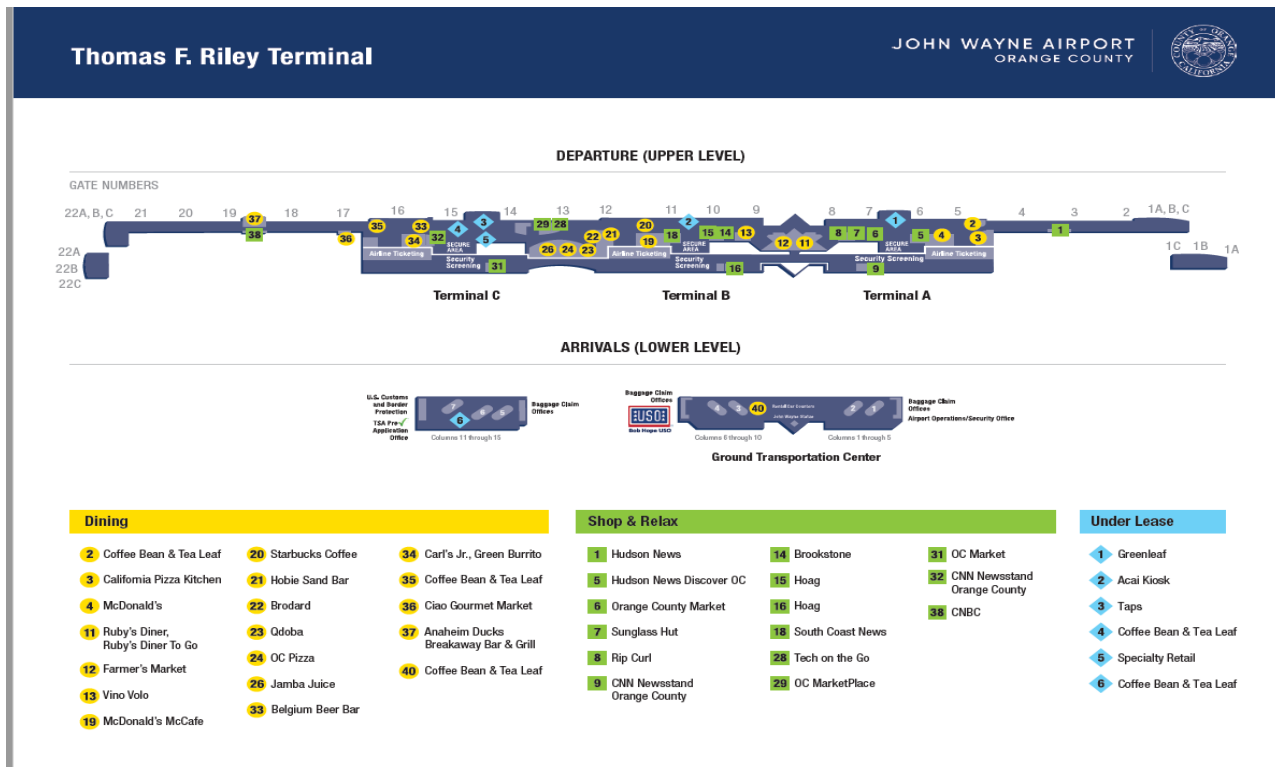
(Fiscal Year is July through June)



Historical Sales per Enplaned Passenger



Source: John Wayne Airport Monthly Concession Revenue Report



A passenger can walk all three terminals in less than eight minutes.

I. HOURS OF OPERATION

Commercial airline departures at JWA are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 10:00 p.m. Arrivals are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 11:00 p.m.

Each concession must be open for business not less than sixteen (16) hours per day, seven days per week, or an hour before the first outgoing departure and 30 minutes before the last departure.

Proposers must consider the JWA hours of operation when staffing and when completing their financial pro-forma in response to this RFP, as labor costs will be impacted with lower rates than comparable airports that are open 24-hours per day.

J. DELIVERIES

All concessionaires are required to schedule their deliveries between the hours of 11:00 p.m. to 9:00 a.m., which may be amended from time to time. Due to early morning peak traffic periods, concessionaires must leave the lower roadway clear of large delivery trucks.

PART 3 – PACKAGES AVAILABLE

A. LOCATIONS AND PACKAGES

This RFP provides the opportunity for qualified Proposers to submit Proposals for concepts in four concession package offerings, two (2) Food & Beverage and two (2) Retail. These concession packages consist of approximately 33 units and approximately 36,602 square feet of concession space. Due to size, adjacencies, and customer needs, JWA has established permitted uses for each location to best optimize customer satisfaction and sales potential. The permitted use, rent requirements, square footage of each space, location within the terminals, and utility availability is provided in **Attachment 1**. The final square footage will be re-measured within ninety days of **all locations opening** within the corresponding concession package.

Proposers may submit Proposals on one or more concession packages identified in this RFP. However, a Proposer may only be awarded no more than one (1) Retail Concessions Lease Package and one (1) Food and Beverage Concessions Lease Package total. **If proposing on more than one concession package, the Proposer must submit a separate and complete Proposal for each.**

B. CONCEPT FIT AND SENSE OF PLACE

The final phase of the CDP will feature food, beverage, and retail options that truly represent the culture and feel of Orange County. The 34 cities that comprise Orange County cities are unique, and together, offer a distinct sense of place. The goal of the CDP is to provide food, beverage, and retail options that reflect the diverse attributes of Southern California and Orange County through locally inspired concepts.

The County reserves the right to award locations based on the best fit for the overall Concession Development Program. The County also reserves the right to phase construction as necessary to minimize impacts on the Airport's guests and tenants, including but not limited to, airlines, existing concessionaires, and new concessionaires. The timelines expressed in this RFP are estimates and subject to change. JWA will not be liable to tenants for any circumstances resulting in delayed construction completion.

C. "AS-IS" ACCEPTANCE

TENANTS SHALL ACKNOWLEDGE THAT THEY ACCEPT THE LEASED PREMISES AND ALL APPURTENANCES "AS IS" AND "WHERE IS" AND THAT COUNTY HAS MADE NO REPRESENTATIONS OR WARRANTIES RESPECTING THE SUITABILITY THEREOF FOR PROPOSERS' PURPOSES. Except as specifically provided herein, the County has no obligation whatsoever to repair, maintain, renovate, or otherwise incur any cost or expense with respect to the Leased Premises, or any leasehold improvement or fixtures, furnishings, or equipment installed on or used on the Leased Premises. It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvements and utility conditions, premises encumbrances, conditions of title, metes and bounds, total square footage, and the feasibility of the Proposer's Concession Proposal. It is also each Proposer's sole responsibility, as part of its due diligence, to confirm the size, configuration, and condition of the proposed premises, including, but not limited to, title and environmental conditions. The County makes no representations or warranties as to the accuracy, completeness, or pertinence of any documents referenced in this RFP or otherwise, and, in addition, the County shall not be responsible for any conclusions Proposer may draw therefrom. Proposer assumes all risk when relying on the information provided by the County or any of its employees, contractors, or agents.

D. CONCESSION CONSTRUCTION REQUIREMENTS

JWA's goal is to provide a superior guest experience by setting the highest concession standards and establishing an atmosphere that maximizes the operational and economic performance of all concessions.

Tenants shall construct, equip, and complete concession improvements for the locations specified by this RFP in accordance with JWA Tenant Design Guidelines ("TDG") (version dated 3.27.23), and plans and specifications approved by the County. Tenants will be required to complete their development plans within (6) months of lease award and may be fined for non-compliance. Proposers can access JWA's TDG for this RFP at:

https://files.ocair.com/media/2023-03/JWA%20Tenant%20Design%20Criteria%20Manual_03.27.23.pdf?VersionId=eFltfqcc8K3sawEqBd.g48WyAtL3gJh

Tenants shall be responsible for all concession interior and exterior finish work, including but not limited to, shelving, counters, and interior design. Tenants shall be responsible for installing utility hook-ups from the point of connection into the leased premises.

Upon award of a concession package, tenants may identify existing equipment in concession spaces that can be reutilized. The list of identified equipment may be submitted to the Deputy Airport Director, Business Development for review and approval. **REUTILIZED EQUIPMENT SHALL BE ACCEPTED BY TENANTS IN AS-IS CONDITION WITH ALL FAULTS AND THE COUNTY DISCLAIMS ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** The maintenance of all equipment shall be the responsibility of the tenant and County shall have no obligation whatsoever to repair, maintain, renovate, or otherwise incur any cost or expense with respect to the same.

E. STORAGE SPACE

Storage space may be available, depending on concessionaire needs, under a separate agreement with the County. Off-site storage facilities may be required and shall be determined after lease award. Cost of storage rent shall be based on the latest rates and charges schedule established by the County. The rate is subject to adjustments twice a year. The current rate, as of January 2023, is \$63.16 per square foot per annum. Proposers are required to identify and submit requested storage space, as part of their Proposal, using **Exhibit E - Proposer Form and Questionnaire**. The Airport will attempt to locate storage space as close to the requested amount as feasible and available.

F. CONCESSION MIDTERM REFURBISHMENT

At the Midterm of the Lease, each tenant shall be required to make a reinvestment for the purpose of keeping technology contemporary and competitive with current concession trends and methods. Refer to **Exhibit H – Draft Lease** for additional information.

PART 4 – PROPOSAL SUBMITTAL REQUIREMENTS

A. MINIMUM QUALIFICATIONS

Unless stated otherwise, Proposal qualifications for both Food & Beverage and Retail concessions are the same.

Proposers must meet the following minimum qualifications to be eligible to participate in this solicitation. If the Proposer is a partnership, joint venture or newly formed entity (e.g. limited liability company or corporation), the minimum qualifications set forth in this section and throughout the RFP must be satisfied by the entity or individual that owns and controls a majority equity (at least 51%) of the partnership, joint venture, or newly formed entity.

- Proposer shall explain in detail and provide evidence of a minimum of three (3) years prior experience within the last five (5) years in the marketing, development, operation, and management of similar business at an airport, other transportation facility, shopping center, mall, or street-side location.
- Proposer must show the ability to finance and undertake the monetary commitments to successfully develop, construct, and operate the proposed development plan. Documents of ability must include:
 - Sum of Proposers i) net working capital, ii) cash flow from existing operations, and iii) demonstrated access to credit of equity from external sources must be greater than the proposed investment in the concessions (including proposed investment common area improvements and tenant/subtenant leasehold improvements).
 - If Proposer is relying on financial resources of a parent entity, joint venture partner, or non-affiliated external source(s), which may include proposed subtenants, then Proposer must submit sufficient (audited) satisfactory documentation as specified herein to show that it meets the minimum financial qualification. Moreover, a corporate guaranty from any such parent entity or external source will be required to ensure Proposer's ability to complete the concessions development plan.
- Proposer shall submit with its Proposal documentation that demonstrates Proposer is duly authorized to conduct business within the State of California and County of Orange.
- Proposers must have the ability to obtain minimum insurance coverage and limits as required with this RFP.
- Proposers must NOT be listed on the California Convicted Vendor List.
- Proposers must NOT be listed on the California Scrutinized List of Prohibited Companies.

B. REQUIRED ITEMS TO BE SUBMITTED WITH PROPOSAL

The following items are required to be submitted and must be tabbed in the order as outlined below. Failure to do so may result in disqualification.

Tab 1 - Proposal Cover Sheet – Exhibit C

Tab 2 - Proposer Checklist – Exhibit D

Tab 3 - Signed and dated Acknowledgement and Approval of Proposal Deposit and Draft Lease Provisions - Exhibit B.

Tab 4 - Proposal Deposit of \$25,000

- Cashier’s check, letter of credit, or wire transfer confirmation page must be included in the “Original” Proposal package(s).

Tab 5 - Cover Letter – to include the following information:

- Name, title, telephone, and email address of the personnel responsible for the primary communication with the County regarding the Proposal.
- Structure of Proposer: Proposer must include a detailed discussion of its legal and ownership structures including providing copies of its organizational documents (i.e., partnership or operating agreement, articles of incorporation or organization, bylaws, or equivalent documents).
- Proposers who include ACDBE participants are required to submit the following information regarding intended participation by ACDBEs:
 - The names and addresses of ACDBE firms that will participate in the contract.
 - The dollar amount percentage of participation by each named ACDBE firm listed in the Proposal.
 - A description of the work that each ACDBE will perform.
 - Proof of ACDBE certification for all ACDBE firms listed in the Proposal at the time of submission. ACDBEs must be certified by a certifying agency under the California Unified Certification Program (CUCP) with the appropriate NAICS code for their type of business. To be certified, ACDBE firms must meet eligibility criteria as established by 49 CFR Part 23.
 - If the Proposer is a Joint Venture (JV), as defined in 49 CFR Part 23, Section 23.3, the Proposer must provide the following:
 - A copy of the proposed JV Agreement, subject to review and approval by JWA, prior to lease execution, and must be in compliance with JV guidance as issued by the FAA and as it may be amended in the future.
 - A copy of any loan agreement from the non-ACDBE partner to the ACDBE partner that has or will be used in connection with this opportunity.
 - Each party to the JV must be identified and the roles that each will have in the development and/or operation of the Project must be described.
 - A letter of agreement to participate in the JV as well as the percentage of participation must be submitted from each JV partner.

- The Proposer must represent and warrant that (i) Proposer has the power and authority to execute and deliver the Proposal, and (ii) the Proposal has been duly and validly executed and is a legal, valid, and binding obligation of Proposer. ACDBE certifications also must be provided.
- A summary of the Proposal, including the services intended to be offered and how the existing facilities will be utilized during the planning and development of the new Concession Development Program. Include a description of the Proposer’s brand or company and how association with that brand would benefit the Airport and its users.
- A statement of Proposer’s mission, vision, and values.
- A statement indicating Proposer’s clear understanding of this RFP and a statement as to whether Proposer and/or Proposer’s partners, subcontractor(s), joint venture associates, or any other individual or entity of Proposer’s team has any potential conflicts that may arise in the performance of the services requested in this RFP, performing the work, or operating the concession development program contemplated within this RFP.

Tab 6 - Proposed Concept(s) and Executive Summary

A summary to include the below:

- The Spirit of the County of Orange – Sense of Place
 - Reflective of the unique attributes of Southern California - its environment, culture, diversity, and historical attributes which travelers recognize and appreciate
 - Reflective of the flavor of the Orange County/SoCal region through iconic businesses
 - Identifying opportunities for the sourcing and/or sale of manufactured or agricultural products with strong ties to the Orange County/So Cal region
 - **Proposers shall not be awarded additional points based on the geographic location of their firm** (*Pursuant to 49 CFR Part 23 §23.79, JWA cannot use a “local geographic preference” that gives an ACDBE located in Orange County an advantage over ACDBEs from other geographical areas.)
- Brands and Concepts
 - Proposed concepts appeal to passengers
 - Provides a wide variety of merchandise and price points
 - Capital Investment by location
- Interior and exterior design with renderings and floor plan layouts
- Use of emerging and innovative technology
- On-going methodologies for staying current with market trends

Tab 7 - Business Plan, Design Intention and Capital Investment

- Financial Compensation Proposal
 - Pro Forma Development (**Exhibit F - Pro Forma Template**)
 - Include Key Assumptions
 - Merchandise List/Menu per location with prices compliant with Pricing Policy
 - List of specific merchandise offerings and items for each concept.

* County understands that there will be some product overlap at stores within the terminals. The County desires to minimize this in order to maintain a healthy sales environment for all concessionaires while providing first-class shopping and dining to Airport guests.

The Airport reserves the right to restrict or prohibit the sale of those items which, in the opinion of the Airport, are not in the public interest, or which might compete unfairly with other terminal concessions. The lease shall prohibit each tenant from conducting or permitting, any public or private nuisance in, on, or from the leased premises. The lease shall also prohibit each tenant from committing or permitting any waste in, on or from the leased premises.

- Financial Capability
 - Fund continuing operations
 - Net worth to successfully perform the business operations
 - Historical Financial Information
- Description of Proposed Design
 - Overall appeal and quality of design
 - Renderings depicting the front elevation, signage, floor plan and interior design intent.
 - Photographs of existing similar facilities along with a discussion of the design intent for JWA are acceptable
 - One original set of three 11x17 foam boards depicting the design, materials, and concept for each location with colored copies in the RFP binder.
 - Design supports the proposed brand/concept, and an incorporated strong merchandising strategy
- Capital Investment Plan
 - Capital capacity
 - Sources of funding

Tab 8 - Management Experience

- Company Background & Experience
- Organization/Staffing Chart showing reporting structure, management/operating committees (if applicable), names of owners, partners, management, supervisors, and staff
- Degree of relevant experience in operating in a non-traditional environment, if applicable (i.e., airports, malls, stadiums/sports venues, universities, etc.)
- Number of years of proposer's relevant experience with proposed concept(s) or a similar concept(s)
- ACDBE Plan (if applicable)
 - Development of ACDBE partners
 - Management of ACDBE partnerships

Tab 9 – Sustainability

- Sustainability Plan
 - Environmental/Recycling Plan

- Demonstrate and provide a sustainable design to CalGreen Tier I (**Exhibit J**)
- Ties to the community
- Biodegradable packaging options
- Food waste diversion plan

Tab 10 - Operations Plan, Customer Service, Employee Retention

- Phasing and Temporary Program
 - Identify how phasing will minimally interrupt service operations
 - Provide interim revenue plan during construction
 - Identify what opportunities are available for temporary/kiosk offerings during construction
 - Identify the phasing of construction and opening schedule for each concept, providing minimal disruption
- Staffing Plan
 - Provide staffing levels and schedules
 - Identify on-site general manager, regional manager, and other key management/culinary staff experience
 - Support of the operations from corporate headquarters
- Logistics & Maintenance Plan
 - Store standards such as cleanliness of the location and orderly display of merchandise
 - Store maintenance plan, repair, and on-going upkeep
 - Merchandise replenishment and inventory logistics and control
 - Concept specific quality assurance procedures and product or service guarantees
- Disaster Minimization Plan
- Customer Service Plan
 - Customer service standards and training
 - Customer service assurance procedures and guarantees
- Customer Communication and Product Offering Plan
 - Staying current with market trends for products and/or services
 - Achieving sales growth through marketing and promotion
- Staffing and Employee Plan
 - Employee Retention Plan
 - Training programs
 - Employee recruiting plan (including hiring from existing labor pool)
 - Employee standards and expectations

Tab 11 - Required Forms

- Proposer Form and Questionnaire – **Exhibit E**
- Pro-Forma Template – **Exhibit F**
- Financial Viability Form – **Exhibit G**
- Levine Act Disclosure Form – **Exhibit I**

Proposers are solely and independently responsible for reviewing and understanding the various documents, regulations, and approvals relevant to the CDP, and should not rely solely on the summaries set forth herein.

PART 5 – BUSINESS TERMS

A. LEASE TERMINOLOGY – ALL PACKAGES

USE

Operation of a concession as proposed, for the sale of a particular type of food, beverages, products, or services incidental to said concession.

OR

Operation of a retail concession as proposed, for the sale of particular retail products, including merchandise or services incidental to said concession.

LEASED PREMISES

Food and Beverage concession consisting of approximately _____ sq. ft. located in Terminal ___ as proposed, and storage space in an amount and location to be determined in the storage area in the arrivals level in Terminal ___ at John Wayne Airport.

OR

Retail concession consisting of approximately _____ sq. ft. located in Terminal ___ as proposed, and storage space in an amount and location to be determined in the storage area in the arrivals level in Terminal ___ at John Wayne Airport.

TERM

Fifteen (15) years commencing upon the Term Commencement Date.

RENT

Pursuant to Section IV of the Model Lease, the tenant shall pay monthly 1/12th of the Base Rent of \$75 per sq. ft. per annum or Percentage Rent, whichever is greater. The tenant shall report final adjusted sales in arrears on the 15th of the month along with payment of Base Rent or Percentage Rent, whichever is higher. The Percentage Rent will be tiered based on gross receipts.

If at any time during the Term there is a severe decline in enplanements for three consecutive months, as compared to same time period in the previous year, then Tenant shall provide notice to the Airport Director, and at the Airport Director's discretion and upon approval of the Board of Supervisors, Concession Space Rent may be temporarily suspended or reduced. The Airport Director shall have the sole discretion as to whether there exists a severe decline in enplanements.

RENT REVISION

The Base Rent shall be adjusted annually by the Consumer Price Index (CPI) of the annual rent paid for the preceding accounting year, whichever is greater. In no case shall the Base Rent be reduced by reason of such adjustment.

PRICING POLICY

JWA's pricing policy is, **PRICING MUST NOT EXCEED STREET PRICES PLUS FIFTEEN PERCENT (15%)**. This means, prices of items for sale shall not exceed one hundred and fifteen percent (115%) of prices comparable items found in other locations of the Orange County area.

EMPLOYEE RETENTION

The County of Orange is dedicated to exceptional customer service and will require the Successful Proposer to operate concessions in an efficient, customer friendly, well-run manner to meet the needs of customers. Existing concession employees who have worked at JWA have developed invaluable knowledge and experience regarding JWA concession operations and the professional handling of conditions specific to an airport, such as sudden influxes of customers during peak periods of the day, changes in airline schedules, customer service, etc.

If replacing an existing concession, the new Tenant shall make every effort to hire and train the previous concession employees subject to the Tenant hiring policies and procedures.

TENANT MARKETING FUND

The County has established a marketing fund for the Airport to conduct sales promotions, Airport-wide advertising, and related activities intended to promote the Airport and its tenants. concessionaire shall pay to County an amount equal to 0.5% of the previous month's gross receipts concurrently with the rent payment.

AMERICANS WITH DISABILITIES ACT ("ADA")

Tenant must comply with all ADA requirements. Tenant shall be responsible to be aware of and comply with the applicable ADA requirements. Tenant shall be required to develop a work plan to correct or avoid any violations or non-compliance with the ADA, and to address the processing of ADA complaints.

TITLE VI SOLICITATION NOTICE

JWA, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all Proposers that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

PART 6 AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION REQUIREMENTS

A. REQUIREMENTS OF 49 CFR PART 23, PARTICIPATION OF DISADVANTAGED BUSINESS ENTERPRISE IN AIRPORT CONCESSIONS

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation (“DOT”), apply to this concession opportunity. JWA’s policy is to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit Proposals. Award of the concession packages will be conditioned upon satisfying the requirements of this Proposal specification. These requirements apply to all concession’s firms and suppliers, including those who qualify as an ACDBE.

B. POLICY

JWA has established an ACDBE program in accordance with DOT regulations 49 CFR Part 23. JWA is a primary Airport and has received federal funds authorized for Airport development after January 1988 (authorized under Title 49 of the United States Code). JWA has signed Airport Sponsor Grant Assurances agreeing that it will comply with 49 CFR Part 23.

JWA’s policy is to ensure that ACDBEs, as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. JWA’s policy is also:

- To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance
- To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions
- To ensure that our ACDBE program is narrowly tailored in accordance with applicable law
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs at our Airport
- To help remove barriers to the participation of ACDBEs in opportunities for concessions at the Airport; and
- To provide appropriate flexibility to our Airport in establishing and providing opportunities for ACDBEs.

JWA’s full ACDBE Program is posted at the following webpage:
<https://www.ocair.com/business/business-opportunities/dbe-acdbe/airport-concessions-disadvantaged-business-enterprise/>

C. ACDBE GOAL

JWA has not established ACDBE concession-specific goals for this opportunity but has established an overall race-neutral goal of 27.7% for terminal concessions, excluding car rental, during federal fiscal years 2021 through 2023 (October 1, 2020 – September 30, 2023).

JWA's goal encourages participation by firms owned and controlled by socially and economically disadvantaged persons. The overall goal applicable to future periods will be posted at the following location when available:

<https://www.ocair.com/business/business-opportunities/dbe-acdbe/airport-concessions-disadvantaged-business-enterprise/>

D. ACDBE CERTIFICATION

For purposes of the ACDBE Program, an ACDBE is defined as a for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. There are several other eligibility criteria to be certified as an ACDBE. To apply for certification as an ACDBE, a firm must meet the eligibility requirements set forth in 49 CFR Part 23.

Firms wishing to be certified as an ACDBE and are not currently certified by an ACDBE certifying agency in California, must complete a certification application. To learn more about becoming ACDBE certified, visit the Caltrans website at <https://dot.ca.gov/programs/civil-rights/dbe-certification-information>

Please allow sufficient time for the processing of the Certification Application. You can contact the appropriate certifying agency to determine the length of time required for processing. A roster of certifying agencies in California, including ACDBE certifying agencies, is available on the Caltrans website at the following link: <https://dot.ca.gov/-/media/dot-media/programs/civil-rights/documents/dbe/cucp-roster-of-certifying-agencies-1-2021-a11y.pdf>

To obtain additional information about the federal ACDBE program, visit the Federal Aviation Administration (FAA) website at: https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/

E. PROPOSAL REQUIREMENTS

Proposers who include ACDBE participants are required to submit information regarding intended participation by ACDBE's as stated in Part 4, Section B.

F. REPORTING REQUIREMENTS AND COMPLIANCE

A successful Proposer shall provide all information and reports required by the Airport and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Airport to be pertinent to ascertain compliance with the regulations or directives.

PART 7 – PRE-PROPOSAL TOUR AND COMMUNICATION

A. PRE-PROPOSAL TOUR

The Pre-Proposal Tour is scheduled for April 12, 2023

County of Orange/John Wayne Airport
18601 Airport Way, Santa Ana, CA 92707 – JWA Administrative Offices

The Pre-Proposal tour of the CDP sites will start promptly at 1:00 pm and is expected to take approximately 1 to 2 hours. For participation on the Pre-Proposal tour, R.S.V.P. is required.

pan

Please Register through Survey Monkey at:

<https://forms.office.com/Pages/ResponsePage.aspx?id=VppE5D3NukCuMiWmPegrO2ARnXmE61ZGqNlixAVwGnxUOVIyRFVPWktDSFM3Qlc5TE5SQUNEU1NFRS4u>

PROPOSERS ARE NOT REQUIRED TO ATTEND THE PRE-PROPOSAL TOUR, BUT THOSE PLANNING TO SUBMIT PROPOSALS ARE ENCOURAGED TO ATTEND. THIS WILL OCCUR ONE TIME ONLY AND THE AIRPORT WILL NOT SCHEDULE INDIVIDUAL MEETINGS OR AIRPORT TOURS.

B. COMMUNICATION

All questions related to this RFP must be submitted through Periscope (www.periscopeholdings.com/s2g). For Periscope assistance, please contact the Vendor Support Team at 800-990-9339, Option 1.

Proposers shall not directly contact Airport staff with any questions or clarifications concerning this RFP. Any such action could lead to disqualification of a Proposer from the RFP process.

The Deputy Airport Director, Business Development, will provide all official communication concerning this RFP. With respect to this RFP, any County response other than a written response from the Deputy Airport Director, Business Development, will be deemed unauthorized and the County shall bear no responsibility for any reliance upon unauthorized communication.

Addenda to the RFP, if necessary, will be posted on Periscopeholdings.com. Proposers are responsible to comply with all posted addenda.

PART 8 PROPOSER SUBMITTAL INSTRUCTIONS

A. GENERAL INFORMATION

Please read the following instructions and "Proposer Checklist" carefully and check your Proposal concession package immediately upon downloading from Periscope to ensure that you have in your possession all the necessary documents. The information presented in this RFP is provided solely for the convenience of Proposers and other interested parties. It is the responsibility of the Proposer and interested parties to assure themselves that the information contained in the concession package is accurate and complete. The County and its advisors provide no assurances pertaining to the accuracy of the data in the RFP.

All Proposal documents and supplementary material or information submitted to the County shall become the property of the County. All costs associated with the preparation and submission of any Proposal shall be borne entirely by the Proposer. When the Evaluation Panel's scores have been completed and published, the County will make Proposer's Questionnaire, conceptual renderings, and layouts available to the public. Upon award, all documents submitted in connection with this RFP may be subject to public disclosure pursuant to the California Public Records Act (Cal. Gov. Code § 6250 *et seq.*).

The Proposer must identify, in writing, all copyrighted material, trade secrets, or other proprietary information that Proposer claims is exempt from disclosure pursuant to the Public Records Act. **The Proposer who claims such an exemption must also state in the Proposal, executed by a signatory authorized to so bind the Proposer that, "The Proposer agrees to indemnify, defend with counsel approved in writing by County, and hold the County, its elected and appointed officials, officers, employees, and agents harmless from any and all claims, demands, or liability of any kind or nature arising from County's refusal to disclose to any party any records Proposer has identified as copyrighted, trade secret, or other proprietary information."**

Pursuant to California Government Section 25536, the County reserves the right to award Concessions Lease(s) for specific site locations to the Proposers it deems qualified regardless of the Evaluation Panel's recommendation, to reject any or all Proposals, to cause re-soliciting of the Proposals, or to take such other course of action as the County deems appropriate at its sole and absolute discretion.

B. PROPOSAL DEPOSIT

Each Proposer's "Original" Proposal must be accompanied by a deposit in the amount of Twenty-Five Thousand Dollars (\$25,000.00), in the form of a cashier's check made payable to the County of Orange/John Wayne Airport, a letter of credit, in a form approved by John Wayne Airport, or through a wire transfer of funds to the County of Orange/John Wayne Airport, must be submitted in a sealed envelope. For wiring instructions, please contact JWA Accounting via e-mail at AccountsReceivable@ocair.com. The \$25,000 cashier's check, letter of credit, or wire fund confirmation must accompany each Proposal, or the Proposal will be rejected.

Deposits submitted by unsuccessful Proposers will be returned within thirty (30) days after execution of all Concessions Leases, or after all Proposals are rejected.

The proposal deposit of a successful Proposer shall be refunded within thirty (30) days after submittal of the security deposit and proof of insurance required by the Concessions Lease. Successful Proposer agrees, should they fail to submit the required security deposit or insurance within thirty (30) days of full execution of the Lease, the Lease shall be terminated, and the proposal deposit shall be retained by the County as liquidated damages for the Proposer's breach.

Pursuant to Government Code Section 25536, the Board may thereafter award such Lease to another Proposer, solicit new Proposals, or take such other action as the Board deems appropriate in its absolute and sole discretion.

C. FORMAT REQUIREMENTS

Nonresponsive or Late Proposals: Proposals not submitted in the manner described herein may be considered nonresponsive and subject to rejection. Late Proposals shall be rejected and returned to the Proposer.

This deadline is ABSOLUTE. All Proposals received after the due date and time shall not be considered.

Proposers must select a method of delivery that ensures Proposals will be delivered to the correct location before the due date and time.

Page Limit: Proposals shall not exceed **one-hundred (100) two-sided pages**, excluding front and back covers, section dividers, financial statements, Conceptual Development Plans, training and operating plans, foam boards, required forms, and table of contents. Proposals should be prepared in a concise manner that clearly responds without embellishment to the information requested in this RFP. **Any additional pages will be discarded and will not be reviewed.**

Format: Proposals must be typewritten in Times New Roman 12-point font on white 8½" x 11" paper (except as noted below for 11" x 17" plans) in portrait format and be unbound. White three-ring binders with clear covers are required and must include Proposer's information inserted in the cover and each section tabbed. All pages of the Proposal are to be numbered for ease of review by the Evaluation Panel.

Format for conceptual renderings, layouts, and material boards:

- All foam boards must be 11" x 17" in size.
- Color/sample boards with material legend identifying all items and their locations (for both interior and exterior finishes).
- All of the above items are required to be color copied onto 11" x 17" paper and inserted into each Proposal package consisting of eight (8) complete sets (see below). The color copies onto 11" x 17" paper are included in the page count.

D. SUBMISSION OF PROPOSALS VIA SEALED PACKAGE

Proposers must submit their Proposals in sealed packaging as described below.

Number of Proposals: **Eight (8)** full sets of your written Proposal, **one (1)** original clearly marked “Original” with original ink signatures, **seven (7)** copies and **eight (8)** USB flash drives containing files in PDF file format along with Proposer’s deposit.

Additionally, Proposers must submit **four (4) complete half size hard copy sets (18” x 24”)** and **four (4) USB flash drives with PDFs** of Conceptual Development Facility Plans prepared by a California licensed architect and/or engineer (“A/E”) fully depicting the Proposer’s proposed development.

All Proposals must be delivered and received before the time and date shown below:

Proposal Due Date and Time: July 17, 2023, by 4:00 p.m. PST

Address: Proposers must submit Proposals to the following address:

County of Orange/John Wayne Airport
Eddie Martin Administration Building
Deputy Airport Director, BD – Concession Proposal
3160 Airway Avenue
Costa Mesa, CA 92626

Packaging and Identification: Proposer shall submit its Proposal in a sealed package and shall write/type the following identification information on the outermost portion of the sealed package:

SEALED PROPOSAL

County of Orange/John Wayne Airport
Eddie Martin Administration Building
Deputy Airport Director, BD – Concession RFP
3160 Airway Avenue
Costa Mesa, CA 92626

PART 9 EVALUATION PROCESS

This RFP process will allow a slate of qualified Proposals to be submitted to the Board that best meet the Airport's goals and objectives. The evaluation process will consist of two parts:

1. Determination of Responsive Proposals (using Proposal compliance to determine responsiveness of Proposals)
2. Panel Evaluation of Responsive Proposals (using scoring criteria)

The County reserves the right to reject a Proposal as nonresponsive based upon a review of Proposer's experience and financial qualifications. The County further reserves the right to conduct an investigation of information submitted, to seek publicly available information about the Proposer and its development team, and to request additional information with regard to Proposer's experience and financial qualifications.

A. EVALUATION PANEL

An Evaluation Panel established by the County will evaluate and score Proposals in accordance with the evaluation criteria outlined below. The Evaluation Panel may consist of members from within or outside the County. The Evaluation Panel will provide a slate of recommended Proposals to the Board for consideration and selection. The Evaluation Panel's recommendation shall not be binding upon the Board. The Board will exercise its sole discretion when selecting and awarding its preferred concession operators.

PART 10 EVALUATION CRITERIA

Each area of the Proposal will be subject to evaluation. Proposals will be assessed according to the following criteria:

A. PROPOSAL COMPLIANCE

The County will screen all Proposals to ensure compliance with the RFP's requirements. Proposers will be notified in writing of Proposals not meeting the minimum qualifications set forth in this RFP and will be disqualified from further consideration.

Proposer must complete and submit for each concession package Proposal: (1) a signed Proposal including Proposer's deposit; (2) a Proposer's Questionnaire; and (3) all required documents as identified on the Proposer Checklist. Proposer must review the Proposal submittal instructions and submit all required sets of documents as specified in this RFP.

If proposing on more than one concession package, the Proposer must submit a separate and complete Proposal for each.

Selected Proposers will be awarded no more than one (1) Retail Concessions Lease Package and one (1) Food & Beverage Concessions Lease Package each.

The minimum qualifications for Proposals are as follows:

- Completeness of Proposal against RFP Requirements, including submittal of all required documents.
- Conformance to specific requirements set forth in this RFP.
- Documentation of Minimum Experience and Financial Capability of Proposer.
- Completed Proposer Checklist, initialed and dated (Exhibit D).
- Demonstration of Proposer's ability to incorporate CALGreen Tier 1 certification development into its project (Exhibit J).
- A signed statement, attached as **Exhibit B**, that Proposer has read **Exhibit H - Draft Lease** and takes no exception to the language therein. Throughout the RFP process and upon selection by the Board, minor modifications to the Lease that do not materially alter the terms or financial obligations to the County can be made. Following award to the successful Proposer by the Board, but prior to Lease Commencement, the County must receive all items required by the Lease including the required security deposit and evidence of insurance.

B. SCORING PHASE

The Evaluation Panel will score Proposals and provide a slate of recommended Proposers to the Board using the criteria outlined below.

PANEL RATING CRITERIA FOR PROPOSALS

Category	Points
Minimum Qualifications	Pass/Fail
Proposed Concepts/Executive Summary	350
Business Plan, Design Intention and Capital Investment	200
Management Experience	150
Sustainability	75
Operations Plan, Customer Service, Employee Retention	125
Question and Answer Panel Review • 5 pre-set questions on the above categories	100
Total	1,000

C. PANEL ORAL INTERVIEW OF PROPOSER

JWA will require all qualified Proposers to participate in a structured oral interview as part of the rating criteria and, if the Panel requests, the interviews will be used for further clarification of the written Proposals. The structured oral interview will include the same questions for each interviewee. **There will be no presentation permitted during the oral interview.** Proposers shall be ready to attend the Oral Interview within five (5) business days of notification.

D. PROPOSER SELECTION FOR RECOMMENDATION TO THE COUNTY OF ORANGE BOARD OF SUPERVISORS

Once the Evaluation Panel completes its review of the Proposals, the Airport will present its recommended slate of Proposers to the Board for consideration and selection.

The County reserves the right to award Concessions Lease(s) for specific site locations to the Proposers it deems qualified regardless of the Evaluation Panel's recommendation, to reject any or all Proposals, to cause re-soliciting of the Proposals, or to take such other course of action as the County deems appropriate at its sole and absolute discretion.

Although not intended to be an exhaustive list of causes for disqualification, any one or more of the following will be considered sufficient for the disqualification of a Proposer and the rejection of the Proposal:

- Evidence of collusion among Proposers.
- Incomplete or late submittals of Proposals or other requested information.
- Submittal of Proposal in a format or order other than required.
- Non-submittal of Proposer's deposit, or submittal in a form other than cashier's check, letter of credit, or confirmation of wire transfer to the County of Orange/John Wayne Airport.
- Insufficient evidence of business skills or financial resources necessary to successfully operate and manage a concession as revealed by either financial statements or experience.
- Insufficient evidence of experience as shown by past work, references, or other factors.
- Default or termination of other contracts or agreements.
- Omission, inaccuracy, misstatement, or failure to submit any portion of the Proposal and signed Acknowledgement and Approval of Proposal Deposit and Draft Lease Provisions in the Proposal.
- Documents and information submitted with Request for Proposal that do not match or support the information submitted during the Request for Qualification process.
- Other causes as the County deems appropriate at the County's sole and absolute discretion.

The Airport will determine whether to recommend a Proposal for selection based on the information furnished as well as other sources determined to be relevant by the County. An award will not be made until after any such investigation, as deemed necessary, is made by the County regarding the experience and financial responsibility of the Proposer. By submitting a Proposal, each Proposer consents to permit such an investigation by the County. The Evaluation Panel's recommendation will be advisory to the Board. The County intends to award each concessions lease package to the most qualified and responsible Proposer.

NOTE: Please notify your business references, in writing, that Airport staff will be contacting them concerning the financial and experience information furnished with your Proposal.

The selection and recommendation of award shall be in accordance with the following process:

- For each of the concession packages, using the scoring criteria above, a slate of Proposals and their corresponding scores will be recommended to the Board for consideration.
- The Airport reserves the right to recommend award based the best needs of the Airport, including preferred site location. In addition, the Board may decide to offer Proposer a different concession package than the one requested in a Proposal.

PART 11 - PROTEST POLICY

A. PROTEST PROCESS

Any actual or prospective Proposer who alleges a grievance with regard to the solicitation of Proposals or proposed award of a lease may submit a protest to the Deputy Airport Director, Business Development.

All protests shall be typed under the protester's letterhead and submitted in accordance with the provisions stated herein. All protests shall include at a minimum the following information:

- The name, address and telephone number of the protester
- The signature of the protester or the protester's representative
- The solicitation or contract number
- A detailed statement of the legal and/or factual grounds for the protest; and
- The form of relief requested.

B. PROTEST OF PROPOSAL SPECIFICATIONS

All protests related to Proposal specifications must be submitted to the Deputy Airport Director, Business Development no later than five (5) business days after the close of the Questions & Answer period. Protests received after the five (5) business day deadline will not be considered by the County.

In the event the protest of specifications is denied, and the protester wishes to continue in the solicitation process, they must still submit a Proposal prior to the close of the solicitation in accordance with the Proposal submittal procedures provided herein.

C. PROTEST OF PROPOSED AWARD OF LEASE

In protests related to the proposed award of a lease, the protest must be submitted no later than five (5) business days after the notice of the proposed award is provided by the Deputy Airport Director, Business Development. Protests relating to a proposed award which are received after the five (5) business day deadline will not be considered by the County.

Protest Process

- In the event of a timely protest, the County shall not proceed with the solicitation or award of the lease until the Deputy Airport Director, Business Development renders a decision on the protest.
- Upon receipt of a timely protest, the Deputy Airport Director, Business Development will, within five (5) business days of the receipt of the protest, issue a decision in writing which shall state the reasons for the actions taken.

Appeal Process

- If the protester disagrees with the decision of the Deputy Airport Director, Business Development, the protestor may submit a written appeal to the Assistant Airport Director.
- Within ten (10) business days, the Assistant Airport Director will review all materials in connection with the protest, assess the merits of the protest, and provide a written determination that shall contain their decision on whether the protest shall be forwarded to the Airport Director.
- If the protester wishes to appeal the decision of the Assistant Airport Director, the protester must submit, within three (3) business days from receipt of the Assistant Airport Director's decision, a written appeal to the Assistant Airport Director requesting a review by the Airport Director.
- The decision of the Assistant Airport Director on whether to allow the appeal to go forward to the Airport Director will be final and there shall be no right to administrative appeal of this decision.
- If an appeal reaches the Airport Director, the Airport Director's decision will constitute the final administrative determination with respect to the protest.

EXHIBITS AND FORMS

Attachment 1 – Packages and Locations

Exhibit A – Map

Exhibit B – Acknowledgement of Proposal Deposit and Approval of Draft Lease Provisions

Exhibit C – Proposal Cover Sheet

Exhibit D – Proposer Checklist

Exhibit E – Proposer Form and Questionnaire

Exhibit F – Pro Forma Template

Exhibit G – Financial Viability Form

Exhibit H – Draft Lease Agreement

Exhibit I – Disclosure Form Levine Act

Exhibit J – CalGreen Tier 1 Checklist

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Package FB1

LOCATION CONCEPT TYPE	ID #	TERMINAL	NEAR GATE	SIZE (SF)
National Brand Coffee Café/Bakery	A3	A	4 & 5	1,400
Chicken	A4.1	A	5 & 6	1,162
Open to Proposer	A4.2	A	5 & 6	1,162
Asian	A4.3	A	5 & 6	1,162
Brazilian Churrascaria, Mexican, Asian, Coastal California Cuisine Restaurant With Bar	B9.1	B/C	13 & 14	9,300
Food Hall – Open to Proposer	B9.2	B/C	13 & 14	
Food Hall – Open to Proposer	B9.3	B/C	13 & 14	
Food Hall – Open to Proposer	B9.4	B/C	13 & 14	
Automated – Food (Open to Proposer)	A9	A	2	150
Automated – Food (Open to Proposer)	A11-LL	A	1A	150
Automated – Food (Open to Proposer)	C6	C	21	150
Automated – Food (Open to Proposer)	C8-LL	C	1C	150
TOTAL	12			14,786

BUSINESS TERMS FOR PACKAGE FB1

Term	15 years from Term Commencement Date
Base Rent	\$75 per SF
Percentage Rent	See location descriptions below
ACDBE Participation Goal	Race-neutral goal of 27.7%

It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvement and utility conditions, size and configuration to confirm the feasibility of the Proposer's proposed project.

Name and Title of Signer: (Print or Type) _____

Signature: _____

Date: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

A3 - National Brand Coffee/Bakery – 1,400 SF

Permitted Use

The offered location is intended for the operation of a branded coffee café and/or bakery selling premium quality fresh-made pastries, breads, bagels, salads, and sandwiches along with the sale of custom-made hot and cold coffee and tea-based beverages, juices, and soft drinks. Touchless transactions, remote ordering, at-your-gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing and seating must be contained within the premises. The menu should include healthy options, and cover all three dayparts: breakfast, lunch, and dinner. The sale of alcoholic beverages is not permitted. The Airport prefers a nationally recognized café and/or bakery brand concept.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

A4.1, A4.2, A4.3 – Chicken/Open/Asian – 3,486 SF (3 X 1,162 SF)

Permitted Use

These offered locations are intended for three Quick Service Restaurants (“QSRs”). However, Airport is open to a minimum of two or no more than three QSRs if the Proposer feels their offer would be a more productive use of the space, or if the utilities available constrain the level of offerings. In no event shall this be considered for a single QSR, fast casual, sit-down, or other type of restaurant use. Chicken and Asian concepts are desirable. Proposer shall not propose burgers or any other use that would be in direct competition with uses currently in operation or being solicited in this RFP located in Terminals A & B. The primary use for each location within the described premises shall be for the sale of fast food/quick service food and non-alcoholic beverages in a counter-service setting. The Airport prefers nationally recognized QSRs brands. Touchless transactions, remote ordering, at-your-gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing must be contained within the premises. The menu for all of the QSRs must serve all three dayparts (breakfast, lunch, and dinner) and should include healthy menu items in response to the growing needs and preferences of the health-conscious traveler. The concepts should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

B9.1 – Brazilian Churrascaria, Mexican, Asian, or California Coastal Cuisine Restaurant With Bar and

B9.2, B9.3, B9.4 - Food Hall – Open to Proposer

Total 9,300 SF

Permitted Use

This entire space consists of 9,300 SF. The proposer should allocate space for a “Restaurant with Bar,” three QSR concepts, and food hall common area seating in a manner that best meets passenger needs and optimizes operations. Allocations must be accurately reflected in the space layout plan submitted for this location. The proposer will be responsible for all FF&E, trash/janitorial, and maintenance for the seating area within this location. The proposer will only be responsible for paying Base Rent on the actual in-line footprint of the Premises (the food hall common area seating square footage will be excluded from Base Rent). This combination of locations is intended to feature a signature, sit-down restaurant with a full bar as well as a multi-unit food hall. The offered location is intended for the operation of a sit-down restaurant with bar. A Brazilian, Mexican, Asian, or California Coastal Cuisine Restaurant with Bar and/or Distillery concept and three local/regional QSR concepts are envisioned but not mandatory. All locations are expected to have menus that service the three dayparts: breakfast, lunch, and dinner, contain healthy menu options, and to the extent possible, are not duplicative of other dining options within the terminal. Proposers shall not propose burger as a primary use for any of the QSRs. The sit-down restaurant location will be required to have a full bar including beer, wine, and spirits. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The Airport expects the overall space to accommodate seating within the sit-down restaurant location as well as common seating for the three QSR locations. The design and feel should cohesively join the sit-down restaurant and the food hall. Touchless transactions, remote ordering, at-your-gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing and seating must be contained within the premises. Each QSR as well as the sit-down restaurant location should include healthy menu items in response to the growing needs and preferences of the health-conscious traveler. The concepts should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	12.0%
	\$1,000,001	\$2,000,000	14.0%
	\$2,000,001 and greater		16.0%

A9, A11 – LL, C6, C8-LL – Automated Food (Open to Proposer) – 600 SF (4 x 150 SF)

Permitted Use

These four offered locations are intended for the operation of automated food machines. These machines are intended for non-alcoholic beverages, food products such as pre-made sandwiches, salads, fresh pre-packaged fruits, yogurt parfaits, or other meal-type items conducive to being carried in a vending format, or snacks such as cookies, chips, candy bars, cupcakes, or other such “snack” items. Proposers are to determine what product line, and/or brands they wish to carry. Machines shall accept, at all times, cash, all major credit cards, Apple Pay, Google Pay, and other NFC based payments. Machines should be cellular capable and not reliant on ground-based communication services. Proposers should include in their description of the machine and its menu, the frequency of and types of services and maintenance required. Packaging, to the extent possible, shall be eco-friendly and made from sustainable sources. Packaging shall also comply with all Federal, State, and local laws and regulations.

Category	Total Annual Cumulative Gross Receipts	Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
Automated Food	All Gross Receipts	25.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS

LODs PACKAGE FB1



① DEPARTURES LEVEL - FB1
N.T.S.



② ARRIVALS LEVEL - FB1
N.T.S.

LOCATION CONCEPT TYPE	SPACE ID	TERMINAL	NEAR GATE	SF
NATIONAL BRAND COFFEE CAFE / BAKERY	A3	A	4 & 5	1,400
CHICKEN	A4.1	A	4 & 5	1,162
OPEN TO PROPOSER	A4.2	A	4 & 5	1,162
ASIAN	A4.3	A	4 & 5	1,162
BRAZILIAN CHURRASCARIA, MEXICAN, ASIAN, COASTAL CALIFORNIA CUISINE RESTAURANT WITH BAR	B9.1	B/C	13 & 14	9,300
FOOD HALL - OPEN TO PROPOSER	B9.2	B/C	13 & 14	
FOOD HALL - OPEN TO PROPOSER	B9.3	B/C	13 & 14	
FOOD HALL - OPEN TO PROPOSER	B9.4	B/C	13 & 14	
AUTOMATED FOOD (OPEN TO PROPOSER)	A9	A	2	150
AUTOMATED FOOD (OPEN TO PROPOSER)	A11-LL	A	1A	150
AUTOMATED FOOD (OPEN TO PROPOSER)	C6	C	21	150
AUTOMATED FOOD (OPEN TO PROPOSER)	C8-LL	C	1C	150
TOTAL	12			14,786

GENERAL NOTES:

THIS IS SENSITIVE AIRPORT SECURITY INFORMATION PROTECTED UNDER FEDERAL LAW. RELEASE OF THIS INFORMATION IS STRICTLY PROHIBITED WITHOUT EXPRESS WRITTEN APPROVAL OF JOHN WAYNE AIRPORT. NOTE: THE INFORMATION CONTAINED IN THESE DRAWINGS SHOULD BE FIELD VERIFIED PRIOR TO USE FOR FUTURE IMPROVEMENT PROJECTS. FIELD VERIFICATION IS THE SOLE RESPONSIBILITY OF THE RESPONDANT UTILIZING THE DATA PROVIDED. THE JOHN WAYNE AIRPORT, ORANGE COUNTY (AIRPORT CODE: SNA), OWNED AND OPERATED BY THE COUNTY OF ORANGE EXPRESSLY WAIVES ANY RESPONSIBILITY FOR THE ACCURACY OF THE REQUESTED DRAWINGS.

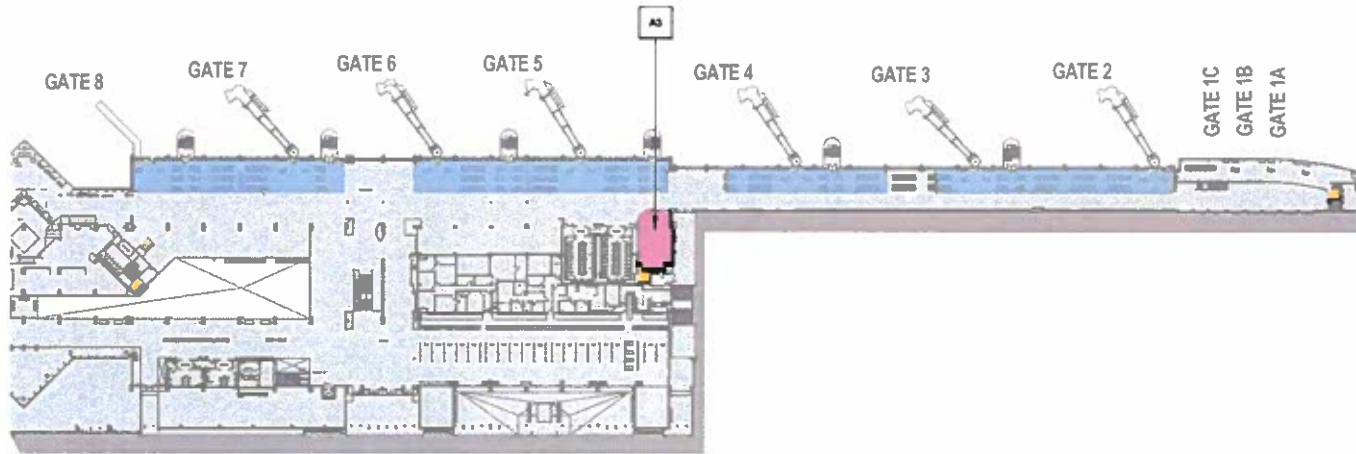
IF ANY DISCREPANCIES, INADEQUACIES OR INACCURACIES ARE DISCOVERED DURING THE REVIEW OF THESE DRAWINGS, IT SHOULD BE REPORTED TO THE JOHN WAYNE AIRPORT IN WRITING. IF ANY ELECTRONIC FILES ARE SUPPLIED, IT IS UNDERSTOOD THAT THEY ARE PROVIDED BY THE JOHN WAYNE AIRPORT FOR INFORMATION ONLY. CONVERSIONS OF THE INFORMATION AND DATA FROM THE FORMAT SUPPLIED TO AN ALTERNATE SYSTEM OR FORMAT THAT CAN RESULT IN FILES THAT MAY BE ALTERED WHETHER INADVERTENTLY OR OTHERWISE MAY ALSO RESULT IN THE INTRODUCTION OF INEXACTITUDES, ANOMALIES, AND ERRORS WHICH THE AIRPORT CAN NEITHER PREDICT NOR CONTROL.

ALL DIMENSIONS TO BE FIELD VERIFIED WITH AS-BUILT CONDITIONS AND COORDINATED WITH ALL WALL TYPES OVERHEAD MEP AND STRUCTURAL CONDITIONS VARY, TENANT TO FIELD VERIFY AND CONFIRM ALL AS-BUILT CONDITIONS RELATIVE TO LEASE SPACE.

ALL EXISTING PARTITIONS MAY BE RECONFIGURED EXCEPT FOR THE RESTRICTED AREA. ALL OTHER FINISHES IN THE RETAIL, FOOD PREP, BAR AND SERVICE AREAS SHOULD ALIGN WITH THE STANDARDS IN THE TENANT DESIGN MANUAL. THE DESIGN WILL BE REVIEWED AND APPROVED BY JOHN WAYNE AIRPORT. THE GATE LOUNGE AREA/DINING AREA WILL REQUIRE BOARDING ANNOUNCEMENTS AND COORDINATION OF THE PUBLIC ADDRESS SYSTEM.

LEASE OUTLINE LOCATION STANDARDS:

- BETWEEN DEMISED CONCESSION UNITS LEASE LINE IS LOCATED ON THE CENTERLINE OF DEMISING WALLS.
- BETWEEN CONCESSION UNITS AND HOLD LOUNGE AREAS LEASE LINE IS LOCATED ON THE HOLD LOUNGE SIDE OF THE DEMISING WALL.
- FACING CONCOURSE CIRCULATION LEASE LINE IS LOCATED AT THE OUTSIDE FACE OF GLAZING SYSTEM.
- FACING AIRFIELD LEASE LINE IS LOCATED AT THE OUTSIDE FACE OF GLASS.
- TERMINAL TERRAZZO TO BE PROTECTED BY TENANT LAYOUT MUST ACCOMMODATE QUEUING WITHIN THE TENANTS LEASED AREA.



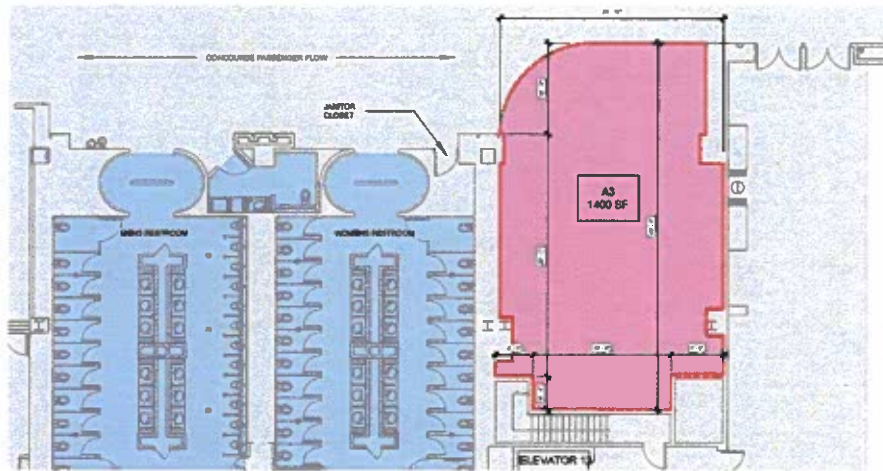
EXISTING UTILITIES

Electric	480/277 - 100amp Breaker
Domestic Water	1"
Waste	3"
Grease Waste	3"
Vent	4"
Gas	80 CFH
HVAC	Tenant Provided RTU

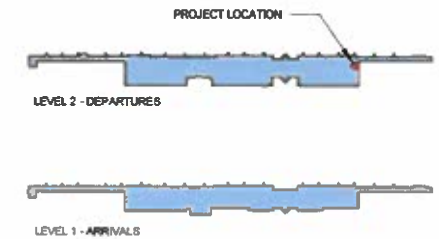
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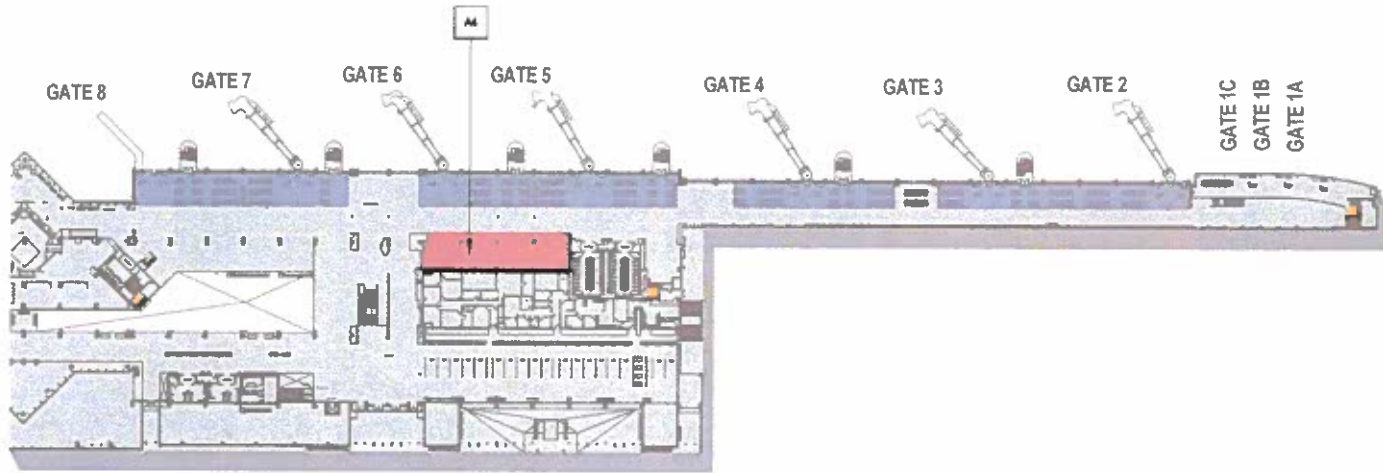
A3 - NATIONAL BRAND COFFEE CAFE / BAKERY

① A3 Concourse Plan
N.T.S.



② A3
1/16" = 1'-0"





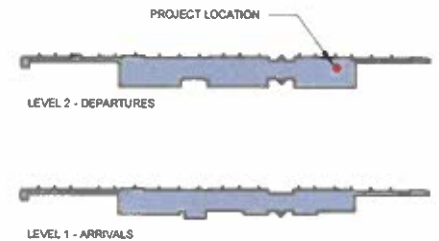
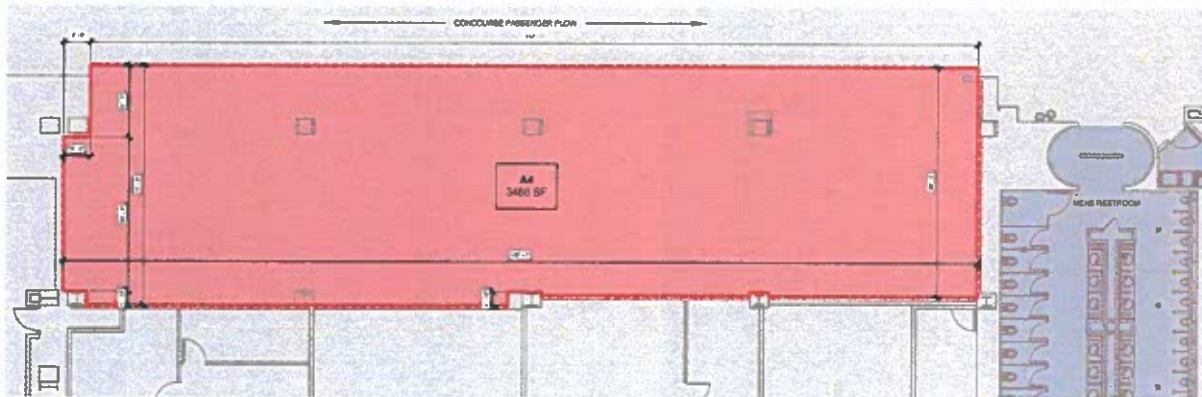
EXISTING UTILITIES

Electric	A4 - 480/277 - 400amp + 100amp
Domestic Water	A4 - 1"
Waste	A4 - 3"
Grease Waste	A4 - 3"
Vent	A4 - 2.5"
Gas	A4 - none
HVAC	Tenant Provided RTU

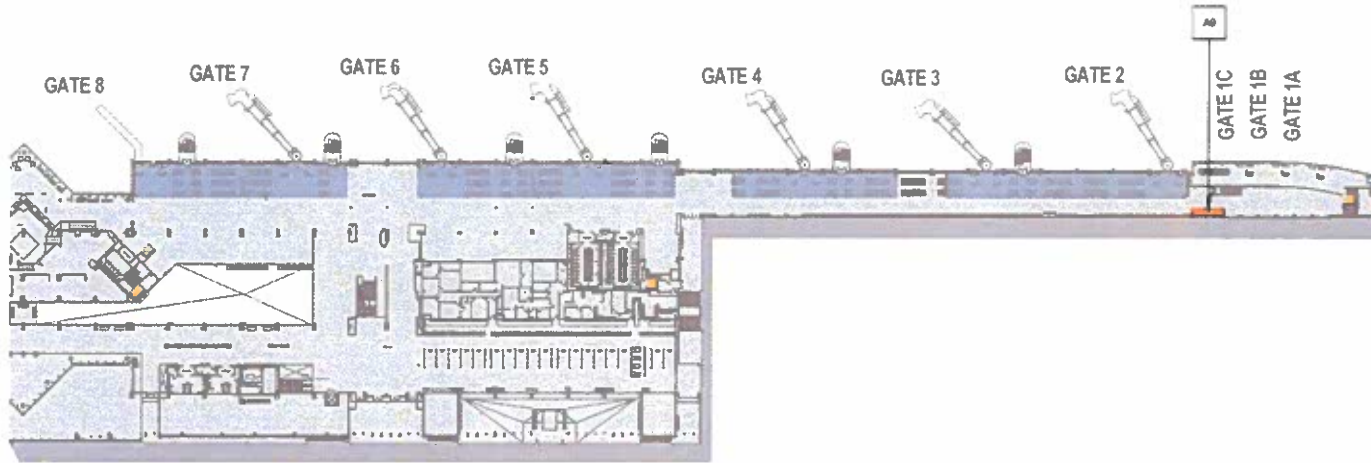
NOTES

- A4.1 - CHICKEN
- A4.2 - OPEN TO PROPOSER
- A4.3 - ASIAN

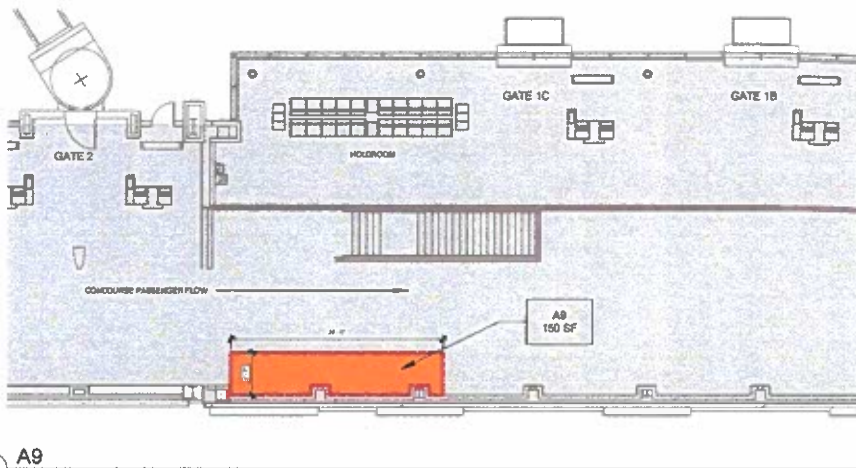
① A4 Concourse Plan
N.T.S.



② A4
1/16" = 1'-0"



② A9 Concourse Plan
N.T.S.



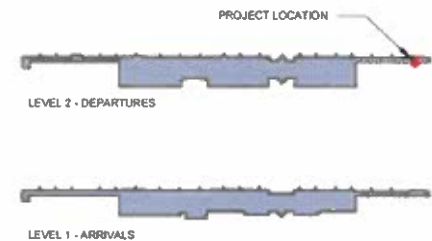
① A9
1/16" = 1'-0"

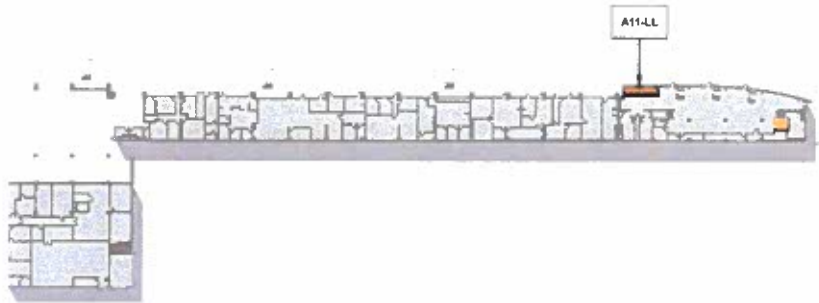
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Grease Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
HVAC	Concourse Air

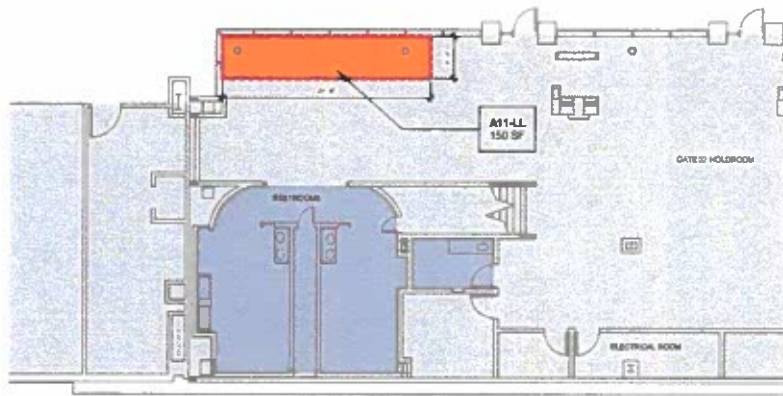
NOTES

A9 - FOOD - OPEN TO PROPOSER.





② A11-LL Concourse Plan
N.T.S.



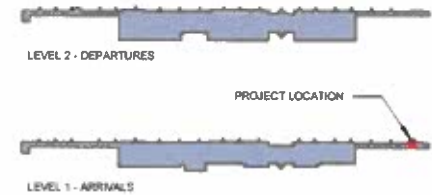
① A11-LL
1/16" = 1'-0"

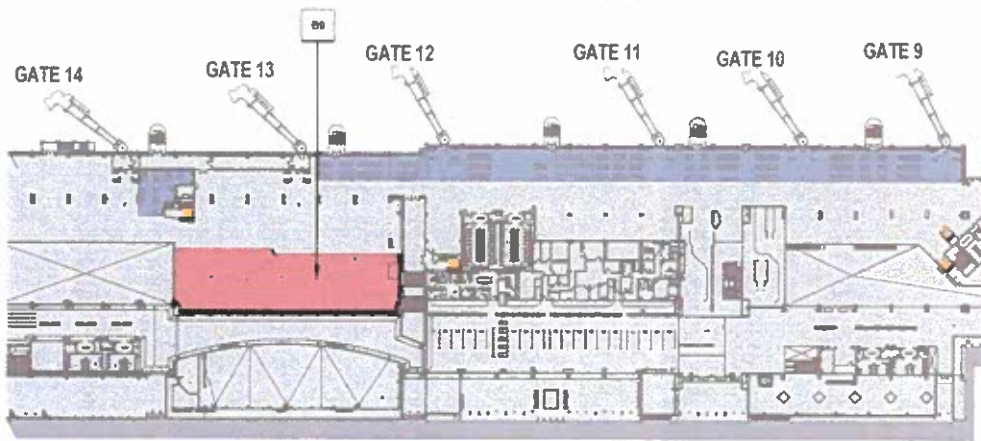
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space. tie in point to be coordinated with JWA.
Domestic Water	1.5"
Waste	Restroom Below
Grease Waste	none
Vent	3"
Gas	none
HVAC	Concourse Air

NOTES

A11-LL - FOOD - OPEN TO PROPOSER.





② B9 Concourse Plan
N.T.S.

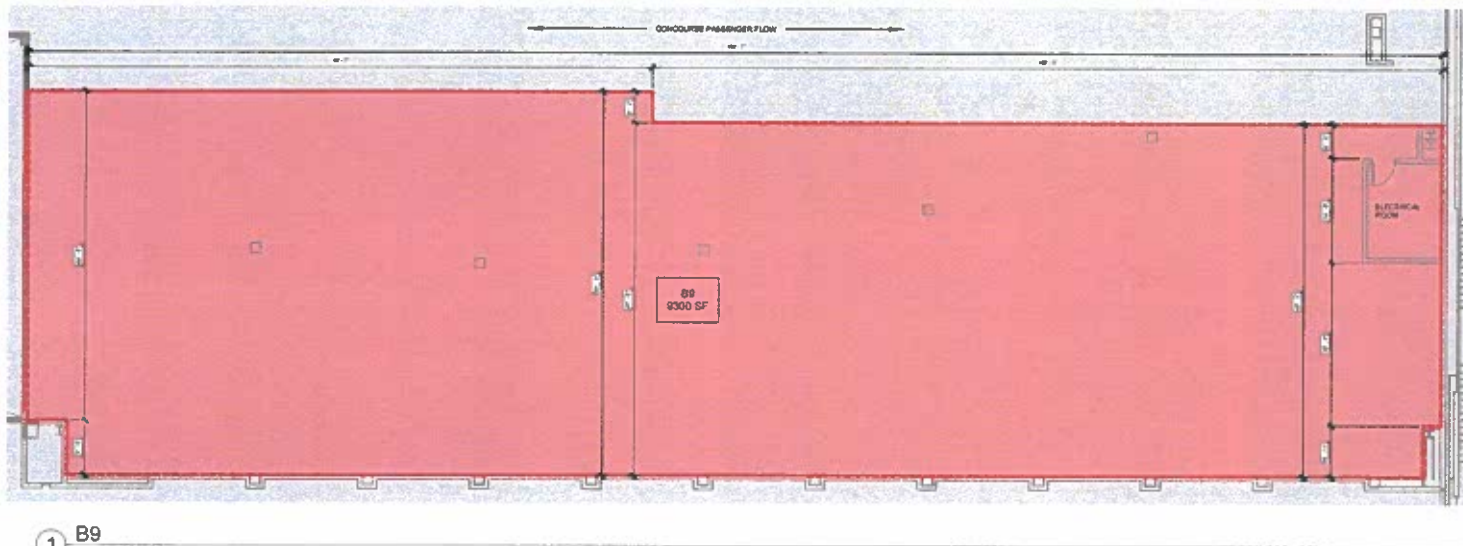
EXISTING UTILITIES

Electric	B9.1 480/277 - 200amp + 200amp (120/208) B9.2: 480/277 - 400 + 400 + 400 amp
Domestic Water	B9.1 - 1.25", B9.2 - 3/4", 1", 2"
Waste	B9.1 - 3"; B9.2 - 2", 3"
Grease Waste	B9.1 - (2) 3"; B9.2 - 3", 4"
Vent	B9.1, B9.2 - Several existing
Gas	B9.1 - 1088 CFH, B9.2 - 1003, 290, 54 CFH
HVAC	Tenant Provided RTU

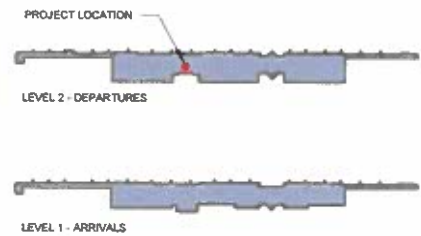
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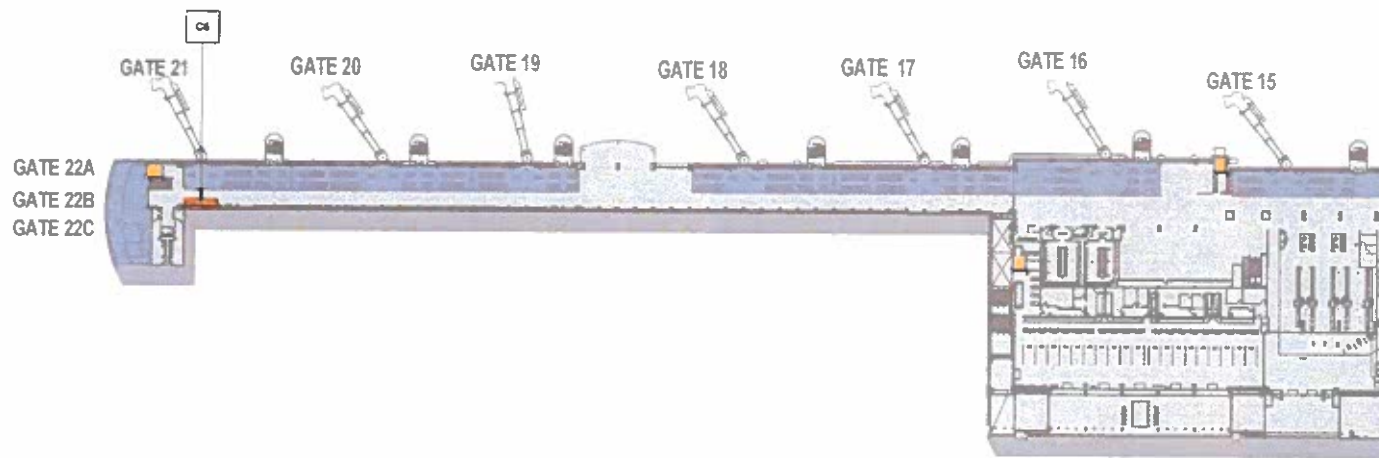
- B9.1 - BRAZILIAN CHURRASCARIA, MEXICAN, ASIAN, COASTAL CALIFORNIA CUISINE RESTAURANT WITH BAR
- B9.2 - FOOD HALL - OPEN TO PROPOSER.
- B9.3 - FOOD HALL - OPEN TO PROPOSER.
- B9.4 - FOOD HALL - OPEN TO PROPOSER.

PROPOSER TO PROVIDE APPROX. 2300 SF OF SEATING AREA IN THE FOOD HALL



① B9
1/16" = 1'-0"





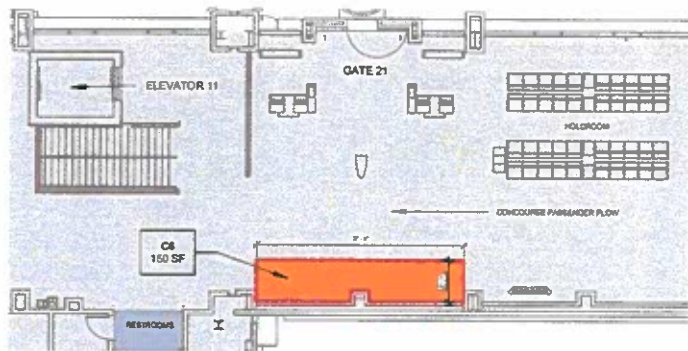
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	3" Below
Waste	6" Pumped Below
Grease Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
HVAC	Concourse Air

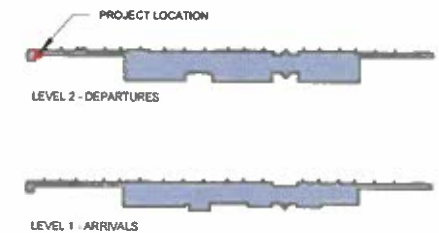
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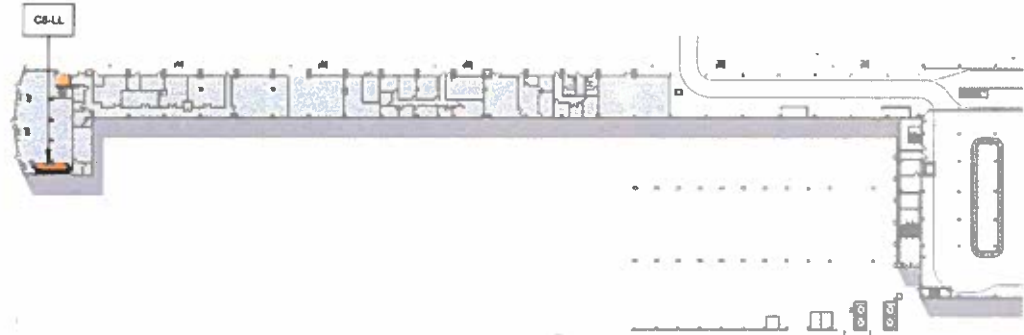
C6 - FOOD - OPEN TO PROPOSER.

① C6 Concourse Plan
N.T.S.

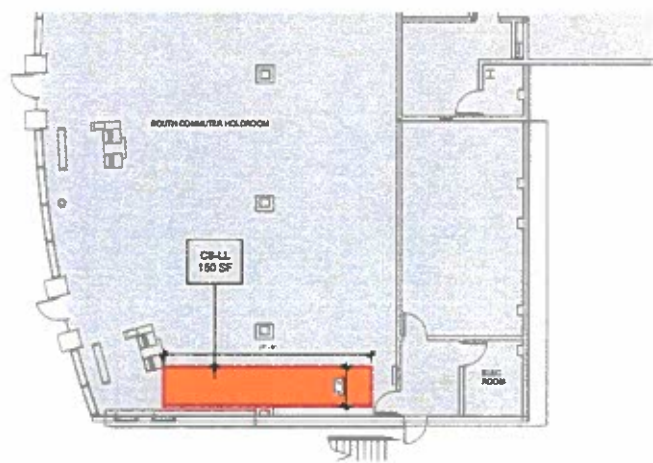


② C6
1/16" = 1'-0"





① C8-LL Concourse Plan
N.T.S.



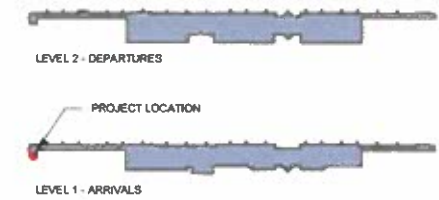
② C8-LL
1/16" = 1'-0"

EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	none
Waste	4" Underground
Grease Waste	none
Vent	none
Gas	none
HVAC	Concourse Air

NOTES

C8-LL - FOOD - OPEN TO PROPOSER



ATTACHMENT 1 – PACKAGES AND LOCATIONS

Package FB2

LOCATION CONCEPT TYPE	ID #	TERMINAL	NEAR GATE	SIZE (SF)
Bar With Snacks	A1	A	3 & 4	750
Wine Bar With Food	B1	B	9 & 10	1,722
National Brand Coffee	B1 LL	B	Baggage	445
National Brand Coffee Café/Bakery	B7	B	12	1,345
Snack/Candy	C8	C	17	750
Sandwich or Open to Proposer	C2-B	C	15 & 16	1,430
Sushi	C2-C	C	15 & 16	1,430
Local Casual Dining Restaurant With Bar	C4	C	18 & 19	3,000
Bar With Snacks	C1	C	16 & 17	1,135
Automated Retail – Food (Open to Proposer)	A10	A	10	150
Automated Retail – Food (Open to Proposer)	A13 LL	A	1A	150
Automated Retail – Food (Open to Proposer)	C7	C	21	150
TOTAL	12			12,457

BUSINESS TERMS FOR PACKAGE FB2

Term	15 years from Term Commencement Date
Base Rent	\$75 per SF
Percentage Rent	See location descriptions below
ACDBE Participation Goal	Race-neutral goal of 27.7%

It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvement and utility conditions, size and configuration to confirm the feasibility of the Proposer's proposed project.

Name and Title of Signer: (Print or Type) _____

Signature: _____

Date: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

A1 – Bar With Snacks – 750 SF

Permitted Use

The offered location is intended for the operation of a full-service bar selling beer, wine, and spirits. A menu consisting of draft and bottled/canned beer, wine by the glass, and a full spirits menu. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The menu should also include food items such as appetizers, “bar snacks,” and charcuterie plates.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	12.0%
	\$1,000,001	\$2,000,000	14.0%
	\$2,000,001 and greater		16.0%

B1 – Wine Bar With Food – 1,722 SF

Permitted Use

The offered location is intended for the operation of a wine bar selling wine by the glass and bottle as well as soft drinks. Menu should consist of tasting “flights” offering smaller portions of multiple wines aimed at educating passengers of the variety and types of wines offered by a certain region, country, or varietal. “to-go” sales of unopened bottles will be permitted subject to local liquor license regulations and FFA guidelines. Operator may sell bottles to be shipped directly to passengers as permitted by law. A food menu consisting of light snacks and appetizers is required. The food menu may be more extensive at the discretion of the Proposer. At least one on-site employee must be a certified sommelier.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	12.0%
	\$1,000,001	\$2,000,000	14.0%
	\$2,000,001 and greater		16.0%

B1 LL – National Brand Coffee – 445 SF

Permitted Use

The offered location is intended for the operation of a branded coffee selling premium quality custom-made hot and cold coffee and tea-based beverages, as well as juices, and soft drinks. The

ATTACHMENT 1 – PACKAGES AND LOCATIONS

menu should also include related food items, either made-to-order or pre-packaged. The sale of alcoholic beverages is not permitted. The Airport prefers a nationally recognized coffee brand concept.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

B7 – National Brand Coffee Café/Bakery – 1,345 SF

Permitted Use

The offered location is intended for the operation of a branded coffee café and/or bakery selling premium quality fresh-made pastries, breads, bagels, salads, and sandwiches as well as custom-made hot and cold coffee and tea-based beverages, juices, and soft drinks. The menu should include healthy options and cover all three dayparts: breakfast, lunch, and dinner. The sale of alcoholic beverages is not permitted. The Airport prefers a nationally recognized café and/or bakery brand concept.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

C8 – Snack/Candy – 750 SF

Permitted Use

The offered location is intended for the operation of a snack or candy concept. Snacks are defined as food items such as pretzels, pastries, ice cream, or smoothies. The snack concepts may also sell water and soft drinks. The candy concept shall carry branded pre-packaged and bulk candies for sale by the pound, branded individual candy bars, and other miscellaneous pre-packaged confectionary items. The sale of water and soft drinks shall be limited to one cooler, no more than six feet by three feet (6' x 3').

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS

C2-B – Sandwich or Open to Proposer – 1,430 SF

Permitted Use

The offered location is intended for the sale of fast food/quick service food and non-alcoholic beverages in a counter-service setting. The Airport prefers the QSR to be a recognized national brand. The preferred use for the QSR is sandwiches. Touchless transactions, remote ordering, at-your-gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing must be contained within the premises. The menu should cover all three dayparts: breakfast, lunch, and dinner. In addition, the menu should include healthy items in response to the growing needs and preferences of the health-conscious traveler. The concept should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging. The sale of alcoholic beverages is not permitted.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

C2-C – Asian – 1,430 SF

Permitted Use

The offered location is intended for the sale of Asian-style fast food/quick service food and non-alcoholic beverages in a counter-service setting. A nationally recognized QSR brand specializing in menu items such as sushi, ramen, pho, Korean, Thai, bao are envisioned but not mandatory. The menu should cover all dayparts and include sides, beverages, and desserts. Touchless transactions, remote ordering, at-your-gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing must be contained within the premises. The concept should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging. Additionally, the concept should include healthy menu items in response to the growing needs and preferences of the health-conscious traveler.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

C4 – Local Casual Dining Restaurant w/ Full Bar – 3,000 SF

Permitted Use

The offered location is intended for the operation of a locally branded casual dining restaurant. The menu should service three dayparts: breakfast, lunch, and dinner, contain healthy options, and to the extent possible, not be duplicative of other dining options within the terminal. This location will be required to have a full bar including beer, wine, and spirits. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The Airport expects the overall space to accommodate seating within the casual dining location. Touchless transactions, remote ordering, at-your-gate delivery (for food items & soft drinks), and self-service table ordering should be included to the extent possible. The concept will offer only premium quality products, served quickly and efficiently.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	12.0%
	\$1,000,001	\$2,000,000	14.0%
	\$2,000,001 and greater		16.0%

C1 – Bar With Snacks – 1,135 SF

Permitted Use

The offered location is intended for the operation of a full-service bar selling beer, wine, and spirits. A menu consisting of draft and bottled/canned beer, wine by the glass, and a full spirits menu. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The menu should also include food items such as appetizers, “bar snacks,” and charcuterie plates.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	12.0%
	\$1,000,001	\$2,000,000	14.0%
	\$2,000,001 and greater		16.0%

A10, A13 – LL, C7 – Automated Food (Open to Proposer) – 450 SF (3 x 150 SF)

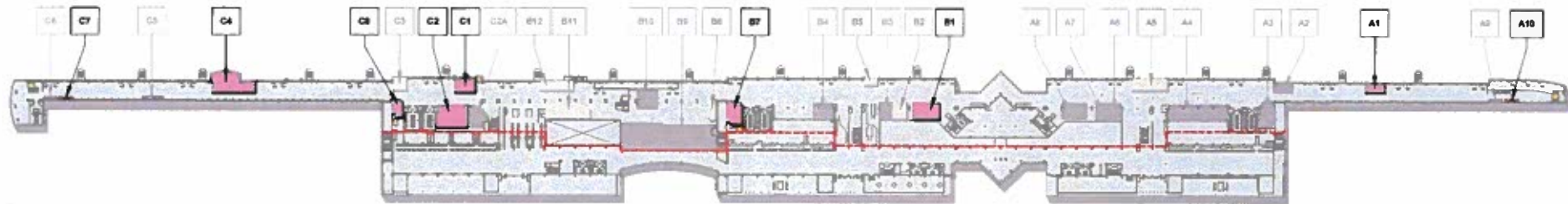
Permitted Use

These three offered locations are intended for the operation of automated vending machines. These machines are intended for non-alcoholic beverages, food products such as pre-made sandwiches, salads, fresh pre-packaged fruits, yogurt parfaits, or other meal-type items conducive to being carried in a vending format, or snacks such as cookies, chips, candy bars, cupcakes, or other such “snack” items. Proposers are to determine what product line, and/or brands they wish to carry. Machines shall accept, at all times, cash, all major credit cards, Apple Pay, Google Pay, and other NFC based payments. Machines should be cellular capable and not reliant on ground-based communication services. Proposers should include in their description of the machine and its menu, the frequency of and types of maintenance services required. Packaging, to the extent possible, shall be eco-friendly and made from sustainable sources. Packaging shall comply with all Federal, State, and local laws and regulations.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Automated Food	All Gross Receipts		25.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS

LODs PACKAGE FB2



① DEPARTURES LEVEL - FB2
N.T.S.



② ARRIVALS LEVEL - FB2
N.T.S.

LOCATION CONCEPT TYPE	SPACE ID	TERMINAL	NEAR GATE	SF
BAR WITH SNACKS	A1	A	3 & 4	750
WINE BAR WITH FOOD	B1	B	9 & 10	1,722
NATIONAL BRAND COFFEE	B1-LL	B	BAGGAGE	445
NATIONAL BRAND COFFEE CAFE / BAKERY	B7	B	12	1,345
SNACK / CANDY	C8	C	17	750
SANDWICH OR OPEN TO PROPOSER	C2-B	C	15 & 16	1,430
SUSHI	C2-C	C	15 & 16	1,430
LOCAL CASUAL DINING RESTAURANT WITH FULL BAR	C4	C	18 & 19	3,000
BAR WITH SNACKS	C1	C	16 & 17	1,135
AUTOMATED FOOD (OPEN TO PROPOSER)	A10	A	10	150
AUTOMATED FOOD (OPEN TO PROPOSER)	A13-LL	A	1A	150
AUTOMATED FOOD (OPEN TO PROPOSER)	C7	C	21	150
TOTAL	12			12,457

GENERAL NOTES:

THIS IS SENSITIVE AIRPORT SECURITY INFORMATION PROTECTED UNDER FEDERAL LAW. RELEASE OF THIS INFORMATION IS STRICTLY PROHIBITED WITHOUT EXPRESS WRITTEN APPROVAL OF JOHN WAYNE AIRPORT. NOTE: THE INFORMATION CONTAINED IN THESE DRAWINGS SHOULD BE FIELD VERIFIED PRIOR TO USE FOR FUTURE IMPROVEMENT PROJECTS. FIELD VERIFICATION IS THE SOLE RESPONSIBILITY OF THE RESPONDANT UTILIZING THE DATA PROVIDED. THE JOHN WAYNE AIRPORT, ORANGE COUNTY (AIRPORT CODE: SNA), OWNED AND OPERATED BY THE COUNTY OF ORANGE EXPRESSLY WAIVES ANY RESPONSIBILITY FOR THE ACCURACY OF THE REQUESTED DRAWINGS.

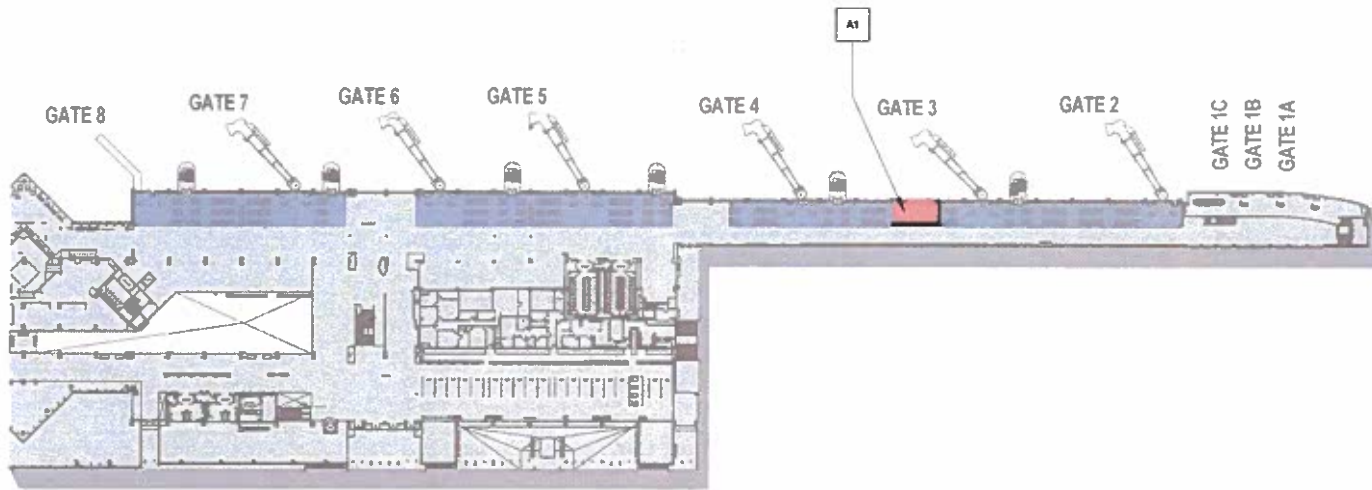
IF ANY DISCREPANCIES, INADEQUACIES OR INACCURACIES ARE DISCOVERED DURING THE REVIEW OF THESE DRAWINGS, IT SHOULD BE REPORTED TO THE JOHN WAYNE AIRPORT IN WRITING. IF ANY ELECTRONIC FILES ARE SUPPLIED, IT IS UNDERSTOOD THAT THEY ARE PROVIDED BY THE JOHN WAYNE AIRPORT FOR INFORMATION ONLY. CONVERSIONS OF THE INFORMATION AND DATA FROM THE FORMAT SUPPLIED TO AN ALTERNATE SYSTEM OR FORMAT THAT CAN RESULT IN FILES THAT MAY BE ALTERED WHETHER INADVERTENTLY OR OTHERWISE MAY ALSO RESULT IN THE INTRODUCTION OF INEXACTITUDES, ANOMALIES, AND ERRORS WHICH THE AIRPORT CAN NEITHER PREDICT NOR CONTROL.

ALL DIMENSIONS TO BE FIELD VERIFIED WITH AS-BUILT CONDITIONS AND COORDINATED WITH ALL WALL TYPES OVERHEAD MEP AND STRUCTURAL CONDITIONS VARY, TENANT TO FIELD VERIFY AND CONFIRM ALL AS-BUILT CONDITIONS RELATIVE TO LEASE SPACE.

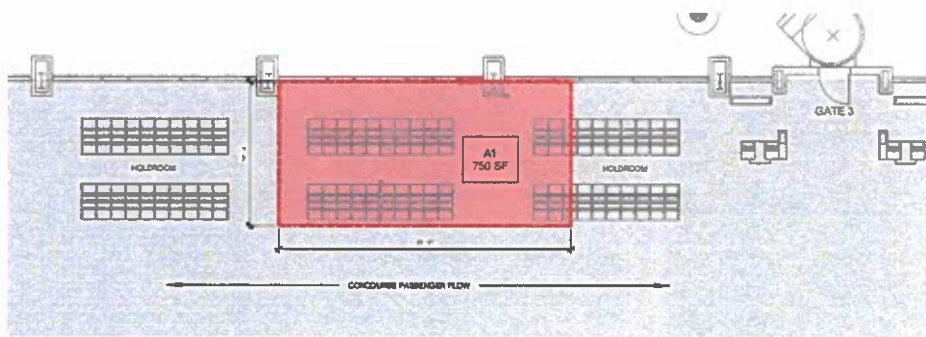
ALL EXISTING PARTITIONS MAY BE RECONFIGURED EXCEPT FOR THE RESTRICTED AREA. ALL OTHER FINISHES IN THE RETAIL, FOOD PREP, BAR AND SERVICE AREAS SHOULD ALIGN WITH THE STANDARDS IN THE TENANT DESIGN MANUAL. THE DESIGN WILL BE REVIEWED AND APPROVED BY JOHN WAYNE AIRPORT. THE GATE LOUNGE AREA/DINING AREA WILL REQUIRE BOARDING ANNOUNCEMENTS AND COORDINATION OF THE PUBLIC ADDRESS SYSTEM.

LEASE OUTLINE LOCATION STANDARDS:

- BETWEEN DEMISED CONCESSION UNITS LEASE LINE IS LOCATED ON THE CENTERLINE OF DEMISING WALLS.
- BETWEEN CONCESSION UNITS AND HOLD LOUNGE AREAS LEASE LINE IS LOCATED ON THE HOLD LOUNGE SIDE OF THE DEMISING WALL.
- FACING CONCOURSE CIRCULATION LEASE LINE IS LOCATED AT THE OUTSIDE FACE OF GLAZING SYSTEM.
- FACING AIRFIELD LEASE LINE IS LOCATED AT THE OUTSIDE FACE OF GLASS.
- TERMINAL TERRAZZO TO BE PROTECTED BY TENANT LAYOUT MUST ACCOMMODATE QUEUING WITHIN THE TENANTS LEASED AREA.



1 A1 Concourse Plan
N.T.S.



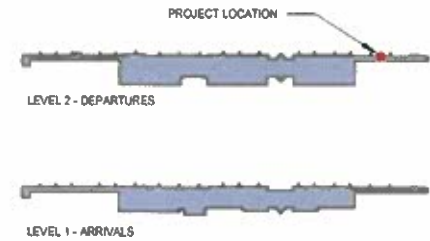
2 A1
1/16" = 1'-0"

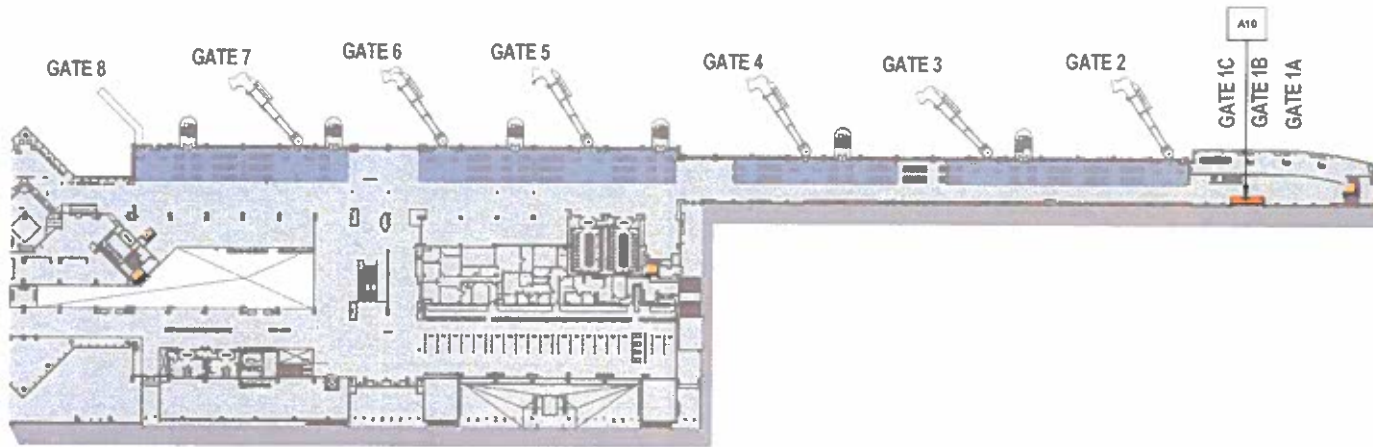
EXISTING UTILITIES

Electric	480/277 - 100amp Breaker
Domestic Water	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Grease Waste	none
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	none
HVAC	Concourse Air

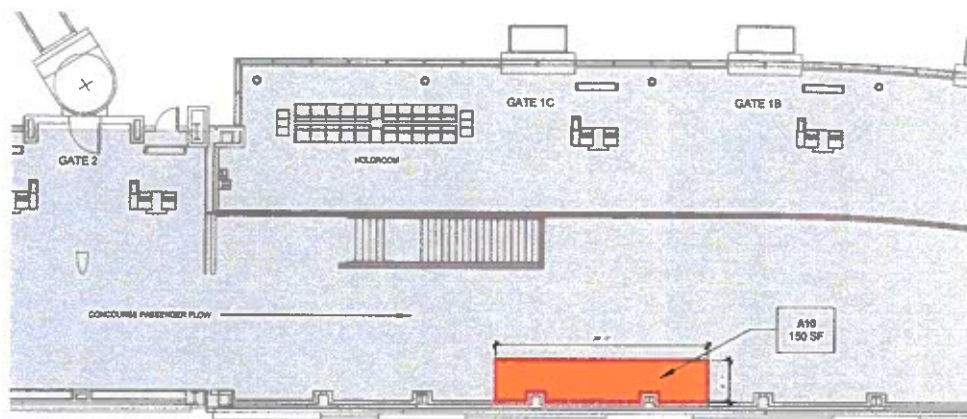
NOTES

A1 BAR WITH SNACKS





① A10 Concourse Plan
N.T.S.



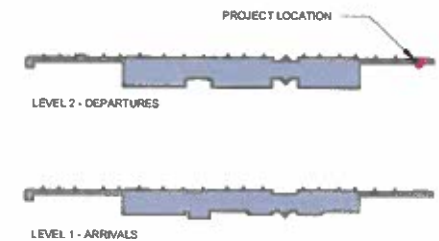
② A10
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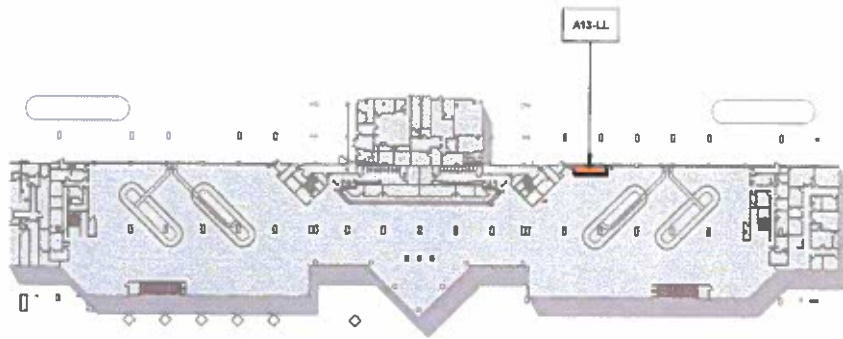
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	1.5"
Waste	Restroom Below
Grease Waste	none
Vent	3"
Gas	none
HVAC	Concourse Air

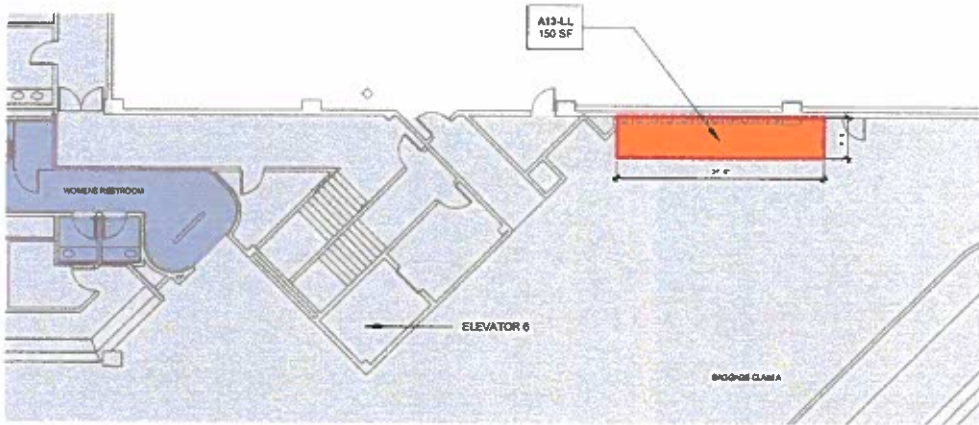
NOTES

A10 - FOOD (OPEN TO PROPOSER)





① A13-LL Concourse Plan
N.T.S.



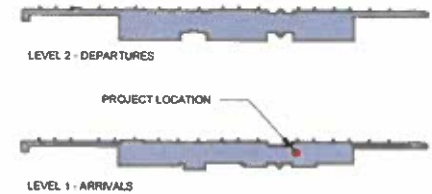
② A13-LL
1/16" = 1'-0"

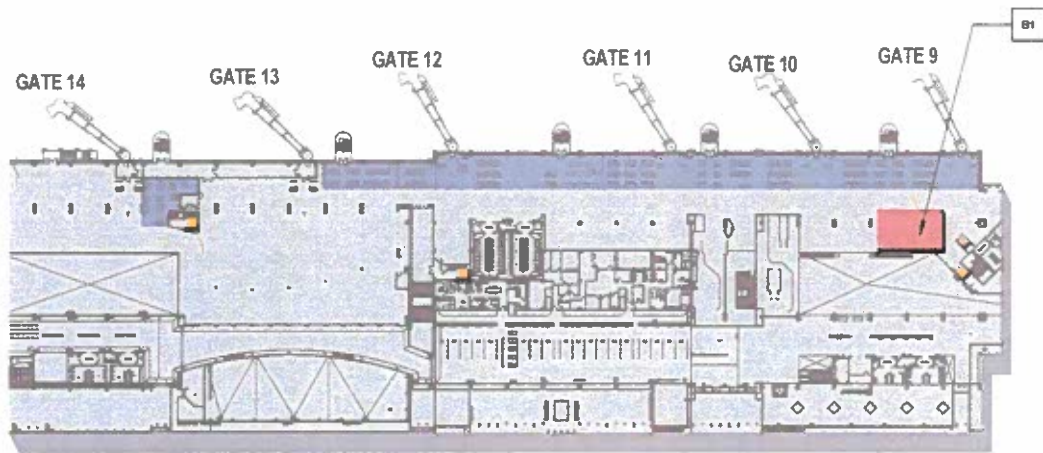
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	Adjacent Room
Waste	Adjacent Room
Grease Waste	none
Vent	Adjacent Room
Gas	none
HVAC	Concourse Air

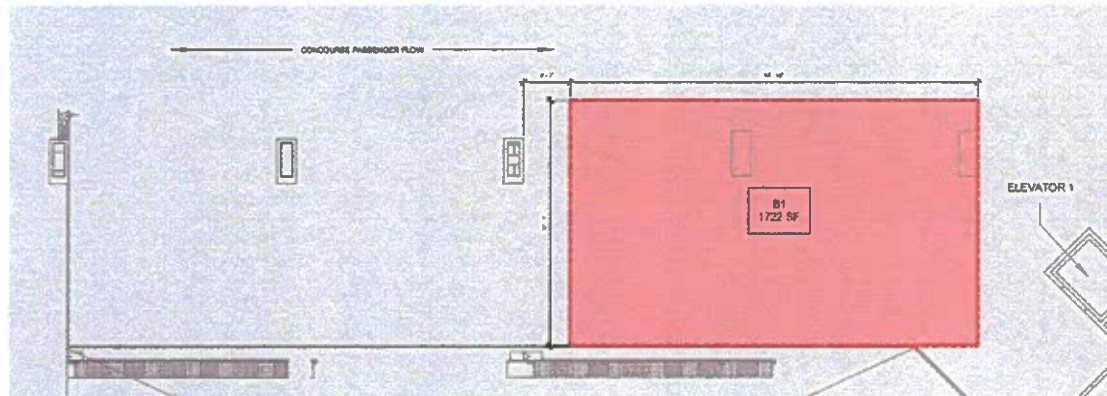
NOTES

A13-LL - FOOD (OPEN TO PROPOSER)





① B1 Concourse Plan
N.T.S.



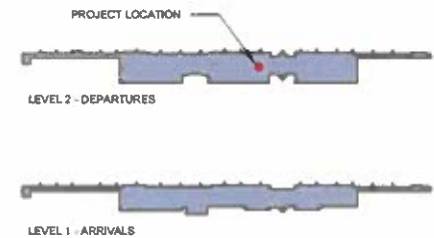
② B1
1/16" = 1'-0"

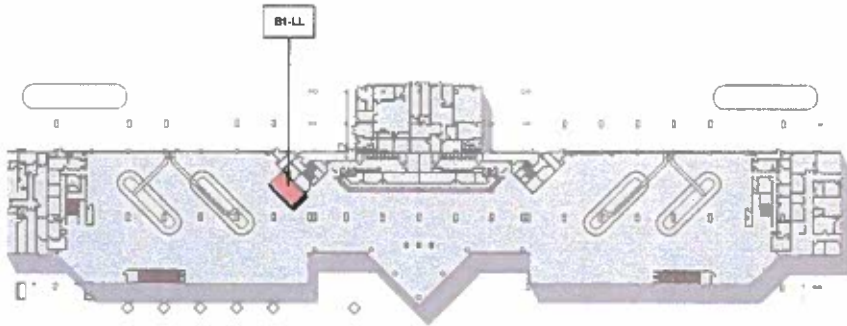
EXISTING UTILITIES

Electric	B1 - 480/277 - 100amp
Domestic Water	B1 - 1"
Waste	B1 - 3"
Grease Waste	B1 - none
Vent	B1 - 2"
Gas	B1 - none
HVAC	Concourse Air

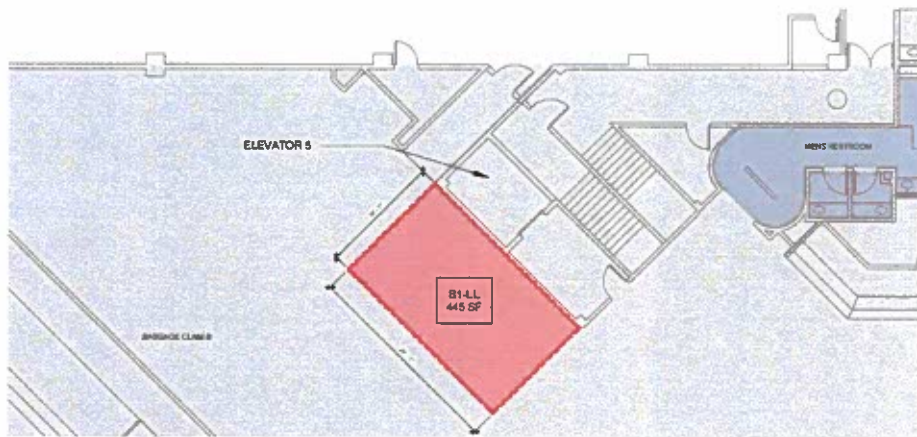
NOTES

B1 - WINE BAR WITH FOOD





① B1-LL Concourse Plan
1" = 100'-0"



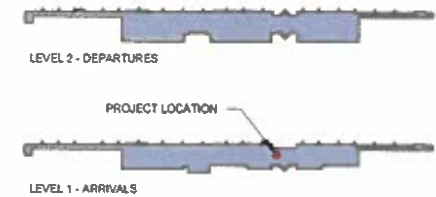
② B1-LL
1/16" = 1'-0"

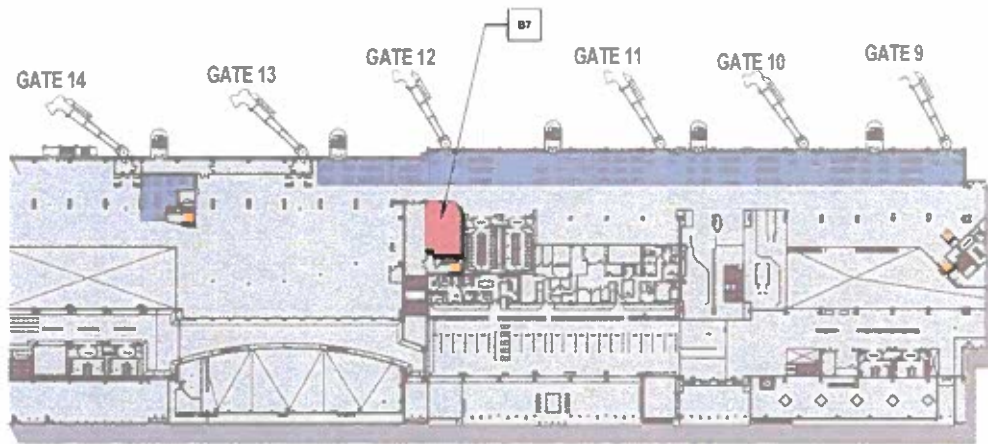
EXISTING UTILITIES

Electric	Existing
Domestic Water	Existing
Waste	Existing
Grease Waste	Existing
Vent	Existing
Gas	none
HVAC	Concourse Air

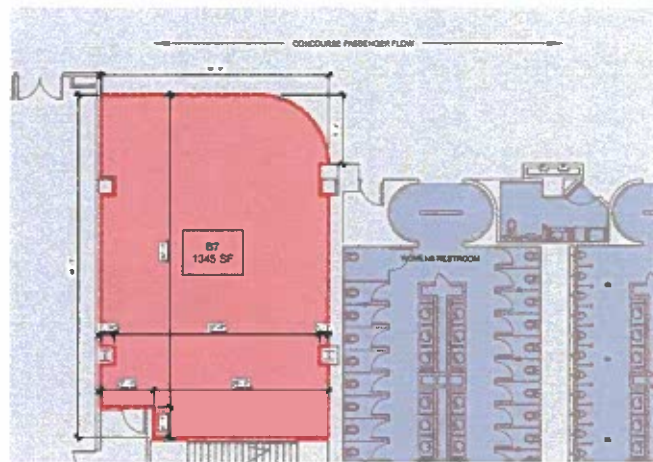
NOTES

B1-LL - NATIONAL BRAND COFFEE





1 B7 Concourse Plan
N.T.S.



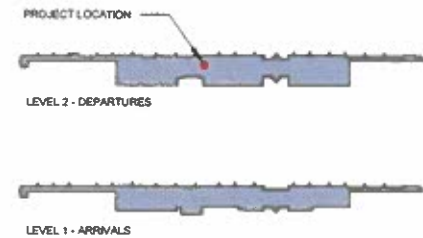
2 B7
1/16" = 1'-0"

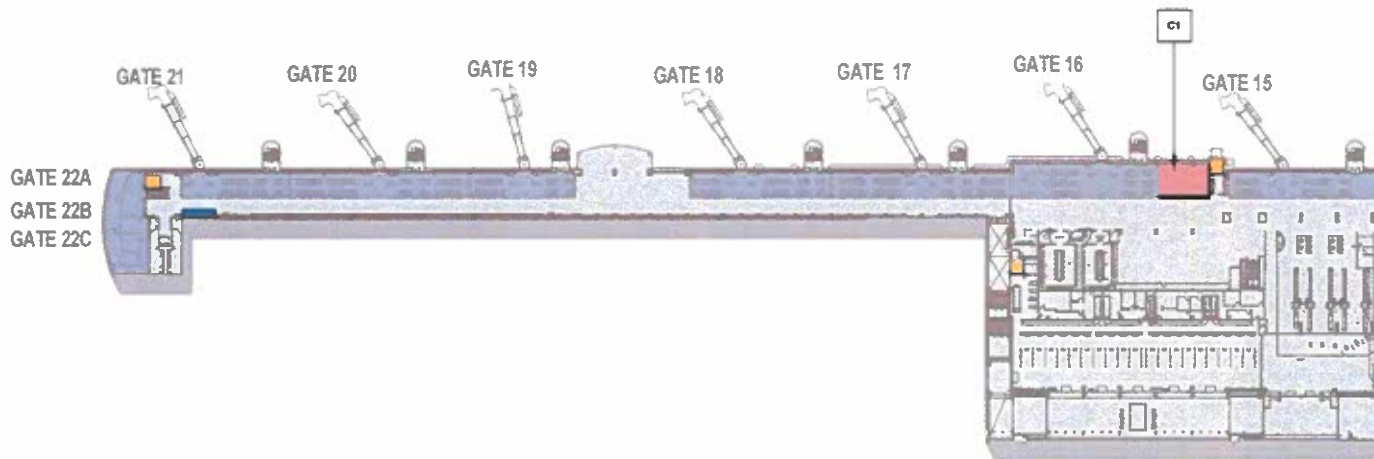
EXISTING UTILITIES

Electric	480/277 - 100amp Breaker
Domestic Water	1.25"
Waste	3"
Grease Waste	3"
Vent	3"
Gas	none
HVAC	Tenant Provided RTU

NOTES

B7 - NATIONAL BRAND COFFEE CAFE / BAKERY





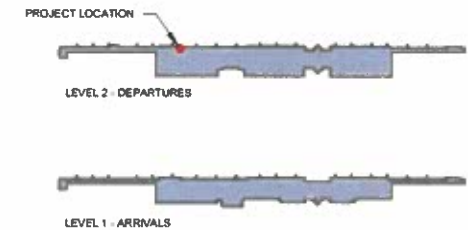
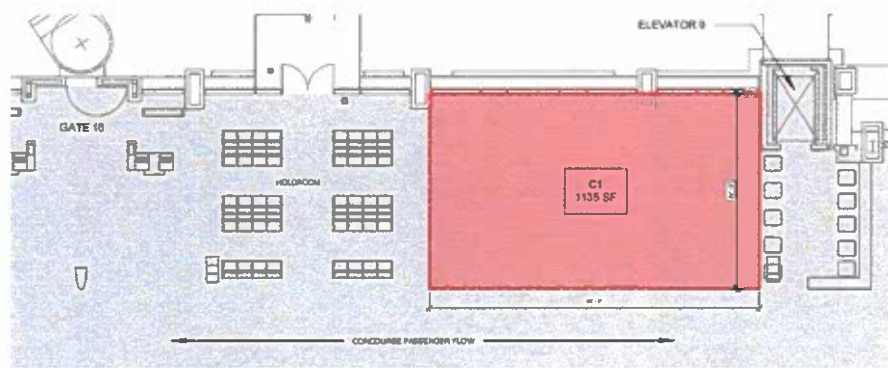
EXISTING UTILITIES

Electric	120/208 - 60amp
Domestic Water	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Grease Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	none
HVAC	Concourse Air

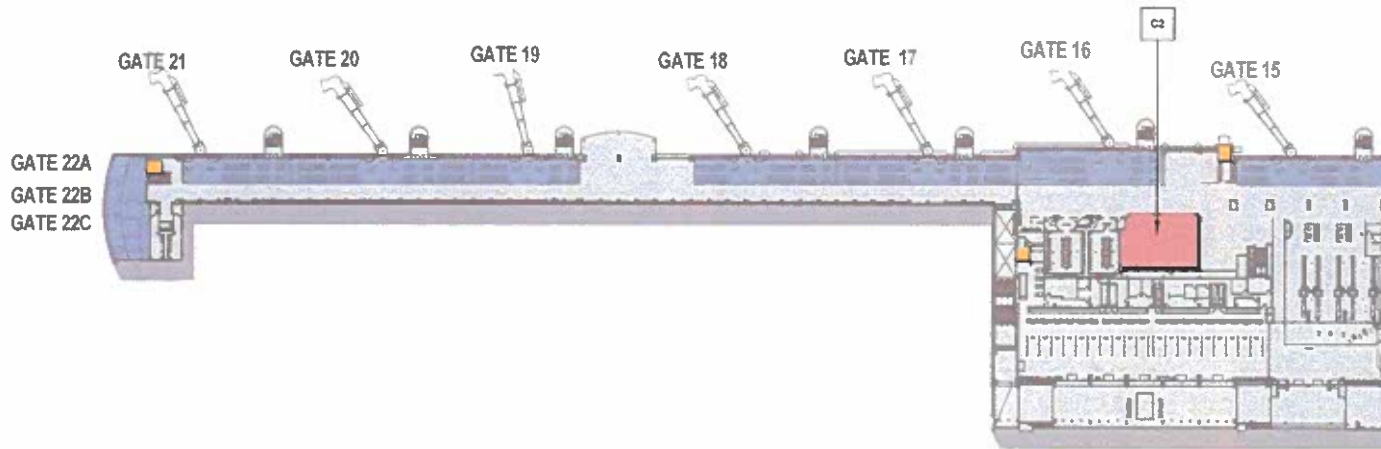
NOTES

C1 - BAR WITH SNACKS

① C1 Concourse Plan
N.T.S.



② C1
1/16" = 1'-0"



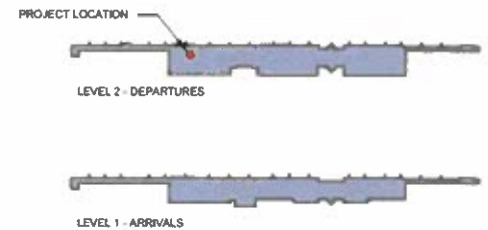
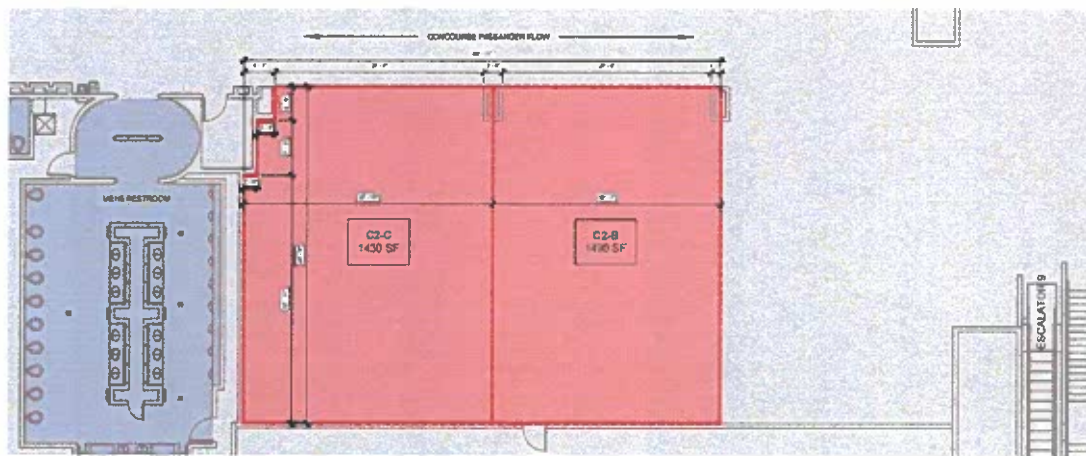
EXISTING UTILITIES

Electric	C2 - 480/277 - 250amp + 50amp
Domestic Water	C2 - 1"
Waste	C2 - 3"
Grease Waste	C2 - 4"
Vent	C2 - 3"
Gas	C2 - 1006 CFH
HVAC	Tenant Provided RTU

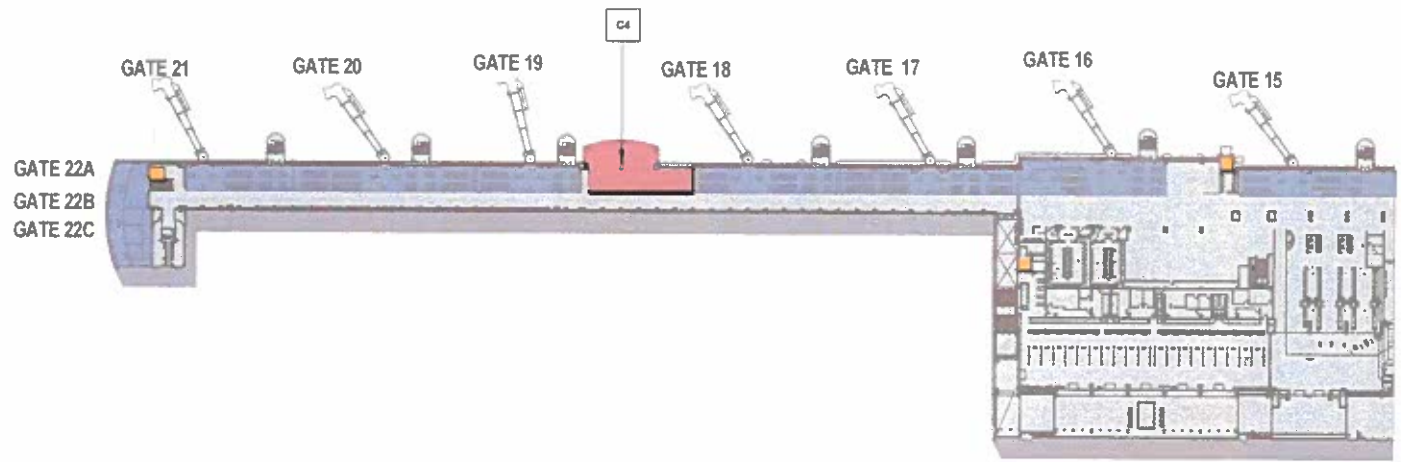
NOTES

- C2B - SANDWICH OR OPEN TO PROPOSER
- C2C - SUSHI

① C2 Concourse Plan
N.T.S.



② C2
1/16" = 1'-0"



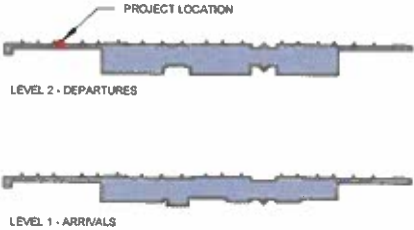
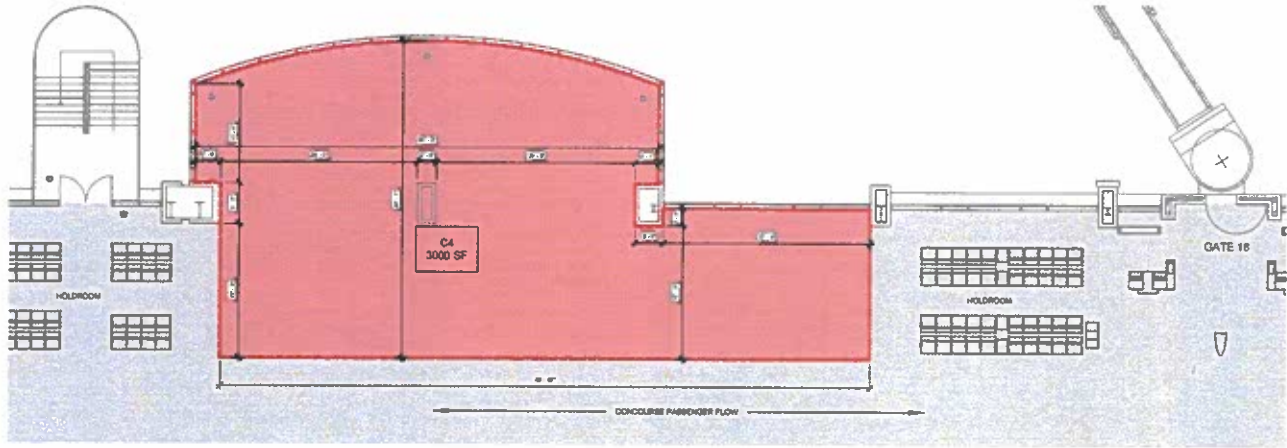
EXISTING UTILITIES

Electric	480/277 - 200amp
Domestic Water	1.25"
Waste	3"
Grease Waste	4"
Vent	4"
Gas	287 CFH
HVAC	Tenant Provided RTU

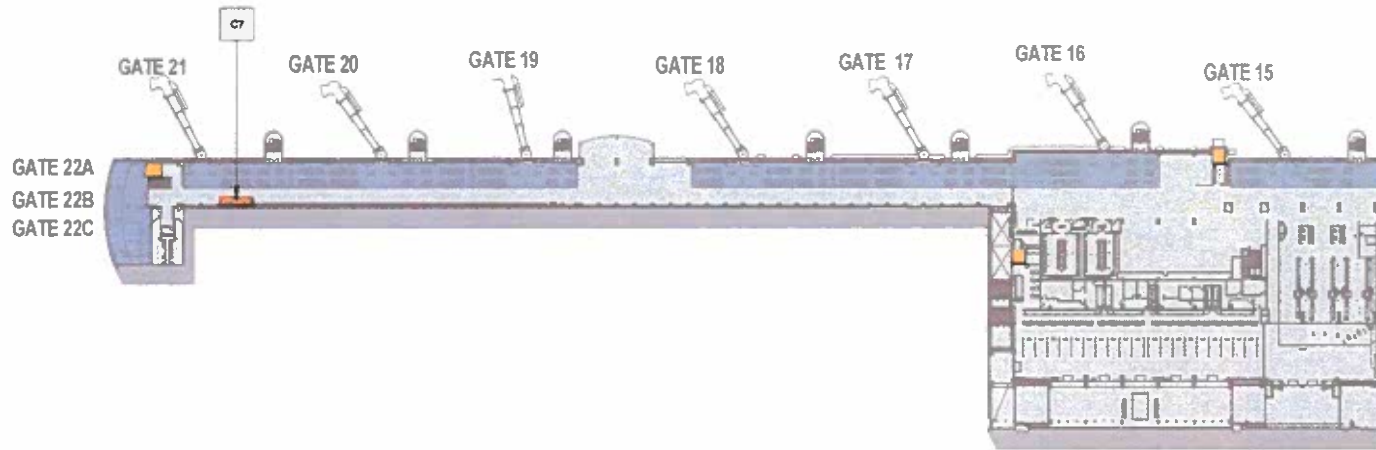
NOTES

C4 - LOCAL CASUAL DINING RESTAURANT WITH FULL BAR

① C4 Concourse Plan
N.T.S.



② C4
1/16" = 1'-0"



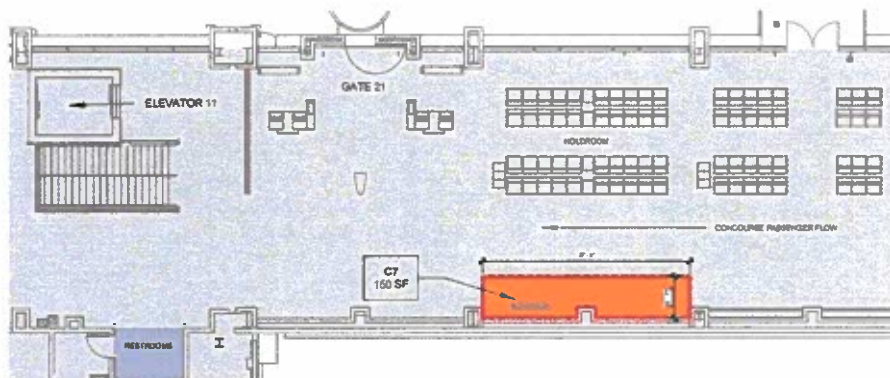
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	3" Below
Waste	6" Pumped Below
Grease Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	none
HVAC	Concourse Air

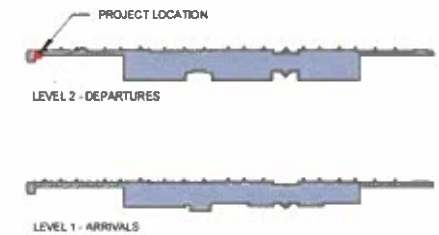
NOTES

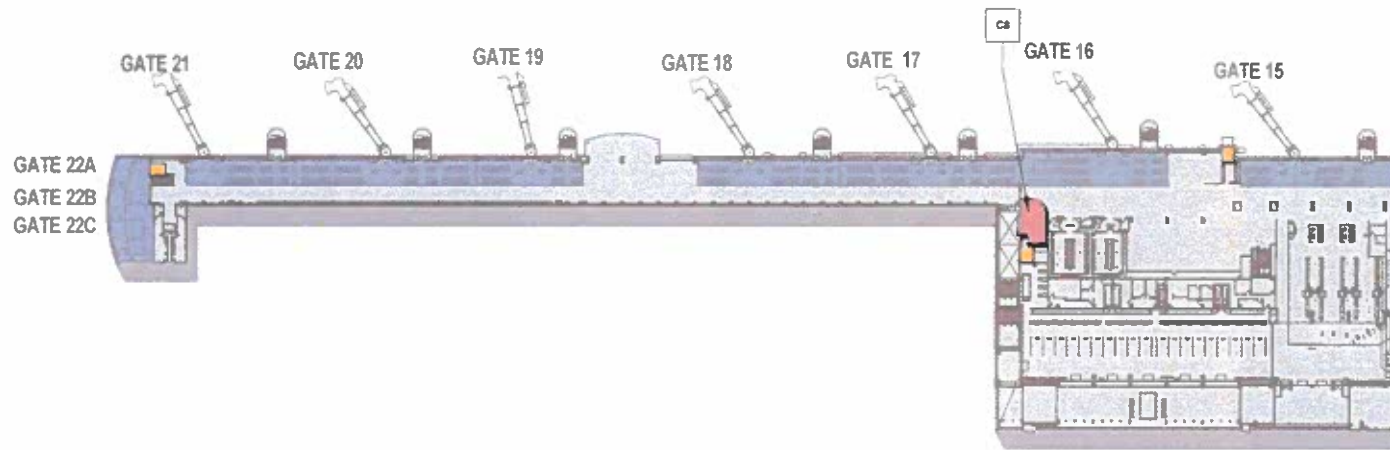
C7 - FOOD (OPEN TO PROPOSER)

① C7 Concourse Plan
N.T.S.



② C7
1/16" = 1'-0"





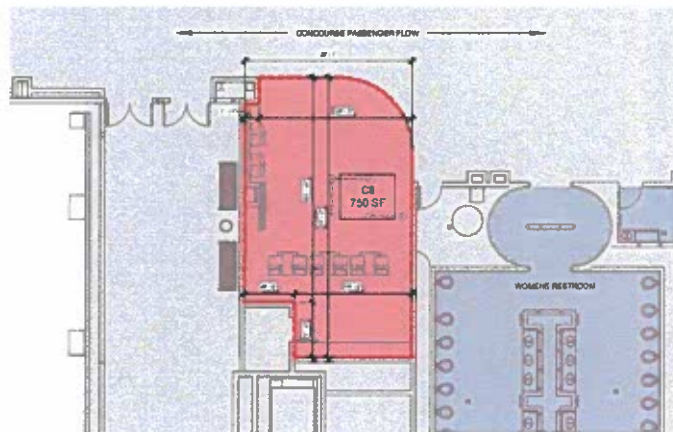
EXISTING UTILITIES

Electric	480/277 - 100amp
Domestic Water	1.25"
Waste	4"
Grease Waste	none
Vent	3"
Gas	none
HVAC	Tenant provided RTU

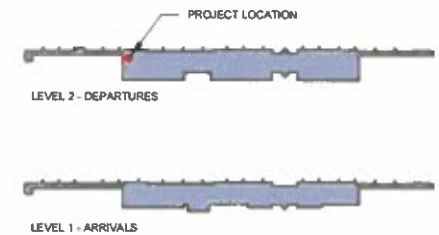
NOTES

C8 - SNACK / CANDY

① C8 Concourse Plan
N.T.S.



② C8
1/16" = 1'-0"



ATTACHMENT 1 – PACKAGES AND LOCATIONS

Package RTL1

LOCATION CONCEPT TYPE	ID #	TERMINAL	NEAR GATE	SIZE (SF)
Travel Essentials	A2	A	4 & 5	750
Specialty Retail - Cosmetics	A6	A	7	930
Specialty Retail - Electronics	A7	A	7	930
Specialty Retail - Electronics or Open to Proposer	B3	B	10	920
Travel Essentials	B4	B	11 & 12	1,145
TOTAL	5			4,675
BUSINESS TERMS FOR PACKAGE RTL1				
Term	15 years from Term Commencement Date			
Base Rent	\$75 per SF			
Percentage Rent	See location descriptions below			
ACDBE Participation Goal	Race-neutral goal of 27.7%			

It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvement and utility conditions, size and configuration to confirm the feasibility of the Proposer's proposed project.

Name and Title of Signer: (Print or Type) _____

Signature: _____

Date: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

A2 – Travel Essentials – 750 SF

Permitted Use

The offered location is intended for the operation of a Travel Essentials Store. The offer should include:

- A wide variety of reading material – including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:
 - o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
 - o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.
 - o Pre-packaged snacks and candy. A representative sample of the overall snack and candy selection must be offered in single-serving and other sizes, as appropriate.
 - o A selection of fresh, pre-packaged, single serving “grab-n-go” food items such as sandwiches, salads, produce, cereal, and yogurt will be considered.
 - o Chilled bottled beverages such as water, juices, and soft drinks.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

A6 – Specialty Retail – Cosmetics - 930 SF

Permitted Use

The offered location is intended for the operation of a specialty retail cosmetics store. This store shall offer cosmetics and related accessories from multiple internationally known premium brands, including but not limited to, MAC, Clinique, and Estee Lauder.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Specialty Retail	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

A7 – Electronics – 930 SF

Permitted Use

The offered location is intended for the operation of a specialty retail electronics store. This store shall offer branded personal electronic devices such as tablets, computers, and smart watches. Additionally, the store shall carry a wide assortment of electronics-related accessories including, but not limited to, headphones, charging cables, device protective cases, storage devices, A/V connection cables, Bluetooth keyboards and mice.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Electronics/Jewelry	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

B3 – Specialty Retail – Electronics or Open to Proposers - 920 SF

Permitted Use

The offered location is intended for the operation of a specialty retail electronics store or open to Proposer. This store shall offer branded personal electronic devices such as tablets, computers, and smart watches. Additionally, the store shall carry a wide assortment of electronics-related accessories including, but not limited to, headphones, charging cables, device protective cases, storage devices, A/V connection cables, Bluetooth keyboards and mice.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Electronics/Jewelry	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

B4 – Travel Essentials – 1,145 SF

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Permitted Use

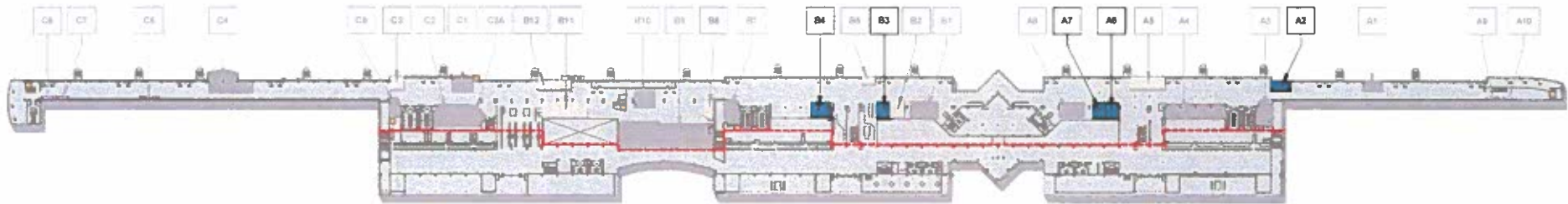
The offered location is intended for the operation of a travel essentials store. The store should offer:

- A wide variety of reading material including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:
 - o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
 - o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.
 - o Pre-packaged snacks and candy. A representative sample of the overall snack and candy selection must be offered in single-serving and other sizes, as appropriate.
 - o A selection of fresh, pre-packaged, single serving “grab-n-go” food items including, but not limited to, sandwiches, salads, produce, cereal, and yogurt will be considered.
 - o Chilled bottled beverages such as water, juices, and soft drinks.

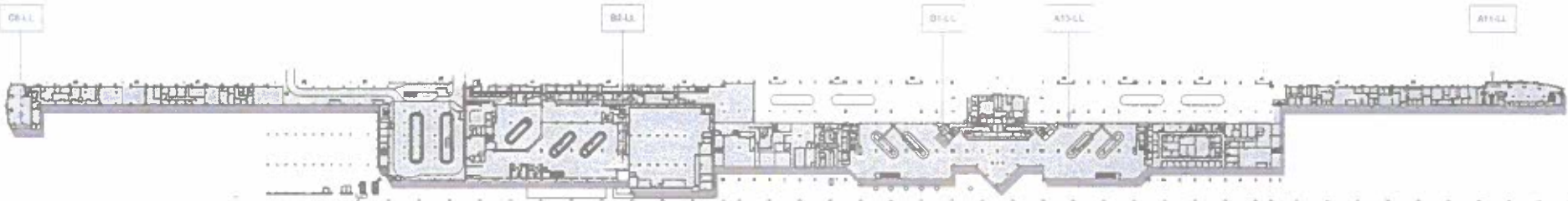
Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS

LODs PACKAGE RTL1



① DEPARTURES LEVEL - RTL1
N.T.S.



② ARRIVALS LEVEL - RTL1
N.T.S.

LOCATION CONCEPT TYPE	SPACE ID	TERMINAL	NEAR GATE	SF
TRAVEL ESSENTIALS	A2	A	4 & 5	750
SPECIALTY RETAIL - COSMETICS	A6	A	7	930
SPECIALTY RETAIL - ELECTRONICS	A7	A	7	930
SPECIALTY RETAIL - ELECTRONICS OR OPEN TO PROPOSER	B3	B	10	920
TRAVEL ESSENTIALS	B4	B	11 & 12	1,145
TOTAL	5			4,675

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THIS IS SENSITIVE AIRPORT SECURITY INFORMATION PROTECTED UNDER FEDERAL LAW. RELEASE OF THIS INFORMATION IS STRICTLY PROHIBITED WITHOUT EXPRESS WRITTEN APPROVAL OF JOHN WAYNE AIRPORT. NOTE: THE INFORMATION CONTAINED IN THESE DRAWINGS SHOULD BE FIELD VERIFIED PRIOR TO USE FOR FUTURE IMPROVEMENT PROJECTS. FIELD VERIFICATION IS THE SOLE RESPONSIBILITY OF THE RESPONDANT UTILIZING THE DATA PROVIDED. THE JOHN WAYNE AIRPORT, ORANGE COUNTY (AIRPORT CODE: SNA), OWNED AND OPERATED BY THE COUNTY OF ORANGE EXPRESSLY WAIVES ANY RESPONSIBILITY FOR THE ACCURACY OF THE REQUESTED DRAWINGS.

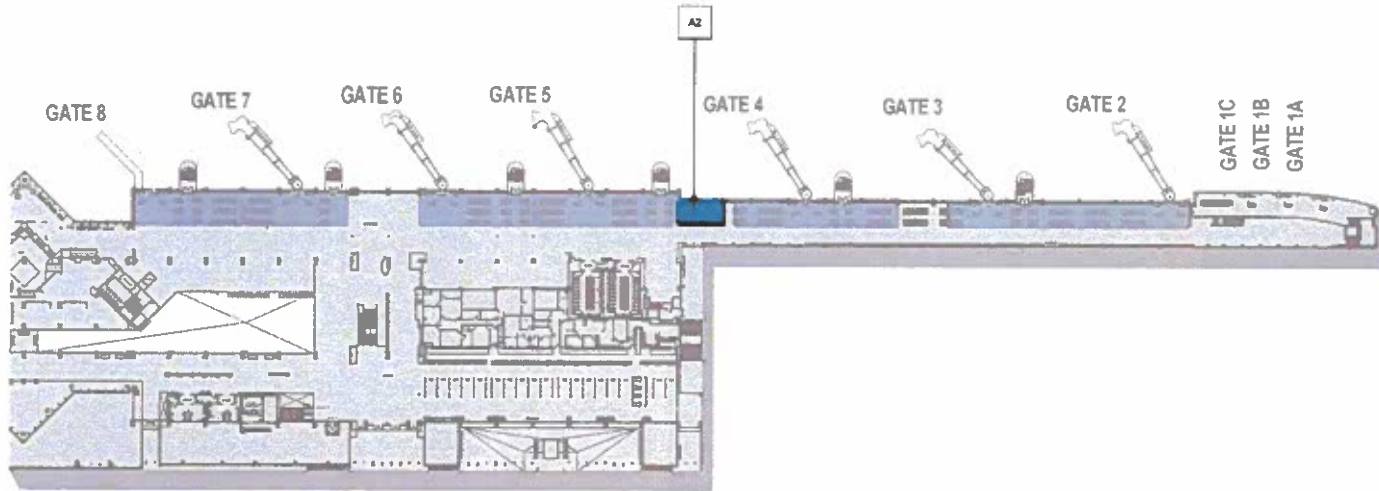
IF ANY DISCREPANCIES, INADEQUACIES OR INACCURACIES ARE DISCOVERED DURING THE REVIEW OF THESE DRAWINGS, IT SHOULD BE REPORTED TO THE JOHN WAYNE AIRPORT IN WRITING. IF ANY ELECTRONIC FILES ARE SUPPLIED, IT IS UNDERSTOOD THAT THEY ARE PROVIDED BY THE JOHN WAYNE AIRPORT FOR INFORMATION ONLY. CONVERSIONS OF THE INFORMATION AND DATA FROM THE FORMAT SUPPLIED TO AN ALTERNATE SYSTEM OR FORMAT THAT CAN RESULT IN FILES THAT MAY BE ALTERED WHETHER INADVERTENTLY OR OTHERWISE MAY ALSO RESULT IN THE INTRODUCTION OF INEXACTITUDES, ANOMALIES, AND ERRORS WHICH THE AIRPORT CAN NEITHER PREDICT NOR CONTROL.

ALL DIMENSIONS TO BE FIELD VERIFIED WITH AS-BUILT CONDITIONS AND COORDINATED WITH ALL WALL TYPES OVERHEAD MEP AND STRUCTURAL CONDITIONS VARY, TENANT TO FIELD VERIFY AND CONFIRM ALL AS-BUILT CONDITIONS RELATIVE TO LEASE SPACE.

ALL EXISTING PARTITIONS MAY BE RECONFIGURED EXCEPT FOR THE RESTRICTED AREA. ALL OTHER FINISHES IN THE RETAIL, FOOD PREP, BAR AND SERVICE AREAS SHOULD ALIGN WITH THE STANDARDS IN THE TENANT DESIGN MANUAL. THE DESIGN WILL BE REVIEWED AND APPROVED BY JOHN WAYNE AIRPORT. THE GATE LOUNGE AREA/DINING AREA WILL REQUIRE BOARDING ANNOUNCEMENTS AND COORDINATION OF THE PUBLIC ADDRESS SYSTEM.

LEASE OUTLINE LOCATION STANDARDS:

- BETWEEN DEMISED CONCESSION UNITS LEASE LINE IS LOCATED ON THE CENTERLINE OF DEMISING WALLS.
- BETWEEN CONCESSION UNITS AND HOLD LOUNGE AREAS LEASE LINE IS LOCATED ON THE HOLD LOUNGE SIDE OF THE DEMISING WALL.
- FACING CONCOURSE CIRCULATION LEASE LINE IS LOCATED AT THE OUTSIDE FACE OF GLAZING SYSTEM.
- FACING AIRFIELD LEASE LINE IS LOCATED AT THE OUTSIDE FACE OF GLASS.
- TERMINAL TERRAZZO TO BE PROTECTED BY TENANT LAYOUT MUST ACCOMMODATE QUEUING WITHIN THE TENANTS LEASED AREA.



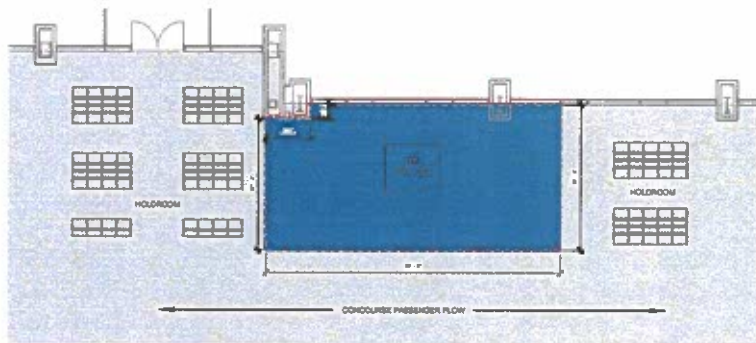
EXISTING UTILITIES

Electric	120/208 - 150amp Breaker
Domestic Water	1.25"
Waste	3"
Grease Waste	none
Vent	3"
Gas	none
HVAC	Concourse Air

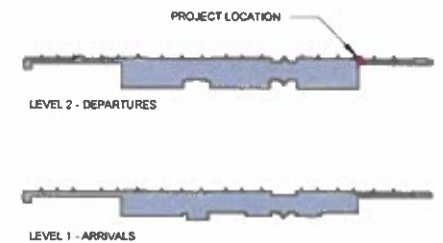
NOTES

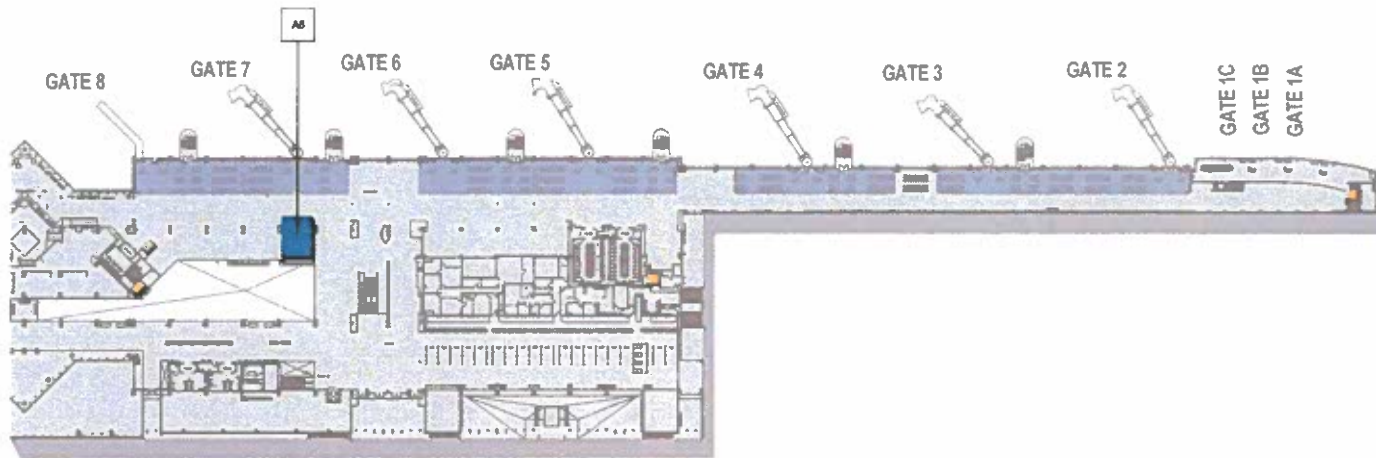
A2 - TRAVEL ESSENTIALS

① A2 Concourse Plan
N.T.S.



② A2
1/16" = 1'-0"





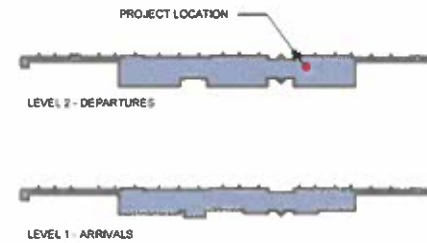
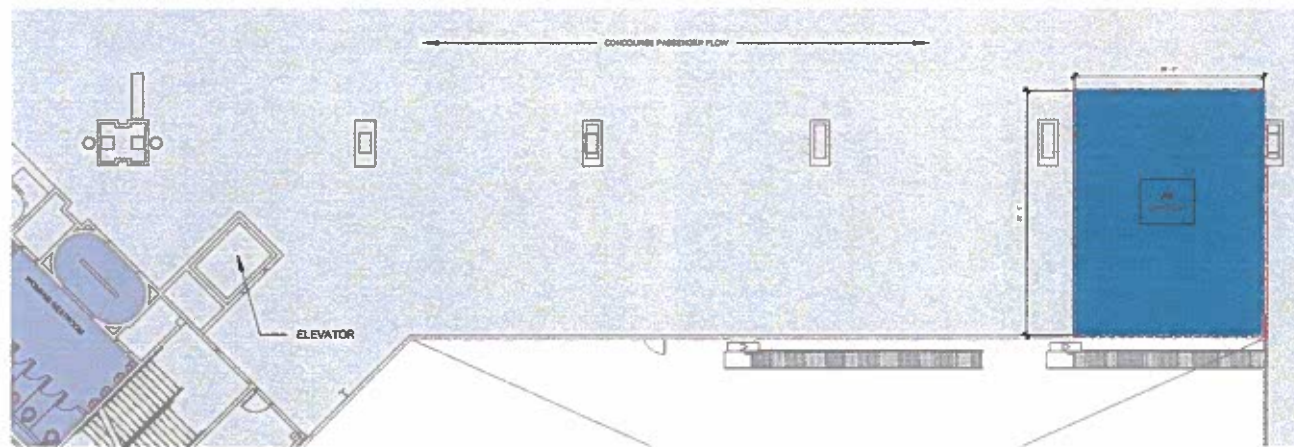
EXISTING UTILITIES

Electric	A6 - 480/277 - 100amp + 100amp + 100amp
Domestic Water	A6 - none
Waste	A6 - none
Grease Waste	A6 - none
Vent	A6 - none
Gas	A6 - none
HVAC	Concourse Air

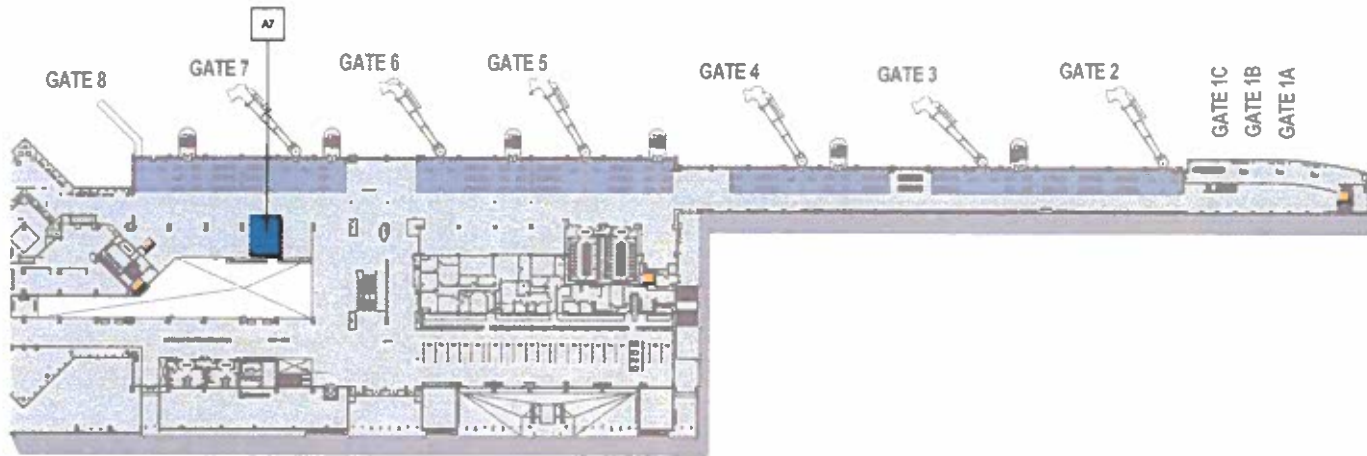
NOTES

A6 - SPECIALTY RETAIL - COSMETICS

① A6 Concourse Plan
N.T.S.



② A6
1/16" = 1'-0"



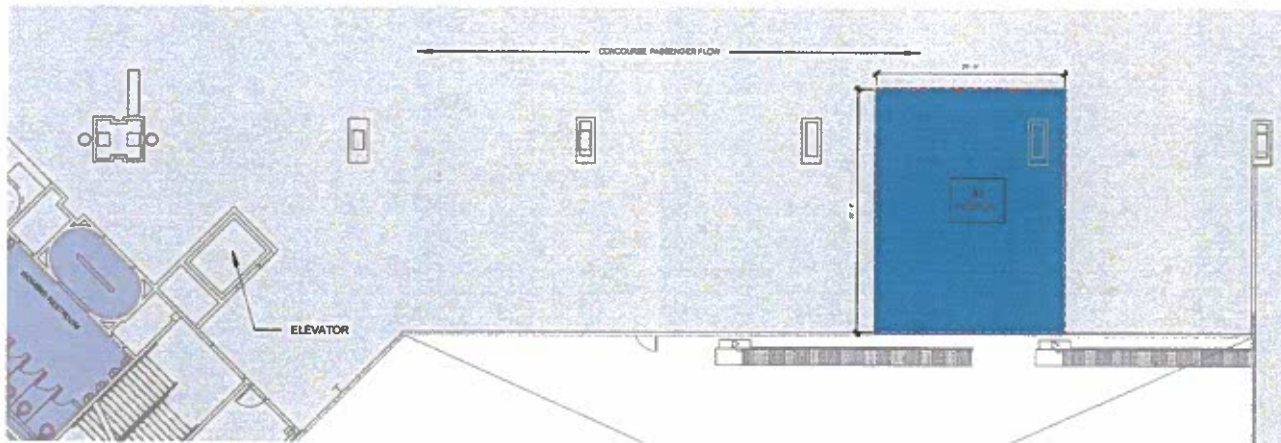
① A7 Concourse Plan
N.T.S.

EXISTING UTILITIES

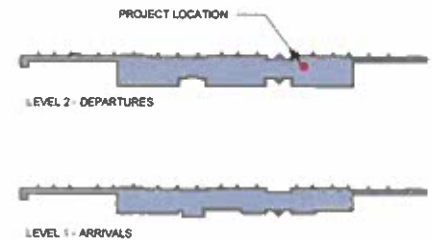
Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	none
Waste	none
Grease Waste	none
Vent	none
Gas	none
HVAC	Concourse Air

NOTES

A7 - SPECIALTY RETAIL - ELECTRONICS



② A7
1/16" = 1'-0"

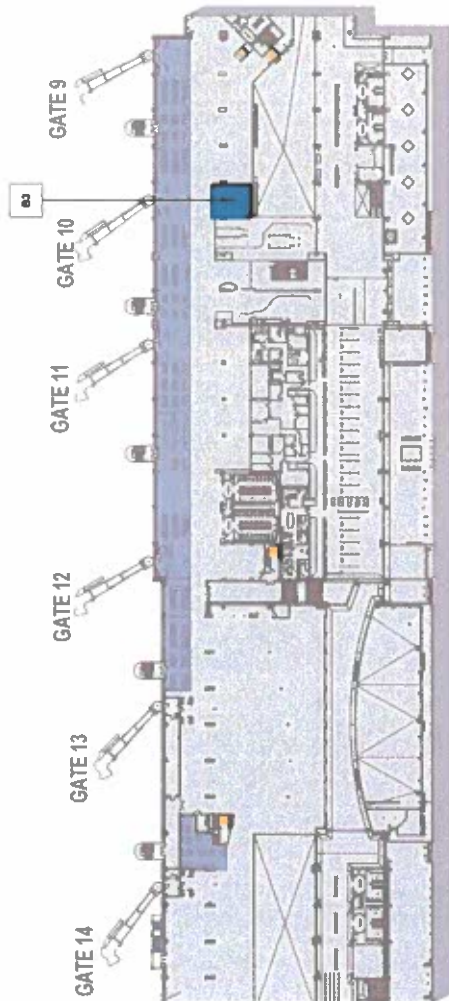


EXISTING UTILITIES

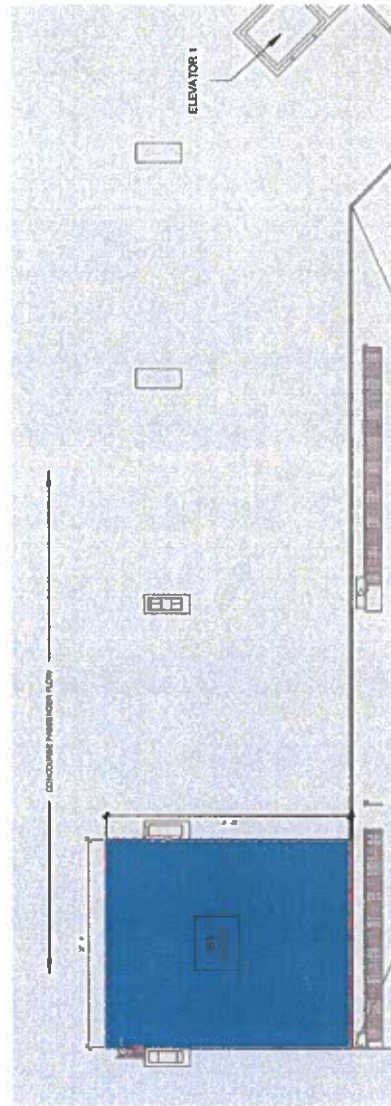
Electric	B3 - 480/277 - 100amp
Domestic Water	B3 - 3/4"
Waste	B3 - 3"
Grease Waste	B3 - none
Vent	B3 - 2"
Gas	B3 - none
HVAC	Concourse Air

NOTES

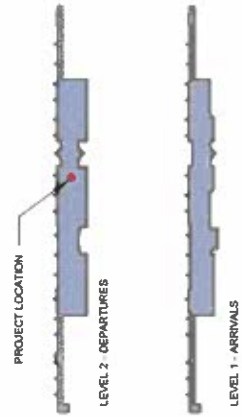
B3 . . . SPECIALTY RETAIL - ELECTRONICS OR OPEN TO PROPOSER

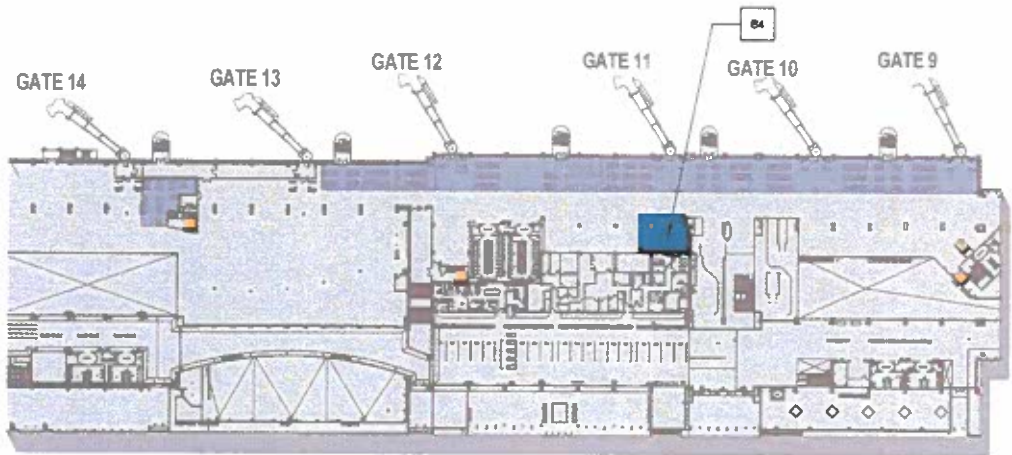


1 B3 Concourse Plan
N.T.S.



2 B3
1/16" = 1'-0"





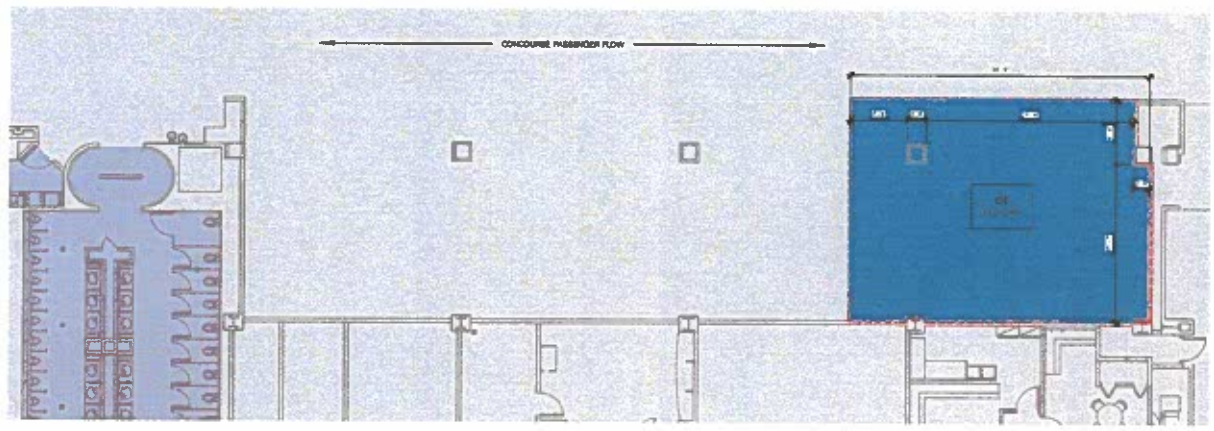
① B4 Concourse Plan
N.T.S.

EXISTING UTILITIES

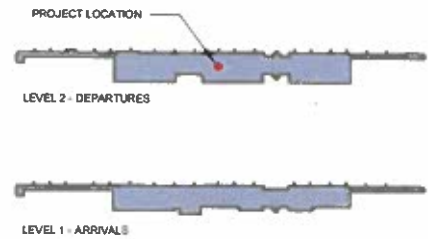
Electric	B4 - 480/277 - 50amp
Domestic Water	B4 - none
Waste	B4 - none
Grease Waste	B4 - none
Vent	B4 - none
Gas	B4 - none
HVAC	Tenant Provided RTU

NOTES

B4 - TRAVEL ESSENTIALS



② B4
1/16" = 1'-0"



ATTACHMENT 1 – PACKAGES AND LOCATIONS

Package RTL2

LOCATION CONCEPT TYPE	ID #	TERMINAL	NEAR GATE	SIZE (SF)
Travel Essentials	A8	A/B	7 & 8	1,420
Travel Essentials & Gourmet Market	B10	B/C	13 & 14	1,694
Travel Essentials	C2-A	C	15 & 16	1,370
Travel Essentials	C5	C	19 & 20	200
TOTAL	4			4,684

BUSINESS TERMS FOR PACKAGE RTL2

Term	15 years from Term Commencement Date
Base Rent	\$75 per SF
Percentage Rent	See location descriptions below
ACDBE Participation Goal	Race-neutral goal of 27.7%

It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvement and utility conditions, size and configuration to confirm the feasibility of the Proposer's proposed project.

Name and Title of Signer: (Print or Type) _____

Signature: _____

Date: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

A8 – Travel Essentials – 1,420 SF

Permitted Use

The offered location is intended for the operation of a travel essentials store. The store should offer:

- A wide variety of reading material including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:
 - o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
 - o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.
 - o Pre-packaged snacks and candy. A representative sample of the overall snack and candy selection must be offered in single-serving and other sizes, as appropriate.
 - o A selection of fresh, pre-packaged, single serving “grab-n-go” food items including, but not limited to, sandwiches, salads, produce, cereal, and yogurt will be considered.
 - o Chilled bottled beverages such as water, juices, and soft drinks.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

B10 – Travel Essentials & Gourmet Market – 1,694 SF

Permitted Use

The offered location is intended for the operation of a travel essentials store and gourmet market. The store should offer:

- A wide variety of reading material including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:

ATTACHMENT 1 – PACKAGES AND LOCATIONS

- o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
- o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.

The gourmet market should include high-quality, pre-packaged, “to-go” single serve meals such as sandwiches, salads, fresh produce, and breakfast items. The use of experiential marketing techniques, including sampling stations and product demonstrations, is highly recommended. Additionally, the market should include a retail selection of better-quality snacks, candy, confections, and other gourmet food items packaged for off-site consumption. The sale of non-alcoholic chilled bottled beverages such as water, fresh pressed juices, and soft drinks will also be permitted.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

C2-A – Travel Essentials – 1,370 SF

Permitted Use

The offered location is intended for the operation of a travel essentials store. The store should offer:

- A wide variety of reading material including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:
 - o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
 - o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.
 - o Pre-packaged snacks and candy. A representative sample of the overall snack and candy selection must be offered in single-serving and other sizes, as appropriate.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

- o A selection of fresh, pre-packaged, single serving “grab-n-go” food items including, but not limited to, sandwiches, salads, produce, cereal, and yogurt will be considered.
- o Chilled bottled beverages such as water, juices, and soft drinks.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

C5 – Travel Essentials – 200 SF

Permitted Use

The offered location is intended for the operation of a travel essentials store. The store should offer:

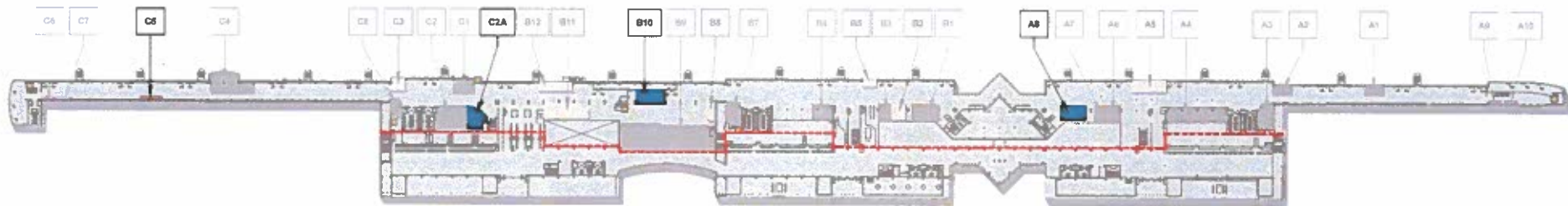
- A wide variety of reading material including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:
 - o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
 - o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.
 - o Pre-packaged snacks and candy. A representative sample of the overall snack and candy selection must be offered in single-serving and other sizes, as appropriate.
 - o A selection of fresh, pre-packaged, single serving “grab-n-go” food items including, but not limited to, sandwiches, salads, produce, cereal, and yogurt will be considered.
 - o Chilled bottled beverages such as water, juices, and soft drinks.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS

LODs PACKAGE RTL2



① DEPARTURES LEVEL - RTL2
N.T.S.



② ARRIVALS LEVEL - RTL2
N.T.S.

LOCATION CONCEPT TYPE	SPACE ID	TERMINAL	NEAR GATE	SF
TRAVEL ESSENTIALS	A8	A/B	7 & 8	1,420
TRAVEL ESSENTIALS & GOURMET MARKET	B10	B/C	13 & 14	1,694
TRAVEL ESSENTIALS	C2-A	C	15 & 16	1,370
TRAVEL ESSENTIALS	C5	C	19 & 20	200
TOTAL	4			4,684

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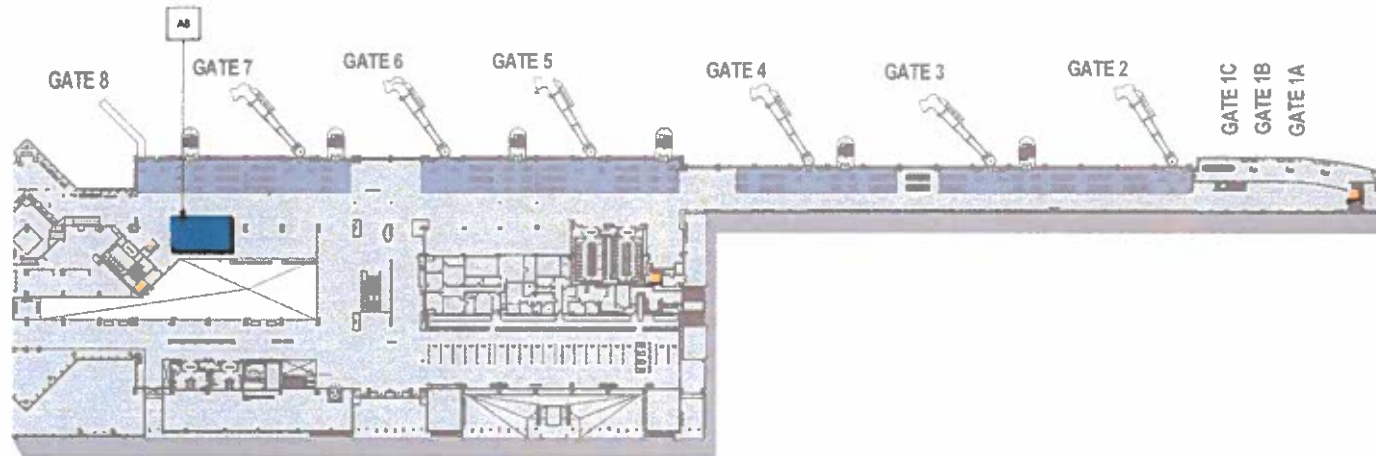
IF ANY DISCREPANCIES, INADEQUACIES OR INACCURACIES ARE DISCOVERED DURING THE REVIEW OF THESE DRAWINGS, IT SHOULD BE REPORTED TO THE JOHN WAYNE AIRPORT IN WRITING. IF ANY ELECTRONIC FILES ARE SUPPLIED, IT IS UNDERSTOOD THAT THEY ARE PROVIDED BY THE JOHN WAYNE AIRPORT FOR INFORMATION ONLY. CONVERSIONS OF THE INFORMATION AND DATA FROM THE FORMAT SUPPLIED TO AN ALTERNATE SYSTEM OR FORMAT THAT CAN RESULT IN FILES THAT MAY BE ALTERED WHETHER INADVERTENTLY OR OTHERWISE MAY ALSO RESULT IN THE INTRODUCTION OF INEXACTITUDES, ANOMALIES, AND ERRORS WHICH THE AIRPORT CAN NEITHER PREDICT NOR CONTROL.

ALL DIMENSIONS TO BE FIELD VERIFIED WITH AS-BUILT CONDITIONS AND COORDINATED WITH ALL WALL TYPES OVERHEAD MEP AND STRUCTURAL CONDITIONS VARY, TENANT TO FIELD VERIFY AND CONFIRM ALL AS-BUILT CONDITIONS RELATIVE TO LEASE SPACE.

ALL EXISTING PARTITIONS MAY BE RECONFIGURED EXCEPT FOR THE RESTRICTED AREA. ALL OTHER FINISHES IN THE RETAIL, FOOD PREP, BAR AND SERVICE AREAS SHOULD ALIGN WITH THE STANDARDS IN THE TENANT DESIGN MANUAL. THE DESIGN WILL BE REVIEWED AND APPROVED BY JOHN WAYNE AIRPORT. THE GATE LOUNGE AREA/DINING AREA WILL REQUIRE BOARDING ANNOUNCEMENTS AND COORDINATION OF THE PUBLIC ADDRESS SYSTEM.

LEASE OUTLINE LOCATION STANDARDS:

- BETWEEN DEMISED CONCESSION UNITS LEASE LINE IS LOCATED ON THE CENTERLINE OF DEMISING WALLS.
- BETWEEN CONCESSION UNITS AND HOLD LOUNGE AREAS LEASE LINE IS LOCATED ON THE HOLD LOUNGE SIDE OF THE DEMISING WALL.
- FACING CONCOURSE CIRCULATION LEASE LINE IS LOCATED AT THE OUTSIDE FACE OF GLAZING SYSTEM.
- FACING AIRFIELD LEASE LINE IS LOCATED AT THE OUTSIDE FACE OF GLASS.
- TERMINAL TERRAZZO TO BE PROTECTED BY TENANT LAYOUT MUST ACCOMMODATE QUEUING WITHIN THE TENANTS LEASED AREA.



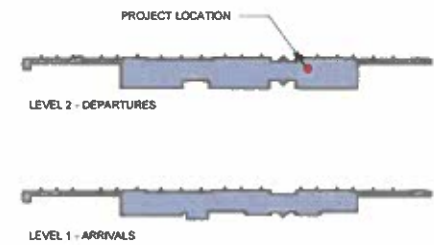
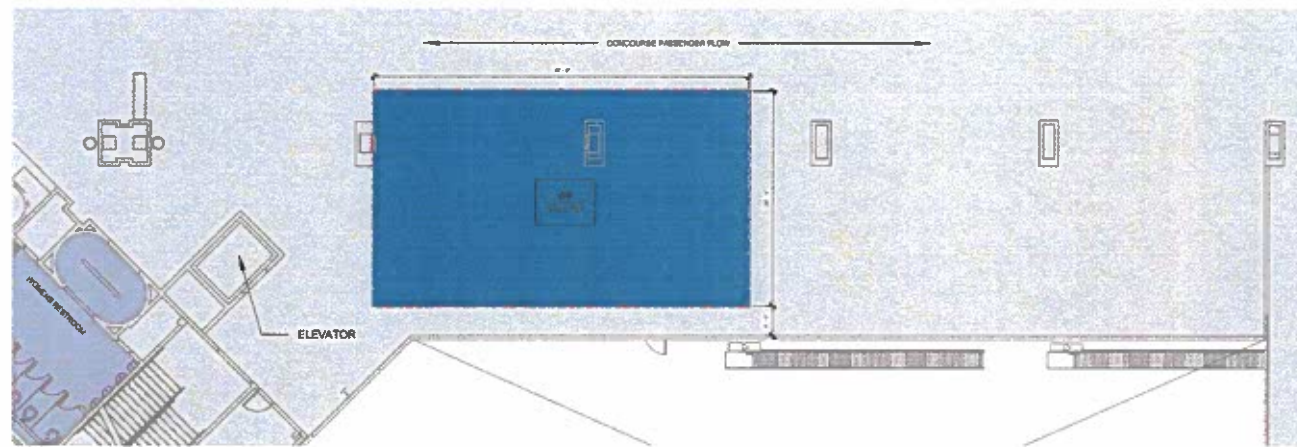
EXISTING UTILITIES

Electric	A8 - 480/277 - 100amp + 100amp
Domestic Water	A8 - none
Waste	A8 - none
Grease Waste	A8 - none
Vent	A8 - none
Gas	A8 - none
HVAC	Concourse Air

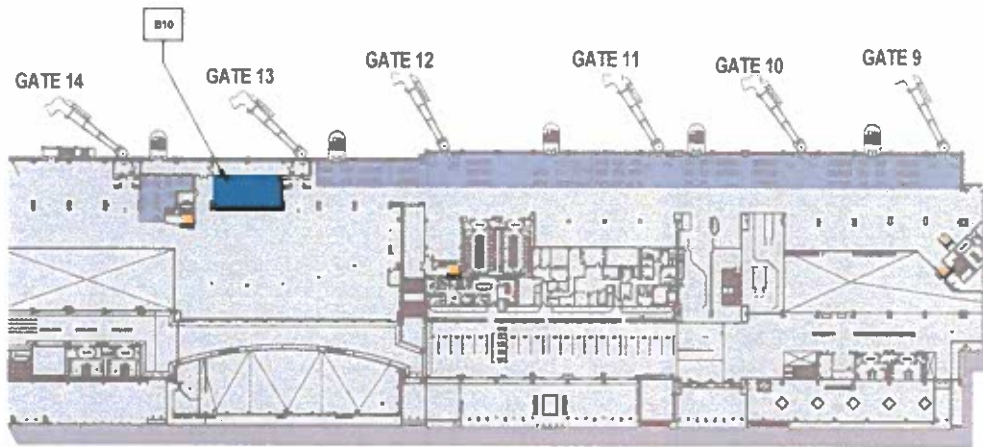
NOTES

A8 - TRAVEL ESSENTIALS

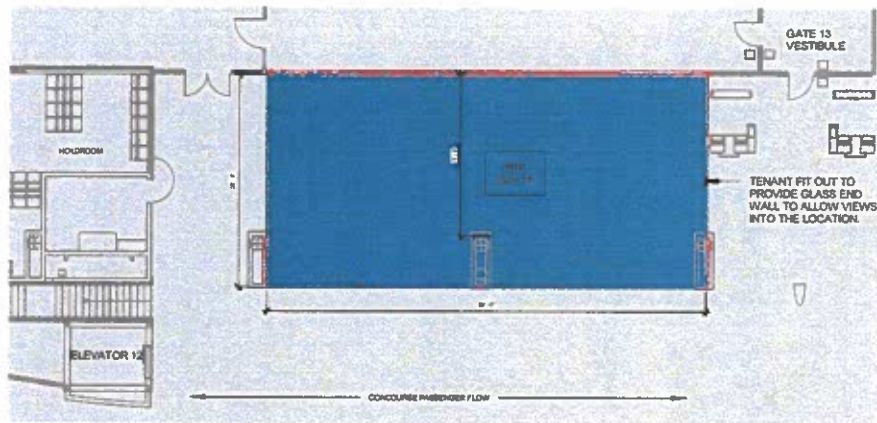
1 A8 Concourse Plan
N.T.S.



2 A8
1/16" = 1'-0"



① B10 Concourse Plan
N.T.S.



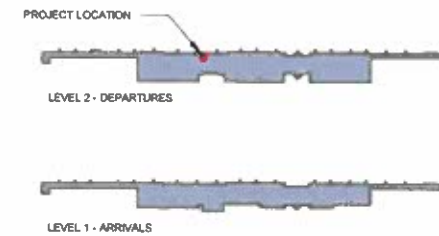
② B10
1/16" = 1'-0"

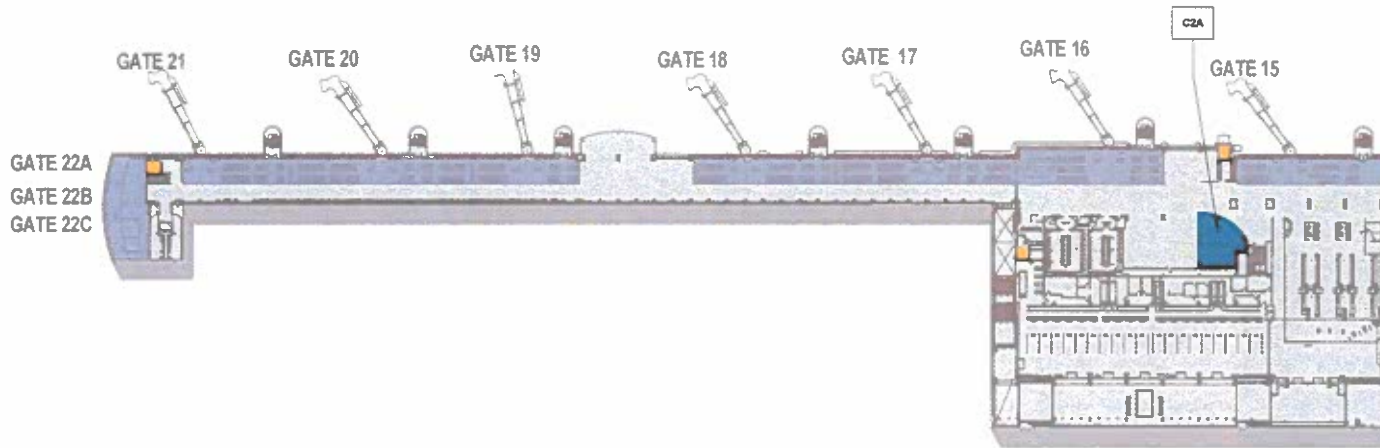
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Grease Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	none
HVAC	Tenant Provided RTU

NOTES

B10 - TRAVEL ESSENTIALS & GOURMET MARKET





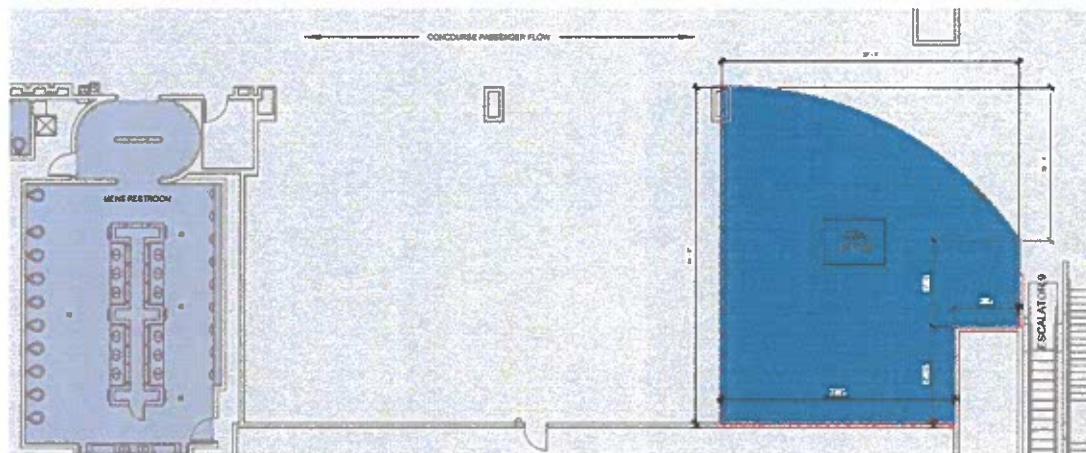
EXISTING UTILITIES

Electric	C2A - 480/277 - 40amp
Domestic Water	C2A - none
Waste	C2A - none
Grease Waste	C2A - none
Vent	C2A - none
Gas	C2A - none
HVAC	Tenant Provided RTU

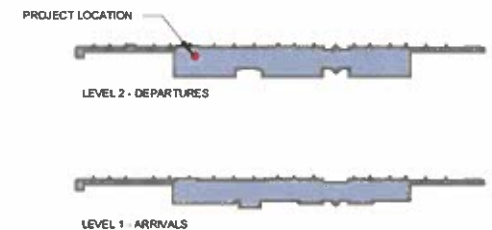
NOTES

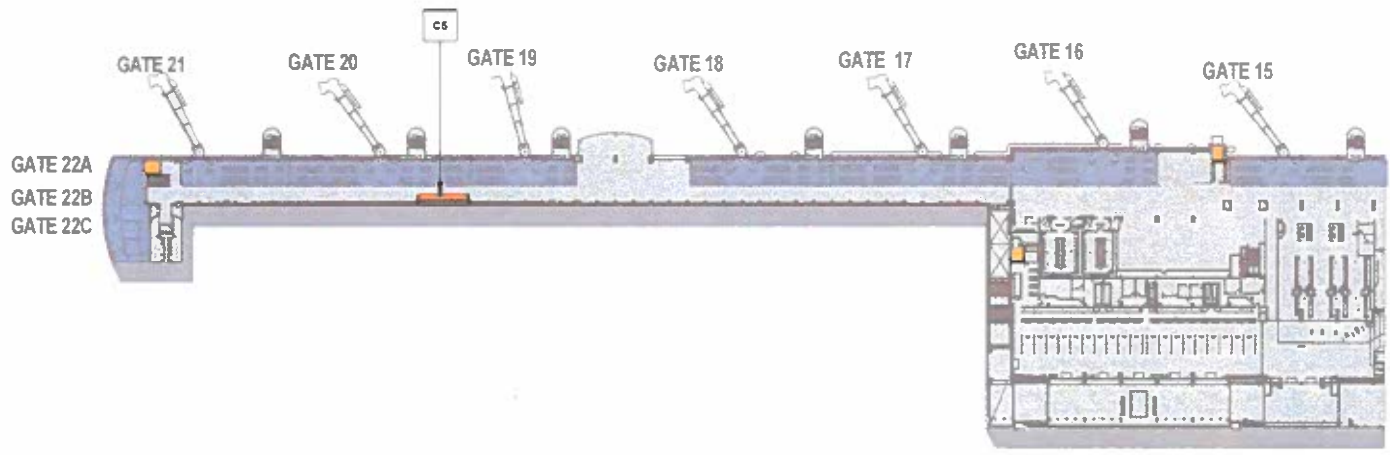
C2A - TRAVEL ESSENTIALS

① C2A Concourse Plan
N.T.S.

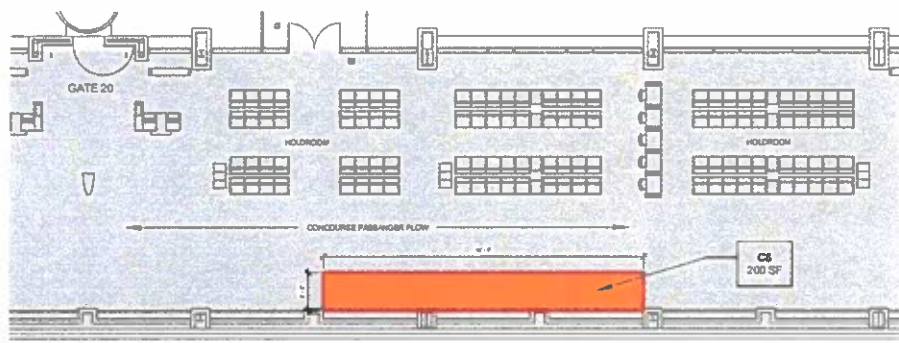


② C2A
1/16" = 1'-0"





① C5 ConcoursePlan
N.T.S.



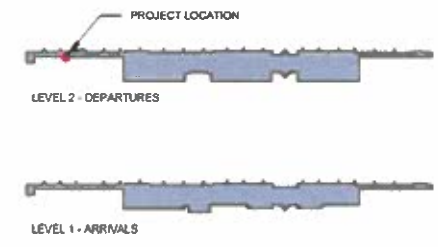
② C5
1/16" = 1'-0"

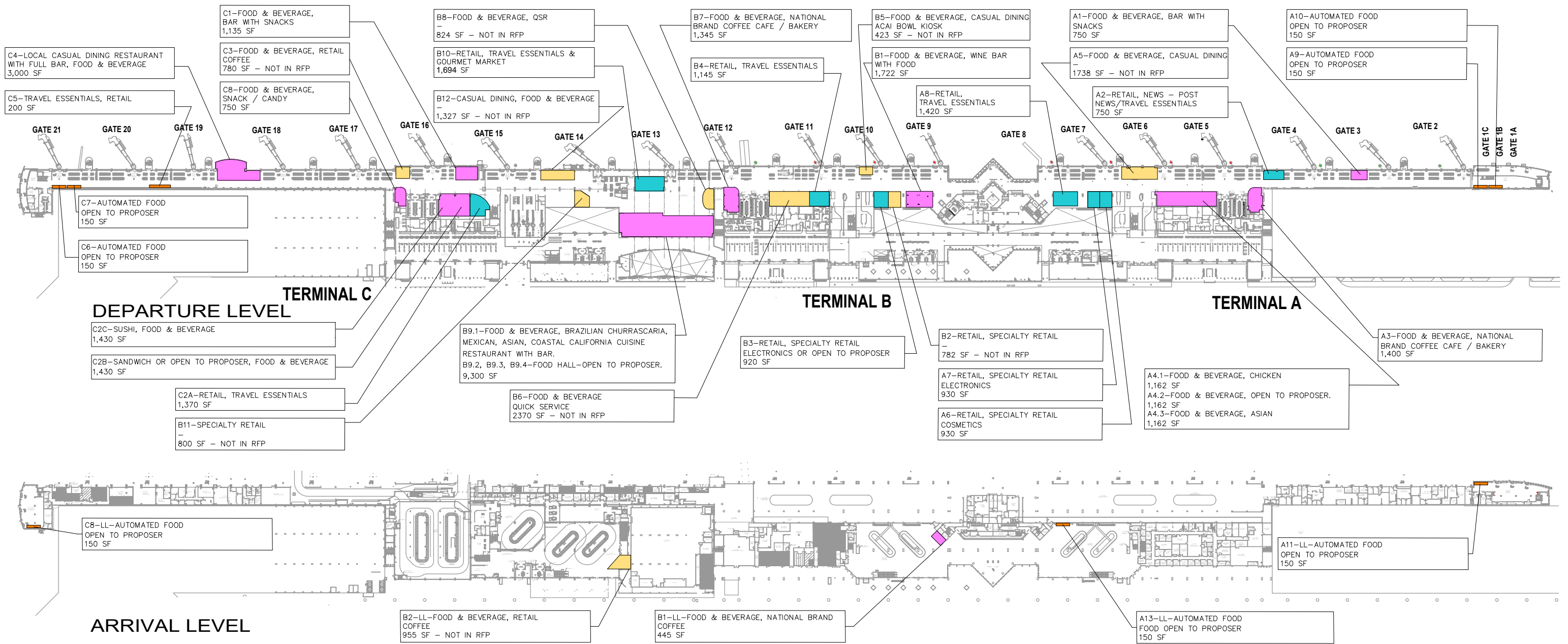
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA
Domestic Water	none
Waste	none
Grease Waste	none
Vent	none
Gas	none
HVAC	Concourse Air

NOTES

C5 - TRAVEL ESSENTIALS





JWA CONCESSIONS AND SUPPORT AREAS



REVISED MARCH 9TH, 2023
 THIS DRAWING IS A PRELIMINARY DRAFT FOR PRESENTATION PURPOSES ONLY AND IS SUBJECT TO CHANGE

**EXHIBIT B – ACKNOWLEDGEMENT AND APPROVAL OF PROPOSAL
DEPOSIT AND DRAFT LEASE PROVISIONS**

Proposal Package _____

The undersigned Proposer hereby submits to the County of Orange (“County”) the Proposal enclosed, to operate as a concessionaire at John Wayne Airport (“Airport”) based upon all terms and conditions set forth in the County’s Request for Proposal dated March 29, 2023 (“RFP”), as it may have been amended in one or more addenda thereto. Proposer further specifically agrees to provide goods and services in the manner set forth in the Proposal. Proposer acknowledges the following:

1. Intent of the County to rely on the Proposer’s submitted information and the representation that Proposer has the capability to successfully undertake and complete the responsibilities and obligations contained in the Proposal and the Draft Concessions Lease (“Draft Lease”) to be executed by the County and Proposer, if Proposer is awarded this concession, and Proposer understands the County will so rely.
2. Proposer has read and fully understands all the provisions and conditions set forth in the RFP and the Draft Lease, and to the terms, conditions, attachments, and exhibits referenced herein and considers the project feasible.
3. Proposer must take all approved package locations.
4. This Proposal constitutes an offer valid for a period of 365 days following the Due Date set forth in the RFP and any addenda thereto.
5. Proposer affirms that this company, corporation, firm, partnership, or individual has not prepared this Proposal in collusion with any other proposer and that the contents of this Proposal as to rent, and its terms or conditions have not been communicated by the undersigned, not by any employee or agent to any other proposer or to any other person(s) engaged in this type of business prior to the official opening of the Proposal.
6. If the Proposal is accepted, Proposer will contract with the County pursuant to the terms and conditions of the attached Draft Lease. The proposer understands the Draft Lease is not negotiable.
7. By submission of this RFP, Proposer fully understands and approves the Proposal Deposit Part 8 Section (B).

The proposal deposit of a successful Proposer shall be refunded within thirty (30) days after submittal of the security deposit and proof of insurance required by the Concessions Lease. Successful Proposer agrees, should they fail to submit the required security deposit or insurance within thirty (30) days of full execution of

the Lease, the Lease shall be terminated, and the proposal deposit shall be retained by the County as liquidated damages for the Proposer's breach.

Company Name (as it appears on your invoice and W9): _____

Fed ID# _____

Signature of Authorized Person: _____

Title: _____

Business Address of Proposer: _____

Business Phone: _____ Date: _____

Signed and sworn before me this _____ day of _____, 20____.

Notary Signature: _____

My Commission Expires: _____

Affix Seal

EXHIBIT C – PROPOSAL COVER SHEET

SEALED PROPOSAL

**County of Orange/John Wayne Airport
Eddie Martin Administration Building
Deputy Airport Director, BD – Concession RFP
3160 Airway Avenue
Costa Mesa, CA 92626**

Proposer Company Name:

(as it appears on your invoice and W9)

Company RFP Representative:
(First and Last Name)

Business Address of Proposer:

Business Phone: _____

Select Package:

_____ FB1 _____ FB 2 _____ RTL 1 _____ RTL 2

**JOHN WAYNE AIRPORT
ORANGE COUNTY**



EXHIBIT D: PROPOSER CHECKLIST

Nonresponsive or Late Proposals: Proposals not submitted in the manner described herein may be considered nonresponsive and subject to rejection. Late Proposals will be rejected and returned to the Proposer.

Page Limit: Proposals shall not exceed **one-hundred (100) two-sided pages**, excluding front and back covers, section dividers, financial statements, Conceptual Development Plans, foam boards, and table of contents.

Format: Proposals must be typewritten in Times New Roman 12-point font on white 8½" x 11" paper (except as noted below for 11" x 17" plans) in portrait format, and must be unbound. White three-ring binders with clear covers are required and must include Proposer's information inserted in the cover. All pages of the Proposal are to be numbered for ease of review by the evaluation panel.

Format for conceptual renderings, layouts, and material boards:

- All foam boards must be 11" x 17" in size.
- Color/sample boards with material legend identifying all items and their locations (for both interior and exterior finishes).
- All of the above items are required to be color copied onto 11" x 17" paper and inserted into each Proposal package consisting of eight (8) complete sets (see below). The color copies onto 11" x 17" paper are included in the page count.

Number of Proposals: **Eight (8)** full sets of your written Proposal, **one (1)** original clearly marked "Original" with original ink signatures, **seven (7)** copies and **eight (8)** USB flash drives containing files in PDF file format along with Proposer's deposit.

Additionally, Proposers must submit **four (4) complete half size hard copy sets (18" x 24")** and **four (4) USB flash drives with PDFs** of Conceptual Development Facility Plans prepared by a California licensed Architect and Engineer (A/E) fully depicting the Proposer's proposed development.

Packaging and Identification: Proposer shall submit its Proposal in a sealed package and shall write/type the following identification information on the outermost portion of the sealed package:

SEALED PROPOSAL

County of Orange/John Wayne Airport
 Eddie Martin Administration Building
 Deputy Airport Director, BD – Concession RFP
 3160 Airway Avenue
 Costa Mesa, CA 92626

The following items are required to be checked and submitted. Proposal must be tabbed in the order outlined below. Failure to do so may result in disqualification.

- Tab 1 - Proposer Cover Sheet – Exhibit C**
- Tab 2- Proposer Checklist – Exhibit D Signed and Dated**
- Tab 3 - Signed and dated Acknowledgement and Approval of Proposal Deposit and Draft Lease Provisions - Exhibit B**
- Tab 4 - Proposal Deposit of \$25,000**
- Tab 5 - Cover Letter including all information specified in the RFP**
- Tab 6 - Proposed Concept/Executive Summary**
- Tab 7 - Business Plan, Design Intention and Capital Investment**
- Tab 8 - Management Experience**
- Tab 9 – Sustainability**
- Tab 10 - Operations Plan, Customer Service, Employee Retention**
- Tab 11 – Required Forms**
 - Proposer Form and Questionnaire – Exhibit E
 - Pro-Forma Template – Exhibit F
 - Financial Viability Form – Exhibit G
 - Disclosure Act Levine Form – Exhibit I

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

NAME AND TITLE OF AUTHORIZED OFFICIAL:

SIGNATURE: _____

DATE: _____

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

1. Name of Proposer exactly as it will appear on the Lease:

2. Address of Proposer for purposes of notice or other communication relating to the Lease:

3. Telephone Number of Proposer:

4. Contact:

5. Title:

6. FAX number of Proposer:

7. E-mail Address:

8. Local Contact

Address:

Telephone number:

FAX number

E-mail Address:

9. Proposer intends to operate the business with which this proposal is concerned as a

Sole Proprietorship []; Partnership []; Corporation []; Joint Venture []; LLC [];

or:

Explain:

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

LIMITED LIABILITY COMPANY STATEMENT

1. Provide an organizational chart for the LLC and a diagram showing its relationship to any other related corporations, limited liability companies or related organizations.
2. Furnish the information as shown below for the Corporation Statement as appropriate for a limited liability company including when and where formed, the number of voting units, non-voting units, and number of unit holders. Include the requested information regarding each manager, managing member and principal unit holder.

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

CORPORATION STATEMENT

If a Corporation, answer the following:

1. When incorporated? _____
2. Where incorporated? _____
3. Is the Corporation authorized to do business in California? Yes [] No []

If so, as of what date? _____

4. The Corporation is held: Publicly [] Privately []
5. If publicly held, how and where is the stock traded?

6. List the following:

Authorized Issued Outstanding

- | | | | | |
|----|----------------------------------|-------|-------|-------|
| A. | Number of voting shares: | _____ | _____ | _____ |
| B. | Number of nonvoting shares: | _____ | _____ | _____ |
| C. | Number of shareholders: | _____ | _____ | _____ |
| D. | Value per share of common stock: | _____ | _____ | _____ |

Par \$ _____

Book \$ _____

Market \$ _____

7. Furnish the name, title, residence address, and the number of voting and nonvoting shares of stock held by each officer, director, and principal shareholder.

<u>Name</u>	<u>Title</u>	<u>Residence Address</u>	<u>Voting Shares</u>	<u>Nonvoting Shares</u>
A. _____ _____	_____ _____	_____ _____	_____ _____	_____ _____
B. _____ _____	_____ _____	_____ _____	_____ _____	_____ _____
C. _____ _____	_____ _____	_____ _____	_____ _____	_____ _____
D. _____ _____	_____ _____	_____ _____	_____ _____	_____ _____

REQUEST FOR PROPOSALS

Page 4

CONCESSIONS

Initial _____ Date _____

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

CORPORATION STATEMENT (continued)

8. Furnish Corporate Resolution indicating parties authorized to contract on behalf of the Corporation. Corporate Resolution must contain corporate seal and be certified by the Secretary of the Corporation.
9. Affiliation with Other Corporations. Have the principals of the proposing corporation been part of any other corporations as corporate officers, holders of 51% or more of the stock or directors within the last 5 years? If so, furnish name of principal as listed with other corporations, name of the other corporation including any dba names, the date of incorporation, position and percentage of shares held.

<u>Principal</u>	<u>Corporation</u>	<u>Date</u>	<u>Position</u>	<u>% shares</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

JOINT VENTURE STATEMENT

If a Joint Venture, answer the following:

1. Date of Organization _____
2. Joint Venture Agreement recorded? Yes [] No []
3. Has the Joint Venture done business in Orange County? Yes [] No []

When? _____

4. Name and address of each Joint Venturer:

<u>Name</u>	<u>Address</u>
A. _____	_____
B. _____	_____
C. _____	_____
D. _____	_____

5. Attach a complete copy of the Joint Venture Agreement.

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

EXPERIENCE

Proposers shall provide the following:

- a. A detailed description of the duration and extent of Proposer's business experience with the operation and management of a Food and Beverage or Specialty Retail Concession (as applicable) including a list of current (and previous) locations where Proposer operates or has operated a Food and Beverage or Specialty Retail Concession.
- b. Does the Proposer have a collective bargaining agreement in place? Yes No
- c. Provide the last fiscal year revenues for each location where you operate a concession.
- d. Provide information, including resumes, of the background and relevant experience of the persons who will be directly involved in the management and oversight of the proposed concession at JWA.

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE**REFERENCES: Management**

List four (4) persons or firms for whom you have been associated with as a Specialty Retail or Food & Beverage Concession for the last five (5) years. Attach additional sheets if necessary.

Reference No. 1

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature of Relationship:

_____Reference No. 2

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature of Relationship:

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

Reference No. 3

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature of Relationship: _____

Reference No. 4

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature and magnitude: _____

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

REFERENCES: Payment History

List two (2) persons or firms who have knowledge of your payment history. Attach additional sheets if necessary.

Reference No. 1

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature and magnitude:

Reference No. 2

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature and magnitude:

REQUEST FOR PROPOSALS

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CONCESSIONS

Initial _____ Date _____

Instructions: Provide one pro forma per concession package. In the Gross Receipts section, insert information for each location included in the package, itemizing the gross receipts (sales) by revenue source (insert as many rows as needed). The "Total Package Gross Receipts" should be the total of all the locations. Adjust the gross receipts total as they insert rows for each of the locations and verify all totals prior to submitting.

Proposing Entity	
Concession Package	
Sq. Ft.	

	2024	2025	2026	2027	2028	Total
GROSS RECEIPTS (SALES) (\$)						
Insert Location Name						
a. (insert revenue source)						\$ -
b. (insert revenue source)						\$ -
Total Gross Receipts (insert location)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Package Gross Receipts (total all locations)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
OPERATING EXPENSES (\$)						
Payroll (salaries)						\$ -
Payroll (taxes and benefits)						\$ -
Cost of Goods Sold						\$ -
Franchise or License Fees						\$ -
Office, Storage and Distribution						\$ -
Utilities						\$ -
Insurance						\$ -
Credit Card Fees						\$ -
Licenses and Permits						\$ -
Repairs & Maintenance						\$ -
Administration & General						\$ -
Rent to Airport						\$ -
Other						\$ -
Total Operating Expenses	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
EBITDA						
Earnings before interest, taxes, depreciation and amortization	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Working Capital (\$)						\$ -
Total Capital Investment (\$)						\$ -
Enplanements (EP)*	5,800,000	5,800,000	6,150,000	6,150,000	6,150,000	
Annual Gross Sales per EP (\$)	\$ -	\$ -	\$ -	\$ -	\$ -	
Annual % Change in Gross Sales (\$)		0.0%	0.0%	0.0%	0.0%	

*Note: Enplanements provided reflect projected estimates only to assist Proposers in submitting a response to this RFP and assist the Airport in evaluating proposals. They are not guarantees or commitments by the Airport of minimum traffic levels. The projections are within the annual passenger cap required by a Settlement Agreement with surrounding communities; see <https://www.ocair.com/about/administration/settlement-agreement/>

EXHIBIT G – FINANCIAL VIABILITY FORM

Financial Standing / Going Concern:

Provide a summary page containing key financial data (e.g. cash/cash equivalent, accounts receivables, current assets, etc.), and attach financial statements prepared in accordance with generally accepted accounting principles, reflecting your current financial condition. **The statement must include a balance sheet, income statement, cash flow statements and notes to the audited financial statements for the last two fiscal years, prepared by an independent Certified Public Accountant (this is required).** You must be prepared to substantiate all information shown.

Surety Information:

- Has the company ever had a bond or surety canceled or forfeited? Yes [] No []
- If yes, attach a statement naming the bonding company, date, amount of bond, and reason for such cancellation or forfeiture.

Bankruptcy Information:

- Has the company, any principal of the company, or any company with which a principal has been involved, ever filed bankruptcy proceedings? Yes [] No []
- If yes, state date, chapter, jurisdiction, amount of liabilities, amount of assets, and disposition of the proceedings.

Felony Information:

- Has a principal of the company ever been convicted of a felony? Yes [] No []
- If yes, state date, court jurisdiction, and details of the conviction.

Prior Litigation:

Disclose all litigation, mediation or arbitration and the resolution, with public entities (including but not limited to cities, counties, municipalities and districts) in California since January 1, 2008.

Pending Litigation:

Attach detailed information regarding any litigation, liens, or claims involving the company or its principals that could materially impact your ability to perform under the Concession Use Agreement.

NOTE: Failure to disclose all relevant information shall be grounds for disqualification of a Proposer.

Pro Forma Income Statement:

Proposers are required to submit a detailed Pro Forma income statement reflecting the revenue and expenses related to the Concession Use Agreement. The statement will be evaluated with respect to its ability to support the rent and the proposed concession development. The Pro Forma form template is required and notes pertaining to the Pro Forma may be added as an additional page (**Exhibit F – Pro Forma Template** - no alterations to the template are permitted).

Please provide any other financial information which you feel will be helpful in evaluating your ability to successfully develop and manage the proposed Concession Package.

Attach additional sheets if extra space is required.

I certify that I have answered all of the above items, as applicable. It is required to sign and date below, otherwise Proposer may be disqualified from the evaluations process.

Proposer Name _____ By: _____ Date: _____

CONCESSION LEASE
"[ENTER AGREEMENT NUMBER]"

JOHN WAYNE AIRPORT
ORANGE COUNTY



Dated _____

Between

County of Orange

and

<Insert Tenant Name>

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**JOHN WAYNE AIRPORT RETAIL/FOOD & BEVERAGE
CONCESSION LEASE**

CONCESSION LEASE

[TYPE AGREEMENT NUMBER HERE]

THIS <INSERT CATEGORY OR TYPE> CONCESSIONS LEASE ("Lease") is made and entered into this ___ day of _____, 20___, by and between the County of Orange, a political subdivision of the State of California ("County"), and _____ ("Tenant"). County and Tenant may sometimes hereinafter individually be referred to as "Party" or jointly as "Parties."

RECITALS

WHEREAS, County, through its Board of Supervisors, is the owner and proprietor of John Wayne Airport ("JWA" or "the Airport"), located in the County of Orange, California, and operates and maintains the Airport as a governmental function for the primary purpose of providing air transportation to the public; and

WHEREAS, County issued a Request for Proposals for Food and Beverage and/or Retail Concessions, and as a result of the proposal process, Tenant was selected to provide [Food and Beverage or Retail] Concessions at the Airport; and

WHEREAS, County and Tenant mutually desire to enter into this Lease in order to provide [Food and Beverage or Retail] Concessions to the passengers at the Airport; and

WHEREAS, County has the right to grant the use of the Airport to Tenant for the operation of [Food and Beverage or Retail] Concessions Tenant as provided by this Lease; and

WHEREAS, Tenant acknowledges that this Lease is being entered into under the provisions of California Public Utilities Code § 21690.5, *et seq.*, and in particular, § 21690.9.

NOW, THEREFORE, in consideration of the promises and the mutual covenants hereinafter contained to be observed and performed by the respective Parties hereto,

THE PARTIES HERETO COVENANT, AGREE, AND BIND THEMSELVES AS FOLLOWS:

**JOHN WAYNE AIRPORT RETAIL/FOOD & BEVERAGE
CONCESSION LEASE**

ARTICLE I. DEFINITIONS

SECTION 1.01 DEFINITIONS

The following terms shall have the meanings set forth below:

Accounting Year: Shall mean (a) With respect to the first Accounting Year during the Term, the period commencing on Term Commencement Date continuing twelve full calendar months, and (b) with respect to each Accounting Year thereafter during the Term, each twelve-month period commencing on the first day of the month following the first full Accounting Year. Provided that if the Term expires or is terminated on a day other than the last day of an Accounting Year, the last Accounting Year will then end as of the date of such expiration or termination. Example: If the Term Commencement Date is on March 15, the first accounting year will include March 15 through March 30 of the following year. Thereafter, the accounting year would start on April 1 and end on March 30.

Agreement: Shall mean and refer to this Lease, including all exhibits, appendices, schedules, attachments, and subsequent amendments thereto, as the same may be amended from time-to-time.

Airport: Shall mean John Wayne Airport, Orange County, California located at 18601 Airport Way, Santa Ana, CA 92707.

Airport Concession Disadvantaged Business Enterprise (“ACDBE”): Shall mean a concession that is a for-profit small business concern (1) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation in which 51 percent of the stock is owned by one or more such individuals; and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. In order to become ACDBE certified, a firm must meet the eligibility criteria stated in 49 CFR Part 23. ACDBEs must be certified by a certifying agency under the California Unified Certification Program (“CUCP”) with the appropriate North American Industry Classification System (“NAICS”) code for their type of business.

Airport Director: Shall mean the Director of John Wayne Airport, County of Orange, as appointed by the Board of Supervisors, or his or her duly authorized designee.

Approved Project: Shall mean, as it applies to any portion of the Leased Premises, Tenant’s construction, furnishing, fixturing, and remodeling of such portion of the Leased Premises as reviewed and approved by County in accordance with the Tenant Design Guidelines.

As-Built Documents: Shall mean record documents of the construction, additions, and other modifications constructed by Tenant on the Leased Premises including but not limited to Tenant’s as built models and drawings in the format as required by County.

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Audited Statement of Gross Receipts (“Financial Statement”): Shall mean an audit report prepared annually by an Independent Certified Public Accountant (“CPA”), in accordance with Generally Accepted Auditing Standards expressing an opinion from the Independent CPA on whether the Schedule of Gross Receipts, Rent and all other fees and charges payable under this Lease have been completely and accurately presented, calculated, reported and paid according to the terms of this Lease.

Auditor-Controller: Shall mean the Auditor-Controller, County of Orange, or designee.

Base Rent: Shall mean the rent paid to County by Tenant in accordance with Section 4.03.

Board of Supervisors: Shall mean the governing body of the County of Orange.

Capital Investment: Shall mean those dollars spent by Tenant in the actual construction, remodeling, furnishing, fixturing, and equipping of any portion of the Leased Premises, in connection with an Approved Project for such portion of the Leased Premises. Capital Investment includes:

1. Architectural and Engineering Fees: All soft costs associated with designing the Approved Project.
2. Leasehold Improvements: All improvements and equipment that are structural in nature or are affixed to the Leased Premises and cannot be removed without material damage to the Leased Premises including, but not limited to, mechanical, electrical, and plumbing work, floors, ceilings, demising walls, store fronts, lighting fixtures, and built-in shelving.
3. Furniture, Trade Fixtures, and Equipment (“FF&E”): All furniture, fixtures and major equipment installed by Tenant within the Leased Premises for use in its performance of the Concession which may be removed from the Leased Premises without causing material damage to the Leased Premises.

Claim: Shall mean any demand, action, cause of action, suit, proceeding, arbitration, claim, judgment or settlement or compromise relating thereto which may give rise to a right to indemnification and defense pursuant to the terms of this Lease

Codes: Shall mean all current applicable federal, state, and local laws and regulations, including but not limited to, or ordinances, and building codes, and all Airport Rules and Regulations.

Concession: Shall mean the rights granted to Tenant by County to develop and operate a business to sell food & beverage, retail or passenger services products to the public, and related operations thereto, within the Leased Premises and in accordance with the terms and conditions of this Lease.

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Concession Space Rent: Shall mean the amount payable by Tenant to County for the use and occupancy of the Leased Premises, as further described in Section 4.02.

Construction Costs: Shall mean those dollars spent by Tenant in the actual construction, remodeling, furnishing, fixturing, and equipping of any portion of the Leased Premises, as further defined in Section 11.12. Construction Costs include but are not limited to:

1. Architectural and Engineering Fees: All soft costs associated with designing the Approved Project.
2. Leasehold Improvements: All improvements and equipment that are structural in nature or are affixed to the Leased Premises and cannot be removed without material damage to the Leased Premises including, but not limited to, mechanical, electrical, and plumbing work, floors, ceilings, demising walls, store fronts, lighting fixtures, and built-in shelving.
3. Furniture, Trade Fixtures, and Equipment (“FF&E”): All furniture, fixtures and major equipment installed by Tenant within the Leased Premises for use in its performance of the concession which may be removed from the Leased Premises without causing material damage to the Leased Premises.

County: Shall mean the County of Orange, a political subdivision of the State of California.

Date of Beneficial Occupancy (“DBO”): Shall mean the date upon which Tenant completes any Approved Project and opens a Concession for business in any portion of the Leased Premises.

DOT: Shall mean the Department of Transportation.

Effective Date: Shall mean the date this Lease is fully executed by the Parties.

Enplanements or Enplaned Passengers: Shall mean all those passengers boarding flights at the Airport from scheduled or chartered flights, whether domestic or international, including non-revenue passengers (but excluding airline crew for the flight), and including those passengers connecting from arriving flights of same or another airline.

Environmental Laws: Shall mean any federal, State, or local laws, statutes, ordinances, codes, judgments, orders, rules, or regulations pertaining to the environment and/or human health, Hazardous Materials, Substances, Pollutants, occupational safety and health, industrial hygiene or the environmental conditions on, at, under or about the Airport, and includes, without limitation, the following: (i) the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; (ii) Clean Water Act, 33 U.S.C. § 1251 *et seq.*; (iii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act Of 1986 (“CERCLA”), 42 U.S.C. § 9601 *et seq.*; (iv) 49 C.F.R. Parts 173 and 175 Subchapter C (Transportation of Hazardous Materials); (v) the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1986 and Hazardous and Solid Waste Amendments

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of 1984 (“RCRA”), 42 U.S.C. § 6901 *et seq.*; (vi) the Oil Pollution Act of 1990, 33 U.S.C. § 2701 *et seq.*; (vii) the Federal Water Pollution Control Act, 33 U.S.C. § 1317 *et seq.*; (viii) the Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”); (ix) California Health and Safety Code §§25100, 25395.7, 25915 *et seq.*; (x) the Porter-Cologne Water Quality Control Act (California Water Code); (xi) California Civil Code § 3479 *et seq.*; (xii) Storm Water Discharge Rules, 40 C.F.R. §§ 122.26, 122.30-37; (xiii) the Carpenter-Presley-Tanner Hazardous Substances Account Act; (xiv) the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; (xv) the Safe Drinking Water Act, 24 U.S.C. § 300f, *et seq.*; (xvi) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ (or most current); (xvii) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ amended by 2010-0014-DWQ & 2012-0006-DWQ; (xviii) The County of Orange, Orange County Flood Control District and The Incorporated Cities of Orange County within the Santa Ana Region Areawide Urban Storm Water Runoff Orange County Municipal Separate Storm Sewer System (MS4) Permit Order No. R8-2009-0030 (National Pollutant Discharge Elimination System No. CAS618030) as amended by Order No. R8-2010-0062; (xix) South Coast Air Quality Management District Regulations and Rules; and (xx) all other federal, State, and local laws, rules, orders, directives, and codes, regulations, judgments, and orders relating to (a) emissions, discharges, releases, and/or threatened releases of Hazardous Materials, Substances into the environment (including, but not limited to, ambient air, surface water, groundwater, land surface, or subsurface strata); and (b) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of Hazardous Materials, Substances, as such laws are amended, and the regulations and administrative codes applicable thereto.

Existing Concession Locations: Shall mean Concessions currently located in the Terminal pursuant to an existing agreement.

Expiration Date: Shall mean the date fifteen (15) years from the Term Commencement Date

FAA: The Federal Aviation Administration or any successor thereto.

Gross Receipts: Shall mean all monies paid or payable to Tenant for sales made, services rendered, and customer orders fulfilled at or from the Leased Premise, as more fully described in Section 4.01.

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Hazardous Materials or Hazardous Substances: Shall mean any Pollutant, contaminant, chemical, compound, substance, hazardous or toxic substance, material, waste, and/or any other matter, which is or shall become regulated by any governmental entity, including, but not limited to County acting in its governmental capacity, the State of California, and/or the United States Government. The term “Hazardous Materials, Substances” includes, without limitation, any material or substance which is: (i) defined or listed as a “hazardous waste,” “extremely hazardous waste,” “restrictive hazardous waste” or “hazardous substance” or considered a waste, condition of pollution, nuisance, and/or is controlled or governed under any Environmental Law; (ii) petroleum or a petroleum product or fraction thereof; (iii) asbestos or asbestos-containing materials; (iv) flammable or explosive substances; (v) mold-containing materials; polychlorinated biphenyl compounds; mold spores or fractions thereof; and/or (vi) substances designated by any governmental entity to cause cancer and/or reproductive toxicity.

Initial Capital Investment: All costs related to the initial redevelopment of the Leased Premises are collectively referred to as “Initial Capital Investment.” Initial Capital Investment excludes the cost of any and all refurbishments as described in 11.03.

Interim Concession Locations: Shall mean temporary locations Tenant may use during the build-out of permanent Concessions, as more fully described in Section 2.03.

Interim Phase: Shall mean the time period from the Effective Date to the Term Commencement Date.

John Wayne Airport Construction Standards: Shall mean the construction standards for Airport tenants, their consultants, and contractors for completing tenant improvements at the Airport and may contain requirements applicable to Tenant beyond those provided by this Lease, as may be amended from time to time.

Leased Premises: Shall mean the areas of the Terminal which County has granted Tenant the right to use on an exclusive-use basis as described in Exhibit A.

Marketing Fund Fee: Shall mean 0.5% of total monthly gross receipts to be used for promotional purposes. All monies received by the Airport for the marketing fund shall be used solely for the purpose of Airport tenants' promotions and directly related expenses.

Non-Storm Water Discharge: Shall mean any discharge to storm sewer systems that is not entirely composed of storm water. “Non-Storm Water Discharge” includes “Unauthorized Non-Storm Water Discharges” and “Authorized Non-Storm Water Discharges” as defined by the California Environmental Protection Agency State Water Resources Control Board National

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Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activities and Construction Activities.

Notice to Proceed: Shall mean, As it applies to any portion of the Leased Premises, the written notice from County to Tenant delivering possession of such portion of the Leased Premises to Tenant to commence the Approved Project for any portion of the Leased Premises, and which establishes the Space Turnover Date and Required Completion Date for such portion of the Leased Premises.

NPDES Permit: Shall mean the currently applicable discharge permit(s) issued by the Regional Water Quality Control Board, Santa Ana Region, which establish waste discharge requirements applicable to storm runoff within the County and Airport.

Percentage Rent: Shall mean the monthly rent paid by Tenant to County, in accordance with Section 4.04.

Pollutant: Shall mean any chemical, compound, substance, liquid, solid or semi-solid substances, or combination thereof, including but not limited to:

- a. Artificial materials (such as floatable plastics, wood products or metal shavings);
- b. Household waste (such as trash, paper, and plastics; cleaning chemicals, yard wastes, animal fecal materials, used oil and fluids from vehicles, lawn mowers and other common household equipment);
- c. Metals and nonmetals, including compounds of metals and nonmetals (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus and arsenic) with characteristics which cause an adverse effect on living organisms;
- d. Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease.);
- e. Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity or odor;
- f. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;
- g. Materials which contain base/neutral or acid extractable organic compounds;
- h. Those pollutants defined in Section 1362(6) of the Federal Clean Water Act; and
- i. Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus, or enterococcus, or eroded soils, sediment and particulate materials, in quantities that will interfere with or adversely affect the beneficial use of the receiving waters, flora or fauna of the State; and
- j. Any substance listed under Health and Safety Code, §25316.

Required Completion Date: Shall mean the date set forth in a Notice to Proceed by which Tenant must complete Approved Project, except as such date may be extended in accordance with the provisions herein.

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Space Turnover Date: Shall mean the date provided in a Notice to Proceed which makes a portion of the Leased Premises available to Tenant to commence the Approved Project in such portion of the Leased Premises.

Store Hours: Shall mean a Concession's hours of operation as described in Section 7.04.

Storm Water: shall mean storm water runoff, snowmelt runoff, and storm water surface runoff and drainage.

Storm Water Drainage System: Shall mean a street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility, which is a part of a tributary to the County-wide storm water runoff system and owned, operated, maintained or controlled by the County of Orange, the Orange County Flood Control District or any co-permittee city, and used for the purpose of collecting, storing, transporting, or disposing of storm water. The Airport storm drain system shall mean any gutter, channel, storm drain, constructed drain, wash area, inlet or outlet or other facility that flows into, onto, through or out of the Airport property.

Substantial Completion Date: Shall mean the date upon which Tenant completes Tenant improvements based upon the submitted and approved development plans and opens for business all Concessions within the Leased Premises.

Support Space(s): Shall mean the non-selling locations which are intended for the support of Tenant's operation of the Concession including, but not limited to, offices, commissary, and storage spaces.

Tenant: Shall mean the legal entity that is Party and bound to the terms and conditions of this Lease. Notwithstanding Section 4.01, Tenant shall include all approved subtenants who are operating within the Leased Premises pursuant to subleases with Tenant. Any person representing Tenant, as required by the terms and conditions of this Lease, shall be an authorized official of Tenant.

Tenant Design Guidelines: Shall mean the criteria established for design and construction of Tenant projects at the Airport and may contain requirements applicable to Tenant beyond those provided by this Lease, as may be amended from time to time.

Tenant's Response: Shall mean Tenant's proposal in response to RFP No. PM 1121-0345-0034, and any subsequent information submitted by Tenant during the evaluation process, as modified and accepted by County.

Term: The term of this Lease shall be fifteen (15) years from the Term Commencement Date.

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Term Commencement Date: Shall mean the earlier of a) Substantial Completion Date; or b) twelve (12) months from the Airport issued Notice to Proceed for any portion of the Leased Premises.

Terminal: Shall mean the Thomas F. Riley commercial passenger terminal at John Wayne Airport.

TSA: Shall mean the U.S. Department of Homeland Security Transportation Security Administration or any successor thereto.

SECTION 1.02 LEASE EXHIBITS

The following Exhibits are attached hereto and are hereby incorporated and made a part of this Lease:

Exhibit A – Leased Premises Description and Lease Outline Drawings (“LODs”)

Exhibit B – Permitted Uses

Exhibit C – Monthly Concession Reports

Exhibit D – Development Schedule

Exhibit E – Merchandise/Menu and Pricing

Exhibit F – Requirements for Digital Record Files

Exhibit G – Percentage Rent Rates

Exhibit H – Schedule of Assets and Amortization Including Date of Beneficial Occupancy (“DBO”)

The documents referenced in this Lease and listed below may be found at the following web address:

<https://www.ocair.com/business/tenant-information/tenant-projects/>

You may copy and paste the link into your web browser, or type the URL in its entirety to reach the website.

1. Tenant Design Guidelines.
2. John Wayne Airport Construction Standards
3. Computer Aided Design Data Standard
4. Building Information Modeling (BIM) Standards

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5. Geographic Information System Data Standard

The Parties acknowledge and agree that certain content required to complete the above Exhibits and Appendices are, as of the Effective Date, unknown. The Parties further acknowledge and agree that other provisions stated in the above Exhibits are subject to change throughout the Term in accordance with the provisions of this Lease. The Parties therefore agree to minor modifications, as necessary, which may require an amendment to this Lease.

SECTION 1.03 TENANT'S RESPONSE

Tenant and County acknowledge that Tenant's Response was valuable consideration in the award of this Lease to Tenant and is an authoritative reference for understanding the intention of the Parties. Accordingly, Tenant shall be obligated to meet all specifications described in Tenant's Response; provided, however, that where an express provision of this Lease conflicts with any provision of Tenant's Response, this Lease shall control. Tenant's Response is incorporated herein by reference.

SECTION 1.04 INTERPRETATIONS

As used herein mean as follows:

- Day(s) shall mean calendar day(s).
- Month(s) shall mean calendar month(s).
- The use of any number(s) shall be construed as the singular or the plural, all as the context may require.
- Section heading(s) are for the convenience and reference of the Parties, and do not define or limit the scope of any section or provision.
- The language of this Lease shall be construed according to its fair meaning, and not strictly for or against either Party.

If any provision in this Lease is capable of two (2) constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

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ARTICLE II. LEASED PREMISES

SECTION 2.01 LEASED PREMISES DESCRIPTION

County hereby leases to Tenant and Tenant hereby agrees to lease from County the right to use that certain property hereinafter referred to as “Leased Premises,” within the Airport as listed and depicted in Exhibit A (Leased Premises Description and Lease Outline Drawings), including any improvements to be made or modifications to be made thereto. No other part of the Airport shall be part of the Leased Premises.

If the Leased Premises are not fully constructed at the time of Lease execution, then the actual square footage determined after completion of construction shall be adjusted and acknowledged by the Parties. No later than 30 days after the Substantial Completion Date, Tenant shall certify in writing the actual as-built areas of the Leased Premises. The Parties agree to modify Exhibit A to incorporate such as-built areas into the Lease.

SECTION 2.02 ADDITIONS TO AND DELETIONS FROM THE LEASED PREMISES

County and Tenant may, during the Term and by mutual agreement, add additional space(s) or delete space(s) from the Leased Premises. All space(s) added to the Leased Premises pursuant to this Section shall be subject to all the terms, conditions, and other provisions of this Lease and Tenant shall pay to County all rents, fees, and charges applicable to the additional space(s) in accordance with this Lease. In the case of deletions of space(s) from the Leased Premises, rents, fees, and charges paid to County by Tenant shall be appropriately adjusted. The Parties may modify Exhibit A (Leased Premises Description), and Exhibit B (Permitted Uses) as necessary, to incorporate space additions to the Leased Premises and space deletions from the Leased Premises by amendment executed by the Airport Director and Tenant. In the event an adjustment of Tenant’s Leased Premises modifies the Concession Space Rent, the Airport Director may approve the adjustment, not to exceed twenty (20) percent of Concession Space Rent.

SECTION 2.03 ASSIGNING OF INTERIM CONCESSION LOCATIONS

County may grant to Tenant the right to temporarily use various individual locations, to be mutually agreed upon, as might become available from time to time as Interim Concession Locations. Assigned Interim Concession Locations shall become part of the Leased Premises and be subject to the same rent as defined in Section 4.04. All provisions of this Lease shall apply to the operation of the Interim Concession Locations. Tenant shall be permitted to operate such Interim Concession Locations only for the specified permitted use and the specific time period granted by the County. The intent of allowing Tenant the use of the Interim Concession Locations is to allow Tenant the opportunity to operate permitted business activities, provide increased

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customer service levels and to generate revenue to the County. Tenant shall relinquish the Interim Concession Locations to the County upon request.

SECTION 2.04 RECLAIMING OF LEASED PREMISES FOR AIRPORT PURPOSES

County reserves the right to reclaim the Leased Premises when, in the sole discretion of County, such reclaiming is necessary for the development or operations of the Airport or is in the best interest of County.

In the event County should require the Leased Premises, or any portion thereof, for any Airport purpose and removes any portion of Tenant's Leased Premises or terminates the Lease under the provisions of this Section, County shall reimburse Tenant for improvements completed during the term of this Lease to the Leased Premises as follows:

Compensation for improvements located on the Leased Premises shall be calculated by means of the following formula:

$$\text{COMPENSATION} = A \times (B/C)$$

A = Tenant's actual Leased Premises improvement construction costs submitted in accordance with the Section in this Lease entitled, "Completion of Construction."

B = Number of full months remaining in the Agreement term.

C = Number of full months between the date Tenant completed construction of Leased Premises improvements and the date the Agreement would expire by its terms if County did not exercise its right to early termination.

Tenant shall submit to County within sixty (60) days of completion of construction of any Leased Premises improvement, notifications of completion of construction, and submit detailed supporting documentation of construction costs together with "as-built" plans and "Record Documents" as required elsewhere in this Lease. Tenant acknowledges and agrees if Tenant fails to submit notifications and supporting documentation for any such Leased Premises improvements in a timely manner, Tenant waives its right to Compensation, as defined above, for such improvements.

Tenant agrees that exercise by County of its termination rights hereunder shall not be construed as a taking by County of any part of the Leased Premises, nor of Tenant's rights under this Lease, nor shall Tenant, except as provided herein, be entitled to payment for any loss of goodwill, income, or other amount because of partial or full termination of this Lease.

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SECTION 2.05 EXCLUSIVE REMEDY

The Compensation provided pursuant to Section 2.04 shall be the Tenant's sole and exclusive remedy and form of compensation, costs, or damages, including but not limited to the eminent domain law and inverse condemnation (California Code Of Civil Procedure §§1230.010, et seq.), and Relocation Assistance benefits (California Government Code §§7260, et seq.), due to termination, re-entry or acquisition of the Leased Premises by County.

SECTION 2.06 MINOR MODIFICATIONS TO LEASED PREMISES

County shall have the right to make minor modifications to any portion of the Leased Premises at the sole discretion of the Airport Director or designee to accommodate Airport operations, security renovations, maintenance, or other work to be completed in the Airport. Minor modifications are subject to all provisions in Section 2.02.

SECTION 2.07 INGRESS AND EGRESS

Subject to all applicable rules, regulations, or County policies governing the use of the Airport, the County grants to Tenant the non-exclusive right to use, in common with others, certain areas of the Terminal designated by the County to be public or to be used in common, including, but not limited to, the walkways, streets, roadways, waiting rooms, hallways, restrooms and other passenger conveniences for Tenant's employees, customers, contractors, agents, invitees and suppliers for the uses for which those areas were designed ("Public Areas"). Tenant's rights under this section shall include the right of ingress and egress to and from the Leased Premises. The County reserves the right to modify the Public Areas at any time and in any way, it deems appropriate, including, but not limited to, reconfiguration of the Public Areas, expansion or contraction of the Public Areas, or changing access points to and from the Public Areas. Access to some Public Areas may be restricted to Tenant's employees who display valid security access badges issued by County.

SECTION 2.08 LEASED PREMISES ACCEPTANCE IN AS-IS CONDITION

Tenant understands, acknowledges, and accepts the Leased Premises in its present "as-is" and "where-is" condition, with all faults and with absolutely no warranties as to condition or suitability for use being given by County. County shall have no obligation, liability, or responsibility to construct additional improvements or to modify existing conditions, nor to provide services of any type, character, or nature (including any obligation to maintain, repair, or replace utilities or telephone/data service) on or to the Leased Premises during the Term other than as explicitly stated in this Lease. Said Leased Premises include the Existing Concession Locations, which are to be demolished, remodeled, or relocated as provided herein.

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SECTION 2.09 NO WARRANTY OF ECONOMIC VIABILITY

County makes no warranty, promises, or representations as to the economic viability of the Leased Premises or Tenant’s business concept(s) or any other matter pertinent to the potential or likelihood for success or failure of Tenant business operations. Tenant acknowledges that airline gate usage and other aspects of Airport operations are subject to change during the Term without notice and that the County makes no warranty regarding the location of airline gate usage. Except as is specifically set forth herein, County shall not, by virtue of the existence of this Lease, be constrained in connection with its operation of the Airport.

ARTICLE III. TERM

SECTION 3.01 TERM

This Lease shall be effective and binding upon the Parties as of the Effective Date. The Term of this Lease shall begin on the Term Commencement Date and continue 15 years through the Expiration Date.

SECTION 3.02 TERMINATION FOR CONVENIENCE

This Lease, or portions thereof, may be terminated for convenience by County for any reason, and without cause, upon sixty days (60) written notice.

SECTION 3.03 CRITICAL DATES

The Effective Date, DBO, Substantial Completion Date, Term Commencement Date, and Expiration Date shall be considered critical dates (“Critical Dates”). The Parties agree to confirm Critical Dates no later than 30 days after the Term Commencement Date.

SECTION 3.04 HOLDOVER

In the event Tenant shall continue in possession of the Leased Premises after the term of this Lease, such possession shall not be considered an extension or renewal of this Lease but a tenancy from month to month and shall be governed by the conditions and covenants contained in this Lease until such time that County terminates the Lease. Notice of Lease Termination shall be provided no less than thirty (30) days prior to Tenant’s anticipated surrender date of the Leased Premises.

SECTION 3.05 RIGHTS AND OBLIGATIONS UPON EXPIRATION OR TERMINATION

Tenant shall, upon termination of this Lease, with or without cause, surrender the Leased Premises to County peaceably, quietly, and in substantially the same order and condition as was delivered or may be hereafter improved by Tenant as approved by County. Reasonable use and

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wear thereof and damage by casualty, which damage Tenant did not cause and is not required to repair or restore, is excepted. Tenant shall remove all signage and provide temporary walls to seal all openings of Leased Premises that meet the guidelines outlined in the Tenant Design Guidelines and John Wayne Airport Construction Standards. Tenant shall also provide to County all keys to doors, window displays, or any area of controlled access within the footprint of the Leased Premises.

Tenant shall, upon expiration or termination of this Lease, remove all furniture, fixtures, and equipment installed by Tenant, as may be directed by Airport Director. Airport Director reserves the right to determine what furniture, fixtures, and equipment shall remain in the Leased Premises and become property of the Airport. Tenant shall remove any brand proprietary property, inventory, and other personal property and leave the Leased Premises in broom-clean condition. Any damage to the Leased Premises caused by Tenant's removal of such furniture, fixtures, equipment, or property shall be immediately repaired by Tenant at Tenant's expense and to the satisfaction of Airport Director. Notwithstanding the foregoing, if Tenant fails to remove such furniture, fixtures, equipment, or property within ten (10) days from the date of termination of this Lease, then Tenant shall be deemed to have abandoned same, and County shall have the right, at its option, and in its sole discretion, to take title to said furniture, fixtures, equipment and/or property and sell, salvage, or dispose of the same in any manner permitted by law. Tenant shall have no right, interest, or claim in or to any proceeds of the sale or other disposition of such items. Any net expense County incurs in disposing of such items shall be immediately reimbursed by Tenant. No act by County shall be deemed an acceptance of a surrender of the Leased Premises. No acceptance of a surrender of the Leased Premises shall be valid unless it is in writing and signed by County. In the event Tenant is unable to complete any necessary repairs, Airport Director may cause to be made or make any necessary repairs or replacements, and the cost thereof shall be paid by Tenant. Said cost shall include all labor, materials, equipment, and an administrative fee equal to fifteen percent (15%) of the sum of those items.

ARTICLE IV. RENTALS, FEES, OTHER CHARGES, REPORTING, AND ACCOUNTING RECORDS

SECTION 4.01 DEFINITION OF GROSS RECEIPTS

As used in this section, the term "Tenant" shall include Tenant, its agents, subtenants, Tenants, licensees, or any person acting under contract with Tenant. The term "Gross Receipts" shall include all monies paid or payable to Tenant for sales made, services rendered, and customer orders fulfilled at or from the Leased Premises, regardless of when or where the customer order is placed (including outside the Leased Premises), and any other receipts, credits, rebates, allowances, internet sales, mobile app sales (owned or third-party), or revenues of any type arising out of or in connection with Tenant's operations at the Leased Premises, including, but not limited to, branding fees, marketing fees, merchandising fees, promotional allowances,

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performance allowances, retail display allowances (“RDAs”), and any other type of ancillary advertising or product placement fees, and other allowances and fees.

Under Section 5.01 in this Lease entitled, “PERMITTED USE,” Tenant may be granted the option to provide certain additional services and uses subject to further approval. The term “Gross Receipts” as it applies to these business operations shall be determined by Airport Director, as well as the appropriate rent and percentage, at the time approval is granted.

Gross Receipts shall not include:

- A. Any taxes imposed by law that are separately stated to and paid by a customer and directly payable to the taxing authority by Tenant.
- B. Amounts and credits received from suppliers for products and merchandise returned by Tenant.
- C. Cash and credit card refunds to customers for merchandise returned.
- D. Amounts and credits received in settlement of claims for loss of, or damage to, merchandise.
- E. Insurance proceeds received from the settlement of claims for the loss of or damages to Tenant’s property at or on the Leased Premises other than the proceeds from business interruption insurance.
- F. Inter-company store transfers.
- G. United States Postal Service stamp sales.
- H. Uniforms or clothing purchased by employees where such uniforms or clothing are required to be worn by employees.
- I. Reimbursements from Tenant’s subtenants for any taxes, fees, franchise or license fees, utilities, or other services paid or provided by Tenant for or on behalf of its subtenants; provided, however, that any reimbursement more than the actual cost of such taxes, fees, franchise or license fees, utilities or other services shall be included in Gross Receipts.
- J. Rental, fees, and charges paid to Tenant by its subtenants pursuant to the provisions of this Lease; provided, however, that any such payment more than the amounts required hereunder shall be included in Gross Receipts.
- K. Gift cards sold at the Leased Premises. When a gift card is redeemed or accepted as payment for a purchase at the Leased Premises, the transaction must be reported as part of Gross Receipts.

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- L. Gratuities for services performed by employees paid by Tenant or by its customers except to the extent Tenant may be entitled to receive a portion of the gratuities.
- M. Amounts for coupons and other forms of discounts (including Airport but not limited to employee meals, complimentary customer meals, and the Airport employee discount described further below and in Section 7.03), such that only the amounts received are ultimately included in Gross Receipts.

Employee discounts from the public sales price may be allowed to Airport-issued badged employees and/or Tenant's employees provided Airport Director is first provided with the Tenant's discount policy, and Airport Director approves the discount policy and that the discount is reflected on sales records. The sales records shall clearly state the public sales price, the amount of discount, and the discounted sales price.

SECTION 4.02 CONCESSION SPACE RENT

Tenant agrees to pay the greater of a) Base Rent or b) Percentage Rent, as Concession Space Rent payable monthly in arrears, on or before the fifteenth (15) day of each calendar month without prior demand or notice. Should the Term Commencement Date occur on a day other than the first (1st) day of a calendar month, or should this Lease expire or terminate on a day other than the last day of a calendar month, then Concession Space Rent due for such partial month shall be prorated on the basis of a thirty (30) day month. Should any Accounting Year contain less than twelve (12) calendar months, said Concession Space Rent shall be prorated based on a three hundred sixty (360) day year.

Interim Concession Locations: Tenant shall pay Percentage Rent for each Concession within the Leased Premises, including Interim Concession Locations, pursuant to Exhibit G. Upon the Term Commencement Date, Percentage Rent for Interim Concession Locations shall be adjusted based upon Total Annual Cumulative Gross Receipts pursuant to Exhibit G.

SECTION 4.03 BASE RENT

Base Rent shall commence upon the Term Commencement Date. The Base Rent shall be Seventy-Five (\$75.00) dollars per square foot annually. Upon the Term Commencement Date, Tenant shall pay either Base Rent or Percentage Rent, whichever is greater. Base Rent shall be payable monthly in arrears, on or before the fifteenth (15) day of each Calendar Month without prior demand or notice.

On _____, _____, and annually thereafter, the Base Rent shall be automatically adjusted to the following:

The Base Rent adjusted in proportion to changes in the Consumer Price Index for Los Angeles - Anaheim - Riverside (All Urban Consumers - All Items) promulgated by the Bureau of Labor

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Statistics of the U.S. Department of Labor. This adjustment shall be calculated by means of the following formula:

$$X = \$ \underline{\hspace{2cm}} \times \frac{A}{B} \text{ Base Rent as determined above.}$$

X = Adjusted minimum Base Rent

A = Monthly index for the fourth month prior to the month in which the rent adjustment is to become effective.

B = Monthly index for the month in which this Lease is signed by County

Effective on the first day of each Accounting Year after the initial Accounting Year or initial partial Accounting Year, Base Rent shall adjust based on the annual percentage change in the Consumer Price Index All Urban Consumers ("CPI-U") Index. However, in no event will the annual adjustment result in Base Rent being less than, or more than, five percent (5%) above, the amount charged during the prior Accounting Year.

SECTION 4.04 PERCENTAGE RENT

Percentage Rent shall commence upon the DBO for each Concession within the Leased Premises. At all times while Gross Receipts are being generated from the Leased Premises, Tenant shall calculate Percentage Rent each calendar month, in accordance with the applicable Percentage Rent Rate(s) as set forth in the Exhibit G, in a form acceptable to the County. On or before the 15th day of each month, Tenant shall pay Percentage Rent in arrears to County without prior notice or demand after the expiration of each calendar month. All Percentage Rent payments shall be computed based on all Gross Receipts made during the previous Calendar Month, as all such Gross Receipts are indicated on Tenant's Monthly Concession Report.

Percentage Rent shall be adjusted at the beginning of each Accounting Year based upon Total Annual Cumulative Gross Receipts pursuant to Exhibit G.

SECTION 4.05 SECURITY DEPOSIT

Tenant shall deposit with County a security deposit in the sum equal to four (4) times the monthly Base Rent as determined by Airport Director prior to execution of the Lease.

Concurrently with each revision of Base Rent pursuant to the Section 4.03, the security deposit to be provided by Tenant shall be adjusted to approximately four (4) times the average monthly Base Rent or Percentage Rent, whichever is greater for the prior year, or as determined by Airport Director to guarantee the faithful performance by Tenant of its obligations under this Lease and the payment of all rents due hereunder.

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The security deposit shall take one of the forms set out below and shall guarantee Tenant's full and faithful performance of all the terms, covenants, and conditions of this Lease:

- A. A letter of credit from one or more financial institutions, subject to regulation by the State of California or Federal government, pledging that funds necessary to secure performance of the Lease terms, covenants, and conditions are on deposit and guaranteed for payment and agreeing that said funds shall be trust funds securing Tenant's performance and that all or any part shall be paid to County, or order upon demand by Airport Director. Both the financial institution(s) and the form of the letter(s) must be approved by Airport Director.

- B. A "Faithful Performance Bond" executed by a surety company or financial institution qualified and admitted to do business in the State of California and issued in a form, approved by the County. Under the bond, the surety company shall guarantee to County full and complete performance of all the terms, conditions and covenants herein to be performed on the part of the Tenant, including the payment of use fees as well as any and all other payments. Said bond shall be maintained at the cost of the Tenant throughout the existence of this Lease. Said Surety shall give Airport Director a minimum (30) days' prior written notice of cancellation or material change in said bond. Such cancellation or material change without Airport Director's prior written consent shall constitute a default under this Lease.

Regardless of the form in which Tenant elects to make said security deposit, all or any portion of the principal sum shall be available unconditionally to the County for correcting any default or breach of this Lease by Tenant, its successors or assigns, or for payment of expenses incurred by County as a result of the failure of Tenant, its successors or assigns, to faithfully perform all terms, covenants, and conditions of this Lease.

Should Tenant elect to provide either a letter of credit or a Faithful Performance Bond to fulfill the security deposit requirements of this Lease, said instrument or bond shall have the effect of releasing depository or creditor therein from liability on account of the payment of any or all of the principal sum to County, or order upon demand by Airport Director.

In the event Airport Director withdraws all or any portion of the security deposit as provided herein, Tenant shall, within ten (10) days of any withdrawal by Airport Director, replenish the security deposit to maintain it at amounts herein required throughout the Agreement term. Failure to do so shall be deemed a default and shall be grounds for immediate termination of this Lease.

Tenant shall be obligated to maintain the security deposit in effect until the Expiration Date of the Lease.

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The security deposit, after deduction of all amounts due County, shall be rebated, reassigned, released or endorsed by the County to Tenant or order, as applicable, after one hundred fifty (150) days have elapsed following the expiration date of the Lease term, provided Tenant has fully and faithfully performed each and every term, covenant, and condition of this Lease.

SECTION 4.06 MARKETING FUND FEE

County has established a marketing fund for the Airport to conduct sales promotions, Airport-wide advertising, and related activities intended to promote the Airport and its tenants. Commencing upon the Term Commencement Date, Tenant shall pay to County an amount equal to 0.5% of the previous month's Gross Receipts, which amount Tenant agrees to pay County concurrently with the Concessions Space Rent. All monies received by the Airport for the marketing fund shall be used solely for the purpose of Airport tenant promotions and directly related expenses. Tenant agrees to pay the Marketing Fund Fee payable monthly in arrears, on or before the fifteenth (15) day of each calendar month without prior notice or demand.

SECTION 4.07 SCREENING

If applicable as may be required by local, state or federal Law, including, but not limited to, the Federal Aviation Administration's ("FAA"), the Transportation Security Administration's ("TSA"), the County's or any other applicable rules and regulations now in effect or hereinafter enacted, costs incurred for the screening of Tenant's goods, merchandise, products, equipment, materials and supplies, shall be paid by Tenant directly to County.

SECTION 4.08 ADDITIONAL RENT, FEES, AND MISCELLANEOUS CHARGES

In addition to Concession Space Rent, Tenant shall pay, as Additional Rent, all sums of money required to be paid by Tenant to County hereunder, including, but not limited to: Miscellaneous Charges, Violation Fines, Tenant's share of Taxes assessed against County, Operating Costs and Expenses, Marketing Fund Fee and any other sums or charges which may be due from Tenant hereunder. If such amounts or charges are not paid at the time and in the manner as provided herein, they shall nevertheless be collectible as Additional Rent with the next payment of Concession Space Rent thereafter falling due, but nothing herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of County. All amounts of Rentals payable in each month shall be deemed to comprise a single rental obligation of Tenant.

SECTION 4.09 RECORD KEEPING, REPORTS, ANNUAL AUDIT, AND END OF YEAR ADJUSTMENT

A. Records Defined

"Tenant's Records" as referred to in this Lease shall include any and all information, materials, and data of every kind and character in any format, including, but not limited to records,

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accounts, financial transactions, books, papers, documents, recordings, notes, receipts, vouchers, memoranda, sales invoices, accounts receivable records, commission payment records, tax remittance records, expenditures for improvements or refurbishments, any and all other agreements, sources of information and matters that may, at County's sole discretion, have any bearing on or pertain to any matters, rights, duties, or obligations under or covered by the Lease, and any other Tenant records which may have a bearing on matters of interest to County in connection with Tenant's dealings with County to the extent necessary to adequately permit evaluation and verification of any or all of the following:

- 1) Accuracy of amounts owed to County resulting from Tenant's operation of the Leased Premises.
- 2) Compliance with any requirement in the Agreement.

Tenant shall, at all times during the term of this Lease, keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities, of whatever nature, conducted in pursuance of the rights granted herein. Tenant's Records must be supported by source documents such as sales slips, cash register tapes, purchase invoices, or other pertinent documents.

B. The Accounting Year

The accounting year shall be twelve full calendar months beginning with the Term Commencement Date. The accounting year may be established by Tenant provided Tenant notifies Auditor-Controller in writing of the accounting year to be used. Said accounting year shall be deemed to be approved by Auditor-Controller unless Auditor-Controller has objected to Tenant's selection in writing within sixty (60) days of Tenant's writing notification.

Once an accounting year is established, it shall be continued through the term of the Agreement unless Auditor-Controller specifically approves in writing a different accounting year. Auditor-Controller shall only approve a change in accounting years in the event of undue hardship being placed on either the Tenant or County and not because of mere convenience or inconvenience.

C. Financial Reports

Daily Gross Receipts: Upon request of the County, Tenant agrees to report Gross Receipts for periods of less than one month in a format and frequency as requested by County.

Monthly Concession Report: No later than fifteen (15) days after the end of each month during operations, including any interim operations. Tenant shall deliver to County a Monthly Concession Report, in a form as set forth in Exhibit C attached hereto, as may be amended, stating Gross Receipts for said month for each Concession within the Leased Premises and the calculation of Percentage Rent payable for said month.

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Financial Statement: Within ninety (90) days after the end of each Accounting Year, Tenant at its own expense shall submit to Auditor-Controller an audited statement of Gross Receipts as defined in Section 4.01 for all Airport operations (“Financial Statement”). This Financial Statement shall include a breakdown schedule of total Gross Receipts for the Accounting Year by month and sales as classified according to the categories of business established for Percentage Rent and listed in Article IV (RENTALS, FEES, OTHER CHARGES, REPORTING, AND ACCOUNTING RECORDS) and for any other business conducted on or from the Leased Premises. This statement shall be prepared by a Certified Public Accountant (“CPA”) or CPA firm holding a current and valid license with their local state Board of Accountancy. The audit and audit report must be performed and presented, respectively, in the applicable standards promulgated by the AICPA.

The first Financial Statement must include all Gross Receipts from the Interim Concession Locations and the Gross Receipts of the first Accounting Year. All subsequent Financial Statements will be for the Accounting Year.

A reviewed statement of Gross Receipts performed in accordance with applicable AICPA standards may be requested by Tenant instead of a Financial Statement if there is undue hardship to obtain a Financial Statement. Tenant must request and obtain written approval for a reviewed statement from the Airport Director prior to the Financial Statement due date for the year to be audited. If the request is not made by the Tenant prior to the due date, the request will be denied. If a reviewed statement of Gross Receipts is approved by the Airport Director, the reviewed statement of Gross Receipts is only approved for the year requested. The Tenant is required to submit an audited statement of Gross Receipts for future years.

Tenant shall provide County with copies of any Certified Public Accountant management letters and audited financial statements prepared in conjunction with their audit of Tenant’s operations from the Leased Premises. Copies of management letters and/or financial statements shall be provided directly to County by the CPA at the same time Tenant’s copy is provided to Tenant.

Tenant acknowledges that all the “Financial Statements” submitted to County pursuant to this Lease become Public Records and are subject to public inspection pursuant to California Government Code Sections 6250 et seq.

In addition to any other remedies available to County at law or in equity or under this Lease, in the event that Tenant fails to submit any financial statements by the due date listed in Section “Annual Audit.” Airport Director, or designee may require Tenant to submit the following:

- \$5,000 fine and/or
- Any and all costs incurred by County for the Certified Public Accountant hired by the County to prepare the required financial statements, including an administrative fee equal to fifteen percent (15%) of those costs.

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The assessed fine does not relieve Tenant from the responsibility to submit an Financial Statement or provide sufficient financial records for the Certified Public Accountant hired by the County to complete the required audit.

D. Findings

County reserves the right to challenge any findings or conclusions of the Financial Statement if it believes an error may have occurred. In such event, County may conduct its own audit under the provisions in this section or may require production of the supporting documentation used to reach the finding(s) or conclusion(s) in question. The resolution by County of any dispute will be final. Delivery of a Financial Statement containing a qualified opinion, or an adverse opinion, or a disclaimer of opinion as defined in the authoritative AICPA standards, as may from time to time be amended or superseded, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, or any successor board or agency thereto, will be deemed a material breach of this Lease and, in addition to all other remedies available to County, County may, in its sole discretion, terminate this Lease.

E. End of Year Adjustment

After reconciling the Financial Statement, if Tenant has paid to County an amount greater than Tenant is required to pay as Concession Space Rent or Additional Rent for an Accounting Year under the terms hereof, Tenant shall be entitled to a credit against Tenant's Concession Space Rent or Additional Rent for the amount of the overpayment. If Tenant has paid less than the amount required to be paid as Concession Space Rent or Additional Rent for such Accounting Year, County will invoice the difference and will be due 30 days from the invoice date. Airport Director or designee may require a late fee may be charged if received after the due date.

F. Form, Frequency, and Method of Reporting

Acceptance of monthly reports and payments by County does not constitute agreement by County with the amounts reported and paid. County reserves the right to change the form and frequency of reports and statements, including, but not limited to, the Monthly Concession Report, and to require the submission by Tenant of other statistics and information pertaining to the Gross Receipts hereunder. Tenant agrees to change the form of the required reports and statements as requested by County and to provide any additional statistics and information County may request.

County shall have the right at any time to require that reports be delivered electronically using technology and procedures designated by County. If County instructs Tenant to deliver any reports and statements required hereunder by computer, e-mail, internet website, or transmission, County shall not be obligated to furnish Tenant with the equipment or systems necessary to do so.

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SECTION 4.10 PAYMENT PROCEDURE, PLACE OF PAYMENT, AND STATEMENT FILING

On or before the fifteenth day of each month (the “Due Date”) Tenant shall deliver to Auditor-Controller a correct statement of all applicable Gross Receipts for that portion of the annual period which ends with and includes the last day of the preceding calendar month. The statement shall be signed by Tenant or Tenant’s responsible agent in a form prescribed by Auditor-Controller with the attestation “I declare under penalty of perjury under the laws of the State of California that the preceding is true and correct.” Each statement shall indicate:

- 1) One twelfth of the Annual Concession Space Rent payment;
- 2) The total gross receipts for said portion of the annual period, itemized as to each of the business categories for which a separate percentage rent is established. A breakdown of the gross receipts of each business conducted on the Leased Premises must be attached to each statement where a reported business category is comprised of more than one business operation;
- 3) The related itemized amounts of percentage rent computed as herein provided and the total thereof;
- 4) The total rent previously paid by Tenant for the annual period within which the preceding month falls; and
- 5) The rent due for the preceding month.

Concurrently with the rendering of each monthly statement, Tenant shall pay to County:

- a) Marketing Fund Fee which will be 0.5% of the preceding monthly gross receipts.
- b) The greater of: 1) the total Percentage Rent computed for that portion of the annual period ending with and including the last day of the preceding month [Item 3, above] less total rents previously paid for the annual period [Item 4, above], or 2) One twelfth of the annual Base Rent, multiplied by the number of months from the beginning of the accounting year to and including the preceding month, less total rents previously paid for the accounting year [Item 4, above].

Payments and statements required by Article IV in this Lease entitled, “RENTALS, FEES, OTHER CHARGES, REPORTING, AND ACCOUNTING RECORDS,” shall be sent electronically or delivered to the County of Orange, Office of the Auditor-Controller, John Wayne Airport Accounting Services, 3160 Airway Avenue, Costa Mesa, California 92626. The designated place of payment and filing may be changed at any time by County upon ten (10) days” written notice to Tenant. Payments may be made by check payable to the County of Orange. Tenant assumes all risk of loss if payments are made by mail.

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SECTION 4.11 FORM OF PAYMENT

All sums due under this Lease shall be paid in lawful money of the United States of America without offset or deduction or prior notice or demand. No payment by Tenant or receipt by County of a lesser amount than the payment due shall be deemed to be other than on account of the payment due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and County shall accept such check or payment without prejudice to County's right to recover the balance of the amount due or pursue any other remedy in this Lease. All payments must be remitted by Automated Clearing House ("ACH") / direct deposit to the Airport's designated bank account, or any future mode prescribed by the County. Any fees assessed to the County's bank account due to the use of other form of payment (e.g., wire transfer) not prescribed or approved by the County, shall be passed through to the Tenant plus \$25 processing fee.

In the event a check submitted by Tenant is returned for non-sufficient funds ("NSF"), Tenant agrees to pay County a service charge in the amount of twenty-five dollars (\$25) for the first check, and thirty-five dollars (\$35) for each subsequent check. Tenant shall be liable for treble damages pursuant to California Civil Code Section 1719.

SECTION 4.12 FAILURE TO MAKE TIMELY PAYMENTS

Tenant hereby acknowledges that the late payment of Percentage Rent during the Interim Phase, Concession Space Rent and Marketing Fund Fee or any other sums due hereunder will cause County to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, administrative processing of delinquent notices, increased accounting costs, lost interest income and other professional services.

Accordingly, if any payment of Percentage Rent during Interim Phase, Concession Space Rent, and Marketing Fund Fee as specified in Section 4.06 in this Lease, or of any other sum due County is not received by County by the due date, a late charge of one and one-half percent (1.5%) of the payment due and unpaid shall be added to the payment, and the total sum shall become immediately due and payable to County. An additional charge of one and one-half percent (1.5%) of said payment, excluding late charges, shall be added for each additional month that said payment remains unpaid.

Tenant and County hereby agree that such late charges represent a fair and reasonable estimate of the costs that County will incur by reason of Tenant's late payment. Acceptance of such late charges (and/or any portion of the overdue payment) by County shall in no event constitute a waiver of Tenant's default with respect to such overdue payment or prevent County from exercising any of the other rights and remedies granted hereunder.

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The failure of County to act in the event of a delinquent payment or series of payments shall in no way waive the right of County to act at a subsequent time. County expects all rents, fees, and charges to be paid on time and Tenant agrees to pay on time.

Notwithstanding other provisions of this Lease, and without limiting the other provisions of this Lease concerning, among other things, events deemed to constitute default of Tenant, County may, in County's reasonably exercised discretion, terminate this Lease upon written notice to Tenant if there are recurring instances in which Tenant's payments required hereunder are not timely or are insufficient to cover sums actually due and payable.

SECTION 4.13 PROVISION AGAINST SET-OFFS

It is the obligation of Tenant to pay all rents free of any set-offs or claims, in the amount and at the times specified in this Lease. In the event that Tenant desires to contest the validity or amount of any such rents and charges, Tenant shall first pay the same to County and may then seek a refund in any appropriate forum.

SECTION 4.14 COUNTY'S RIGHT TO PERFORM AUDITS, INSPECTIONS, OR ATTESTATION
ENGAGEMENTS

Notwithstanding Tenant's requirement to submit the Annual Report set forth herein, County, or its representative, will have the right through the expiration of the third year after the expiration or termination of this Lease, through its representatives, and at all reasonable times, to review all books, records, and agreements of Tenant and where applicable, all individuals or other business entities who are party to this Lease, requested by County's representatives to substantiate the accuracy of reported Gross Receipts and Tenant's compliance with other provisions of this Lease. This includes, but is not limited to, Annual Reports, general ledgers, sales journals, daily or periodic summary reports, inventory and purchasing records, cash register or computer terminal tapes or reports, bank deposit slips, bank statements, cancelled checks, tax reports/returns filed with state or federal entities, discount or rebate/allowance agreements, records of refunds or voids, and joint venture or partnership agreements. Such right of examination shall include cooperation by Tenant personnel (including, but not limited to, cooperation in sending confirmations to Tenant's suppliers or others, assisting County in obtaining from governmental entities official copies of tax reports/returns, and disclosing all bank or other accounts into which Gross Receipts are deposited) as reasonably considered necessary by County, or its representative, to complete the engagement. There may be no limitation in the scope of the engagement that would hinder County in testing the accuracy and completeness of the reported Gross Receipts. All such books, records, and agreements shall be kept for a minimum period of five (5) years after the close of each Accounting Year.

Engagements will be conducted at the Airport. However, if agreed to by County, the engagement can be conducted at another location, in which event Tenant shall reimburse County for reasonable transportation, food and lodging costs associated with the engagement, accrued in

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accordance with County's Policy and Standard Procedure relating to Travel Expenses. Tenant shall allow County's representatives to photocopy any records the representatives determine to be necessary to conduct and support the engagement. Tenant shall provide County's representatives with retrievals of computer-based record or transactions the representatives determine to be necessary to conduct the engagement. Tenant shall not charge County for reasonable use of Tenant's photocopy machine while conducting the engagement, nor for any cost of retrieving, downloading to storage media and/or printing any records or transactions stored in magnetic, optical microform or other media. Tenant shall provide all records and retrievals requested within seven (7) days of the request. The Parties recognize that County will incur additional costs if records requested are not provided in a timely manner and that the amount of those costs is difficult to determine with certainty. Consequently, the Parties agree that County may assess violation fines in the amount of \$100 per day for each record requested that is not received. Such damages may be assessed beginning on the eighth (8th) day following the date the request was made. Accrual of such damages will continue until specific performance is accomplished.

If, because of any engagement, it is established that Tenant owes additional rents, fees, or charges to County, Tenant will pay such additional rents, fees and charges and County may assess interest in accordance with Section 4.08. If it is established that Tenant underreported Gross Receipts or underpaid fees related to Gross Receipts by three percent (3%) or more for the period under consideration, the entire expense of the engagement may be billed to Tenant. Any additional payments due shall be paid, no later than Tenant's next payment of the Base Rent, by Tenant to County. If it is established that Tenant underreported Gross Receipts or underpaid fees related to Gross Receipts by five percent (5%) or more for the period under consideration, County shall be entitled to terminate this Lease for cause upon thirty (30) days' written notice, regardless of whether the deficiency is paid. If because of any engagement, it is established that Tenant has correctly reported or over reported Gross Receipts or has paid fees related to Gross Receipts equivalent to or greater than the sum due, County shall refund Tenant and the entire expense of the engagement shall be paid by County.

Tenant will include a provision providing County the same rights to initiate and perform audits, inspections, or attestation engagements in any Subtenant agreement that it enters and cause its Subtenants to similarly include the statements in further Subtenants agreements.

Section 4.15 Severe Decline in Enplanements

If at any time during the Term there is a severe decline in enplanements for three consecutive months, as compared to same time period in the previous year, then Tenant shall provide notice to the Airport Director, and at the Airport Director's discretion and upon approval of the Board of Supervisors, Concession Space Rent may be temporarily suspended or reduced. The Airport Director shall have the sole discretion as to whether there exists a severe decline in enplanements.

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ARTICLE V. PERMITTED USES

SECTION 5.01 PERMITTED USE

A. Uses

Tenant shall have an exclusive right to develop, operate and manage the Leased Premises in accordance with the Permitted Uses set forth in Exhibit B. The concession rights granted herein shall be exclusive within the Leased Premises but non-exclusive at the Airport. Tenant agrees not to use the Leased Premises for any other purpose nor to engage in or permit any other activity by Tenant's employees, agents, or contractors, within or from the Leased Premises. Tenant agrees not to conduct or permit its employees, agents, or contractors to conduct any public or private nuisance in, on or from the Airport, or to commit or permit its employees, agents or contractors to commit any waste in, on or from the Airport. The Use is attached hereto and entitled, "Exhibit B."

B. Optional Services and Uses

Subject to the prior written approval of the Airport Director, Tenant may be granted the option to provide those additional services and uses which are ancillary to and compatible with the required services and uses herein; subject to negotiation and approval of Airport Director.

The above listed services and uses, are required and shall be the only services and uses permitted. Tenant agrees not to use the Leased Premises for any other purpose nor to engage in or permit any other activity within or from the Leased Premises. This prohibition includes, but is not limited to, sale or use of tobacco products, CBD products, cannabis products and any products prohibited by federal, state, or local agencies, insurance policies, or as decided by the Airport Director.

County has established with the local Alcohol and Beverage Control ("ABC"), a Terminal-wide alcohol to-go program, which Airport Director reserves the right to revoke or modify at any time. Tenant is required to ensure proper policies and procedures are in place with staff to inform guest that open alcoholic beverages are prohibited on aircraft. Open alcohol containers must be properly branded and identified by Tenant.

Airport Director has the right to use Tenant's inventory of goods in an emergency situation to assist in maintaining the welfare of persons at or near the Airport. Tenant shall be reimbursed by County for the cost of goods as soon as practicable at a rate not to exceed prices immediately prior to the emergency.

Exhibit B, Permitted Uses, which is attached hereto and made a part hereof, sets forth the trade name for each Concession within the Leased Premises and a listing, by general category, of goods and services that Tenant is allowed to sell from the Leased Premises. Such list of the Permitted

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Uses shall constitute a limitation of the goods and services which may be sold from the Leased Premises.

C. Permitted Products, Services, and Prices

No later than thirty (30) days prior to the opening of a Concession within the Leased Premises Tenant must submit to County, for its written approval, a listing, substantially consistent with Exhibit B and as requested by County, of the goods and services to be sold from the Leased Premises. Such listing (hereinafter referred to as the "Product Price List") must include the prices to be charged to the public for the goods and services.

Once approved by County, the Product Price List for each Concession within the Leased Premises shall remain in effect through the remainder of the Term. Tenant shall not add, delete, or sell any goods or services not included on the Product Price List, nor change the price of any good or service, without first receiving written approval from County, which approval shall not be unreasonably withheld or delayed.

County may, at its discretion, require Tenant to add goods or services that are in public demand to the Product Price List for any Concession within the Leased Premises.

Within ten (10) business days of a written request by County, Tenant shall provide a current Product Price List.

SECTION 5.02 NON-EXCLUSIVE RIGHTS

Tenant shall have a nonexclusive right to develop, operate and manage Concessions within designated locations at the Airport. The Concession rights granted herein shall be exclusive within the Leased Premises but non-exclusive at the Airport.

SECTION 5.03 RESTRICTIONS

Nothing in this Section will be construed as authorizing Tenant to conduct any business separate and apart from this Lease or in areas at the Airport other than the Leased Premises.

All rights and privileges not specifically granted to Tenant for its use of and operations at the Airport pursuant to this Lease are hereby reserved for and to County.

In the event Tenant breaches this Lease by using or permitting the Leased Premises to be used in any manner other than as expressly permitted under this Lease, Tenant shall be subject to penalties as described in Section 8.01 for any service, goods, or use that is not permitted by any part of this Lease, or otherwise authorized in this Lease entitled. Said payment is subject to the "Due Date" provided in Section 4.10 (Payment Procedure, Place of Payment and Statement Filing) and Section 4.12 (Failure to Make Timely Payments). Payment or receipt of money under this section, does not constitute an authorization for a particular service or use and does not

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constitute a waiver of County's right to require Tenant to terminate such service or use. The Parties agree that County's actual damages, in the event of such a breach by Tenant would be extremely difficult or impossible to determine; therefore, the amount prescribed in Section 8.01 is the best estimate of County's reasonable damages.

County reserves the right to prohibit the sale of those items which, in the opinion of County, are not in the public interest; or which might compete unfairly with other Terminal concessions. Tenant also agrees not to conduct or permit to be conducted any public or private nuisance (as defined in California Civil Code Section 3479) in, on or from the Leased Premises, or to commit or permit to be committed any waste in, on or from the Leased Premises.

SECTION 5.04 PERMITS AND LICENSES

Tenant will obtain and maintain throughout the Term all permits, certificates, licenses, or other authorizations required in connection with the operation of the Concessions. Copies of all required permits, certificates, licenses, or other authorizations will be appropriately displayed within the Leased Premises and forwarded to County upon issuance and each renewal. No permit approval or consent given hereunder by County in its governmental capacity shall affect or limit Tenant's obligations hereunder, nor shall any approvals or consents given by County as a party to this Lease, be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.

In the event the County is required or has obtained any of the necessary permits, Tenant will reimburse the County for any permit fees and associated costs in obtaining said permits.

ARTICLE VI. ENVIRONMENTAL, SAFETY AND INDEMNIFICATION

SECTION 6.01 ENVIRONMENTAL STEWARDSHIP

Tenant shall support the County's Environmental Compliance and Stewardship program through participation in various efforts or implementation of Airport plans listed below as applicable, and through complying with Airport Tenant Guidelines. County shall provide Tenant advance notice of any proposed changes to the following plans that may affect Tenant operations:

- A. Air Quality Improvement Plan (AQIP) and Memorandum of Understanding (MOU) with the South Coast Air Quality Management District (SCAQMD).
- B. Climate Action Plan.
- C. Waste Management Plan.
- D. Storm Water Pollution Prevention Plan.

All Tenant facilities and improvements shall meet the Airport's Tenant Design Guide and John Wayne Airport Construction Standards as well as Architectural Guidelines, as may be amended from time to time. All improvements shall meet the California Green Building Code (Title 24) CALGreen Tier 1. In particular, the Tenant shall implement the following conservation measures

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and policies as applicable:

- A. Use equipment and appliances that are ENERGY STAR rated or equivalent and EPA Water Sense or equivalent, as applicable when replacing existing equipment and appliances.
- B. Use high-efficiency light fixtures and bulbs (including compact fluorescents) when replacing or installing new fixtures and bulbs.
- C. Install sensors in office areas to turn off lights when unoccupied when these areas are being renovated or updated.
- D. Install energy-efficient heating and cooling equipment when replacing or upgrading.
- E. Use energy-efficient computers and servers when replacing this equipment.
- F. Select equipment with variable speed motors and fan drives, when possible.
- G. Use paperless receipt technology, when possible.

Tenant shall implement and support the following environmental policies:

- A. The Tenant has been provided a copy of the County's Environmentally Preferable Purchasing Policy (2012) and shall consider developing a similar policy that addresses the Tenant's procurement of goods and services as applicable.
- B. The Tenant shall affirm its commitment to Environmental Sustainability at the Airport. The Policy commitment shall be submitted to the JWA within 30 days of Lease execution.
- C. Upon request, the Tenant shall provide reports necessary for environmental compliance, regulatory requirements and airport mitigation measure obligations.

Tenant shall implement applicable elements of the County's Green Concession Program as described in the Tenant Design Guidelines. Elements include:

- A. Environmental Building Standards as described in Article 7 and detailed in the Tenant Design Guidelines
- B. Comply with Federal and State laws including SB1383, AB341, and SB32 for Waste management and diversion.
 - 1. Sort organic waste (food scraps), recyclables, cardboard, grease, and landfill waste and dispose or divert as directed by the County
 - 2. Minimize packaging and creation of waste
 - 3. Participate in a food recovery program
- C. Implementation of the County's Environmentally Preferable Materials Use upon Agreement initiation, or if a continuing tenant, implement within six (6) months of lease execution.
 - 1. Only use recycling or compostable "to go" materials
 - 2. Prohibit The use of polystyrene foam materials
 - 3. Reduce or eliminate the use of single-use plastic products such as water bottles and straws
 - 4. Prohibit the sale of beverages in non-returnable can, metal or glass containers

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Tenant agrees that when alternate forms of packaging are available, only items packaged in a manner most compatible with the Airport's goals of recycling, reducing litter waste and preserving the environment shall be sold. Receipts evidencing compliance with said programs shall be kept and made available for Airport review.

SECTION 6.02 HAZARDOUS MATERIALS, HAZARDOUS SUBSTANCES, AND ENVIRONMENTAL COMPLIANCE

Tenant shall comply with all Environmental Laws, including laws regulating Hazardous Materials, and shall not engage in any activity on or about the Airport that violates any Environmental Law. In conducting its operations and maintenance on the Airport under this Lease, Tenant shall comply with such regulations regarding the storage, distribution, processing, handling, release, removal, and/or disposal, including the storm water discharge requirements, of Hazardous Materials including, but not limited to, gasoline, aviation fuel, jet fuel, diesel fuel, lubricants and/or solvents, whether the obligation for such compliance is placed on the owner of the land, owner of the improvements or user of the improvements. Violation by Tenant or any of its agents, assigns, successors, sublessees, subcontractors, or employees of any Environmental Law are grounds for immediate termination of this Lease and for immediate termination of all operations by Tenant at or on the Airport.

Notwithstanding the liability of prior tenants of the Leased Premises, Tenant shall at its sole cost and expense investigate, evaluate, assess, remove, and/or remediate any and all Hazardous Materials that may be required or ordered by any governmental agency or Environmental Law. In conducting a clean-up of a Hazardous Material release under this Lease, Tenant shall comply with all applicable Environmental Laws. Tenant shall not use the County hazardous waste generator ID for waste disposal.

SECTION 6.03 GENERAL HEALTH AND SAFETY CONDITIONS

Precaution shall be exercised at all times by Tenant for the health, safety, and welfare of persons, including employees and property. The safety provisions of applicable laws and building and construction codes shall be observed. Work, materials, and equipment used shall comply with the Occupational Safety & Health Administration ("OSHA") requirements including but not limited to OSHA Hazard Communication Standard 29 CFR 1910.1200, and federal and state safety orders.

Tenant shall comply with all material usage limitation, permit record keeping, and reporting requirements imposed by federal, state and local laws and regulations. Tenant shall properly post Manufacturer's Safety Data Sheets as required by law and shall use and dispose of all materials in conformance with all applicable codes, rules, regulations and manufacturer's recommendations, and train employees in proper handling of all materials.

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Tenant shall submit to the County's Airport Environmental Resources Manager, annually on or before January 31, a report on compliance with and the status of all required permits including, but not limited to, Fire, OSHA, Air Quality Management, and Health Care Agency. The report must summarize all spills, leaks or permit violations for the previous year.

Tenant shall provide all notices required pursuant to the Environmental Laws. Tenant shall provide prompt written notice to County within five (5) days of receipt of all written notices of violation of any Environmental Law received by Tenant.

SECTION 6.04 ENVIRONMENTAL INDEMNIFICATION

To the fullest extent authorized by law, the Tenant shall indemnify, defend, and hold harmless the County, its officers, directors, agents, and employees, for compliance with all Environmental Laws, from and against any and all Environmental Law claims, judgments, damages, penalties, actions, fines, costs, liabilities, losses, orders, expenses, and lawsuits (including fees and costs for attorneys, experts, and expert consultants) arising from the Leased Premises, and/or out of or related to any actions or omissions of Tenant, the Tenant's operations at the Airport or any action arising from and which involve the Tenant's officers, agents, successors, assigns, sublessees, subcontractors, and employees (whether or not they are negligent, intentional, willful or unlawful), including defense expenses arising therefrom, including, but not limited to the following:

- A. The Tenant's placement, disposal, allowing, or releasing of Hazardous Materials upon or within the Airport including any such claims, demands, liabilities, cost, expenses, and/or obligations related to Tenant's release or threatened release of Hazardous Materials on, at, and/or under the Airport.
- B. The Tenant's release or threatened release of Hazardous Materials at, on, under, and/or remaining from the Airport.
- C. The Tenant's compliance with any Environmental Law, except that Tenant's obligations under this paragraph shall not extend to remediation conditions that arise from operations of third parties that are not affiliated with Tenant that take place off of the Airport. A party shall be deemed to be affiliated with Tenant if it is an employee, officer, director, agent, sublessee, assignee, contractor or subcontractor of Tenant or if it is controlled by or under common control with Tenant.
- D. The Tenant's causing or allowing any prohibited discharge into the Airport Drainage System.

This indemnification includes, without limitation, reasonable fees/costs/expenses for attorneys, experts, expert consultants, and all other costs incurred by County in connection with any investigation, evaluation, assessment, and/or monitoring of the environmental conditions at the

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Leased Premises or any cleanup, remedial, removal, and/or restoration work required by any federal, state or local governmental entity because of any Hazardous Materials being present in the soil, surface water at, on, under, or about the Airport. However, Tenant's indemnity obligation shall not apply in the event of any claims for any loss, damage or expense arising from the sole or active negligence or willful misconduct of County or agents, servants or independent contractors who are directly responsible to County.

In the event the indemnitees as described herein are parties in any proceeding (legal, administrative, or otherwise), the Tenant shall, at the request of the County, defend the indemnitees with qualified counsel that the County determines, in its sole and absolute discretion, is acceptable to the County, unless the County, in its sole and absolute discretion, undertakes legal representation, in which event the Tenant shall reimburse the County for the expenses incurred by it in defending such proceeding, including reasonable attorneys' fees, expert and consultant's fees, and investigative and court costs.

In the event that any monetary sum is awarded against the County and the Tenant because of the concurrent negligence of the County and the Tenant or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the County and the Tenant agree that neither party shall request a jury apportionment. Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorney's fees in any action to enforce the terms of this Lease.

The rights and obligations set forth in this indemnification shall survive the termination and/or expiration of this Lease.

SECTION 6.05 **CONFLICT WITH ENVIRONMENTAL LAW PROVISIONS**

In the event that any of the terms of the environmental requirements codified in this Article conflict with any other terms of this Lease, the environmental requirements contained in this Article shall apply.

SECTION 6.06 **ANTI-IDLING POLICY**

Within six months of Lease execution, Tenant must develop, implement and submit to the Airport Director or designee for approval a fleet-wide anti-idling policy. At a minimum, the anti-idling policy shall include the requirement that vehicle engines shall be turned off when vehicles are not occupied, and that occupied vehicles be turned off after no more than a five-minute idling

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period. Tenant's policy shall also include all subtenant and third-party vehicles that enter Airport property at the direction of the Tenant.

ARTICLE VII. OPERATIONS AND PERFORMANCE STANDARDS

SECTION 7.01 COUNTY'S RIGHT TO MONITOR PERFORMANCE

A. Performance Audits

Tenant shall conduct its business in a manner that meets the needs of Airport patrons and employees and in a manner that will reflect positively upon the Tenant and County. The Tenant shall equip, organize, and efficiently manage the Concessions to provide first-class service and products in a clean, safe, attractive, and pleasant atmosphere.

County in its sole discretion shall have the right to raise reasonable objections to the condition of the Leased Premises, the quality and quantity of merchandise, the character of the service, the hours of operation, and to require any such conditions or practices objectionable to County to be promptly remedied by Tenant.

County reserves the right to conduct periodic performance audits of the Leased Premises to assure that all of the operational, safety and compliance standards of this Lease are consistently performed by Tenant. Tenant acknowledges that performance audits will be conducted by County, or its representative, and hereby agrees to cooperate with all performance audits.

1. Performance audits may include minimum objective standards in any or all the areas of (i) product quality; (ii) customer service; and (iii) cleanliness and maintenance. If Tenant fails to meet minimum standards in any of these areas, County may, at its discretion, assess fines as set forth in Section 8.01. County representatives may also take photographs as deemed necessary during inspection of Leased Premises. County representatives will make best efforts not to interfere with Tenant's business operation.
2. To assure consistent adherence to performance standards throughout the Term, the County will use a rolling 12-month cycle in the recording of incidents of failure to meet standards. County reserves the right to assess fines for violations of performance standards as set forth in Section 8.01.
3. Repeated violations and deficiencies in performance by Tenant may be cause, at County's sole discretion, to terminate this Contract.

B. Annual Review

No later than 90 days after the end of the first full Accounting Year after the Term Commencement Date, and the end of each Accounting Year thereafter, County reserves the right

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to request a meeting with Tenant to review and evaluate the financial, customer service, and operational performance of each Concession within the Leased Premises During the review, County may determine, in its sole discretion, that the performance of one or more of the Concessions is unsatisfactory if one or more of the following occurred during the prior Accounting Year:

1. Sales per Enplaned Passenger were less than 80 percent (80%) of the Projected Sales per Enplaned Passenger for the Leased Premises, as set forth in Tenant's Response to Concession Request for Proposal PM **1121-0345-0034** (notwithstanding any incidence of Severe Decline in Enplanements within the Accounting Year).
 2. Sales per Enplaned Passenger were less than 80 percent (80%) of Sales per Enplaned Passenger for the same Concession during each of the two (2) preceding Accounting Years (notwithstanding any incidence of Severe Decline in Enplanements within the Accounting Year).
 3. Scores on any mystery shopper survey(s) conducted by County or its representative were less than 80 percent (80%) of the maximum achievable scores for the survey(s).
 4. Scores on any operational survey(s) conducted by County or its representative were less than 80 percent (80%) of the maximum achievable scores for the survey(s).
- C. Remediation Plan

If County determines, based on the performance criteria specified in this section, that a Concession performed unsatisfactorily during the prior Accounting Year, County will provide written notice to Tenant. Within 30 days of receipt of such written notice, Tenant shall prepare and submit to County, for its approval, a Remediation Plan, as described below, to improve the performance of the Concession.

The Remediation Plan shall include, but not be limited to, proposed remedial activities such as employee training, staffing changes, merchandise and service modifications, facility refurbishment and repair, and/or replacement of concept or brand. Upon approval by County, Tenant agrees to diligently implement the approved Remediation Plan and further agrees to submit to County monthly reports on the progress of such implementation. If the approved Remediation Plan includes the replacement of a concept or brand, then County and Tenant will enter good faith negotiations concerning a concept or replacement brand.

In the event County determines, after six (6) months of implementation of a Remediation Plan, the subject Concession is still performing in an unsatisfactory manner, County reserves the right to require Tenant to replace the underperforming concept or brand, if not already replaced by the Remediation Plan. Within 90 days of receipt of written notice from County requiring a replacement, Tenant shall submit to County a proposal for a brand or concept replacement plan.

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Such replacement plan shall include, but not be limited to, a detailed description of the brand or concept, capital expense required to re-brand, sales projections, and the specific timetable to replace the brand or concept. County, in its sole discretion, reserves the right to approve or deny the replacement plan and require Tenant to submit another replacement plan.

SECTION 7.02 QUALITY OF PRODUCTS AND SERVICES

Tenant shall ensure that all customers are provided the optimum quality of food, products and services, and Tenant shall keep in stock and have ready for sale at all times of operation, a sufficient supply and variety of food, beverage, articles, and goods offered for sale at each Concession Location, consistent with the Product Price List, to meet the demand of customers at the Airport.

If County identifies any deficiencies with respect to the operations, including, without limitation, quality, variety, and quantity of goods or services offered, Tenant shall be notified in writing by County and shall correct, or cause to be corrected, such problem or problems within seven (7) days, unless County authorizes in writing a longer period. If Tenant fails to correct within seven (7) days after written notice is given by County, County may assess fines as described in Section 8.01.

Tenant shall develop and implement creative merchandising techniques and displays to optimize customer satisfaction and Gross Receipts, including without limitation, food and beverage displays; retail merchandise displays; display cases; promotional displays; attractive and durable packaging; menu boards or table-top menus; and pictures of food and beverages or retail merchandise.

Prices for each item sold in each store shall be conspicuously displayed or printed to a menu to the satisfaction of Airport Director. Tenant's printed or digital menus and/or price lists shall include the appropriate use of descriptive terminology that accurately and truthfully describes the food, beverages, services, or products being offered. Prices displayed shall not exceed the approved prices for said items. Upon request by the County, Tenant shall produce menus in specified languages to assist persons who may have limited English proficiency.

All food, beverages, retail merchandise and other items sold or kept for sale shall be of high quality, wholesome, and conform to the fullest extent with all applicable food and drug laws, ordinances and regulations, as well as Airport Operating Directives. County reserves the right to approve all merchandising displays. Tenant hereby affirms that County, in its sole discretion, has the absolute right to require that Tenant discontinue the sale of any product County deems unsatisfactory, distasteful, or inappropriate for any reason and to require Tenant to modify merchandising displays for any reason. If Tenant fails to comply with any such County request within one (1) day after written notice from County, County may assess fines as described in Section 8.01.

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All franchise and/or license standards applicable to a Concession shall be met or exceeded. Copies of the franchise/license standards and performance audit forms shall be sent to County prior to the first day of business of such Concession. Tenant shall submit to County copies of all inspections conducted by the franchisor, licensor or mystery shopper service hired by the franchisor or licensor within ten (10) days of receipt by Tenant.

All food and non-alcoholic beverages available for sale should be made available for customers to carry out if they so request. The containers and plasticware for carryout should be recyclable, made of sustainable materials, high quality, and substantial enough for the customer to take on an airplane.

SECTION 7.03 PRICING

Tenant acknowledges County's objective to provide Airport customers and employees high quality goods and services at reasonable prices. Accordingly, Tenant covenants that all goods and services sold by Tenant shall meet the County's Pricing standards as follows:

1. For merchandise with a pre-printed price affixed by the manufacturer or distributor, the selling price shall not exceed the pre-printed price.
2. For nationally and locally branded Concessions that are also represented off-Airport in the County of Orange, the selling price for goods and services at the Airport shall not exceed the selling price for the same goods and services at the closest off-Airport establishment in the County of Orange of the same brand name by more than fifteen percent (15%).
3. For all non-branded, proprietary, or branded Concessions not represented off-Airport in the County of Orange, the selling price for goods and services at the Airport shall not exceed the average selling price for similar or equivalent goods (of like size and quality) and services at three Price Benchmark Establishments, as described below, by more than fifteen percent (15%).
 - A. Price Benchmark Establishment(s)

No less than forty-five (45) days prior to the opening of a Concession, Tenant must submit to County for its approval the names and addresses of at least three businesses for each of the goods or services, or substantially similar items within the County of Orange that Tenant proposes to use as a Price Benchmark Establishment. The businesses must be comparable in concept, size, ambiance, service style and quality to the Concession and, to the extent practical, be the same businesses as identified in Tenant's Response. Venues specifically excluded from consideration as comparable businesses include entertainment or sports venues, other transportation terminals, amusement parks, zoos, resorts, and hotels.

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Once approved by County, the Price Benchmark Establishment(s) will be used as the basis for price comparisons during the remainder of the Term. In the event any of the Price Benchmark Establishment(s) ceases operations or, in the sole discretion of County, alters its concept, branding, service style, merchandise selection or menu to no longer be a valid comparison, Tenant must propose a substitute Price Benchmark Establishment(s) for approval by County.

If Price Benchmark Establishment(s) cannot be determined by Tenant as described above, then County, in its sole discretion, will identify local area businesses like Tenant's business at the Airport to be deemed as Price Benchmark Establishment(s).

B. Price Surveys

No later than thirty (30) days prior to the opening of a Concession and prior to the beginning of each Lease Year, Tenant shall, at its own expense, prepare and submit to the Airport a goods and services price survey of the Price Benchmark Establishments that demonstrates, to the satisfaction of County, Tenant's compliance with the County's Pricing Standards.

C. Price Changes

Throughout the Term, Tenant may request changes to pricing once every six (6) months, when the comparable national or regional brand changes pricing or more frequently as agreed to by County. Requested price changes must be submitted in writing and include such information and data as reasonably requested by County including, but not limited to, the results of price surveys or other economic justification supporting the requested price changes(s). County shall, in its sole discretion, determine which, if any, price changes are consistent with the County's Pricing Standards and shall notify Tenant in writing of its approval or rejection of each requested price change. No later than ten (10) days after any adjustment to prices, the Parties agree to modify the Price List to incorporate said price adjustments. Modification will be confirmed by letter executed by the Airport Director, without need for formal amendment to this Lease.

D. Airport Employee Discount

Tenant may offer an employee discount on all food & beverage, retail, passenger services, and non-alcoholic beverages purchased by employees working at the Airport and employees of airlines operating at Airport who have been issued (and show at the time the discount is requested) appropriate identification badges. The discount shall be based on Tenant's normal non-sale or non-promotional prices. No discount shall be given on food and non-alcoholic beverages with a manufacturer pre-printed price. Tenant must provide the Airport Director, or designee with the Tenant's discount policy and that the discount is reflected on sales records. The sales records shall clearly state the public sales price, the amount of discount, and the discounted sales price.

E. Price Conformance

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At any time during the Term, County may survey or cause to be surveyed, prices being charged for goods or services offered by Tenant. County shall have the right to monitor and test all of Tenant's goods and services prices by a shopping service or County personnel. If County concludes, based on the results of the survey, that any prices being charged by Tenant do not comply with the County's Pricing Standards, County will require Tenant to adjust prices to the amounts permitted herein.

Tenant will, within three (3) business days of written notice from County, adjust any prices that County determines, in its sole discretion, to be inconsistent with the County's Pricing Standards. Failure to rectify any pricing discrepancies within the aforementioned three (3) days shall constitute a material breach by Tenant of this Lease and, in addition to the collection of violation fines, as set forth in Section 8.01, and all other remedies available to County, County may, in its sole discretion, terminate this Lease.

SECTION 7.04 HOURS OF OPERATION

A. Store Hours

Tenant shall ensure that each Concession is open for business without interruption as determined by the Airport Director. Unless otherwise approved in writing by County, the Parties agree to the approved Store Hours.

County may, in its sole discretion, require Store Hours to change during the Term. Tenant hereby acknowledges and agrees to operate the Concessions as required which, if requested by County, may be twenty- four (24) hours per day seven (7) days per week, including all holidays. Tenant may request changes to Store Hours after six (6) full months of operations under this Lease. County may, in its sole discretion, approve or deny such requested changes.

B. Extension of Store Hours

Tenant agrees to remain open beyond Store Hours for certain events including, but not limited to, the following:

1. In the event of a delayed flight in the Terminal in which any Concession is located, Tenant shall remain continuously open and provide all goods and services as required by this Lease beyond the then current Store Hours for the Concession in the affected Terminal and until the delayed flight departs the gate or County otherwise instructs.
2. In the event of an emergency, as determined by County, Tenant shall remain continuously open and provide all goods and services as required by this Lease for the Concession beyond the then current Store Hours as instructed by County.

C. Failure to Open

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Failing to open for business within thirty (30) minutes of the required opening time or closing more than thirty (30) minutes early, shall constitute a violation of this Section for which County may collect violation fine as set forth in Section 8.01.

D. Posted Hours

The Tenant will prominently post Store Hours in a professional manner for each Concession and in a format approved by County.

SECTION 7.05 DELIVERY OF GOODS

Tenant shall make all deliveries of money, coin, supplies, goods, products, and food and beverage through routes and entrances items and in such manner, and at such times and locations as designated by the Airport Director. Emergency deliveries may be made at other times subject to prior arrangements with the County. Tenant shall not leave products, carts and inventory unattended in the concourses, hallways and other locations. Tenant shall only utilize carts, shippers, hand trucks and dollies that were outfitted with pneumatic (air) or gel tires to move products or merchandise from storage to concession areas. Metal or hard rubber wheels or tires are prohibited. Tenant shall ensure staff transporting items in the Public Areas have clear visibility in all directions. Items must not be over stacked. Tenant shall ensure pallets used for delivery will be returned to the supplier or legally reused/recycled/disposed off of Airport property.

A. Central Receiving and Distribution

County may implement a Central Receiving and Distribution Center (hereinafter referred to as "CRDC") and may contract, at its discretion, with a third party to operate the CRDC and provide distribution and delivery services to Airport (hereinafter referred to as "Logistics Manager"). When established, Tenant agrees to use, at its own cost and expense, the CRDC and have all deliveries made to the CRDC, except where delivery to a third party is prohibited by law or as otherwise approved in writing by County. Tenant agrees to pay Tenant's share of the costs of the operation of the CRDC and said distribution and delivery services, as determined by County.

Tenant acknowledges that County will not be responsible for and will have no liability related to the operation of (or the failure to operate) the CRDC nor related distribution and delivery services. Tenant waives any and all claims against County for operation (or failure to operate) the CRDC, including but not limited to lost profits, consequential damages or any other losses or damages whatsoever.

Tenant acknowledges that the Logistics Manager may establish rules and procedures regarding the operations of the CRDC and the distribution and delivery services to Airport including, but not limited to, operating hours of CRDC, scheduling and acceptance of Tenant's deliveries to the CRDC, scheduling and place of deliveries to Airport, and transportation of goods and related

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equipment such as pallets, storage bins, and racks among the Airside Terminals, terminals, and CRDC. CRDC rules and procedures may be modified from time to time in accordance with this Lease. Tenant agrees to conform to said CRDC rules and procedures.

SECTION 7.06 PERSONNEL

A. Staffing

Tenant shall hire, train, supervise, and deploy a sufficient number of personnel to service customers in a timely and efficient manner and to properly meet Tenant's obligations herein. If replacing an Existing Concession Location, the Tenant shall make every effort to hire and train the previous concession employees subject to the Tenant hiring policies and procedures.

Tenant shall closely monitor personnel to ensure first class service to customers in compliance with this Lease. The satisfactory performance of the obligation hereunder shall be determined in the sole discretion of County. Tenant shall take all proper steps to discipline personnel who participate in acts of misconduct on or about the Leased Premises.

Tenant warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Lease meet the citizenship or alien status requirement set forth in federal statutes and regulations. Tenant shall obtain from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Tenant shall retain all such documentation for all covered employees for the period prescribed by the law. Tenant shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Tenant or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment or any persons performing work under this Lease.

B. General Manager

Tenant shall appoint a General Manager to oversee and manage the performance of the Concession and represent and act on behalf of Tenant. The General Manager shall have full authority to make day-to-day business decisions on behalf of Tenant with respect to the Concession including, but not limited to, authority to control the conduct and demeanor of Tenant's Personnel. The General Manager shall represent the Tenant in dealings with County and shall coordinate all concession activities with County. The General Manager shall be assigned to an office at or near the Airport and shall be available during County's regular business hours. The General Manager shall designate a qualified, competent, and experienced subordinate to be in charge and available during his/her absence during Tenant's regular operating hours.

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C. County's Right to Object

County shall have the right to object to the demeanor, conduct, and appearance of any personnel of Tenant or any of its invitees or those doing business with it. Immediately upon notice of objection by County, Tenant shall take all steps necessary to remedy the cause of the objection. If requested by Tenant, County shall present its objections in writing and provide Tenant the opportunity to reply to the objections and such reply will be given consideration by County.

SECTION 7.07 EMPLOYEE PARKING

Tenant shall pay the monthly employee parking fee, subject to change, for employee vehicles parked in the employee parking lot.

Nothing in this Lease shall be deemed to require County to provide parking to Tenant's personnel. County may provide parking accommodations to Tenant's personnel in common with employees of other Tenants and users of the Airport subject to the payment of reasonable charges therefor as may be established from time to time by County. In such event, Tenant's Personnel shall be required to park within the designated areas. Tenants are encouraged to incentivize employees to utilize alternative, more environmentally friendly modes of transportation including mass transit, ride sharing, etc.

SECTION 7.08 POINT OF SALE TERMINALS

Tenant must install a POS Terminal(s) to accurately record all business transactions occurring in each Concession Location for accounting, reporting, and auditing purposes as set forth herein.

All POS Terminals used at the Airport must have at a minimum, the following features:

- Multiple segregated category addresses to allow for accurate and complete reporting of Gross Receipts/Revenues by various goods and services categories.
- The capability of recording transactions by sequential control number to an audit tape or computer file.
- Ability to produce continuous and consecutive transactions in sequential order. Gaps in transaction numbers may be subject to a violation fine as described in 8.01.
- Mobile POS payment capabilities or other similar electronic devices.
- The capability of recording any discounts that are applied to a transaction.
- The capability of printing a transaction history to tape or computer file by category of goods or services, time of day, day, month, and year by category.
- The capability of printing customer receipts showing the transaction amount, the amount tendered, the amount of change due to the customer, and the time and date of the transaction. Additionally, the customer receipt must show Tenant's contact information including name, phone number and email address for any customer concerns, complaints, or questions.

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- A fee display of sufficient size and legibility that is placed in a location visible to the customer during a transaction.
- A secure transaction audit tape or ASCII transaction file on a removable storage device.
- POS terminal will be non-re-settable.
- The capability to capture passenger data and flight scanning boarding card on every transaction. This passenger/flight data should be associated/added to a transaction record.
- The capability to capture basic survey information from passengers (i.e., measuring customer satisfaction from 1 to 5). This information should be associated/added to a transaction record.
- The capability to generate log file for audit purposes including transaction creation, delete or modification. This log entry should be controlled by a sequential control number.
- Tenant will ensure that POS terminals comply at all times with the requirements set forth within the Agreement and, if necessary to allow for a customer experience that meets or exceeds Good Industry Practices and the customer service standards set forth in the CDMP. POS systems shall be refreshed and modernized whenever refurbishments are required under this Lease.
- Tenant has confirmed in the Tenant's Response that it will meet the criteria specified herein. Failure to comply will become apparent through the County not receiving all the required data and through the financial audits.

County shall have the right to: (a) examine during business hours the totals of any POS used on the Leased Premises and to inspect such POS for compliance with this Section; (b) implement an hourly or daily reporting system with which Tenant shall comply; and (c) implement a common-use POS, in which event, Tenant must, at its cost, purchase and install the necessary equipment, train its employees, and thereafter use, such equipment to take part in such system. Additionally, Tenant shall ensure a capability within its mobile POS for the installation of Airport and Airport partner applications that can be integrated with Tenant's POS to exchange data and make possible future opportunities to support passengers and airlines with vouchers, coupons, and other mutually beneficial marketing programs.

Notwithstanding the above, at County's request Tenant shall be required to submit daily Gross Receipts for each Concession. Daily reporting will be submitted no later than (24) hours after the end of each day, in a form acceptable to the County.

SECTION 7.09 CASH HANDLING AND CREDIT CARD REQUIREMENTS

Tenant shall always observe cash-handling and record-handling procedures in accordance with sound accounting and financial control practices and as necessary to provide timely and accurate reports to County. County may at any time during the Term request a copy of these procedures. County shall have the right to monitor and test all of Tenant's procedures and controls and require Tenant to make changes to its procedures.

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Tenant must accept, but is not limited to, the following cash and non-cash payment options: US currency and at least four (4) major accepted credit cards: Visa, MasterCard, Discover and American Express. Tenant must also accept mobile wallet payment systems such as Apple Pay and/or Google Wallet.

Tenant shall always comply with the most recent Payment Card Industry Data Security Standard requirements. No minimum credit card or debit card purchase amount or charge for credit card purchases shall be allowed. Tenant's Independent CPA must yearly certify Tenant's operations are compliant with Payment Card Industry Data Security Standards. County reserves the right to receive reports required by the Payment Card Industry Security Standards Council. Tenant must report any breach of its Payment Card Industry Data to the County within 24 hours of its finding of the breach.

SECTION 7.10 ADVERTISED SALES OR PROMOTIONS

Tenant is required to participate and submit to the Airport for prior approval all advertised sales or promotions applicable to Airport locations by whatever media outlet, conducted by its parent corporation, its franchisor, or its selected operating brands Tenant is not permitted to (a) use or permit the use of the Leased Premises for the conduct of an outlet store or a second-hand store; or (b) advertise any distress, fire, bankruptcy, liquidation, relocation, closing, closeouts of goods or services or going-out-of-business sales.

Tenant must make every reasonable effort to ensure that all corporate advertisements that list multiple locations will list the Airport as a participating location of the promotion or sales. If participation in a sale or promotion harms Tenant, Tenant may request, in advance of the sale or promotion, in writing to County to be exempted from participation.

SECTION 7.11 COMPLAINTS

All customer complaints, written or oral, received directly or referred to Tenant by County must be responded to by Tenant within 24 hours of notice. Tenant shall make a good faith attempt to explain, resolve or rectify the cause of the complaint. A written copy of Tenant's Response shall be delivered to County within the 24-hour period.

Tenant shall be required to respond to complaints immediately. All other issues regarding the quality of service and/or prices raised on County's own initiative may be submitted to Tenant for response, which response shall be provided by Tenant to the Airport Director within 24 hours.

SECTION 7.12 CONCESSION MARKETING PROGRAM

County shall provide or cause to be provided a Marketing Fund to underwrite the Airport's Concession Marketing Program. Tenant shall pay, or cause to be paid, the Marketing Fee per Article IV. Rentals, Fees, Other Charges, Reporting, and Accounting Records for the Marketing

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Fund for every month during the Term. County shall not be obligated to expend more for promotions and advertising than is collected from Tenants. Any promotional services and personnel so provided shall be under the exclusive control and supervision of County. County reserves the right at any time to terminate the Joint Marketing Fund and thereafter, continue to provide marketing and promotional services until the balances remaining in the fund are exhausted.

The Marketing Program may include, but is not limited to, activities with direct application to promoting and monitoring the concessions at the Airport such as food, services, and retail merchandise advertising, marketing, public relations, media production and placements, special events, brochures, videos, directories, catalogues, customer service training, mystery shopper programs, and concession surveys relating to consumer satisfaction and market research, as well as the costs of administration of the Marketing Program.

SECTION 7.13 OPERATING PROCEDURES AND STANDARDS

A. County Requirements

The occupancy and use by Tenant of the Leased Premises and the rights herein conferred upon Tenant shall be conditioned upon and subject to the Airport's Operational Directives as are now or may hereafter be prescribed by County through the lawful exercise of its powers. Tenant must operate the Concession in accordance with the Airport's Rules and Regulations.

B. Health and Safety Standards

Tenant shall comply with all health and sanitary regulations adopted by County, State of California, and any other governmental authority with jurisdiction. Tenant shall give access for inspection purposes to any duly authorized representatives of all such governing bodies. Tenant shall provide County with copies of all inspection reports by other health and sanitary governing bodies within 48 hours of receipt. This paragraph does not require Tenant to waive any applicable attorney-client or attorney work product privileges.

Tenant shall immediately notify the Airport Director of all citations received by Tenant from the County's Health Care Agency/Environmental Health Services regarding food safety violations. Failure by Tenant to comply with any cure requirements from said agency within 24 hours shall result in Violation Fine due the County per Section 8.01.

C. Additional Compliance

Tenant shall comply with all applicable governmental laws, ordinances, regulations, codes and permits in the conduct of its operations under this Lease including, but not limited to, TSA regulations regarding products or procedures.

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D. Tenant's Standards

Tenant shall establish and submit a Standards of Quality Operating Manual to County for review and approval. Tenant must maintain the approved standards offering quality service and food.

SECTION 7.14 CLEANING AND ROUTINE MAINTENANCE

A. General Obligations

Tenant shall ensure that the Concession is maintained and operated in an optimal manner and that the Leased Premises are kept in a safe, clean, orderly, and inviting condition always in a manner satisfactory to County. To comply with these requirements, Tenant must regularly review or cause to be reviewed the Leased Premises and its operations at the Airport.

B. Preventive and Routine Cleaning and Maintenance Program

Tenant shall be responsible for preventive and routine cleaning and maintenance of all assets within the Leased Premises, whether built by Tenant or County through the expiration of the Term. No less than thirty (30) days prior to the opening of any portion of the Leased Premises, Tenant shall establish a preventive and routine cleaning and maintenance program for the Leased Premises, including but not limited to the list of items below. This maintenance program must meet or exceed the cleaning and maintenance requirements of the manufacturer's equipment manuals, a copy of which shall be provided at the request of the airport within ten (10) business days of the request. The provisions of the program shall be subject to the initial written approval of and periodic review by County. Upon request by County, Tenant shall provide County a written schedule of Tenant's cleaning and maintenance program.

C. Janitorial Service.

Tenant, at its own cost and expense, shall provide all janitorial services for the Leased Premises. Tenant shall ensure that the Leased Premises and the Public Areas adjacent to the Leased Premises are kept clean and free from all rubbish and refuse.

D. Pest Control.

Tenant shall be solely responsible for a pest free environment within the Leased Premises area by maintaining its own pest control services, in accordance with the most modern and effective control procedures. All materials used in pest control shall conform to Federal, State and local laws and ordinances. All control substances utilized shall be used with all precautions to obviate the possibility of accidents to humans, domestic animals and pets. Pests referenced above include, but are not limited to, cockroaches, ants, rodents, silverfish, earwigs, spiders, weevils, and crickets. Whenever County deems that pest control services must be provided to a building or area that includes the Leased Premises under this Lease, Tenant shall pay for the costs of said services.

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County, in its sole discretion, may elect to provide or contract for pest control services on Tenant's behalf. If County elects to provide or contract for pest control services on Tenant's behalf, Tenant covenants to pay its share of the cost of such services, in an amount determined by County. In such cases, Tenant must cooperate with County's chosen pest control Contractor.

E. Plumbing.

Tenant, at its own cost and expense, shall provide routine plumbing services for the Leased Premises. Tenant shall ensure that activities within the Leased Premises do not damage or harm the central water, plumbing, and sewer infrastructure at the Airport. Tenant shall properly maintain all water hook-ups within the Leased Premises. Tenant must furnish County a copy of its plumbing contract, monthly service schedule, and monthly service reports, as directed by County. Tenant agrees to coordinate with County and other Tenants to provide the most effective plumbing services for the Airport. Tenant shall coordinate and comply with the cleaning and routine maintenance recommendations of County.

County, in its sole discretion, may elect to provide or contract for plumbing services on Tenant's behalf. If County elects to provide or contract for plumbing services on Tenant's behalf, Tenant covenants to pay its share of the cost of such services, in an amount determined by County. In such cases, Tenant must cooperate with County's chosen plumbing Contractor.

The plumbing facilities within the Leased Premises and elsewhere in the Airport shall not be used for any purpose other than for the purposes for which they were constructed, and no foreign substance of any kind shall be thrown therein. The expense to repair any breakage, stoppage, or damage resulting from a violation of this paragraph, wherever the breakage, stoppage or damage occurs, shall be charged by County to Tenant, regardless of the cause.

F. Electricity.

Tenant, at its own cost and expense, shall install and maintain an electric meter and a gas meter for each Concession in accordance with the Tenant Design Guidelines and John Wayne Airport Construction Standards. Tenant, at its own cost and expense, shall install and maintain all power circuits and connections required for equipment and mechanical systems used within the Leased Premises. Tenant shall ensure that activities within the Leased Premises do not damage or harm the central Electricity or Natural Gas infrastructure at the Airport. Tenant shall coordinate and comply with the cleaning and routine maintenance recommendations of County.

G. HVAC.

Tenant, at its own cost and expense, shall install and maintain any ductwork and other HVAC connections for the Leased Premises in accordance with the Tenant Design Guidelines and John Wayne Airport Construction Standards. Tenant agrees to properly maintain the ductwork and other connections within the Leased Premises. Tenant shall ensure that activities within the

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Leased Premises do not damage or harm the central HVAC infrastructure at the Airport. Subject to conditions beyond its control, the County shall maintain under normal conditions a temperature adequate for comfortable occupancy according to the season; provided, that Tenant properly maintains the ductwork and other connections within or leading into the Leased Premises and complies with the recommendations of the County regarding reasonable occupancy and use of the Leased Premises. Tenant shall coordinate and comply with the cleaning and routine maintenance recommendations of County.

H. Grease Removal Systems.

Tenant shall comply with Orange County Sanitation District Ordinance No. OCSD-25 (OCSD-25 for management of Fats, Oil, and Grease (FOG)). All restaurants shall install grease trap in kitchens, as applicable. If Tenant is required to install a grease removal system per OCSD-25, they shall not rely solely on the County's grease interceptor but shall install a grease trap in their facility. Tenant shall, at its own expense, regularly, as required by OCSD-25, check and clean its grease removal systems, whether located within the Leased Premises or elsewhere in the Airport. Tenant agrees to properly maintain all installed grease removal systems within the Leased Premises. Tenant must maintain the grease traps in accordance with the manufacturer's specifications to allow for the optimal efficiency in removing fats, oils, and grease from the waste stream before it enters the systems provided by the County. Tenant must also maintain its used cooking oil/liquefied grease collection systems in accordance with the manufacturer's specifications to allow for optimum efficiency in the recovery, transfer, containment, and collection of used cooking oil/liquefied grease suitable for reclaim. Tenant shall maintain cleanliness around the cooking oil/liquid grease containers. Tenant shall contract for regular and efficient removal of cooking oil/liquid grease or coordinate with other Tenants or County if a cooking oil program is developed. Tenant shall ensure that activities within the Leased Premises do not damage or harm the central grease removal infrastructure at the Airport. Tenant shall coordinate and comply with the cleaning and routine maintenance recommendations of County.

I. Trash, Waste, and Refuse.

Cleaning by Tenant shall include collection of any concession-generated trash and cleanup of spills in the area immediately adjacent to the Leased Premises' entrances and exits. Tenant shall comply with any green waste or recycling programs implemented by the Airport including separating liquid waste, food waste, recyclables, and trash and depositing those items in the appropriate drains or bins located in the loading dock area. Tenant shall not dispose of any concession-generated trash in trash receptacles provided for the traveling public's convenience in the Terminal and shall only use trash dumpster locations designated by the Airport. County shall have the right to enter upon and inspect the Leased Premises at any time for cleanliness, safety and maintenance inspections. Tenant, whether within the Leased Premises or while moving through the terminal, shall use leak-proof containers. Any containers with wheels shall have wheels with pneumatic (air) or gel tires. Metal or hard rubber wheels or tires are prohibited.

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J. Lighting.

Tenant, at its own costs and expense, shall install and maintain all lighting fixtures and wiring for general illumination of the Leased Premises in accordance with Tenant Design Guidelines and John Wayne Airport Construction Standards. Tenant agrees to properly maintain the lighting fixtures wiring used for general illumination within the Leased Premises. Tenant shall ensure that activities within the Leased Premises do not damage or harm the central Electricity infrastructure at the Airport. Tenant shall coordinate and comply with the cleaning and routine maintenance recommendations of County.

K. Routine Refurbishment

On or about the commencement of each Accounting Year, representatives of County and Tenant shall tour the Leased Premises and jointly agree upon what, if any, routine refurbishment is required to maintain the Leased Premises in optimal condition. Tenant shall promptly undertake such refurbishment at its sole cost and expense. If Tenant and County cannot jointly agree upon the type and extent of routine refurbishment, County may determine, in its sole discretion, the routine refurbishment required for that Accounting Year. For purposes of this Section only, "routine refurbishment" shall mean the routine repainting or redecoration within the Leased Premises, including, but not limited to, the replacement or repair of worn carpet, tile, furniture, furnishings, fixtures, or finishes. All Trade Fixtures, Leasehold Improvements, and furnishings that become worn, chipped, dented, or gouged, shall be repaired, or replaced by Tenant at Tenant's sole expense. The failure to timely undertake required refurbishment shall be grounds for the imposition of violation fines as provided in Section 8.01.

L. Maintenance Personnel and Program

Tenant covenants to employ or contract with sufficient personnel and provide necessary equipment to keep the Leased Premises and all furniture, furnishings, fixtures, and equipment clean, neat, safe, sanitary, and in good working order and condition always pursuant to the maintenance requirements of this Lease.

M. County Sole Judge of Maintenance

County shall be the sole and absolute judge of the quality of Tenant's maintenance of the Leased Premises. County or its representative may at any time, without notice, enter the Leased Premises to determine if maintenance satisfactory to County is being performed. Performance by Tenant of maintenance pursuant to a written maintenance plan previously approved by County shall be conclusive evidence of satisfactory maintenance unless County determines that there is a present danger or safety hazard within the Leased Premises. If County determines that maintenance is not satisfactory, County shall notify Tenant in writing. Tenant will perform the required maintenance, to County's satisfaction, within fifteen (15) days after receipt of written notice or County or its representative shall have the right to enter upon the Leased Premises and

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perform the maintenance. However, where unsatisfactory maintenance threatens the safety, health, or welfare of the traveling public and/or Airport's facilities, Tenant shall immediately perform the maintenance. Where County or its representative performs maintenance, Tenant agrees to promptly reimburse County for the cost thereof, plus an administrative fee of fifteen percent (15%) of the maintenance costs without prior quote.

N. Emergency Repairs

In the event an emergency repair is required, Tenant shall notify County of the repair situation as soon as possible. Following such notice, County may inspect the repair work and require alterations if the repair is not satisfactory to County. In the event of an after-hours emergency repair, Tenant agrees County shall have the right to enter any affected portion of the Leased Premises and perform the emergency repair. Tenant covenants to promptly pay to County the costs associated with any after-hours emergency repair. All emergency repairs requiring shutdown of any Airport system or utility require prior written approval of County. If any emergency repair affects other tenants at Airport, County may, at its sole discretion, fix the problem immediately and invoice Tenant. Tenant covenants to promptly pay to County any proportional costs of emergency repairs completed by County, plus 15% administrative fee, which Tenant may have contributed to the cause of the incident.

SECTION 7.15 COUNTY MAINTENANCE RESPONSIBILITIES

County shall be responsible for maintenance of the following central systems located throughout Airport, except for assets, connections, or systems located within the Leased Premises. Tenant waives all claims against County for performance of maintenance at Airport.

A. Electricity Systems

County will furnish normal and reasonable quantities of electricity and gas, if applicable, to the Leased Premises. Tenant covenants to pay to County Tenant's share of the costs of such cleaning, maintenance, and repair, in an amount determined by County. County will clean, maintain, and repair, for the benefit of Tenant, central Electricity and Natural Gas systems at Airport.

B. Grease Interceptors

County will clean, maintain, and repair, for the benefit of Tenant, all grease interceptors located along common sewer lines. Tenant covenants to pay to County Tenant's share of the costs of such cleaning, maintenance, and repair, in an amount determined by County. Tenant shall maintain its own grease traps and comply with manufacturer's guidelines and with Orange County Sanitation District Ordinance No. OCSD-25 (OCSD-25) for management of Fats, Oil, and Grease (FOG). Tenant shall comply with all sanitary sewer discharge requirements including those for pH and water temperature in addition to reduction of grease.

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C. HVAC Systems

Maintenance of Heating, Ventilation and Air Conditioning (HVAC) Systems. Tenant shall be responsible for maintaining Tenant-installed HVAC system from the Leased Premises to the point that the system connects to the Terminal's supply air duct. Tenant shall be responsible for providing its own space temperature controls within inline store locations within the Leased Premises.

D. Sanitary Sewer System

County will furnish water from the central water source to the Leased Premises in reasonable quantities; provided that Tenant must comply with all water conservation programs in effect or as adopted. County will clean, maintain, and repair, for the benefit of Tenant, central water, plumbing, and sewer infrastructure and systems at Airport. Tenant covenants to pay to County Tenant's share of the costs of such cleaning, maintenance, and repair, in an amount determined by County.

E. Trash, Waste and Refuse

County reserves the right, if deemed to be in its best interests, to provide trash, waste and other refuse removal, disposal, and recycling services. Tenant covenants and agrees to participate in any Airport-wide trash, waste, and other refuse removal, disposal, or recycling program for any type of trash, waste, and refuse at its own cost. In the event County elects to provide these services on behalf of Tenant, Tenant covenants to pay its share of the cost of such trash, waste and other refuse removal, disposal, and recycling services, in an amount determined by County.

F. Exterior Windows and Structures

County will clean, maintain, and repair, for the benefit of Tenant, exterior windows, and all structural parts of the Airport. County's maintenance shall include exterior glass, walls, and roof but specifically excludes Leased Premises Improvements and Trade Fixtures. Tenant covenants to pay to Tenant's share of the costs of such cleaning, maintenance, and repair, in an amount determined by County.

SECTION 7.16 PAGING, AUDIO, VIDEO SYSTEMS AND FREQUENCY PROTECTION

Tenant shall not install any technology that may interfere, circumvent, or impede Airport systems or operations. County reserves the right to request from Tenant a detailed inventory and diagrams of all information technology systems that Tenant might employ within the leased space. If Tenant installs, in accordance with the Tenant Design Guidelines and John Wayne Airport Construction Standards and with County's approval, any type of radio transceiver or other wireless communications equipment, Tenant will provide frequency protection within the aviation air/ground VHF frequency band and the UHF frequency band in accordance with

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restrictions promulgated by the FAA for the vicinity of FAA Transmitter or Receiver facilities. Frequency protection will also be provided for all other frequency bands operating in the vicinity of Tenant's equipment. If frequency interference occurs because of Tenant's installation, County reserves the right to shut down Tenant's installation until appropriate remedies to the frequency interference are made by Tenant. Remedies may include relocation of Tenant's equipment to another site. The cost to remedy the frequency interference will be solely at Tenant's expense.

In the interests of public safety and the efficient operation of the Airport, County reserves the sole right to resolve any conflicts between or among any wireless communication devices or systems of the Airport Tenant, and any third-party users at the Airport, and to require Tenant to change over to any future Airport-wide network once installed.

SECTION 7.17 PROHIBITED ACTS

Tenant will not place excessive loads on the walls, ceilings, and floor or pavement areas of Airport and will repair any area damaged by excessive loading to the satisfaction of County.

Unless approved in writing in advance by County, in its sole discretion, Tenant will not permit the active display or operation on the Leased Premises of any display that flies, flashes, or emits a noise or odor.

Unless approved in writing in advance by County, in its sole discretion, Tenant will not keep or display any merchandise on or within, or otherwise obstruct, any part of the Airport outside of the Leased Premises. Tenant shall keep all service corridors, hallways, stairways, doorways, or loading docks leading to and from the Leased Premises free and clear of all obstructions.

Tenant will not interfere or permit interference with the use, operation, or maintenance of the Airport, including but not limited to, the effectiveness or accessibility of the drainage, sewerage, water, communications, fire protection, utility, electrical or other systems installed or located from time to time at the Airport. Tenant will not do or permit to be done anything that may interfere with free access and passage on the Leased Premises or the Public Areas adjacent thereto, or hinder police, firefighters, or other emergency personnel in the discharge of their duties. Further, Tenant shall not do or permit to be done anything that might interfere with the effectiveness or accessibility of elevators or escalators in or adjacent to the Leased Premises, including lines, pipes, wires, conduits, and equipment connected with or appurtenant thereto.

Tenant shall not place any additional lock of any kind upon any window or interior or exterior door in the Leased Premises, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefore is maintained on the Leased Premises, nor refuse, upon the expiration or sooner termination of this Lease, to surrender to Airport Director any and all keys or access codes to the interior or exterior doors on the Leased Premises, whether said keys were furnished to or otherwise procured by Tenant, and in the event of the loss of any keys furnished by Airport Director, Tenant shall pay County, on demand, the cost for replacement

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thereof, and the cost of re-keying County's locks. Tenant may be required to comply with Airport measures that consist of changing of key locks to Airport issued ID Badge controlled electronic locks and shall bear the cost associated with any change over.

Tenant will not engage in any activity prohibited by the Airport. In the event Tenant fails to adhere to the Airport's Rules and Regulations and Operating Directives or fails to prevent any other of the prohibited acts set forth in this section, County may collect violation fines as set forth in Section 8.01 until such prohibited act is ended. Payment of violation fines will be due within fifteen (15) days from the date of invoice. Moreover, if the prohibited act is not corrected as directed by County, County or its representative shall have the right to enter upon the Leased Premises and take corrective action, and Tenant agrees to promptly reimburse County for any related costs, plus an administrative fee equal to fifteen percent (15%) of the corrective action costs.

ARTICLE VIII. FAILURE TO COMPLY WITH PERFORMANCE/OPERATING STANDARDS

SECTION 8.01 VIOLATIONS

Tenant acknowledges County's objective to provide the public and air travelers with the level and quality of service as described herein. Accordingly, County has established a series of violation fines, as set forth in the table below, that it may assess, in its sole discretion, as violation fines for various violations of the provisions of this Lease, the Tenant Design Guidelines and John Wayne Airport Construction Standards and/or County's Rules and Regulations. Tenant and County agree that the damages set forth herein are reasonable estimates of the significant but difficult to predict harm, and Tenant further agrees to pay to County such violation fines in accordance with the rates or in the amounts specified herein upon each occurrence of the specified violation or written demand by County. County will, in its sole discretion, determine the classification of each violation as per day or per occurrence. Tenant further acknowledges that the violation fines are not exclusive remedies and County may pursue other additional remedies as allowed for in this Lease and/or at law, in County's sole discretion. County's waiver of any payment provided for in this Section shall not be construed as a waiver of the violation or Tenant's obligation to remedy the violation.

Violation	Section	Administrative Charge
Violation of Leased Premises Clause	Article II	\$250.00 per day/per location
Failure to submit CPA audited Annual Reports on time	4.09	\$5,000.00
Failure to submit Required Documents and Reports	4.09	\$250.00 per day
Check returned for non-sufficient funds ("NSF")	4.11	\$25.00

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Second returned check for non-sufficient funds	4.11	\$35.00
Other form of payment not prescribed or approved by County	4.11	\$25.00 per occurrence
Failure to make complete and timely payment of Percentage Rent during Interim Phase, Concession Space Rent and Marketing Fund Fee	4.12	1.5% of payment due
Unpaid balance carried forward from prior month	4.12	1.5% of remaining unpaid balance
Failure to provide requested records for an audit within seven days	4.14	\$100.00 per day
Violation of Permitted Uses	5.01	\$250.00 per day/per location
Failure to comply with Alcohol and Beverage Control regulations.	5.01	\$250.00 per day
Failure to provide a product price list in proper form 30 days prior to opening the Leased Premises.	5.01	\$100.00 per day
Failure to obtain and maintain permits and licenses	5.04	\$500.00 per day
Failure to comply with Environmental Regulations such as OCSD-25.	6.01	\$250.00 per day
Violation of General Health and Safety Conditions	6.03, 7.14	\$250.00 per incident
Failure to keep less than 10 people per register per line	7.01	\$250.00 per incident
Failure to comply with Performance Audits	7.01	\$250.00 per incident
Failure to provide a remediation plan in proper form and on time	7.01	\$250.00 per day
Failure to keep product/merchandise as indicated on menu	7.02	\$100.00 per day/per location
Failure to Maintain Pricing Policy and Surveys	7.03	\$250.00 per day
Unauthorized Item(s) for sale	7.03	50% of gross receipts from sales
Failure to maintain required Hours of Operation	7.04	\$200.00 per incident/per location
Failure to abide by Delivery of Goods	7.05	\$200.00 per incident
Failure to staff a General Manager or a qualified, competent, and experienced subordinate in-charge during regular business hours.	7.06	\$150.00 per day
Failure to produce continuous and consecutive transactions in sequential order	7.08	\$100.00 per each missing transaction number
Failure to cure Health Care Agency Violations within 24 hours	7.13	\$200.00 per day

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Failure to Fulfill Maintenance Obligations	7.14, 7.15	\$100.00 per day/per location
Failure to adhere to Airport Rules and Regulations and Operating Directives	7.17	\$200.00 per day
Failure to comply with ACDBE Program compliance review findings or information requests	Article X	\$100.00 per day
Failure to submit Development Plan within six (6) months of lease effective date	Article XI	\$500.00/day
Failure to Submit and Seek Approval for Construction Plans and respond to Plan Review Comments on time	11.05	\$250.00 per day
Failure to open to public within 180 days from Notice to Proceed	11.06	\$150.00 per day
Failure to deliver required post-construction documentation	11.12	\$500.00 per day
Failure to submit midterm refurbishment plans	11.15	\$500.00 per day
Failure to Obtain or Maintain Insurance	16.01	\$300.00 per day
Failure to Obtain or Maintain Deposit	17.01	\$300.00 per day
Failure to abide by any other term in this Lease		\$100.00 per incident/per location
Failure to return Airport ID/Security Credential upon termination of employment	Article XXI	\$250.00
Failure to timely respond to or remediate an Americans with Disabilities Act related complaint, code violation, or accommodation request as applicable	Article XXII	\$250.00 per day
Failure to complete employee training in accordance with FAA or other regulatory guidelines per County direction	Article XXII; 10.01	\$100.00 per day

SECTION 8.02 MULTIPLE VIOLATIONS

Except for violations of requirements regarding construction, health and safety, delivery and vendor access infractions, violation fines for which shall accrue and be assessed immediately and without notice upon violation, all other violation fines shall accrue immediately and assessed as follows:

- A. For the first and second violation of a requirement during any twelve (12) month rolling year, County will provide notice to Tenant to correct the violation within thirty (30) days or other the time specified in the notice. After the time specified by County for cure, violation fines shall be assessed until the violation is corrected by Tenant. In the event,

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the violation is not corrected within thirty (30) days of the time specified by County for cure, then such violation will be treated as a breach of this Lease entitling County the right to seek any other remedies available under this Lease including, but not limited to, termination.

- B. For the third and subsequent violations of the same requirement during any twelve (12) month rolling year commencing upon the first notice of violation, the liquidated damage shall be immediately assessed with no grace period.
- C. Further, after two (2) violations of the same requirement within any twelve (12) month rolling year, County reserves the right, in its sole discretion, to deem the repeated violations a material breach of this Lease and to seek any other remedies available to it under this Lease including, but not limited to, termination of this Lease.
- D. For those violations where a plan is required to correct the violation, then Tenant and County shall develop such plan, including a time schedule under which resolution can be achieved.

SECTION 8.03 PAYMENT OF VIOLATION FINES

Payment of violation fines will be due within thirty (30) days from the date of invoice.

ARTICLE IX. NONDISCRIMINATION

SECTION 9.01 GENERAL CIVIL RIGHTS PROVISION

In all its activities within the scope of its airport program, Tenant agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

If the Tenant transfers its obligation to another, the transferee is obligated in the same manner as the Tenant.

The above provision obligates the Tenant for the period during which the property is owned, used or possessed by the Tenant and the airport remains obligated to the Federal Aviation Administration.

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SECTION 9.02 COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this lease, Tenant, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as follows:

1. Compliance with Regulations

Tenant will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

2. Nondiscrimination

Tenant, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability, in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Tenant will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment

In all solicitations, either by competitive bidding or negotiation made by Tenant for work to be performed under a subcontract, including procurement of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Tenant of the Tenant's obligations under this Lease and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. Information and Reports

Tenant will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, Tenant will so certify to the County or the FAA, as appropriate, and will set forth what efforts it has made to obtain this information.

5. Sanctions for Noncompliance

In the event of the Tenant's noncompliance with the non-discrimination provisions of this Lease, the County will impose such sanctions as it or the FAA may determine to be appropriate,

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including, but not limited to: withholding payments under the contract until the Tenant complies, and/or cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions

The Tenant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Tenant will take action with respect to any sublease, subcontract or procurement as the County or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Tenant becomes involved in, or is threatened with litigation by a subtenant, subcontractor, or supplier because of such direction, the Tenant may request the County to enter into any litigation to protect the interests of the County. In addition, the Tenant may request the United States to enter into the litigation to protect the interests of the United States.

Tenant is required to insert the above paragraphs one through six in every sublease or subcontract at any tier. Upon request by the County, Tenant will provide a copy of each sublease or subcontract to demonstrate that the above language has been inserted.

SECTION 9.03 TITLE VI CLAUSES FOR TRANSFER OF REAL PROPERTY AND FOR
CONSTRUCTION/USE/ACCESS TO REAL PROPERTY

Tenant, for itself, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

In the event facilities are constructed, maintained or otherwise operated on the Leased Premises for a purpose for which a FAA activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

In the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, national origin, age, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination.

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Tenant will use the Leased Premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

Tenant shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service.

SECTION 9.04 TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

During the performance of this contract, Tenant, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- B. 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- D. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- E. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- F. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- G. The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- H. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing

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entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

- I. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Tenant is required to insert the above Title VI List of Pertinent Nondiscrimination Acts and Authorities into every sublease or subcontract at any tier. Upon request by the County, Tenant will provide a copy of each sublease or subcontract to demonstrate that the above language has been inserted.

SECTION 9.05 CIVIL RIGHTS TRAINING

Upon request by the County, Tenant is required to disseminate and provide training materials and other information related to Title VI Civil Rights to its staff as specified by the County.

SECTION 9.06 BREACH OF NONDISCRIMINATION COVENANTS

In the event of breach of any of the above nondiscrimination covenants, the County shall have the right to terminate the Lease and to enter, re-enter, and repossess said lands and the facilities thereon, and hold the same as if said Agreement had never been made or issued.

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ARTICLE X. AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (“ACDBE”) PARTICIPATION

SECTION 10.01 ACDBE PROGRAM ASSURANCES

This Lease is subject to the requirements of the U.S. Department of Transportation’s regulations at 49 CFR Part 23. Tenant agrees that it will not discriminate against any business owner because of the owner’s race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract or subcontract, purchase or lease agreement covered by 49 CFR Part 23.

Tenant agrees to include the above statements in any subsequent agreement or contract covered by 49 CFR part 23 that it enters and cause those businesses to similarly include such statements in further agreements.

SECTION 10.02 ACDBE TERMINATION OR SUBSTITUTION

If Tenant proposes to terminate, substitute, or modify the participation of an ACDBE Joint Venture partner, team member, subcontractor, or sub-concessionaire in the Lease before or after Lease award, prior to such change, the Tenant shall immediately submit for review to the Airport’s ACDBE Liaison Officer an explanation and reasonable documentation regarding the proposed change in ACDBE participation. Tenant shall include the specific reasons for the change in ACDBE participation and must produce any requested documents and information regarding the proposed change.

SECTION 10.03 MONITORING AND REPORTING REQUIREMENTS

No later than fifteen (15) days after the end of each calendar month during the Term, when requested, Tenant will submit to Airport, in Airport’s online system or on Airport’s monthly ACDBE Utilization Report form, a report of Tenant’s total Gross Receipts during the month and the total dollar value of Gross Receipts earned by an ACDBE under this Lease and the total dollar value of goods and services purchased or leased from each ACDBE during the month, in each case calculated in accordance with the requirements of 49 CFR Part 23.

Whenever a Joint Venture is used to meet ACDBE goals, Tenant shall submit to Airport an annual financial statement for the preceding year indicating compensation, profit sharing, capital contributions of ACDBE partners, or any other financial information as requested by Airport relevant to determining ACDBE compliance. Tenant shall also report annually the ACDBE partner’s management involvement and its role in decision making. The annual financial statement, and all other information requested pursuant to this paragraph, shall be on a form satisfactory to Airport and delivered to Airport no later than sixty (60) days following the close of the federal fiscal year ending on September 30th.

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Tenant further agrees to submit any other report(s) or information that County is required by law or regulation to obtain from Tenant, or which the Airport's ACDBE Liaison Officer or designee may request relating to Tenant's operations. In addition, Tenant shall provide all information and reports required by the Airport and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Airport to be pertinent to ascertain compliance with the regulations or directives.

Tenant shall timely submit reports and verifications requested by the County and shall provide such financial information or other information deemed necessary by it to support and document the ACDBE participation for this Lease. County shall have the right until six (6) years after the expiration or termination of this Lease, through its representatives, and at all reasonable times, to review books, records, and financial information of the Tenant (and where applicable, all individuals, Joint Venture partners or team members or other business entities that are a party or engaged in concession activity under this Lease) requested by representatives of the County to substantiate compliance with 49 CFR Parts 23 and 26 as amended, and any guidance issued by FAA regarding the interpretation of the federal regulations.

SECTION 10.04 OTHER REQUIREMENTS

Tenant shall comply with the requirements of 49 CFR Part 23 and 26, the Airport's ACDBE Program, and guidance issued by the FAA, regarding the interpretation of the regulations, including but not limited to the Joint Venture Guidance in the administration of this Lease. Tenant shall comply with any future amendments to the aforementioned authorities.

If Tenant is a Joint Venture as defined in 49 CFR part 23, section 23.3, Tenant agrees that its Joint Venture operating agreement must be reviewed and approved by the Airport, in accordance with FAA guidance, prior to the execution of this Lease. Tenant further agrees that any amendments to its Joint Venture agreement must be reviewed and approved by the Airport, in accordance with FAA guidance, prior to the amendment's execution. A copy of any loan agreement from the non-ACDBE partner to the ACDBE partner that has or will be used in connection with this opportunity must also be provided.

SECTION 10.05 NON-COMPLIANCE

In the event of Tenant's non-compliance with the ACDBE Program, County may, in addition to pursuing any other available legal remedy, terminate, suspend or cancel this Lease in whole or in part; and/or suspend or debar Tenant from eligibility to contract with County in the future or to receive bid packages or request for proposal packages or other solicitations, unless Tenant demonstrates, within a reasonable time as determined by County, its compliance with the terms of the ACDBE Program or this Article.

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ARTICLE XI. CONSTRUCTION AND CAPITAL INVESTMENT

SECTION 11.01 CONSTRUCTION BY TENANT

Tenant shall not make any improvements or modifications, do any construction work on the Leased Premises, or alter, modify, or make additions, improvements, replacements, or repairs, except emergency repairs, to any structure now existing or built without prior written approval of County. Tenant shall not install any fixtures, other than Trade Fixtures, without the prior written approval of County. In the event that any construction, improvement, alteration, modification, addition, repair, excluding emergency repairs, or replacement is made without County approval, or done in a manner other than as approved, County may, at its discretion, (i) terminate this Lease in accordance with the provisions herein; or (ii) require Tenant to remove the same; or (iii) require Tenant to change the same to the satisfaction of County. In case of any failure on the part of Tenant to comply, County may, in addition to any other remedies available to it at law or in equity, effect the removal or change referenced above in this Section and Tenant shall pay the cost thereof to County plus fifteen percent (15%) of the costs for administration.

SECTION 11.02 DESIGN AND CONSTRUCTION STANDARDS

All improvements constructed by Tenant within the Leased Premises shall be constructed in strict compliance with detailed plans and specifications approved by County. Tenant is responsible to review and comply with the Tenant Design Guidelines and John Wayne Airport Construction Standards. All construction shall conform to applicable building codes, rules, regulations and Airport's architectural standards as contained in reference document "Architect-Engineer Guide OC Public Works" and reference document "John Wayne Airport Construction Standards" which can be provided by Airport upon request. All work shall be done in conformity with Airport approved plans, valid building and other necessary permits and shall be acceptable to County and the appropriate governmental entity inspecting such work. Tenant shall have the responsibility to obtain all required permits and to investigate and pay for any and all fees, including but not limited to Transportation Corridor Agency fees, if applicable, necessary for such construction. Airport Director's or designee's approval shall not constitute a representation or warranty as to such conformity, which shall remain Tenant's responsibility. Tenant shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

SECTION 11.03 INITIAL CAPITAL INVESTMENT

As a valuable consideration for County entering into this Lease, but not as a payment of rent or a form of consideration for the right to occupy space at the Airport, but rather to relieve County from making expenditures for Leased Premises occupied by Tenant for the Term of this Lease, Tenant's Capital Investment expended in the initial construction, furnishing and equipping of the Leased Premises shall not be less than the Minimum Capital Investment set forth in the Proposal

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submitted by Tenant and approved by the Board of Supervisors. If the actual Capital Investment, as certified by the Tenant, is less than the Minimum Capital Investment, Tenant agrees to pay to County, within thirty (30) days of such determination, the difference between the actual Capital Investment and the Minimum Capital Investment. However, if the actual Capital Investment, as certified by Tenant, is less than the Minimum Capital Investment and Tenant delivers to County the initial construction, furnishings, and equipment of the Leased Premises, as reflected in the Approved Project, County agrees to waive its right to the difference between the actual Capital Investment and Minimum Capital Investment. Any amounts paid to County because of this provision shall not be deemed a Capital Investment for any purpose under this Lease nor shall it be deemed payment of any rent or other fees due under this Lease.

SECTION 11.04 DEVELOPMENT SCHEDULE

No later than seven (7) days after the Effective Date, or at such later date as County may designate, Tenant must submit to County, for its approval, a proposed Development Schedule that sets forth for the following for each of the Concessions within the Leased Premises:

- The anticipated date(s) of design submittals and reviews for each Concession.
- The anticipated Space Turnover Date(s) for each Concession.
- The anticipated Required Opening Date(s) for each Concession.
- The expected Substantial Completion Date for the entire Leased Premises.

Upon approval by County, the Development Schedule will be attached hereto as Exhibit D, Development Schedule, and will be confirmed by letter executed by the Airport Director, without need for formal amendment to this Lease.

If for any reason County does not deliver possession of a Concession to Tenant on or after the approved Space Turnover Date, County shall not be subject to any liability therefor. Such failure to deliver possession of a Concession by the time provided in the Development Schedule will not give rise to any claim for damages by Tenant against County or against County's Contractor; nor shall such failure affect the validity of this Lease or Tenant's obligations hereunder. Additionally, the Required Opening Date(s) and expected Substantial Completion Date, as stated in the Development Schedule, shall be adjusted as appropriate, in County's sole discretion.

SECTION 11.05 SUBMITTAL AND APPROVAL OF PLANS

A. Submittal of Plans

Tenant shall cause to be designed, constructed, and installed within the Leased Premises, at no cost to County, appropriate improvements to adequately accommodate those services and uses, both required and any other optional services and uses approved pursuant to the section in this Lease entitled, "PERMITTED USE." Tenant must comply with the Tenant Design Guidelines and JWA Construction Standards as may be amended from time to time.

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The improvement plans prepared by Tenant and approved by Airport Director prior to the execution of this Lease shall be a plan for development of the Leased Premises or portions thereof, and the working drawings prepared by Tenant and approved by Airport Director during the same period shall be the plan, specifications, and time schedule for Tenant's initial construction on the Leased Premises.

No construction work shall commence until County has approved the plans and specifications and has issued a Notice to Proceed.

County will review and respond to submittals of plans and specifications within thirty (30) days or provide notice to Tenant that the review time has been extended. In the event of disapproval by County of any portion of any submittal of plans and specifications, Tenant shall promptly make modifications and revisions and re-submit for approval by County.

Tenant must comply with the submission deadlines and review schedules developed by County for construction plans, designs and drawings as further outlined in the Tenant Design Guidelines and John Wayne Airport Construction Standards. Weekly scheduled meetings with Tenant representative, contractor, design team, and JWA staff must be held during any construction improvements or projects. Updated Microsoft Project (or equivalent software), schedule and safety meeting updates must be provided to JWA at each scheduled meeting or upon request of JWA staff. All design and construction shall conform with the plans approved by County and with County construction and architectural standards, as can be amended from time to time.

B. Disclaimer of Compliance with Laws or Codes

The approval by County of any plans and specifications refers to the conformity of such plans and specifications to County standards. Approval of any plans and specifications by County does not constitute its representation or warranty as to their conformity with applicable laws, statutes, codes, or permits and responsibility therefore always remains with Tenant. Tenant has sole responsibility for and will ensure that construction plans and specifications are in full compliance with any and all applicable federal or state laws, statutes and codes.

C. Approvals Extend to Architectural and Aesthetic Matters

Required approval of County shall extend to and include architectural and aesthetic matters. County reserves the right to reject any designs submitted by Tenant and to require Tenant, at Tenant's expense, to make modifications and revisions and to resubmit designs until designs are deemed acceptable and subsequently approved in writing by County.

D. Design and Permitting

Tenant shall be responsible, at its sole cost and expense, for the costs of design and permitting of all improvements within the Leased Premises and shall not commence any work with respect to an Approved Project until all governmental permits and approvals with respect to the

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Approved Project have been obtained. At no cost or liability to County, County shall cooperate in all reasonable respects with Tenant's efforts to obtain such permits and approvals, which cooperation shall include, without limitation, the execution of such instruments as may be required by governmental authorities for Tenant to apply for and obtain such permits and approvals.

SECTION 11.06 CONSTRUCTION

Tenant shall, at its own cost and expense, commence construction of an Approved Project within ten (10) days of the later to occur of: (i) the Space Turnover Date stated in the Notice to Proceed for such Approved Project; or (ii) receipt of Building or Demolition Permit. Tenant agrees that all construction work to be performed, including all workmanship and materials, shall be of optimal quality and in accordance with the Approved Project and the Development Schedule. All construction shall be performed in accordance with the requirements of this Lease, the Tenant Design Guidelines, and all applicable laws, regulations, ordinances, codes and permits. County and its designees shall have the right from time to time to inspect each Approved Project.

Construction by Tenant, its contractors and subcontractors, shall be coordinated with and under the direct supervision of County and shall be completed within one hundred eighty (180) days from the Notice to Proceed for each Concession as described in Tenant's Development Schedule attached hereto as Exhibit D, unless such date is extended in writing by Airport Director. In the event Tenant fails to complete installation of improvements in a timely manner, the Parties agree that County's actual damages would be extremely difficult or impossible to determine; therefore, the Parties agree that the best estimate of the County's actual damages assessed to the Tenant is listed in Section 8.01 and shall continue until installation has been completed to the satisfaction of County. This amount shall be in addition to all other sums due under this Lease.

If the Concession is not open for business within thirty (30) days after the Required Completion Date, the failure shall be an Event of Default and County shall have the right to exercise all remedies herein, at law or in equity, including but not limited to, the option to terminate this Lease or to remove the applicable Concession from the Leased Premises. Notwithstanding the foregoing, the Parties agree that any delay in construction of any improvements due to force majeure or acts solely attributable to County shall extend the Required Opening Date and/or Required Completion Date for an Approved Project. Additionally, the initial Substantial Completion Date, as stated in the Development Schedule, shall be extended if affected by such event, in County's sole discretion. County shall have no liability to Tenant for compensation or damages for any such delay.

SECTION 11.07 TENANT'S ASSURANCE OF CONSTRUCTION COMPLETION

Prior to commencement of construction of approved facilities Tenant shall furnish to County evidence that assures County that sufficient monies will be available to Tenant and County to

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complete the proposed construction. The amount of money available shall be at least the total estimated construction cost. Such evidence may take one of the following forms:

- Completion Bond issued to County/JWA as obligee
- Irrevocable letter of credit issued to County/JWA that will remain in effect until County acknowledges satisfactory completion of construction.

All bonds and letters of credit must be issued by a surety company, financial institution or advising bank qualified and admitted to do business in the State of California and issued in a form approved by the County. All bonds and letters of credit shall insure faithful and full observance and performance by Tenant of all terms, conditions, covenants and agreements relating to the construction of improvements within the Leased Premises. Tenant must comply with Section 11.12 entitled, "Completion of Construction," to be eligible for return or refund of Completion Bond and/or its letter of credit.

It is not the intent of the Parties herein to create a third-party beneficiary, and nothing in this Section shall be construed to do so.

SECTION 11.08 CONSTRUCTION INSURANCE REQUIREMENTS

Tenant shall obtain comprehensive public liability insurance during construction. If the construction is done by an independent contractor, insurance shall be procured by the contractor in the name of the Tenant and the County. All insurance shall be in the limits and coverages acceptable to County's Risk Management Services.

SECTION 11.09 INDEMNIFICATION DURING CONSTRUCTION

To the fullest extent authorized by law, Tenant shall indemnify, defend, and hold harmless the County, its officers, and employees, from and against any and all claims, judgments, damages, penalties, fines, costs, orders, and lawsuits, arising out of the Tenant's construction or alteration of the Leased Premises at Airport, including the cost of defense arising therefrom. The Tenant's indemnity obligations stated hereinabove also apply to those actions arising from and which involve the Tenant's officers, agents, subcontractors, and employees.

SECTION 11.10 NONINTERFERENCE

Tenant warrants that it or its contractor shall in no way delay, cause delays to or interfere with any Airport operations or other contractors working in the terminal or on the Airport. Tenant agrees to hold County harmless from the cost of any time lost by County or any damages to County due to the actions or failure to act of Tenant or its contractor.

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SECTION 11.11 TRAILERS AND MODULAR STRUCTURES

All improvements constructed by Tenant shall be of a permanent nature. Trailers and modular buildings are prohibited on the Leased Premises. This provision shall not apply to the use of County approved temporary modular or trailers during construction. Trailers and Modular Structures used during construction must be permitted and approved by County if desired to be utilized on County property. Upon completion of construction, all trailers or modular structures must be immediately removed from the Leased Premises.

SECTION 11.12 COMPLETION OF CONSTRUCTION

Within sixty (60) days following completion of any improvement within the Leased Premises, the Tenant shall furnish the Airport Director a complete package of "As-Built Documents" and "Record Documents", which include but are not limited to construction documents, specifications, cost estimates, engineering studies, signed OCPW Building Inspection Cards, and calculations. The aforementioned information shall be submitted on two (2) thumb drives containing digital copies of the "As-Built Documents" and "Record Documents", organized in a detailed, logical, and comprehensible folder structure, which is in a form that is usable and accepted by the County, to the County's satisfaction, as described below, unless otherwise allowed by the Airport Director. See Exhibit F for additional details.

Drawings and Models:

- All 2-D and 3-D architectural, engineering, design, and/or construction drawing and/or modeling files for the project shall be completed using AutoCAD 2019 and REVIT 2019 or a newer version of either software if approved by John Wayne Airport.
- All geographic data, spatial analysis, geographic information system (GIS) mappings, drawings, exhibits, and/or figures for the project shall be completed using Environmental Systems Research Institute (ESRI) ArcGIS.
- All 2-D and 3-D drawing and/or modeling files created via computer aided design and drafting (CADD), building information modeling (BIM), and/or GIS for the project shall conform to the John Wayne Airport CADD/BIM/GIS standards and specifications.
- In addition to the 2-D and 3-D drawing and/or modeling files indicated above, a PDF format (scaled to ARCH E1 format where applicable) of those drawings, exhibits, figures, etc. shall be generated and submitted digitally.

Documents and Reports:

- All specifications, reports and/or studies (e.g. geotechnical report, etc.), calculations, and other project information (e.g. construction submittals, operations and maintenance

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(O&M) manuals, warranties, etc.) for the project shall be completed using MS Office suite applications and also generated and submitted digitally in a PDF format.

Note: "Record Documents", e.g. record drawings, specifications, calculations, etc., shall be prepared, stamped, signed by the Architect and/or Engineer of Record for the project and shall reflect all updates and/or modifications that were approved during design and construction, i.e. separate from the as-built documents, which include contractor redlines, contract changes, etc. Refer to the "John Wayne Airport Construction Standards" for additional information.

In addition, two (2) sets of hard prints of the stamped and signed record drawings for the project, as described above, must be furnished by the Tenant with the thumb drives containing the "As-Built Documents" and "Record Documents". Basic specifications, standards, and requirements for BIM, CAD, and/or GIS produced information at the Airport can be located on the www.ocair.com website or provided by the Airport upon request.

Furthermore, the Tenant shall furnish the Airport Director with an itemized statement of the actual, direct Construction Costs of such improvement. The Construction Costs may include actual, direct fees paid to contractors, architects, engineers, surveyors, laborers, and suppliers, or permit fees required by governmental agencies to allow construction. Construction Costs shall not include indirect costs such as financing costs, holding costs, legal fees, interest, administrative and overhead expenses, bond premiums, or developer fees. The statement of cost shall be sworn to and signed by the Tenant or its responsible agent under penalty of perjury. The Tenant must obtain County approval of acceptance of the "As-Built Documents" and "Record Documents" and the form and content of the itemized statement.

SECTION 11.13 TITLE TO IMPROVEMENTS

All Improvements made to the Leased Premises by Tenant, and any additions and alterations thereto made by Tenant, including approved changes and renovations that are affixed to the Leased Premises, must upon completion, be free and clear of all liens, claims, or liability for labor or material and at County's option shall become the property of County at the expiration of this Lease or upon earlier termination hereof. Tenant shall not remove any improvements and/or furnishings, trade fixtures, and equipment without the prior written consent of the Airport Director. County retains the right to require Tenant, at Tenant's sole cost and expense, to remove any or all improvements located within the Leased Premises at the expiration or termination hereof. County shall notify Tenant of its intent to claim or have Tenant remove any or all improvements not less than 60 days prior to the expiration of this Lease.

For purposes of this Lease, satellite antenna dishes or antennae that may be installed by Tenant and properly identified on the roof of the Terminal or any location outside the Leased Premises shall be considered a Tenant improvement. County retains the right to require Tenant, at Tenant's cost, to remove any antenna installed by Tenant. County shall have the right to use

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Tenant's security deposit to cover the cost of removal of said antenna should Tenant fail to do so at the expiration or termination of this Lease.

SECTION 11.14 SIGNAGE

Tenant agrees not to construct, maintain or allow any sign upon the Leased Premises except as approved by Airport Director. Tenant will comply with the Tenant Design Guidelines and JWA Construction Standards. Unapproved signs, banners, flags, etc., may be removed by Airport Director without prior notice to Tenant.

The Tenant will not place any promotional signs or advertising materials in any location within the Leased Premises or within any common use area of the Terminal without the prior consent of the County. All requests for the approval of temporary promotional signs for the Tenant shall be accompanied by illustrative drawings and design dimensions along with information about the type of signs proposed, and proposed locations. All approved promotional signs shall be allowed to remain in the terminal for ninety (90) days. At the end of ninety (90) days, all temporary signage must be removed, or the Tenant may resubmit a request to County to extend past the ninety (90) days.

The County may without notice remove any unauthorized signs or advertising materials, and may store them at the Tenant's expense; the County may dispose of items if they are not promptly claimed by the Tenant after notice from the County.

SECTION 11.15 MIDTERM REFURBISHMENT

In addition to the ongoing, routine maintenance described in Section 7.14, Tenant shall, at its sole cost and expense, commence Midterm Refurbishment. The Midterm Refurbishment shall include without limitation all modernizing, refinishing, repair, replacement, redecorating, repainting, and re-flooring necessary for the purpose of keeping concession and its technology contemporary and competitive with current concession trends and methods, and keeping the Leased Premises in optimal condition. The scope and extent of the Midterm Refurbishment for each Concession shall be jointly determined by County and Tenant, but shall not exceed the cost of \$100 per square foot. If Tenant and County cannot jointly agree upon the necessary scope and extent of the Midterm Refurbishment for any Concession, County may, at its sole discretion, determine the refurbishment required and Tenant agrees to be bound by County's determination.

Tenant's plans, specifications, and schedule for refurbishment must be in accordance with Airport John Wayne Airport Construction Standards and Tenant Design Guidelines. Tenant shall submit its plan specifications for refurbishment to County for review and approval no later than 80 months from the Term Commencement Date. Tenant shall complete the Midterm Refurbishment, as approved by the Airport Director within one-hundred eighty (180) days from the midterm of the Agreement. The midterm of the Agreement is ninety (90) months from the

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Term Commencement Date. Failure to complete the refurbishment by said date shall be cause for termination of the Agreement, and/or at the direction of the Airport Director the sum of five hundred dollars (\$500.00) per day until the Midterm Refurbishment has been completed to the satisfaction of the County. This amount shall be in addition to all other sums due under this Lease.

The plans and specifications shall be certified by an architect or engineer licensed by the State of California and shall consist of (a) working drawings, (b) technical specifications, and (c) proposed equipment upgrades or changes. When documenting each refurbishment minimum investment required by the Lease, architectural and engineering charges not exceeding 15% of the total investment may be included. Construction costs shall not include indirect costs such as financing costs, holding costs, legal fees, interest, administrative and overhead expenses, internal design, review, management and oversight of construction on leased premises, Tenant's licensing or franchising costs, bond premiums, or developer fees.

SECTION 11.16 HEALTH AND SAFETY

The Tenant shall comply with all applicable California Occupational Safety & Health Administration (Cal/OSHA) requirements, and all federal, state or local safety orders. The Tenant shall post on the Leased Premises and at all construction sites a copy of "Construction Safety Orders" and "General Industry Safety Orders" issued by the California State Division of Industrial Safety.

The Tenant shall, within thirty (30) days after the execution of this Lease, submit to the County a comprehensive Safety Plan outlining the code of safe work practices and procedures. The plan must include emergency response procedures, notification procedures, and personnel training procedures. The Tenant shall convene safety meetings at regularly scheduled times as described in its Safety Plan and as required by Cal/OSHA. The Tenant and/or Tenant's contractor shall submit, prior to the start of any tenant improvements, the Tenant or Tenant's contractor required Cal/OSHA Safety Plan for approval by the Airport.

The Tenant shall submit to the County an annual report detailing the status of all permits required and issued to the Tenant by CAL OSHA or any other federal, state or local government agency. Said report shall be due on or before January 31 of each calendar year.

ARTICLE XII. DISCLAIMER OF LIENS

The interest of County in the Leased Premises will not be subject to liens for any work, labor, materials, or improvements made by or for Tenant to the Leased Premises, whether the same is made or done in accordance with an agreement between County and Tenant. It is specifically understood and agreed by Tenant that in no event will County or the interest of County in the Leased Premises be liable for or subject to any mechanic's, laborers or materialmen's liens for materials furnished, improvements, labor or work made by or for Tenant to the Leased Premises.

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Tenant is specifically prohibited from pledging, liening, or otherwise encumbering any assets located at the Airport or any interest in this Lease without prior, written approval by County. Tenant is specifically prohibited from subjecting County's interest in the Leased Premises to any mechanic's, materialmen's, or laborers' liens for improvements made by or for Tenant or for any materials, improvements or work for which Tenant is responsible for payment. Tenant will indemnify, defend, and hold County harmless for any expense or cost associated with any lien or claim of lien that may be filed against the Leased Premises or County, including attorney fees incurred by County. Tenant will provide notice of this disclaimer of liens to all Contractors or subcontractors providing any materials or making any improvements to the Leased Premises.

In the event a mechanics lien or stop-notice is imposed upon the Leased Premises, Tenant shall either:

- Record a valid Release of Lien, or
- Procure and record a bond in accordance with Section 3143 of the California Civil Code, which frees the Leased Premises from the claim of the lien or stop-notice and from any action brought to foreclose the lien.

Should Tenant fail to accomplish either of the two actions above within fifteen (15) days after the filing of such a lien or stop-notice, the Lease shall be in default and shall be subject to immediate termination.

Tenant shall have the right to contest any and all liens filed against its existing or future exclusive use area. Tenant further agrees that County shall have the right to post notices of non-responsibility as provided by Sections 3094 and 3129 of the Civil Code of the State of California.

ARTICLE XIII. MAINTENANCE UTILITES AND REPAIRS

SECTION 13.01 TENANT'S MAINTENANCE OBLIGATIONS

Tenant, at its own cost and expense, shall maintain and repair, replace or refinish all installations of any kind. Tenant agrees to maintain the Leased Premises in a safe, clean, wholesome, sanitary condition and in compliance with all applicable laws. It shall be the Tenant's responsibility to make all necessary repairs required to maintain the Leased Premises in good condition. All repairs made by the Tenant to the Leased Premises shall be in compliance with all current federal, state, local ordinances and building codes and all airport regulations ("Codes"). Tenant shall be in compliance with all County standards, including but not limited to, the Tenant Design Guidelines and John Wayne Airport Construction Standards. The Codes encompass all fire, life and structural safety aspects and apply to the construction, alteration, moving, demolition, repair and use of the Leased Premises. Any additions, alterations, required upgrades, repairs and changes of use or occupancy in the Leased Premises shall comply with the provisions for new buildings and structures as set forth in the Codes. All devices or safeguards which are required

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by the Codes shall be maintained in conformance with the edition of the Codes under which it was installed.

Tenant shall maintain, repair, replace, paint, or otherwise finish all installations within the lease lines of the Leased Premises, including, without limitation, walls, partitions, floors, ceilings, windows, doors, glass and all furnishings, fixtures, and equipment therein, including wiring, and software and communications equipment, whether installed by Tenant or by County. All the maintenance, repairs, finishing and replacements shall be of quality equal to or better than the original in materials and workmanship. All work, including finishing colors, shall be subject to the prior written approval of County.

Tenant's compliance obligations shall include, without limitation, the obligation to make substantial or structural repairs and alterations to the Leased Premises (including any initial capital improvements), regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or County, the degree to which curative action may interfere with Tenant's use or enjoyment of the Leased Premises, the likelihood that the Parties contemplated the requirement involved, or the relationship between the requirement involved and Tenant's particular use of the Leased Premises.

If it is determined that the maintenance is not in compliance with this Lease, County shall so notify Tenant in writing. If the maintenance required to be performed as provided in County's notice to Tenant is not commenced by Tenant within five (5) days after receipt of notice, or is thereafter not diligently executed to completion, County or its representative shall have the right to enter upon the Leased Premises and perform the maintenance, and Tenant agrees to promptly reimburse County for the cost thereof, plus an administrative fee equal to fifteen percent (15%) of the maintenance costs.

Tenant covenants and agrees that nothing shall be done or kept in the Leased Premises that might impair the value of County's property or that would constitute waste. Any hazardous or potentially hazardous condition on the Leased Premises shall be corrected immediately upon receipt of a verbal or written notice from County. At the sole discretion of County, Tenant shall close the Leased Premises or affected portion thereof until the hazardous or potentially hazardous condition is corrected. Tenant shall immediately notify the Airport Operations Center ("AOC") Control Center of any fire, emergency, accident or spill or release of fuel or hazardous substances. The AOC can be reached by calling (949) 252-5000 or picking up any white telephone located in the terminal buildings.

Tenant covenants to comply with all present and future laws, orders, and regulations, including any rules, regulations and procedures promulgated by County regarding County provided maintenance within the Airport. When any system for County provided maintenance is put in place that can allocate to Tenant its proportional share of the cost, Tenant must pay its proportional share of the actual costs.

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SECTION 13.02 COUNTY'S MAINTENANCE AND UTILITY OBLIGATIONS

County shall provide structural maintenance of the Airport and, except as provided below, maintain, and repair the exterior windows and walls of the Leased Premises in the Airport. However, maintenance of all interior and exterior walls constructed or remodeled by Tenant shall be Tenant's responsibility.

County provides utility mains and lines throughout the Airport. Tenant, at its sole cost, shall tie into the utility mains and lines at the locations as specified by County. Supplemental heated or cooled air, electrical or other utilities required by Tenant more than what is customarily available in the Airport will be, if approved by County, at the expense of Tenant. County may, at County's sole discretion, maintain the utilities within the Leased Premises and in doing so shall be permitted to enter upon the Leased Premises at all times to make any repairs, replacements and alterations when and as may, in the opinion of County, be deemed necessary. Furthermore, Tenant will permit County or its representatives' access to construct or install over, on, in, or under the Leased Premises, new systems, pipes, lines, mains, wires, conduits, ducts and equipment; provided, however, that County shall exercise such right in a manner that minimizes interference with Tenant's operations. Moreover, during an emergency, County, or its agents, may enter the Leased Premises forcibly, if necessary. No such reasonable entry by or on behalf of County shall constitute or cause a termination of this Lease by Tenant.

County agrees that it will always maintain and keep utility mains and lines in good repair in the Airport and all appurtenances, facilities, and services now or hereafter connected therewith. Tenant understands, accepts, and agrees that County shall not be liable for Tenant's loss for failure to supply any utility services. County reserves the right to temporarily discontinue utility services at such time as may be necessary by reason of accident, unavailability of employees, repairs, alterations, or improvements or whenever by reason of strikes, lockouts, riots, acts of God, or any other happenings beyond the control of County and causes County to be unable to furnish such utility services. County shall not be liable for damages to persons or property for any such discontinuance due to causes beyond the control of County, nor shall such discontinuance in any way be construed as cause for abatement of Concession Space Rent or to release Tenant from any of its obligations hereunder.

ARTICLE XIV. DEFAULT, REMEDIES, AND TERMINATION RIGHTS

SECTION 14.01 EVENTS OF DEFAULT

Tenant will be deemed to be in default of this Lease upon the occurrence of any of the following:

- A. The failure or omission by Tenant to perform its obligations under this Lease or the breach of any terms, conditions and covenants required herein.

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- B. The failure to pay, in full, to County within five (5) days of when due any fees, costs, expenses damages, or other charges applicable hereunder except where such failure is cured within (10) days after written notice by County of Tenant's failure to pay.
- C. Tenant's default under any other agreement with County at the Airport.
- D. The appointment of a Trustee, custodian, or receiver of all or a substantial portion of Tenant's assets.
- E. The divestiture of Tenant's estate herein by operation of law, by dissolution, or by liquidation, not including a merger or sale of assets.
- F. The insolvency of Tenant; or if Tenant will take the benefit of any present or future insolvency statute, will make a general assignment for the benefit of creditors, or will seek a reorganization or the readjustment of its indebtedness under any law or statute of the United States or of any state thereof including the filing by Tenant of a voluntary petition of bankruptcy or the institution of proceedings against Tenant for the adjudication of Tenant as bankrupt pursuant thereto.
- G. Tenant's cancellation of its Surety without County's prior written consent and does not reestablish it promptly after written notice by County.
- H. An assignment, sublease, or transfers of Tenant's interest under this Lease by reason of death, operation of law, assignment, sublease, sale in bulk of any of its assets, or otherwise to any other person or business entity other than in compliance with the provisions of this Lease.
- I. If Tenant abandons, deserts, vacates, or ceases operations under this Lease for five (5) consecutive business days, unless undergoing repairs or renovations which have first been approved by County.
- J. Tenant's failure to maintain any type of insurance or level of insurance coverage required hereunder (and in the event Tenant has failed to remedy such failure within ten (10) days after notice thereof from County, County may affect such coverage and recover the cost thereof immediately from the Surety or from Tenant).
- K. Any lien or attachment to be filed against the Leased Premises, the Airport, or other County property because of any act or omission of Tenant, and such lien or attachment is not discharged or contested by Tenant in good faith by proper legal proceedings within fifteen (15) days after receipt of notice thereof by Tenant.
- L. Tenant use, permission to use, or failure to promptly prevent use of any portion of the Airport made available to Tenant for its use under this Lease for any illegal purpose.

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- M. Tenant's license or franchise agreement related to the Concession it is authorized to operate at the Airport is terminated, expires, or is amended so that compliance with the amended provisions will cause Tenant to be in breach of its obligations under this Lease.
- N. Tenant's failure to timely pay any fees or charges required hereunder after the expiration of the (10) day cure period as described hereunder.
- O. The conduct of any business or performance of any acts at the Airport not specifically authorized in this Lease or by any other agreement between County and Tenant, and Tenant's failure to discontinue that business or those acts within thirty (30) days of receipt by Tenant of County's written notice to cease said business or acts (which thirty [30] day notice and remedy period shall also satisfy the notice requirement of Section 14.02 below). Nothing in this Section shall be construed to grant a right to Tenant to cure a default, which by its nature is not capable of being cured.
- P. If Tenant is found by the FAA, TSA, other government regulatory or successor agency to have violated specified safety standards in the conduct of Tenant's business;
- Q. Tenant fails to maintain adequate records and accounts reflecting its business operations at the Airport and calculation of Gross Receipts under this Lease;
- R. Tenant fails or refuses to submit the formal supporting paperwork as required herein.

County reserves the right, in its sole discretion, to treat each Concession individually for the purpose of declaring defaults and exercising remedies under this Lease.

SECTION 14.02 COUNTY'S REMEDIES

In the event of any of the foregoing Events of Default of Tenant and following thirty (30) days' notice by County and Tenant's failure to remedy, County, at its election, may exercise any one or more of the following options or remedies, the exercise of any of which will not be deemed to preclude the exercise of any other remedy herein listed or otherwise provided by statute or general law. County's remedies are as follows:

1. Allow this Lease to continue in full force and effect and enforce County's right to collect Concession Space Rent and/or Additional Rent as it becomes due together with past due interest and draw upon the Surety in any amount necessary to satisfy the damages sustained or reasonably expected from Tenant's default.
2. Upon thirty (30) days' notice terminate Tenant's rights under this Lease. This notice shall be final and shall at the option of County terminate all the rights hereunder of Tenant, and County may upon the date in the notice take possession of the Leased Premises, and expel Tenant with or without process of law, without liability for trespass, and using such force as may be necessary, and without prejudice to any remedies for damages or breach.

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In doing so, County will not be deemed to have thereby accepted a surrender of the Leased Premises, and Tenant will remain liable for all payments or other sums due under this Lease up to and including the date of termination, and for all damages suffered by County because of Tenant's breach of any of the covenants of this Lease, including but not limited to, all cost of reletting, reasonable attorney's fees, repairs, and improvements.

No delay, failure, or omission of County to re-enter the Leased Premises or to exercise any right, power, privilege, or option arising from any default nor subsequent acceptance of fees or charges then or thereafter accrued will impair any such right, power, privilege, or option, or be construed to be a waiver of any such default or relinquishment, or acquiescence of the Leased Premises. No option, right, power, remedy, or privilege of County will be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options, or remedies given to County by this Lease are cumulative and that the exercise of one right, power, option, or remedy by County will not impair its rights to any other right, power, option, or remedy available under this Lease or provided by law. In the event County terminates this Lease or reclaims the Leased Premises under this section, County has no liability to Tenant for any Unamortized Investment.

SECTION 14.03 DISPOSITION OF ABANDONED PERSONAL PROPERTY

If Tenant abandons or quits the Leased Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to Tenant and left on the Leased Premises Areas thirty (30) days after such event shall be deemed to have been transferred to County. County shall have the right to remove and to dispose of such property without liability therefor to Tenant or to any person claiming under Tenant, and shall have no need to account therefor. Personal property left on the Leased Premises after termination, expiration, or abandonment of the Agreement shall not be construed as giving Tenant possession of the Leased Premises during the thirty (30) days after termination, expiration or abandonment of the Lease.

SECTION 14.04 QUITCLAIM OF TENANT'S INTEREST UPON TERMINATION OR DEFAULT

Upon termination of this Lease for any reason, including, but not limited to, termination because of default by Tenant, Tenant shall execute, acknowledge, and deliver to County within thirty (30) days after receipt of written demand therefor, a good and sufficient deed whereby all right, title and interest of Tenant in the Leased Premises are quitclaimed to County. Should Tenant fail or refuse to deliver the required deed to County, County may prepare and record a notice reciting the failure of Tenant to execute, acknowledge and deliver such deed and said notice shall be conclusive evidence of the termination of this Lease and of all right of Tenant or those claiming under Tenant in and to the Leased Premises.

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SECTION 14.05 COUNTY'S RIGHT TO RE-ENTER

Tenant agrees to yield and peaceably deliver possession of the Leased Premises to County on the date of termination or default of this Lease, whatsoever the reason for such termination or default.

Upon giving written notice of termination or default to Tenant, County shall have the right to re-enter and take possession of the Leased Premises on the date such termination or default becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination or default of the Agreement and re-entry of the Leased Premises by County shall in no way alter or diminish any obligation of Tenant under the Agreement terms and shall not constitute an acceptance or surrender.

Tenant waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Leased Premises for any lawful reason or in the event County re-enters and takes possession of the Leased Premises in a lawful manner.

Upon the expiration or early termination of this Lease, Tenant shall cooperate fully with the County and any successor to Tenant to ensure an effective and efficient transition of Tenant's operations within the Leased Premises to Tenant's successor. Tenant acknowledges its responsibility to help ensure continued operations within the Leased Premises in a first-class manner during any transition to a successor. Tenant shall take no action that would impair the ability of any successor to commence and maintain such concession operations.

ARTICLE XV. INDEMNIFICATION

To the fullest extent authorized by law, the Tenant shall indemnify, defend, and hold the County, its officers, and employees, harmless from and against any and all claims, judgments, damages, penalties, fines, costs, orders, and lawsuits, arising out of the Tenant's operations at John Wayne Airport, including the cost of defense arising therefrom. The Tenant's indemnity obligations stated herein also apply to those actions arising from and which involve the Tenant's officers, agents, subcontractors, and employees. The Tenant's indemnity obligations shall not apply in the event of any loss, damage, or expense arising from the sole or active negligence and/or willful misconduct of the County or of the County's officers, employees, agents, servants, or independent contractors.

In the event the indemnitees described herein are named as defendants or respondents in any lawsuit or administrative proceeding, the Tenant shall, at the request of the County, represent the indemnitee with qualified counsel that the County determines is acceptable. In the event that a monetary judgment is awarded against the County and the Tenant because of the concurrent negligence of the County and the Tenant or their respective officers, subcontractors, or employees, an apportionment of liability to pay such judgment shall be made by a court of

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competent jurisdiction. Both the County and the Tenant agree that neither party shall request a jury apportionment.

Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorney's fees in any action to enforce the terms of this Lease. The rights and obligations set forth in this paragraph shall survive the termination of this Lease.

ARTICLE XVI. INSURANCE

SECTION 16.01 INSURANCE TERMS, CONDITIONS AND REQUIRED COVERAGES

Tenant agrees to carry all required insurance at Tenant's expense and provide to the County current Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Lease have been complied with. Tenant shall keep such insurance coverage current and provide Certificates of Insurance and endorsements to the County during the entire term of this Lease.

Tenant agrees that Tenant shall not operate on the Leased Premises at any time the required insurance is not in full force and effect as evidenced by a Certificate of Insurance and necessary endorsements or, in the interim, an official binder being in the possession of Airport Director. In no cases shall assurances by Tenant, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. Airport Director will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. Tenant also agrees that upon cancellation, termination, or expiration of Tenant's insurance, County may take whatever steps are necessary to interrupt any operation from or on the Leased Premises until such time as the Airport Director reinstates the Agreement.

If Tenant fails to provide Airport Director with a valid certificate of insurance and endorsements, or binder at any time during the term of the Agreement, County and Tenant agree that this shall constitute a material breach of the Agreement. Whether or not a notice of default has or has not been sent to Tenant, said material breach shall permit County to take whatever steps necessary to interrupt any operation from or on the Leased Premises, and to prevent any persons, including, but not limited to, members of the general public, and Tenant's employees and agents, from entering the Leased Premises until such time as Airport Director is provided with adequate evidence of insurance required herein. Tenant further agrees to hold County harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the County's action.

Tenant may occupy the Leased Premises only upon providing to County the required insurance stated herein and maintain such insurance for the entire term of this Lease. County reserves the right to terminate this Lease at any time Tenant's insurance is canceled or terminated and not reinstated within ten (10) days of said cancellation or termination. Tenant shall pay County a fee

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of \$300.00 for processing the reinstatement of the Agreement. Tenant shall provide to County immediate notice of said insurance cancellation or termination.

All contractors performing work on behalf of Tenant pursuant to this Lease shall obtain insurance subject to the same terms and conditions as set forth herein for Tenant. Tenant shall not allow contractors or subcontractors to work if contractors have less than the level of coverage required by the County from the Tenant under this Lease. It is the obligation of the Tenant to provide written notice of the insurance requirements to every contractor and to receive proof of insurance prior to allowing any contractor to begin work within the Leased Premises. Such proof of insurance must be maintained by Tenant through the entirety of this Lease and be available for inspection by a County representative at any reasonable time.

All self-insured retentions (SIR)'s shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee. The County reserves the right to require current audited financial reports from Tenant. If Tenant is self-insured, Tenant will indemnify and defend County for any and all claims resulting or arising from Tenant's use of the premises, services or other performance in accordance with the indemnity provision stated in this Lease.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Tenant shall provide the minimum limits and coverage as set forth below:

Coverages	Minimum Limits
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 combined single limit each accident
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per accident or disease

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Coverages	Minimum Limits
Commercial Property Insurance on an "All Risk" or "Special Causes of Loss" basis covering all contents and any Tenant improvements including Business Interruption/Loss of Rents with a 12-month limit.	100% of the Replacement Cost Value and no coinsurance provision.
Liquor Liability (Optional coverage required when liquor is sold and served)	\$1,000,000 per occurrence

Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies when required must provided Follow Form coverage.

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, and agents as Additional Insureds. Blanket coverage may also be provided which will state- As Required by Written Agreement.
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad, evidencing that the Tenant's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents. Blanket coverage may also be provided which it will state as Required by Written Agreement.

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All insurance policies required by this Lease shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees, and agents when acting within the scope of their appointment or employment.

The Commercial Property policy shall contain a Loss Payee endorsement naming the County of Orange as respects the County's financial interest when applicable.

Tenant shall provide thirty (30) days prior written notice of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Lease, upon which the County may suspend or terminate this Lease.

The Commercial General Liability policy shall contain a severability of interests clause, also known as a "separation of insureds" clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the County address provided in the Clause (NOTICES) below or to an address provided by Airport Director Tenant has ten (10) business days to provide adequate evidence of insurance or this Lease may be cancelled.

County expressly retains the right to require Tenant to increase or decrease insurance of any of the above insurance types throughout the term of this Lease. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Tenant in writing of changes in the insurance requirements. If Tenant does not provide acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Lease may be in breach without further notice to Tenant, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Tenant's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease, nor in any way to reduce the policy coverage and limits available from the insurer.

ARTICLE XVII. PROPERTY DAMAGE

SECTION 17.01 COMPLETE DESTRUCTION

If Leased Premises, the Terminal in which the Leased Premises are located, or any portion thereof is destroyed or damaged to an extent that renders it unusable, County may rebuild or repair any portions of the building structure destroyed or damaged, and if the cause was beyond the control of Tenant, Tenant's obligation to pay the Concession Space Rent hereunder shall abate as to such damaged or destroyed portions during the time they are unusable. If County elects not to

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proceed with the rebuilding or repair of the building structure, it shall give notice of its intent within ninety (90) days after the destruction or damage. At its option, Tenant may then terminate this Lease effective as of the date of such event.

If County elects to rebuild, Tenant must replace all Leased Premises Improvements at its sole cost and in accordance with the Capital Investment, subject to increase for inflation. Such replacements must be in accordance with the performance standards set forth herein. County and Tenant shall cooperate with each other in the collection of any insurance proceeds that may be payable in the event of any loss or damage.

If during the last year of the Term the improvements on the Leased Premises are partially destroyed or damaged, County may at County's option terminate this Lease as of the date of occurrence of such damage by giving written notice to Tenant of County's election to do so within thirty (30) days after the date of occurrence of such damage. In the event County elects to terminate this Lease pursuant hereto, Tenant shall have the right within ten (10) days after receipt of the required notice to notify County in writing of Tenant's intention to repair such damage at Tenant's expense, without reimbursement from County, in which event this Lease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as reasonably possible.

SECTION 17.02 LIMITS OF COUNTY'S OBLIGATIONS DEFINED

County shall not be liable for the following: (i) any damage to property of Tenant or others located on the Leased Premises or in the Airport; (ii) the loss of or damage to any property of Tenant or of others by theft or otherwise; (iii) any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, or snow; (iv) leaks from any part of the Leased Premises or the Airport; from the pipes, appliances, or plumbing works; from the roof, street, subsurface, or from any other place; or from dampness or by any other cause of whatsoever nature; (v) any such damage caused by other Tenants, persons in the Leased Premises, occupants of adjacent property, of the Airport, or of the public; (vi) damages caused by operations in construction of any private, public, or quasi-public work; (vii) any latent defect in the Leased Premises or in the building of which they form a part; and (viii) all property of Tenant kept or stored on the Leased Premises are at the risk of Tenant only.

Further, Tenant shall defend and hold County harmless from and hereby waives any claims arising out of damage to the same or damage to Tenant's business, including subrogation claims by Tenant's insurance carrier. Tenant shall give immediate telephone notice to County in case of fire, casualty, or accidents in the Leased Premises or in the building of which the Leased Premises are a part, of defects therein, or in any fixtures or equipment. Tenant shall promptly thereafter confirm such notice in writing.

Redecoration, replacement, and refurbishment of furniture, fixtures, equipment, and supplies will be the responsibility of and paid for by Tenant and will be of equivalent quality to that

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originally installed hereunder. County will not be responsible to Tenant for any claims related to loss of use, loss of profits, or loss of business resulting from any partial, extensive, or complete destruction of the Leased Premises regardless of the cause of damage.

Repair, replacement, reconstruction, or construction of improvements within the Leased Premises shall be accomplished in a manner and according to plans approved by County. Except as otherwise provided herein, termination of this Lease shall not reduce or nullify Tenant's obligation under this Section. With respect to damage or destruction to be repaired by County or which County elects to repair, Tenant waives and releases its rights under California Civil Code Sections 1932(2) and 1933(4).

SECTION 17.03 WAIVER OF SUBROGATION

To the extent insurance permits, and then only to the extent collected or collectable by Tenant under its property insurance coverage, Tenant waives all claims against County and its directors, officers, agents, servants and employees for loss or damage to property.

ARTICLE XVIII. DAMAGING ACTIVITIES

No goods or materials will be kept, stored, or used in or on the Leased Premises that are flammable, explosive, hazardous (as defined below) or that may be offensive or cause harm to the public or cause damage to the Leased Premises. Tenant is responsible for compliance and shall require its Contractors to comply with all federal, state, and local environmental rules, regulations, and requirements. Tenant shall obtain all necessary federal, state, local, and Airport permits and comply with all permit requirements. Nothing will be done on the Leased Premises other than as provided in this Lease that will increase the rate of or suspend the insurance on the Leased Premises or on any structure of County. No machinery or apparatus will be used or operated on the Leased Premises that will damage the Leased Premises or adjacent areas; provided, however, that nothing in this Article will preclude Tenant from bringing or using on or about the Leased Premises, with approval by County, such materials, supplies, equipment, and machinery as are appropriate or customary in the operation of Tenant's business under this Lease. Tenant agrees that nothing shall be done or kept on the Leased Premises that might impair the value of County's property or that would constitute waste.

"Hazardous" shall mean:

- Any substance the presence of which requires or may later require notification, investigation, or remediation under any environmental law.
- Any substance that is or becomes defined as a "hazardous waste", "hazardous material", "hazardous substance", "pollutant" or "contaminant" under any federal, state, or local environmental law, including, without limitation, the Comprehensive Environmental

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Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Resources Conservation and Recovery Act (42 U.S.C. §6901 et seq.) and the associated regulations.

- Any substance that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise harmful and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, any state of the United States, or any political subdivision within any state.
- Any substance that contains gasoline, diesel fuel or other petroleum hydrocarbons or volatile organic compounds.
- Any substance that contains polychlorinated biphenyls, asbestos, or urea formaldehyde foam insulation.
- Any substance that contains or emits radioactive particles, waves, or materials, including, without limitation, radon gas.

Tenant agrees that nothing shall be done or kept on the Leased Premises and no improvements, changes, alterations, additions, maintenance, or repairs made that might impair the structural soundness of the building; result in an overload of utility, plumbing, or HVAC systems serving the Terminal; or interfere with electric, electronic, or other equipment at the Airport. In the event of violations hereof, Tenant agrees immediately to remedy the violation at Tenant's own cost and expense.

Tenant shall be responsible for any damage caused by Tenant to the Leased Premises, Airport, any County property or operations, or the property of any other Tenant, person, or entity, either by act, omission, or because of the operations of Tenant. In the event of such damage, Tenant will give County immediate notice thereof, and Tenant will immediately make the necessary repairs at its own cost and expense. Tenant shall be required to comply with the obligations set forth in Article XI with respect to all work required to be performed in accordance with this Section. County reserves the right, if in the best interest of County, to perform the necessary repairs immediately itself. Tenant covenants to reimburse County, for the costs and expenses associated with necessary repairs plus an administrative fee of fifteen percent (15%). If the same type of damage is caused by Tenant more than once in a twelve (12) month period, such as a water leakage, electrical service interruption, or other damage, Tenant shall submit a Remediation Plan, as set forth in Section 7.01.

**ARTICLE XIX. COMPLIANCE WITH LAWS, REGULATIONS,
ORDINANCES, AND RULES**

Tenant, its officers, authorized officials, employees, agents, subcontractors, subtenants or those under its control, will at all times comply with applicable federal, state, and local laws and

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regulations, Airport Rules and Regulations, Policies, Procedures and Operating Directives as are now or may hereinafter be prescribed by County, all applicable health rules and regulations and other mandates whether existing or as promulgated from time to time by the federal, state, or local government, or County including, but not limited to, permitted and restricted activities, security matters, parking, ingress and egress, environmental and storm water regulations and any other operational matters related to the operation of the Airport. Tenant's failure to keep and observe said laws, regulations, ordinances, and rules shall constitute a material breach of the terms of this Lease in the manner as if the same were contained herein as covenants.

Tenant agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (as same may be amended from time to time or such other regulation replacing Part 77 as may be adopted by Federal authority) prior to the construction of the improvements described herein and prior to the construction of any future structure or building upon the Leased Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

ARTICLE XX. AIRPORT SECURITY

Tenant shall comply with all current and applicable Airport, FAA, TSA, CBP, security related rules, regulations, plans, and procedures. Tenant is responsible for fines imposed by any regulatory agency as a result of Tenant's failure to comply with applicable rules, regulations, orders, plans, and procedures regarding airport security.

Tenant employees, subtenants/contractors shall be required to obtain airport security clearance in order to perform work under this Lease. Tenant must maintain a current, updated list of Authorized Signatories responsible for the Airport-Issued Identification Credential ("Airport ID/Security Credential") process, a list of current Airport ID/Security Credentialed Tenant employees and subtenants/contractors, and respond to scheduled and unscheduled audits at the request of the Airport. Tenant employees and subtenants/contractors applying for an Airport ID/Security Credential must successfully complete a Criminal History Records Check ("CHRC") and a Security Threat Assessment ("STA") in accordance with current regulations. Tenant should anticipate up to thirty (30) days to receive an Airport-Issued ID badge from the date of their fingerprinting. All organizations must have two, trained Authorized Signatories at all times. Tenant employees and subtenants/contractors must also attend and successfully pass all related Security Identification Display Area ("SIDA") classes and tests for access to secure areas and a driver's permit with an appropriate and valid California Driver's License to drive on the airfield. Tenant must attend all mandatory security related exercises, and monthly security consortium meetings hosted by the Airport.

A. Local Security

Tenant shall be responsible for the security of gates or doors that are located on the Leased Premises. Said gates and/or doors on the Leased Premises permitting entry to the restricted

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areas of the Airport shall be locked when not in use and/or under Tenant's constant surveillance. Tenant shall install such security equipment, including, but not limited to, video monitoring equipment, as may be required by the Airport Director to ensure compliance with all regulations of the FAA, TSA or other governmental agencies having jurisdiction over Airport security. All archive video may be subject to request by County. Tenant shall exercise control over any person or vehicle escorted by Tenant onto restricted or secure areas of the Airport, or to whom an Airport ID/Security Credential was issued by or at the request of Tenant, and ensure that such person or vehicle shall comply with all Airport security regulations.

B. Federal Security

Tenant may be required to provide assistance to TSA in their efforts to carry out its federal mandates. At some point during the term of this Lease, the Airport or another entity may be authorized to provide these security services in lieu of the TSA.

C. Penalties and Fines

Tenant shall promptly pay any penalties for which Tenant is responsible. These penalties include but are not limited to, civil penalties or fines assessed against the Airport or Tenant, by the FAA, TSA or any other governmental agency for the violation of any security related laws, rules, policies or regulations at the Airport.

D. Airport ID/Security Credential Application and Lifecycle

Prior to issuance of an Airport ID/Security Credential(s), designated Authorized Signatories who will be working onsite, and engaged in the performance of work under this Lease, must pass the Airport's background check requirements, which includes an F.B.I. Criminal History Records Check ("CHRC") and a TSA Security Threat Assessment ("STA"), and Tenant shall pay the applicable fees. Upon successful completion of the background checks, Tenant's designated personnel will be required to attend a SIDA class and pass a written test. Those personnel who may be permitted by the Airport to drive on the Airport Operations Area ("AOA") perimeter road must also complete a Driver's Training class and written test. Airport ID/Security Credentials are not issued until designated Tenant personnel have: 1) completed appropriate application forms and submitted proof of identity and employment eligibility, 2) passed both background checks, 3) completed and passed appropriate training and 4) paid an Airport ID/Security credential fee for each applicant. Tenant should anticipate a minimum of fourteen (14) business days to complete the Airport ID/Security Credential process if all requirements listed above are fulfilled by individual Airport ID/Security Credential applicants in a timely manner, but factors outside the Airport's control can contribute to longer durations. Authorized Signatories must be in constant contact with the Airport's ID/Access Control Office. Tenant's designated personnel must successfully complete the Airport ID/Security Credential acquisition process, unless other arrangements have been approved by the Airport. Tenant shall be responsible for all applicable

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fees and costs associated with the background checks and badging process. The amount of such fees is subject to change without notice.

E. Airport ID/Security Credential Applicant Requirements and Responsibilities

The Airport Security Plan (ASP) requires that each person issued an Airport ID/Security Credential be made aware of his/her responsibilities regarding the privilege of access to restricted areas of the Airport.

Tenant personnel within an access controlled area (AOA, SIDA, secured area or sterile area) are required to display on their person an Airport ID/Security Credential, unless they are escorted by a properly Airport credentialed individual with escort privileges. When working in the SIDA, each Airport credentialed person is responsible for challenging any individual who is not properly displaying an Airport issued or approved and valid Airport ID/Security Credential. Tenant personnel and their subtenants/contractors must also validate Airport ID/Security Credential employees as described in security training. Any person who is not properly displaying or who cannot produce a valid Airport ID/Security Credential, unless they are being escorted, must immediately be referred to the Sheriff's Department – Airport Police Services Office for proper handling.

The Airport ID/Security Credential is the property of the County of Orange and must be returned upon termination of Tenant personnel employment and/or termination of the Agreement. The loss of an Airport ID/Security Credential shall be reported within twenty-four (24) hours to the Sheriff's Department–Airport Police Services by calling (949) 252-5000. Tenant personnel who lose their Airport ID/Security Credential shall be required to pay a fee before receiving a replacement Airport ID/Security Credential. The charge for lost Airport ID/Security Credential replacement will be posted in the Airport Administration Office and is subject to change without notice. A report shall be made before a replacement Airport ID/Security Credential will be issued.

F. The Airport ID/Security Credential is nontransferable.

In the event that Tenant's employee's or contractor's Airport ID/Security Credential is not returned within three (3) business days to the Airport upon: 1) termination of Tenant personnel or contractor, 2) Airport ID badge expiration, or 3) upon termination of the Agreement, Tenant shall be liable to the County of Orange for a fine in the amount of \$250.00 per unreturned Airport ID/Security Credential. The amount of the fine is subject to change without notice. Tenant's security deposit may be applied to cover the cost of the fine.

ARTICLE XXI. AMERICANS WITH DISABILITIES ACT

Tenant shall be solely and fully responsible for complying with the Americans with Disabilities Act of 1990 ("ADA") in connection with: (a) the Leased Premises or any portion thereof and its operations thereon, Tenant's furnishings, trade fixtures and equipment and the concession

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improvements; (b) removing physical barriers from the Concession Area; (c) providing auxiliary aids and services for use of the Concession Improvements and Tenant's furnishings, trade fixtures and equipment, where necessary or required; and (d) modifying its policies, practices and procedures to comply with the ADA. Tenant shall develop a work plan to correct or avoid any violations or non-compliance with the ADA, and to address the processing of disability complaints. Tenant shall deliver to the County, upon County's request, a copy of each report and work plan. County's approval of or acceptance of any aspect of Tenant's activities under this Lease shall not be deemed or construed in any way as a representation that such item, activity of practice complies with the ADA. Tenant agrees to indemnify, defend, and hold the County harmless from and against any and all costs incurred by County with respect to Tenant's failure to comply with the ADA.

Upon request by the County, Tenant is required to disseminate and provide training materials and other information related to ADA compliance to its staff as specified by the County.

In the event of breach of any of the above ADA requirements, the County shall have the right to terminate the Lease and to enter, re-enter, and repossess said lands and the facilities thereon, and hold the same as if said Agreement had never been made or issued.

ARTICLE XXII. FAA APPROVAL

This Lease may be subject to approval of the FAA. If the FAA disapproves this Lease, it will become null and void, and both Parties will bear their own expenses relative to this Lease, up to the date of disapproval.

ARTICLE XXIII. RIGHT OF FLIGHT

Tenant's right to use the Leased Premises for the purposes set forth in this Lease shall be secondary and subordinate to the operation of Airport. Tenant acknowledges that because of the location of the Leased Premises at Airport, noise, vibrations, fumes, debris, and other interference with the Permitted Use(s) will be caused by Airport operations. Tenant hereby waives all rights or remedies against County arising out of any noise, vibration, fumes, debris, and/or interference that is caused by the operation of Airport. County specifically reserves for itself and for the public a right of flight for the passage of aircraft in the airspace above the surface of Airport. Additionally, County reserves for itself the right to cause in said airspace such noise, vibration, fumes, debris, and other interference as may be inherent in the present and future operation of aircraft. Tenant expressly agrees for itself, its successors and assigns, to prevent any use of the Leased Premises which would interfere with or adversely affect the operation or maintenance of Airport, or otherwise constitute an Airport hazard.

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ARTICLE XXIV. FEDERAL RIGHT TO RECLAIM

In the event a United States governmental agency demands and takes over the entire facilities of the Airport or the portion thereof wherein the Leased Premises are located, for public purposes, for a period more than ninety (90) consecutive days, then this Lease will terminate and County will be released and fully discharged from all liability hereunder. In the event of such termination, Tenant's obligation to pay rent will cease; however, nothing herein will be construed as relieving either Party from any of its liabilities relating to events or claims of any kind whatsoever prior to this termination.

This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of Airport or the exclusive or nonexclusive use of Airport by the United States during the time of war or national emergency.

ARTICLE XXV. PROPERTY RIGHTS RESERVED

This Lease is subject and subordinate to the terms, reservations, restrictions, and conditions of any existing or future agreements between County and the United States, when the execution of such agreements has been or may be required as a condition precedent to the transfer of federal rights or property to County for Airport purposes and the expenditure of federal funds for the extension, expansion, or development of the Airport. Tenant understands, accepts, and agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Lease as may be reasonably required to satisfy the FAA requirements.

ARTICLE XXVI. HEIGHT LIMITATIONS OF STRUCTURES

Tenant by accepting this Lease expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the Leased Premises hereunder (if any) which would penetrate the imaginary surfaces as defined in Part 77 of the FEDERAL AVIATION REGULATIONS (as same may be amended from time to time or as such regulation replacing Part 77 may be adopted by Federal authority) or such other lesser altitude as may be required by County. In the event the aforesaid covenants are breached, County reserves the right to enter upon the Leased Premises hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Tenant. Tenant shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

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ARTICLE XXVII. ASSIGNMENT AND SUBCONTRACT

The provisions of this Section are subject to, and subordinate to the limitations of Article V of this Lease entitled, "PERMITTED USES."

SECTION 27.01 TRANSFERS

Tenant shall not transfer, assign, or hypothecate (hereinafter referred to as "Transfer") any interest of the Tenant in the Leased Premises without the prior approval of the County Board of Supervisors. Tenant shall give County one hundred fifty (150) days prior written notice of all proposed Transfers. Tenant shall not make any such Transfers for a period longer than the remaining term of the Agreement.

Tenant shall not grant any license or concession hereunder, or permit any other person or persons, company, or corporation to occupy the Leased Premises without first obtaining written consent of County in County's sole and absolute discretion.

If County approves such Transfers, such approval does not constitute a waiver of any of the terms of the Agreement. All Transfer documents shall be consistent with the terms, covenants, and conditions of the Agreement, and in the event of any inconsistency, the provisions of this Lease shall govern. Tenant must submit all required County forms with backup documentation. Tenant may incur a \$3,000.00 administrative charge, for County to process request.

If Tenant is a corporation, an unincorporated association, limited partnership, limited liability partnership, limited liability company, or a partnership, Transfers include the acquisition by any person other than Tenant of any stock or interest in said corporation, an unincorporated association, limited partnership, limited liability partnership, limited liability company, or a partnership in the aggregate amount of fifty-one percent (51%) or more.

The failure by Tenant to obtain the prior written approval by County of any Transfer of the Agreement or any interest in the Leased Premises shall constitute a material breach of this Lease and shall not confer any rights upon the transferee. Such failure shall be grounds for termination of this Lease for default per this section.

Subject to the terms and conditions set forth in this Section, and only after it has received County's written approval and consent, Tenant shall be permitted to Transfer with respect to all or any portions of the Leased Premises. County's consent to one Transfer shall not be deemed a consent to subsequent Transfers.

SECTION 27.02 CONDITIONS OF COUNTY APPROVAL

County agrees that it will not arbitrarily withhold consent to any Transfer, but County may withhold consent at its sole discretion if any of the following conditions exist:

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- A. Tenant, its successors or assigns are in default of any term, covenant or condition of this Lease, whether notice of default has or has not been given by County.
- B. The prospective tenant, assignee or transferee has not agreed in writing to keep, perform and be bound by all the terms, covenants, and conditions of this Lease.
- C. The prospective tenant, assignee or transferee is not financially capable or not experienced in performing the obligations of this Lease, as determined by the Airport Director.
- D. The Tenant's or assignee's use is in conflict with the terms of this Lease.
- E. All the terms, covenants and conditions of Transfer, including the consideration therefore, of any and every kind, have not been revealed in writing to Airport Director.
- F. Any construction required of Tenant as a condition of this Lease has not been completed to the satisfaction of County.
- G. Tenant has not provided Airport Director with a copy of all documents relating to the Transfer, including, but not limited to, appraisals, notes, trust deeds, title reports, escrow instructions, etc.
- H. Tenant attempts to hypothecate the rights granted by this Lease for an amount greater than the cost of new improvements to be constructed on the Leased Premises. Hypothecation shall not be permitted for any reason other than to obtain Loan Proceeds necessary to construct new improvements on the Leased Premises.

SECTION 27.03 BANKRUPTCY TRANSACTION

If Tenant assumes this Lease and proposes to assign the same pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §§101, *et seq.*, then notice of such proposed assignment shall be given to County.

- A. The name and address of proposed assignee,
- B. All of the terms and conditions of such offer, and
- C. Adequate assurance to County of the proposed assignee's future performance under the Agreement, including, without limitation, the assurance referred to in the United States Bankruptcy Code, 11 U.S.C. §365(b)(3).

Any person or entity to which this Lease is assigned pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §§101, *et seq.*, shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such

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assignment. Any such assignee shall upon demand execute and deliver to County an instrument confirming such assumption.

SECTION 27.04 SUCCESSORS IN INTEREST

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all parties hereto, all of whom shall be jointly and severally liable hereunder.

ARTICLE XXVIII. CORPORATE TENANCY

If Tenant is a corporation, unincorporated association, partnership, limited partnership, limited liability partnership, or limited liability business entity, the undersigned officer of Tenant hereby warrants and certifies to County that Tenant is a business entity in good standing, is authorized to do business in the State of California, and the undersigned officer is authorized and empowered to bind the corporation to the terms of this Lease by his or her signature thereto.

No director, officer, or employee of County shall be held personally liable under this Lease.

ARTICLE XXIX. NON-EXCLUSIVE RIGHTS

This Lease will not be construed to grant or authorize the granting of an exclusive right within the meaning of 49 USC 40103(e) or 49 USC 47107(a), as may be amended from time to time, and related regulations.

ARTICLE XXX. RIGHT TO DEVELOP AIRPORT

Tenant recognizes that from time to time during the Term, it may be necessary for County to commence or complete extensive programs of construction, expansion, relocation, maintenance, and repair for the Airport and its facilities to be maintained, improved, completed, and operated in accordance with any present or future master layout plan. Further, Tenant acknowledges that such construction, expansion, relocation, maintenance, and repair may inconvenience Tenant in its operation at the Airport. Tenant agrees that no liability shall attach to County, its officers, agents, employees, Contractors, subcontractors, and representatives by way of such inconveniences. Tenant agrees to waive any right to claim damages or other consideration therefrom.

It is covenanted and agreed that County reserves the right to further develop or improve the Airport and all landing areas and taxiways as it may see fit, regardless of the desires or views of Tenant or its subcontractors and without interference or hindrance.

Such right shall include the right of the County to terminate this Lease early if Tenant's possession of the Leased Premises conflicts with, limits or interferes with proposed County development,

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renewal, replacement, or expansion of County properties or operation of the Airport, subject to the notice requirements contained in Section 3.02.

Further, Tenant agrees that no liability shall attach to County, its officers, agents, and employees by reason of any efforts or action toward implementation of any present or future master layout plan for the Airport. Tenant agrees that no liability shall attach to County, its officers, agents, and employees by reason of any efforts or action toward implementation of any present or future concessions master plan for the Airport. Tenant waives any right to claim damages or other consideration arising therefrom.

ARTICLE XXXI. ATTORNEY'S FEES AND COSTS

In any action or proceeding to enforce or interpret any provision of this Lease, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.

ARTICLE XXXII. RIGHT TO AMEND

If the FAA or its successors requires amendments, modifications, revisions, supplements, or deletions in this Lease as a condition precedent to the granting of funds for the improvement of the Airport, Tenant agrees to consent to such amendments, modifications, revisions, supplements, or deletions to this Lease as may be required to obtain such funds.

ARTICLE XXXIII. BOND ORDINANCES

This Lease is in all respects subject and subordinate to any County bond ordinances, including bond indenture and bond resolution, applicable to the Airport, and to any other bond ordinances, which should amend, supplement, or replace such bond ordinances. The Parties to this Lease acknowledge and agree that all property subject to this Lease that was or may be financed by the net proceeds of tax-exempt bonds is and will be owned by County. Tenant agrees not to take any action that would impair or omit to take any action required to confirm the treatment of such property as owned by County for purposes of §142(b) of the Internal Revenue Code of 1986, as amended. Tenant agrees to make and hereby makes an irrevocable election (binding on itself and all successors in interest under this Lease) not to claim depreciation or an investment credit with respect to any property subject to this Lease that was or may be financed by the net proceeds of tax-exempt bonds. Tenant shall execute such forms and take such other action as County may request to implement such election.

At County's sole discretion, through its Airport Director, County may from time to time reestablish the schedule of rentals, fees, and charges provided for herein at intervals of not more than five (5) years and be subject to the requirements of any outstanding bond ordinance pertaining to Airport. County agrees that such reestablished schedule of rentals, fees, and

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charges shall be reasonable in relation to the cost of providing, operating, and maintaining property, services, and facilities of Airport. If County proposes any changes in the schedule of rentals, fees, and charges, County will give notice thereof to Tenant no less than ninety (90) days before the same is to become effective. Tenant may decline to pay Concession Space Rent at the new rate(s) if such proposed schedule of rentals, fees, and charges result in an increase of more than five percent (5%) in the dollar amount of Concession Space Rent paid by Tenant under Article IV of this Lease for the previous calendar year. In such a case, Tenant shall promptly advise County of its intention to cancel and terminate this Lease at least sixty (60) days prior to the proposed effective date of such schedule of rentals, fees, and charges. Upon such notice of intent to cancel and terminate, Tenant shall surrender the Leased Premises upon a date specified by County within at least one hundred fifty (150) days after Tenant advised County. Should Tenant fail to give such notice of cancellation and termination, then Tenant shall be deemed to have accepted the new schedule of rentals, fees, and charges as promulgated by County. Failure by County to reestablish the rentals, fees, and charges at a five (5) year interval date shall not waive County's right to reestablish the schedule of rentals, fees, and charges at any time thereafter.

ARTICLE XXXIV. FORCE MAJEURE

If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, restrictive governmental laws or regulations or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. However, nothing in this Section shall excuse Tenant from the prompt payment of any rents or other charge required of Tenant except as may be expressly provided elsewhere in this Lease.

ARTICLE XXXV. RELATIONSHIP OF THE PARTIES

The relationship of the Parties hereto is that of landlord and Tenant, and it is expressly understood and agreed that County does not in any way or for any purpose become a partner of Tenant in the conduct of Tenant's business or otherwise, or a joint venture with Tenant; and the provisions of this Lease and the agreements relating to rents payable hereunder are included solely for the purpose of providing a method by which fee payments are to be measured and ascertained. This Lease is intended for the sole benefit of the Parties hereto and their successors, and, unless otherwise provided herein, or by law, no rights are created, or are intended to be created, for the benefit of, or enforceable by, any third parties.

ARTICLE XXXVI. COUNTY APPROVALS

Except as otherwise indicated elsewhere in this Lease, wherever in this Lease approvals are required to be given or received by County, it is understood that the Airport Director, or a designee, is hereby empowered to act on behalf of County. Further, except as otherwise

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indicated elsewhere in this Lease, wherever in this Lease approvals are required to be given by the Airport Director, it is understood that the Airport Director may further delegate such authority, as appropriate.

ARTICLE XXXVII. RESERVATIONS TO COUNTY

The Leased Premises are accepted in their “as-is” and “where-is” conditions by Tenant subject to any and all existing easements and encumbrances. County reserves the right to install, lay, construct, maintain, repair and operate sanitary sewers, drains, storm water sewers, pipelines, manholes and connections; water, oil and gas pipelines; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, under and along the Leased Premises or any part thereof; and to enter the Leased Premises for any and all such purposes. County also reserves the right to grant franchises, easements, rights of way and permits in, over, upon, through, across, under and along any and all portions of the Leased Premises. No right reserved by County in this Section shall be so exercised as to interfere unreasonably with Tenant's operations hereunder or to impair the security of any secured creditor of Tenant.

County agrees that rights granted to third parties by reason of this Section shall contain provisions that the surface of the land shall be restored as nearly as practicable to its original condition upon the completion of any construction. County further agrees that should the exercise of these rights temporarily interfere with the use of any or all of the Leased Premises by Tenant, Tenant shall only be entitled to a reduction in the rents payable to County during the period of interference, which shall be reduced in proportion to the interference with Tenant's use of the Leased Premises. Tenant shall not be entitled to any other form of compensation.

ARTICLE XXXVIII. INVALIDITY OF CLAUSES

The invalidity of any part, portion, article, paragraph, provision, or clause of this Lease will not have the effect of invalidating any other part, portion, article, paragraph, provision, or clause thereof, and the remainder of this Lease will be valid and enforced to the fullest extent permitted by law, provided that such invalidity does not materially prejudice either Tenant or the County in their respective rights and obligations contained in the valid terms, covenants, or conditions hereof.

ARTICLE XXXIX. TIME IS OF THE ESSENCE

Time is of the essence of this Lease.

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ARTICLE XL. TAXES

Tenant will bear, at its own expense, all costs of operating its business including all applicable sales, use, intangible and possessory interest taxes of any kind, against Tenant's Leased Premises, the real property and any improvements thereto, Trade Fixtures and other personal property used in the performance of the Concessions or estate which are created herein, or which result from Tenant's occupancy or use of the Leased Premises or assessed on any payments made by Tenant hereunder, whether levied against Tenant or County. Tenant will also pay any other taxes, fees, or assessments against the Leased Premises or estate created herein. Tenant will pay the taxes, fees, or assessments reflected in a notice Tenant receives from County within thirty (30) days after Tenant's receipt of that notice or within the time period prescribed in the tax bill. County will attempt to cause the taxing authority to send the applicable tax bills directly to Tenant and Tenant will remit payment directly to the taxing authority, in such instance. Tenant may reserve the right to contest such taxes, fees, or assessments and withhold payment upon written notice to County of its intent to do so, so long as the nonpayment does not result in a lien against the real property or any improvements thereon or a direct liability on the part of County. Tenant shall pay to County, with each payment of Concession Space Rent, Support Space Rent, and other fees to County, all sales or other taxes which may be due with respect to such payments, and upon receipt, County shall remit such taxes to the applicable taxing authorities.

ARTICLE XLI. PATENTS AND TRADEMARKS

Tenant covenants, warrants, and represents that it is the owner of or fully authorized to use any services, processes, machines, articles, marks, names, or slogans used by it in its operations under this Lease. Tenant will not utilize any protected patent, trademark, or copyright, including any patents, trademarks, or copyrights owned by County, in its operations under this Lease, unless it has obtained prior proper permission, all releases, and other necessary documents. Tenant agrees to indemnify, defend, and hold harmless County, its officers, employees, agents, and representatives from any loss, liability, expense, suit, or claim for damages in connection with any actual or alleged infringement of any patent, trademark, or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Tenant under this Lease.

ARTICLE XLII. AGENT FOR SERVICE OF PROCESS

It is expressly agreed and understood that if Tenant is not a resident of the State of California, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation, then in any such event Tenant does designate the Secretary of State, State of California, as its agent for the purpose of service of process in any court action between it and County arising out of or based upon this Lease, and the service will be made as provided by the laws of the State of California for service upon a non-resident. It is further expressly agreed, covenanted, and stipulated that if for any reason service of such process is not possible, and

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Tenant does not have a duly noted resident agent for service of process, as an alternative method of service of process, Tenant may be personally served with such process out of this State, by the registered mailing of such complaint and process to Tenant at the address set out in this Lease. Such service will constitute valid service upon Tenant as of the date of mailing. Tenant will have thirty (30) days from date of mailing to respond thereto. It is further expressly understood that Tenant hereby agrees to the process so served, submits to the jurisdiction of the court, and waives all obligation and protest thereto, any laws to the contrary notwithstanding.

ARTICLE XLIII. COMPLIANCE WITH PUBLIC RECORDS LAW

SECTION 43.01 AGREEMENT SUBJECT TO CALIFORNIA RECORDS ACT

Tenant understands that written information submitted to and/or obtained by County from Tenant related to this Lease and/or the Leased Premises, either pursuant to this Lease or otherwise, may be open to inspection by the public pursuant to the California Records Act (GOVERNMENT CODE §§6250, *et seq.*) as now in force or hereafter amended, or any Act in substitution thereof, or otherwise made available to the public.

SECTION 43.02 INDEMNIFICATION IN EVENT OF INTERVENTION

In the event of a request to County for disclosure of such information, time, and circumstances permitting, County will make a good faith effort to advise Tenant of such request to give Tenant the opportunity to object to the disclosure of any material Tenant may consider confidential, proprietary, or otherwise exempt from disclosure. In the event of the filing of a lawsuit to compel disclosure, County will tender all such material to the court for judicial determination of the issue of disclosure. Tenant agrees it will either waive any claim of privilege or confidentiality or intervene in such lawsuit to protect materials Tenant does not wish disclosed. If Tenant chooses to intervene in such a lawsuit and oppose disclosure of any materials, Tenant agrees to defend, indemnify, and hold harmless County, its officers, agents, and employees from any claim, damages, expense, loss, or costs arising out of Tenant's intervention including prompt reimbursement to County of all reasonable attorney fees, costs, and damages that County may incur directly or may be ordered to pay by such court.

ARTICLE XLIV. GOVERNING LAW AND VENUE

This Lease has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Lease, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

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ARTICLE XLV. DATA SECURITY

Tenant will establish and maintain safeguards against the destruction, loss, or alteration of County data or third-party data that Tenant may gain access to or be in possession of in the performance of this Lease. Tenant will not attempt to access, and will not allow its personnel access to, County data or third-party data that is not require for the performance of the services of this Lease by such personnel.

Tenant will adhere to and abide by the security measures and procedures established by County. In the event Tenant or Tenant's subcontractor (if any) discovers or is notified of a breach or potential breach of security relating to County data or third party data, Tenant will promptly: (i) notify County of such breach or potential breach; and ii) if the applicable County data or third party data was in the possession of Tenant at the time of such breach or potential breach, Tenant will investigate and cure the breach or potential breach.

ARTICLE XLVI. USE, POSSESSION, OR SALE OF ALCOHOL OR DRUGS

Tenant, its officers, agents, and employees shall cooperate and comply with the provisions of the Federal Drug-Free Workplace Act of 1988 and California Drug-Free Workplace Act of 1990, or any successor thereto, concerning the use, possession, or sale of alcohol or drugs. Except as may be otherwise authorized by this Lease, Tenant shall also prohibit consumption of alcohol within the Leased Premises. Violation of these provisions or refusal to cooperate with implementing this alcohol and drug policy can result in County barring Tenant from County facilities or participating in County operations.

ARTICLE XLVII. HAZARDOUS SUBSTANCES AND OSHA COMPLIANCE

No goods, merchandise or material will be kept or stored by Tenant at Airport which are explosive or hazardous; and no offensive or dangerous trade, business or occupation will be carried on therein or thereon. Nothing will be done in the performance of this Lease which will increase the rate of or suspend any insurance policy or coverage of County.

Tenant covenants that all materials, equipment, and all other items used in the performance of this Lease are in compliance with Occupational Safety and Health Administration (OSHA).

ARTICLE XLVIII. COUNTY'S SMOKING POLICY

Tenant agrees that it will prohibit smoking by its employees and the public in the Leased Premises. Tenant further agrees to not sell or advertise tobacco products. Tenant shall not do anything contrary to County's ordinance on prohibiting smoking. Said ordinance prohibits smoking in the terminal building, including all food and beverage areas.

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ARTICLE XLIX. WAIVERS

No waiver by County at any time of any of the terms, conditions, covenants, or agreements of this Lease, or noncompliance therewith, will be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant, or agreement herein contained, nor of the strict and prompt performance thereof by Tenant. No delay, failure, or omission of County to exercise any right, power, privilege or option arising from any default nor subsequent payment of charges then or thereafter accrued, will impair any such right, power, privilege, or option, or be construed to be a waiver of any such default or relinquishment thereof or acquiescence therein. No notice by County will be required to restore or revive time as being of the essence hereof after waiver by County or default in one or more instances. No option, right, power, remedy, or privilege of County will be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all the rights, powers, options, or remedies given to County by this Lease are cumulative and no one of them will be exclusive of the other or exclusive of any remedies provided by law, and that the exercise of one right, power, option, or remedy by County will not impair its rights to any other right, power, option or remedy.

ARTICLE L. COMPLETE AGREEMENT

This Lease represents the complete understanding between the Parties, and any prior agreements or representations, whether written or verbal, are hereby superseded. This Lease may subsequently be amended only by written instrument signed by the Parties hereto, unless provided otherwise within the terms and conditions of this Lease.

ARTICLE LI. ORDER PRECEDENCE

The documents listed below are a part of this Lease and are hereby incorporated by reference. In the event of inconsistency between the documents, unless otherwise provided herein, the terms of the following documents will govern in the following order of precedence:

- Terms and Conditions as contained in this Lease.
- RFP No. PM 1121-0345-0034
- Tenant's Response to RFP No. PM 1121-0345-0034, and any subsequent information submitted by Tenant during the evaluation process, as modified and accepted by County.

ARTICLE LII. BROKER'S COMMISSION

Tenant represents and warrants that it has not caused nor incurred any claims for brokerage commissions or finder's fees in connection with the execution of this Lease. Tenant shall defend, indemnify, and hold County harmless against all liabilities arising from any such claims caused or incurred by it (including the cost of attorney fees in connection therewith).

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This Lease does not, and shall not be deemed or construed to, confer upon or grant to any third party or parties (except parties to whom the Tenant may assign this Lease in accordance with the terms hereof, and except any successor to County) any right to claim damages or to bring any suit, action or other proceeding against either County or the Tenant because of any breach hereof or because of any of the terms, covenants, agreements and conditions herein.

ARTICLE LIII. NO LIMIT ON COUNTY’S POWERS

Nothing in this Lease shall limit in any way the power and right of County to exercise its governmental rights and powers, including its powers of eminent domain.

ARTICLE LIV. NOTICES AND COMMUNICATIONS

All notices pursuant to this Lease shall be addressed to either party as set forth below and shall be sent through the United States Mail, in the State of California, duly registered or certified, return receipt requested with postage prepaid or by an overnight carrier service. If any notice is sent by an overnight carrier service, as aforesaid, the same shall be deemed to have been served or delivered twenty-four (24) hours after mailing thereof as above provided. Notwithstanding the above County may also provide notices to Tenant by personal delivery or by regular mail postage prepaid and any such notice so given shall be deemed to have been given upon the date of personal delivery or three (3) days after the date of deposit in the United States Mail, respectively.

<p>TO: County John Wayne Airport 3160 Airway Avenue Costa Mesa, CA 92626</p>	<p>TO: Tenant _____ _____ _____</p>
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Either party hereto may from time to time, by written notice to the other in the method described above, designate a different address which shall be substituted for the one above specified.

IN WITNESS WHEREOF, the Parties have executed this Lease the day and year first above written.

Tenant:

By: _____

By: _____

APPROVED AS TO FORM:

County Counsel

By: _____

APPROVED AS TO AUDIT AND ACCOUNTING:

Auditor-Controller

By: _____

RECOMMENDED FOR APPROVAL:

John Wayne Airport

By: _____

Charlene V. Reynolds
Airport Director

Signed and certified that a copy of this document has been delivered to the Chair Of the Board per G.C. Sec. 25103, Reso 79-1535

Attest:

County

COUNTY OF ORANGE

By: _____

Chairwoman, Board of Supervisors

Clerk of the Board of Supervisors
Orange County, California

**EXHIBIT A
LEASED PREMISES DESCRIPTION**

Parcel Number: PM XXXX-XXXX-XXXX

Project Name: John Wayne Airport

The Leased Premises referred to in this Lease shall mean all the premises shown on floor plans shown below and attached hereto and by reference made a part hereof.

Leased Premises are those certain areas designated as concession locations as set forth below in the Leased Premises Summary Table below. The Leased Premises are located on the arrival and departure levels, and is situated within the John Wayne Airport, Thomas F. Riley Terminal Building at 18601 Airport Way, in the City of Santa Ana, County of Orange, State of California, and located on Lots 132 and 135 of Block 7 of the Irvine Subdivision, per map recorded in Book A, Page 888 of Miscellaneous Maps in the Office of the County Recorder of Orange County, together with the right of ingress and egress thereto.

Leased Premises Summary Table:

Space I.D./Location	LOCATION:	APPROXIMATE SQUARE FEET

The Leased Premises description may be modified to reflect actual square footage based upon final as-built plans for concession areas.

EXHIBIT A
LEASE OUTLINE DRAWINGS

**EXHIBIT B
PERMITTED USE**

Food & Beverage/Retail Package X

TENANT NAME

(TYPE OF CONCESSION CONCESSION)

MONTHLY CONCESSION REPORT

For the Month of _____

PM # XXXX-XXXX-XXXX

Accounting Year effective XX/XX/XXXX (Term Commencement Date)

Monthly amount due is (A) Marketing Fund Fee and the greater of: (B) Total Percentage Rent or One Twelfth of the Annual Base Rent

(A) Marketing Fund Fee: Total Monthly Gross Receipts x ____%

\$0.00 x ____% = \$ _____ - (A)

(B) Total Percentage Rent:

GROSS RECEIPTS FROM ALL SOURCES	MONTHLY GROSS RECEIPTS (BY TYPE)			TOTAL CUMULATIVE ANNUAL GROSS RECEIPTS (XX/XX/XXXX - XX/XX/XXXX)		
	CONCESSION TYPE	CONCESSION TYPE	CONCESSION TYPE	CONCESSION TYPE	CONCESSION TYPE	CONCESSION TYPE
Location Name	\$ -			\$ -		
Location Name		\$ -			\$ -	
Location Name		\$ -			\$ -	
Location Name			\$ -			\$ -
GROSS RECEIPTS REPORTABLE TO AIRPORT	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	CATEGORY (I)	CATEGORY (II)	CATEGORY (III)	CATEGORY (I)	CATEGORY (II)	CATEGORY (III)

CALCULATE MONTHLY PERCENT RENT PER CATEGORY (A), (B), and (C)

(I) CASUAL DINING Percent Due From Total Cumulative Annual Gross Receipts Reportable To Airport

Use ____% for the portion of Cumulative Annual Gross Receipts up to \$ _____	\$ _____		\$ -
Use ____% on the portion of Cumulative Annual Gross Receipts from \$ _____.01 to \$ _____	\$ _____.01	to \$ _____	\$ -
Use ____% on the portion of Cumulative Annual Gross Receipts from \$ _____.01 and greater	\$ _____.01	and greater	\$ -

CUMULATIVE CONCESSION TYPE PERCENT DUE \$ -

(i)

(II) QUICK SERVICE Percent Due From Total Cumulative Annual Gross Receipts Reportable To Airport

Use ____% for the portion of Cumulative Annual Gross Receipts up to \$ _____	\$ _____		\$ -
Use ____% on the portion of Cumulative Annual Gross Receipts from \$ _____.01 to \$ _____	\$ _____.01	to \$ _____	\$ -
Use ____% on the portion of Cumulative Annual Gross Receipts from \$ _____.01 and greater	\$ _____.01	and greater	\$ -

CUMULATIVE CONCESSION TYPE PERCENT DUE \$ -

(ii)

(III) COFFEE Percent Due From Total Cumulative Annual Gross Receipts Reportable To Airport

Use ____% for the portion of Cumulative Annual Gross Receipts up to \$ _____	\$ _____		\$ -
Use ____% on the portion of Cumulative Annual Gross Receipts from \$ _____.01 to \$ _____	\$ _____.01	to \$ _____	\$ -
Use ____% on the portion of Cumulative Annual Gross Receipts from \$ _____.01 and greater	\$ _____.01	and greater	\$ -

CUMULATIVE CONCESSION TYPE PERCENT DUE \$ -

(iii)

TOTAL PERCENT DUE TO COUNTY \$ - (B)
(iv) = (i) + (ii) + (iii)

(C) One Twelfth of the Annual Base Rent:

0.00 Square Fee x \$ _____ Square Feet Annually x 1/12 (per month) = \$ _____ - (C)

TOTAL YEAR-TO-DATE PAID TO THE COUNTY: \$ -

TOTAL PAYMENT DUE TO COUNTY ((A) + Greater of (B) or (C)): \$ -

I declare under penalty of perjury under the laws of the State of California that the preceding is true and correct.

Signature _____

Date _____

Mail check and monthly report to:
County of Orange
John Wayne Airport
Attn: Accounting Services
3160 Airway Ave
Costa Mesa, CA 92626-4608

EXHIBIT D

Development Schedule

(To be provided by Tenant)

EXHIBIT E

Merchandise/Menu and Pricing

(To be provided by Tenant)

EXHIBIT F

REQUIREMENTS FOR RECORD DOCUMENTS

The County requires the use of AutoCAD, Civil3D, or Revit (version must be within three versions of the current release and must be approved by County) for the creation of project documents, including plans and models. Pavement/horizontal projects shall utilize AutoCAD or Civil3D, and Buildings and structures/vertical projects shall utilize Revit. Lessees shall comply with County standards, including but not limited to CAD, BIM, and GIS standards, available here: <https://www.ocair.com/business/tenant-information/tenant-projects/>

Lessees shall not deviate from approved/permitted plans and the dimensions shown therein, whether or not Lessees believes an error exists, without first obtaining County's written permission for the deviation. Deviations shall be tracked and accurately depicted, including locations, dimensions, pictures, final constructed condition, and other relevant and shall be submitted by the Lessee to the County Building & Grading Plan Check for review and approval as a permit revision. Lessees shall be responsible for all costs associated with permit revisions. Lessees shall have all permit revisions available at time of inspection or rejection of inspection may occur. Lessees shall be responsible for all reinspection fees. All deviations and final constructed conditions shall be depicted accurately on as-built and record documents.

Lessees shall maintain at the site a complete "As-Built" set of documents for the Project. Lessees shall update the As-Built Plans each day. Lessees shall make As-Built Plans available to County immediately upon request. Any delay by Lessees in providing County with access to properly updated As-Built Plans may result in penalties and rejected inspections. Lessees shall deliver a complete set of the As-Built documents (plans, models, specifications, shop drawings, etc.) to County in formats (PDF, DWG, RVT, DOCX, etc.) acceptable to County and suitable for use in verification of constructed conditions and Record documents.

All geographic data including but not limited to spatial analysis, GIS maps, drawings, exhibits, and figures shall be created using Environmental System Research Institute (ESRI) ArcGIS and shall be compatible with ESRI ArcPro v3.0. Lessees shall accurately survey all underground utilities installed or modified during the project in accordance with SB 865 and County GIS standards. Required formats include SHP and GEODB and must be georeferenced. Lessees shall coordinate with County for georeferencing, staking, and other necessary activities.

Lessees shall provide County with a complete set of "Record" documents for the project within 30 days of completion of work. Record documents include but are not limited to plans, specifications, geographic data, and models. Record documents shall accurately depict the final constructed condition of the project in a clean state without markups and incorporate deviations from the permit documents including but not limited to as-builts, RFIs, shop drawings (including fabrication drawings and models), and change orders. Lessees shall delivery a complete set of record documents to County in formats (PDF, DWG, RVT, DOCX, etc.) acceptable to the County.

Minimum set of documents required for submission to County at the completion of the project include:

1. One complete printed set of full size (30"x42") and/or one complete printed set of half size (18" x 24") Record plans.
2. One complete set of printed Record specifications.

3. One complete set of digital record plans, specifications, geographical data, and models in relevant formats, including PDF for all documents, DWG for AutoCAD and Civil3D, RVT for Revit, DOCX for specifications, SHP and GEODB for GIS.

EXHIBIT G
PERCENTAGE RENT

Tiered Rent

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	12.0%
	\$1,000,001	\$2,000,000	14.0%
	\$2,000,001 and greater		16.0%

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Automated Food	All Gross Receipts		25.0%

EXHIBIT G
PERCENTAGE RENT

Tiered Rent

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Specialty Retail	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Electronics/Jewelry	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

EXHIBIT H

Schedule of Assets and Amortization including Date of Beneficial Occupancy

(To be provided by Tenant)

COUNTY OF ORANGE
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Application or Solicitation Number: _____

Application or Solicitation Title: _____

Was a campaign contribution, regardless of the dollar amount, made to any member of the Orange County Board of Supervisors or to any County Agency Officer on or after January 1, 2023, by the applicant, or, if applicable, any of the applicant's proposed subcontractors or the applicant's agent or lobbyist?

Yes ____ No ____

If no, please sign and date below.

If yes, please provide the following information:

Applicant's Name: _____

Contributor or Contributor Firm's Name: _____

Contributor or Contributor Firm's Address: _____

Is the Contributor:

- o The Applicant Yes ____ No ____
o Subcontractor Yes ____ No ____
o The Applicant's agent/ or lobbyist Yes ____ No ____

Note: Under California law as implemented by the Fair Political Practices Commission, campaign contributions made by the Applicant and the Applicant's agent/lobbyist who is representing the Applicant in this application or solicitation must be aggregated together to determine the total campaign contribution made by the Applicant.

Identify the Board of Supervisors Member(s) and County Agency Officer(s) to whom you, your subcontractors, and/or agent/lobbyist made campaign contributions on or after January 1, 2023, the name of the contributor, the dates of contribution(s) and dollar amount of the contribution. Each date must include the exact month, day, and year of the contribution.

Name of Board of Supervisors Member or County Agency Officer: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

(Please add an additional sheet(s) to identify additional Board Members or County Agency Officer to whom you, your subconsultants, and/or agent/lobbyist made campaign contributions)

By signing below, I certify that the statements made herein are true and correct. I also agree to disclose to the County any future contributions made to Board Members or County Agency Officers by the applicant, or, if applicable, any of the applicant's proposed subcontractors or the applicant's agent or lobbyist after the date of signing this disclosure form, and within 12 months following the approval, renewal, or extension of the requested license, permit, or entitlement to use.

Date

Signature of Applicant

Print Firm Name, if applicable

Print Name of Applicant

**ORANGE COUNTY BOARD OF SUPERVISORS
AND COUNTY AGENCY OFFICERS**

Board of Supervisors

Doug Chaffee, Chairman, Fourth District

Donald P. Wagner, Vice Chairman, Third District

Andrew Do, First District

Vicente Sarmiento, Second District

Katrina Foley, Fifth District

County Agency Officers

Claude Parrish, Assessor

Andrew Hamilton, Auditor-Controller

Hugh Nguyen, Clerk-Recorder

Todd Spitzer, District Attorney-Public Administrator

Don Barnes, Sheriff-Coroner

Shari A. Freidenrich, Treasurer-Tax Collector

EXHIBIT I

**COUNTY OF ORANGE
CAMPAIGN CONTRIBUTION DISCLOSURE INFORMATION**

The attached Campaign Contribution Disclosure Form must be completed by applicants for, or persons who are the subject of, any proceeding involving a license, permit, or other entitlement for use, including most contracts and franchises, pending before the Board of Supervisors (“Board”) of the County of Orange or any of its affiliated agencies.

IMPORTANT NOTICE

Government Code section 84308 (also known as the “Levine Act”) contains requirements that are summarized generally as follows:

- A. If you are an applicant for, or the subject of, any proceeding involving a license, permit, or other entitlement for use, you are prohibited from making a campaign contribution of more than \$250 to any member of the Board of Supervisors or other County official who may participate in your proceeding. This prohibition begins on the date your application is filed or the proceeding is otherwise initiated, and the prohibition ends 12 months after a final decision is rendered by the Board of Supervisors or other County officer. In addition, no Board member or other County official who may participate in your proceeding alternate may solicit or accept a campaign contribution of more than \$250 from you during this period.
- B. These prohibitions also apply to your agents, and, if you are a closely held corporation, to your majority shareholder as well. These prohibitions also apply to your subcontractor(s), joint venturer(s), and partner(s) in this proceeding. Also included are parent companies and subsidiary companies directed and controlled by you, and political action committees directed and controlled by you.
- C. You must file the attached disclosure form and disclose whether you or your agent(s) have in the aggregate contributed more than \$250 to any Board member or other County officer who may participate in your proceeding during the 12-month period preceding the filing of the application or the initiation of the proceeding.
- D. If you or your agent have in the aggregate contributed more than \$250 to any individual Board member or other County officer who may participate in your proceeding during the 12 months preceding the decision on the application or proceeding, that Board member or other County officer must disqualify himself or herself from the decision. However, disqualification is not required if the Board member or other County official returns the campaign contribution within 30 days from the time the member or official knows, or should have known, about both the contribution and the fact that you are a party in the proceeding. The Campaign Contribution Disclosure Form should be completed and filed with your application or proposal, or with the first written document you file or submit after the proceeding commences.

1. A proceeding involving “a license, permit, or other entitlement for use” includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts), and all franchises.
2. Your “agent” is someone who represents you in connection with a proceeding involving a license, permit or other entitlement for use. If an individual acting as an agent is also acting in his or her capacity as an employee or member of a law, architectural, engineering, consulting firm, or similar business entity, both the business entity and the individual are “agents.”
3. To determine whether a campaign contribution of more than \$250 has been made by you, campaign contributions made by you within the preceding 12 months must be aggregated with those made by your agent within the preceding 12 months or the period of the agency relationship, whichever is shorter. Contributions made by your majority shareholder (if a closely held corporation), your subcontractor(s), your joint venturer(s), and your partner(s) in this proceeding must also be included as part of the aggregation. Campaign contributions made to different Board of Supervisors members or other County officer who may participate in your proceeding are not aggregated.
4. A list of the Board of Supervisors members and other County officials is attached.

This notice summarizes the major requirements of Government Code section 84308 of the Political Reform Act and California Code of Regulations, Title 2 sections 18438.1-18438.8.

Exhibit J A5.602.1
CALGreen VERIFICATION GUIDELINES
TIER 1 CHECKLIST
2022 CALGreen Code

Application: This checklist shall be used for nonresidential projects that meet one of the following: new construction, building additions of 1,000 square feet or greater, or building alterations with a permit valuation of \$200,000 or more pursuant to Section 301.3 AND are adopting Tier 1 voluntary measures:

Y = Yes (section has been selected and/or included)

N/A = Not Applicable (code section does not apply to the project—mainly used for additions and alterations)

O = Other (provide explanation)

[N] = New construction pursuant to Section 301.3

[A] = Additions and/or Alterations pursuant to Section 301.3

Chapter 5 Divisions

DIVISION 5.1 Planning and Design

(Select one elective from this Division)

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
Mandatory	Storm water pollution prevention for projects that disturb less than 1 acre of land	5.106.1 through 5.106.2					
Mandatory	Short-term bicycle parking (with exception)	5.106.4.1.1					
Mandatory	Long-term bicycle parking	5.106.4.1.2 through 5.106.4.1.5					
<i>Tier 1 prerequisite</i>	<i>Designated parking—35% of parking capacity w/ parking stall markings and stall identification</i>	<i>A5.106.5.1, A5.106.5.1.1, A5.106.5.1.3, A5.106.5.1.4</i>					
Mandatory	Electric vehicle (EV) charging [N] w/ exceptions	5.106.5.3					
Mandatory	EV capable spaces [N]	5.106.5.3.1					
Mandatory	Electric vehicle (EV) charging Stations (EVCS)	5.106.5.3.2					

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
Mandatory	Use of automatic load management systems (ALMS)	5.106.5.3.3					
Mandatory	Accessible EVCS	5.106.5.3.4					
Mandatory	Note for EVCS signs	5.106.5.3.4					
Mandatory	TABLE 5.106.5.3.1 w/ footnotes	5.106.3.1, 5.106.3.2 and 5.106.3.3					
<i>Tier 1 prerequisite</i>	<i>Electric vehicle (EV) charging [N] and TABLE A5.106.5.3.1 w/ footnotes</i>	<i>A5.106.5.3, A5.106.5.3.1</i>					
Mandatory	Electric vehicle (EV) charging: medium-duty and heavy-duty [N]	5.106.5.4					
Mandatory	Electric vehicle charging readiness requirements for warehouses, grocery stores and retail stores with planned off-street loading spaces [N]	5.106.5.4.1					
Mandatory	TABLE 5.106.5.4.1	5.106.5.4 and 5.106.5.4.1					
Mandatory	Light pollution reduction [N] (with exceptions, notes and table)	5.106.8 through 5.106.8.2					
Mandatory	Grading and paving (exception for additions and alterations not altering the drainage path)	5.106.10					
<i>Tier 1 Prerequisite</i>	<i>Cool roof (A5.106.11.2.2): SRI 75 when $\leq 2:12$, SRI 16 when $> 2:12$</i>	<i>A5.106.11.2</i>					
<i>Elective</i>	<i>Community connectivity</i>	<i>A5.103.1</i>					

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
<i>Elective</i>	<i>Brownfield or greyfield site redevelopment or infill area development</i>	<i>A5.103.2, A5.103.2.1</i>					
<i>Elective</i>	<i>Reduce development footprint and optimize open space</i>	<i>A5.104.1, A5.104.1.1, A5.104.1.2, A5.104.1.3</i>					
<i>Elective</i>	<i>Disassemble and reuse existing building structure (75%) with exceptions</i>	<i>A5.105.1.1</i>					
<i>Elective</i>	<i>Disassemble and reuse existing nonstructural elements (50%) with exceptions</i>	<i>A5.105.1.2</i>					
<i>Elective</i>	<i>Salvage</i>	<i>A5.105.1.3</i>					
<i>Elective</i>	<i>Storm water design</i>	<i>A5.106.2, A5.106.2.1, A5.106.2.2</i>					
<i>Elective</i>	<i>Low Impact Development (LID)</i>	<i>A5.106.3, A5.106.3.1, A5.106.3.2</i>					
<i>Elective</i>	<i>Changing rooms with note</i>	<i>A5.106.4.3</i>					
<i>Elective</i>	<i>Parking capacity with reduced parking capacity option</i>	<i>A5.106.6, A5.106.6.1</i>					
<i>Elective</i>	<i>Exterior wall shading with fenestration and/or opaque wall area option</i>	<i>A5.106.7, A5.106.7.1, A5.106.7.2</i>					
<i>Elective</i>	<i>Heat island effect</i>	<i>A5.106.11</i>					

DIVISION 5.2 Energy Efficiency

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
Mandatory	Meet the minimum energy efficiency standard	5.201.1					
<i>Tier 1 Prerequisite</i>	<i>Energy performance— outdoor lighting power 90% of Part 6</i>	A5.203.1.1.1					
<i>Tier 1 Prerequisite</i>	<i>If applicable, service for water heating in restaurants of 8,000 sf or greater</i>	A5.203.1.1.2					
<i>Tier 1 Prerequisite</i>	<i>Energy budget 95% or 90% of Part 6 calculated value of allowance</i>	A5.203.1.2.1					
<i>Elective</i>	<i>On-site renewable energy (with documentation)</i>	A5.211.1, A5.211.1.1					
<i>Elective</i>	<i>Green power</i>	A5.211.3					
<i>Elective</i>	<i>Elevators with car lights and fan</i>	A5.212.1.1, A5.212.1.1.1					
<i>Elective</i>	<i>Escalators</i>	A5.212.1.2					
<i>Elective</i>	<i>Controls that reduce energy</i>	A5.212.1.4					
<i>Elective</i>	<i>Steel framing</i>	A5.213.1					

DIVISION 5.3 Water Efficiency and Conservation

(Select one elective from this Division)

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
Mandatory	Separate meters (new buildings or additions > 50,000 sf that consume more than 100 gal/day)	5.303.1.1					
Mandatory	Separate meters (for tenants in new buildings or additions that consume more than 1,000 gal/day)	5.303.1.2					

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
<i>Tier 1 Prerequisite</i>	<i>Water reduction Tier 1—12% savings over the “water use baseline” in Table A5.303.2.2 or meet TableA5.303.2.3.1</i>	A5.303.2.3.1					
Mandatory	Water closets shall not exceed 1.28 gallons per flush (gpf)	5.303.3.1					
Mandatory	Wall-mounted urinals shall not exceed 0.125 gpf	5.303.3.2.1					
Mandatory	Floor-mounted urinals shall not exceed 0.5 gpf	5.303.3.2.2					
Mandatory	Single showerhead shall have maximum flow rate of 1.8 gpm (gallons per minute) at 80 psi	5.303.3.3.1					
Mandatory	Multiple showerheads serving one shower shall have a combined flow rate of 1.8 gpm at 80 psi	5.303.3.3.2					
Mandatory	Nonresidential lavatory faucets	5.303.3.4.1					
Mandatory	Kitchen faucets	5.303.3.4.2					
Mandatory	Wash fountains	5.303.3.4.3					
Mandatory	Metering faucets	5.303.3.4.4					
Mandatory	Metering faucets for wash fountains	5.303.3.4.5					
Mandatory	Pre-rinse spray valve	5.303.3.4.6					
Mandatory	Food waste disposers	5.303.4.1					
Mandatory	Areas of additions or alterations	5.303.5					
Mandatory	Standards for plumbing fixtures and fittings	5.303.6					

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
Mandatory	Outdoor potable water use in landscape areas (with notes)	5.304.1					
<i>Elective</i>	<i>Nonpotable water systems for indoor use</i>	<i>A5.303.2.3.4</i>					
<i>Elective</i>	<i>Appliances and fixtures for commercial application</i>	<i>A5.303.3</i>					
<i>Elective</i>	<i>Nonwater urinals</i>	<i>A5.303.4.1</i>					
<i>Elective</i>	<i>Dual plumbing</i>	<i>A5.303.5</i>					
<i>Elective</i>	<i>Outdoor potable water use</i>	<i>A5.304.2</i>					
<i>Elective</i>	<i>Restoration of areas disturbed by construction</i>	<i>A5.304.6</i>					
<i>Elective</i>	<i>Previously developed sites (with exception)</i>	<i>A5.304.7</i>					
<i>Elective</i>	<i>Graywater irrigation system</i>	<i>A5.304.8</i>					
<i>Elective</i>	<i>Nonpotable water systems</i>	<i>A5.305.1</i>					
<i>Elective</i>	<i>Irrigation systems</i>	<i>A5.305.2</i>					

DIVISION 5.4 Material Conservation and Resource Efficiency

(Select one elective from this Division)

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
<i>Tier 1 Prerequisite</i>	<i>Recycled content for 10% of total material cost</i>	<i>A5.405.4, A5.405.4.1 through A5.405.4.5</i>					
Mandatory	Weather protection	5.407.1					
Mandatory	Moisture control: sprinklers	5.407.2.1					
Mandatory	Moisture control: exterior door protection	5.407.2.2.1					
Mandatory	Moisture control: flashing	5.407.2.2.2					

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
Mandatory	Construction waste management—comply with either: Sections 5.408.1.1, 5.408.1.2, 5.408.1.3 or more stringent local ordinance	5.408.1.1, 5.408.1.2, 5.408.1.3					
Mandatory	Construction waste management: documentation	5.408.1.4					
Mandatory	Universal waste [A]	5.408.2					
Mandatory	Excavated soil and land clearing debris (100% reuse or recycle)	5.408.3					
<i>Tier 1 Prerequisite</i>	<i>Enhanced construction waste reduction (65%—Tier 1 with verification)</i>	<i>A5.408.3.1, A5.408.3.1.2</i>					
Mandatory	Recycling by occupants: additions (with exception)	5.410.1					
Mandatory	Recycling by occupants: additions (with exception)	5.410.1.1					
Mandatory	Recycling by occupants: sample ordinance	5.410.1.2					
Mandatory	Commissioning new buildings ($\geq 10,000$ sf) [N]	5.410.2					
Mandatory	Owner's or owner representative's Project Requirements (OPR) [N]	5.410.2.1					
Mandatory	Basis of Design (BOD) [N]	5.410.2.2					
Mandatory	Commissioning plan [N]	5.410.2.3					
Mandatory	Functional performance testing [N]	5.410.2.4					

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
Mandatory	Documentation and training [N]	5.410.2.5					
Mandatory	Systems manual [N]	5.410.2.5.1					
Mandatory	Systems operation training [N]	5.410.2.5.2					
Mandatory	Commissioning report [N]	5.410.2.6					
Mandatory	Testing and adjusting for new buildings < 10,000 sf or new systems that serve additions or alterations [A]	5.410.4					
Mandatory	System testing plan for renewable energy, landscape irrigation and water reuse [A]	5.410.4.2					
Mandatory	Procedures for testing and adjusting	5.410.4.3					
Mandatory	Procedures for HVAC balancing	5.410.4.3.1					
Mandatory	Reporting for testing and adjusting	5.410.4.4					
Mandatory	Operation and maintenance (O&M) manual	5.410.4.5					
Mandatory	Inspection and reports	5.410.4.5.1					
<i>Elective</i>	<i>Wood framing or OVE w/ note</i>	<i>A5.404.1, A5.404.1.1, A5.404.1.2</i>					
<i>Elective</i>	<i>Regional materials</i>	<i>A5.405.1</i>					
<i>Elective</i>	<i>Bio-based materials</i>	<i>A5.405.2</i>					
<i>Elective</i>	<i>Rapidly renewable materials</i>	<i>A5.405.2.2</i>					
<i>Elective</i>	<i>Reused materials with note</i>	<i>A5.405.3</i>					
<i>Elective</i>	<i>Cement and concrete: cement</i>	<i>A5.405.5.1</i>					

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
<i>Elective</i>	<i>Cement and concrete: concrete with SCM & Mix design equation</i>	A5.405.5.2, A5.405.5.2.1, A5.405.5.2.1.1					
<i>Elective</i>	<i>Cement and concrete: additional means of compliance</i>	A5.405.5.3, A5.405.5.3.1, A5.405.5.3.1.1, A5.405.5.3.1.2, A5.405.5.3.2, A5.405.5.3.2.1, A5.405.5.3.2.2, A5.405.5.3.2.3, A5.405.5.3.2.4					
<i>Elective</i>	<i>Choice of materials</i>	A5.406.1, A5.406.1.1, A5.406.1.2, A5.406.1.3					
<i>Elective</i>	<i>Life cycle assessment: general</i>	A5.409.1					
<i>Elective</i>	<i>Whole building life cycle assessment</i>	A5.409.2, A5.409.2.1, A5.409.2.2					
<i>Elective</i>	<i>Materials and system assemblies</i>	A5.409.3					
<i>Elective</i>	<i>Substitution for prescriptive standards</i>	A5.409.4					
<i>Elective</i>	<i>Verification of compliance</i>	A5.409.5					

DIVISION 5.5 Environmental Quality

(Select one elective from this Division)

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
Mandatory	Fireplaces	5.503.1					
Mandatory	Woodstoves	5.503.1.1					
Mandatory	Temporary ventilation	5.504.1					
Mandatory	Covering of ducts openings and protection of mechanical equipment during construction	5.504.3					
Mandatory	Adhesives, sealants, and caulks	5.504.4.1					

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
Mandatory	Paints and coatings	5.504.4.3					
Mandatory	Aerosol paints and coatings	5.504.4.3.1					
Mandatory	Aerosol paints and coatings: verification	5.504.4.3.2					
Mandatory	Carpet systems	5.504.4.4					
Mandatory	Carpet cushion	5.504.4.4.1					
Mandatory	Carpet adhesives per Table 5.504.4.1	5.504.4.4.2					
Mandatory	Composite wood products	5.504.4.5					
Mandatory	Composite wood products: documentation	5.504.4.5.3					
Mandatory	Resilient flooring systems	5.504.4.6					
Mandatory	Resilient flooring: verification of compliance	5.504.4.6.1					
<i>Tier 1 Prerequisite</i>	<i>Resilient flooring systems, Tier 1 (with verification of compliance)</i>	<i>A5.504.4.7, A5.504.4.7.2</i>					
Mandatory	Thermal insulation	5.504.4.7					
Mandatory	Verification of compliance	5.504.4.7.1					
<i>Tier 1 Prerequisite</i>	<i>Thermal insulation, Tier 1 (with verification of compliance)</i>	<i>A5.504.4.8, A5.504.4.8.1</i>					
Mandatory	Acoustical ceilings and wall panels	5.504.4.8					
Mandatory	Verification of compliance	5.504.4.8.1					
Mandatory	Filters (with exceptions)	5.504.5.3					
Mandatory	Filters: labeling	5.504.5.3.1					
Mandatory	Environmental tobacco smoke (ETS) control	5.504.7					
Mandatory	Indoor moisture control	5.505.1					
Mandatory	Outside air delivery	5.506.1					
Mandatory	Carbon dioxide (CO ₂) monitoring	5.506.2					
Mandatory	Acoustical control (with exception)	5.507.4					

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
Mandatory	Exterior noise transmission, prescriptive method (with exceptions)	5.507.4.1					
Mandatory	Noise exposure where noise contours are not readily available	5.507.4.1.1					
Mandatory	Performance method	5.507.4.2					
Mandatory	Site features	5.507.4.2.1					
Mandatory	Documentation of compliance	5.507.4.2.2					
Mandatory	Interior sound transmission (with note)	5.507.4.3					
Mandatory	Ozone depletion and greenhouse gas reductions	5.508.1					
Mandatory	Chlorofluorocarbons (CFCs)	5.508.1.1					
Mandatory	Halons	5.508.1.2					
Mandatory	Supermarket refrigerant leak reduction for retail food stores 8,000 square feet or more	5.508.2 through 5.508.2.6.3					
<i>Elective</i>	<i>Indoor air quality (IAQ) during construction</i>	<i>A5.504.1, A5.504.1.1, A5.504.1.2</i>					
<i>Elective</i>	<i>IAQ postconstruction</i>	<i>A5.504.2</i>					
<i>Elective</i>	<i>IAQ testing</i>	<i>A5.504.2.1, A5.504.2.1.1, A5.504.2.1.2, A5.504.2.1.3</i>					
<i>Elective</i>	<i>No added formaldehyde Tier 1 (with notes)</i>	<i>A5.504.4.5.1</i>					
<i>Elective</i>	<i>Hazardous particulates and chemical pollutants</i>	<i>A5.504.5</i>					
<i>Elective</i>	<i>Entryway systems</i>	<i>A5.504.5.1</i>					
<i>Elective</i>	<i>Isolation of pollutant sources</i>	<i>A5.504.5.2</i>					
<i>Elective</i>	<i>Lighting and thermal comfort controls</i>	<i>A5.507.1, A5.507.1.1 through A5.507.1.2</i>					

Requirement	SECTION TITLE	CODE SECTION	Y	N	N/A	O	PLAN SHEET, SPEC, OR ATTACH REFERENCE
<i>Elective</i>	<i>Daylight</i>	<i>A5.507.2</i>					
<i>Elective</i>	<i>Views</i>	<i>A5.507.3</i>					
<i>Elective</i>	<i>Interior office spaces</i>	<i>A5.507.3.1</i>					
<i>Elective</i>	<i>Multi-occupant spaces (with exceptions)</i>	<i>A5.507.3.2</i>					
<i>Elective</i>	<i>Hydrochlorofluorocarbons (HCFCs)</i>	<i>A5.508.1.3</i>					
	<i>Hydrofluorocarbons (HFCs)</i>	<i>A5.508.1.4</i>					
Additional Measures	Select 1 additional elective measure from any division	Enter Section #:					

Total number of elective measures required for Tier 1 is:	15
Enter the total number of elective measures selected:	

Documentation Author's/Responsible Designer's Declaration Statement Check the appropriate box(es) on the list below.	
<input type="checkbox"/> Mandatory: I attest that the mandatory portion of this Tier 1 checklist is accurate and complete.	
<input type="checkbox"/> Tier 1 compliant: I attest that the total number of voluntary measures selected meet or exceed the total number required to achieve Tier 1 compliance.	
<input type="checkbox"/> Partial Tier 1 compliant: I attest that the total number of voluntary measures selected do not meet the total number required to achieve Tier 1 compliance: however, partial Tier 1 compliance has been achieved.	
Signature:	
Company:	Date:
Address:	License:
City/State/Zip:	Phone:



JOHN WAYNE AIRPORT – BUSINESS DEVELOPMENT

Pre-Proposal Tour	Meeting Date: Wednesday, April 12, 2023	1:00 pm – 3:00 pm	Terminal Admin. Offices/EOC Conference Room
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Name	Company	Phone	E-Mail
Paul M. McDonnell	Centrex	(503) 828-7163	pmcdonnell@centrex.cc
Tricia Landquist	JWA PA	949-252-5259	tlandquist@ocair.com
Anna Sophia Sevm	JWA PA	949 292 3049	asevm@ocair.com
Kristi Kinney	Carpe Dulce	602-349-5723	carpe.dulce@gmail.com
Tom Swift	Swift Eclipse	714 655 9644	Tom Swift Eclipse, Co
Martin Lorenzo	P.F. Chang's	707-339-2869	martin.lorenzo@pfc.com
CHRISTIAN GOMEZ	WETSTONE WINEBAR	619/263.8971	WETSTONEWINEBAR@MAC.COM
Soheil Karak	Subway	949-387-2667	SKarak@growalfoods.com
Alice Cheung	Paradies Lagardere	404-924-0169	ALICE.CHEUNG@PARADIES-NA.COM
Holly Ritchie	Paradies Lagardere	602 314 0081	holly.ritchie@paradies-na.com
Natalie Greene	SSP America	512-567-4094	natalie.greene@fasttravel experts.com



JOHN WAYNE AIRPORT – BUSINESS DEVELOPMENT

Pre-Proposal Tour	Meeting Date: Wednesday, April 12, 2023	1:00 pm – 3:00 pm	Terminal Admin. Offices/EOC Conference Room
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Name	Company	Phone	E-Mail
Iris Messina	Hudson	201.957.3937	Imessina@hudsongroup.com
John Soto	A.I.R.	562.743-7481	John.soto@yelp.com
Robert Corrigan	MAMA'S HOSPITALITY	562.509.5885	RCORRIGAN@MAMASANDSONS.COM
Tony Pastorelle	PMG/Necker	630.670-1629	tony@pastorellemarketing.com
Peter Truxaw	MAMA'S HOSPITALITY	714.335-8368	PTRUXAW@MAMASANDSONS.COM
Diana Zuniga	Reyes Cola-Cola Bottling	310.961-0188	Diana.Zuniga@reyescob.com
JEFF BARNEY	NECKER JUICE BAR	619.619.733.0153	JEFF.BARNEY@neckerjuicebar.com
JAMES YEW	CAEL'S JR.	714.287.8286	JCBYEW@GMAIL.COM
Crystal Garcia	C&S Companies	619-819-2282	cgarcia@cscos.com
Ajay Maini	Fly Away Foods	714-612-3411	Ajay.flyawayfoods@gmail.com
Courtney Keys	Keys Airport Business	407-235-0995	rodneymkeys@keysgroup.com



JOHN WAYNE AIRPORT – BUSINESS DEVELOPMENT

Pre-Proposal Tour	Meeting Date: Wednesday, April 12, 2023	1:00 pm – 3:00 pm	Terminal Admin. Offices/EOC Conference Room
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Name	Company	Phone	E-Mail
Meghan woods	Paradies Lagardere	404-219-2113	meghan.woods@paradies-na.com
Kaitlyn Arly	Paradies Lagardere	(502) 886-6585	Kaitlyn.Arly@paradiesna.com
Scott Welding	SSP America	602-319-9884	Scott.Welding@foodtravelparts.com
Jessica Garibay	MERA	+529981815625	jessicag@meracorporation.com
JOE NIKONAM	HMSHOST	_____	_____
DAN MCLEOD	HUDSON	619-323-0093	dmcLeod@hudsongroup.com
MKE Petersen	HUDSON	206-571-3505	MPetersen@hudsongroup.com
TIM ALMOND	HUDSON	714-425-0575	TALMOND@Hudsongroup.com
SAMANTHA NEEL	HAVE COLLECTIVE	317-577-1376	samanthn@have-collective.com
Lisa DeBora	1 deboras design	714-273-6553	ldeboras@deboradesign.com
LVRIGNAUD	MOULIN	949-310-9003	LAURENT@MOULIN.COM



JOHN WAYNE AIRPORT – BUSINESS DEVELOPMENT

Pre-Proposal Tour	Meeting Date: Wednesday, April 12, 2023	1:00 pm – 3:00 pm	Terminal Admin. Offices/EOC Conference Room
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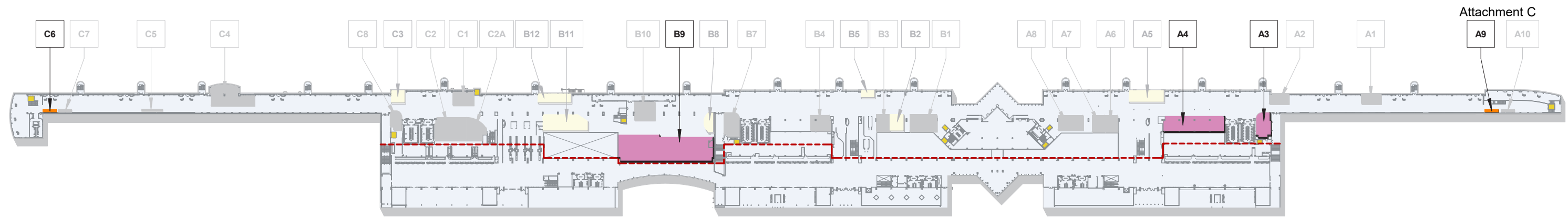
Name	Company	Phone	E-Mail
Andrew Pierson	Jackmont Hosp.	678-858-2045	apierson@jackmont.com
Adam Rickle	Jackmont Hos	214-962-8582	arickle@jackmont.com
Simon Lorady	JACKMONT Hos	267-563-0303	SLORADY@jackmont.com
Ashmi Patel Bajaj	HMSHost	919-279-5180	ashmi.patel@hmshost.com
Gowri Santhanam	HMS Host	703-581-5221	gowri.santhanam@hmshost.com
Loke Sato	American Innovative Retailer	82 447-4515	americaninnovativeretailers@gmail.com
JOHN ASFOUK	ASFOUK FAMILY CORP	714-264-0280	ja195@aol.com
TRICIA SANCHEZ	Team Martinez/Honda	714-875-4391	TRICIA@C3Tech.com
BREE THERIAULT	Reyes Coca Cola	213.274.3457	bree.theriault@reyescob.com
Parmdeep Brar	Concord Collective Partners	818 370 5161	pbrar@concordcollective.com
CARLA WITTMAR	High Flying Foods	415.243.8908	CWittmar@highflyingfoods.com



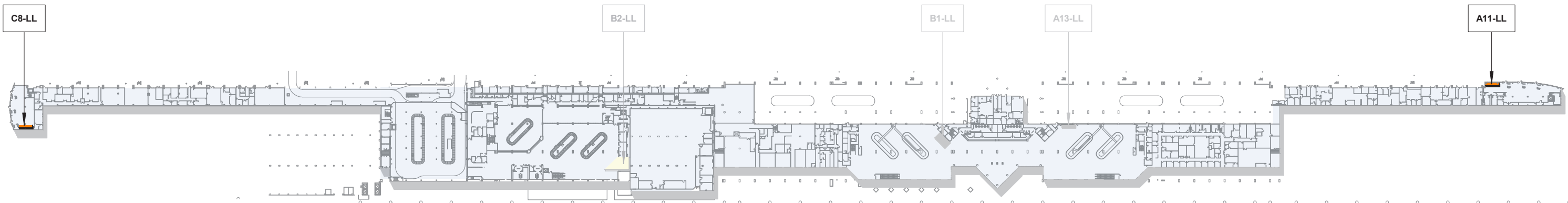
JOHN WAYNE AIRPORT – BUSINESS DEVELOPMENT

Pre-Proposal Tour	Meeting Date: Wednesday, April 12, 2023	1:00 pm – 3:00 pm	Terminal Admin. Offices/EOC Conference Room
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Name	Company	Phone	E-Mail
HAN WJ	Mamaha Group	714-600-0229	han@mamahagroup.com
Nicholas Crews	Nicholas & Associates / Crews	(714) 830-9007	ncrews@crews1972.com
Brian Saull	CTS	619 819 2267	bsaull@cscos.com
ISAIAH GREEN	NEKTAR	949-303-3339	isaiah@nektarjuicebar.com
BILL CHRISTIANSEN	SSP	(714) 271-7428	wcc.hkrd@gmail.com
Joey Conw	MRC	508-667-7776	JoeyConw@masnord.com
Nina Tarjesan	MRC	516-810-3425	ntarjesan@marshallretail.com

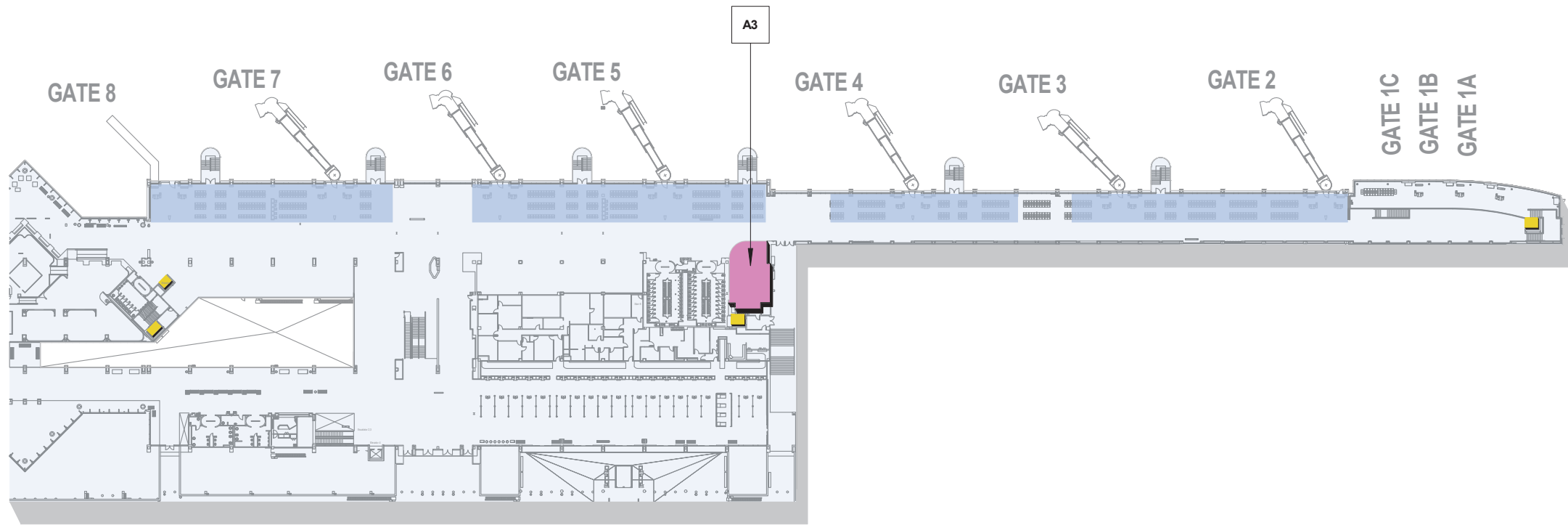


① DEPARTURES LEVEL - FB1
N.T.S.



② ARRIVALS LEVEL - FB1
N.T.S.

LOCATION CONCEPT TYPE	SPACE ID	TERMINAL	NEAR GATE	SF
NATIONAL BRAND COFFEE CAFE / BAKERY	A3	A	4 & 5	1,400
CHICKEN	A4.1	A	4 & 5	1,162
OPEN TO PROPOSER	A4.2	A	4 & 5	1,162
ASIAN	A4.3	A	4 & 5	1,162
BRAZILIAN CHURRASCARIA, MEXICAN, ASIAN, COASTAL CALIFORNIA CUISINE RESTAURANT WITH BAR	B9.1	B/C	13 & 14	9,300
FOOD HALL - OPEN TO PROPOSER	B9.2	B/C	13 & 14	
FOOD HALL - OPEN TO PROPOSER	B9.3	B/C	13 & 14	
FOOD HALL - OPEN TO PROPOSER	B9.4	B/C	13 & 14	
AUTOMATED RETAIL - FOOD (OPEN TO PROPOSER)	A9	A	2	150
AUTOMATED RETAIL - FOOD (OPEN TO PROPOSER)	A11-LL	A	1A	150
AUTOMATED RETAIL - FOOD (OPEN TO PROPOSER)	C6	C	21	150
AUTOMATED RETAIL - FOOD (OPEN TO PROPOSER)	C8-LL	C	1C	150
TOTAL	12			14,786



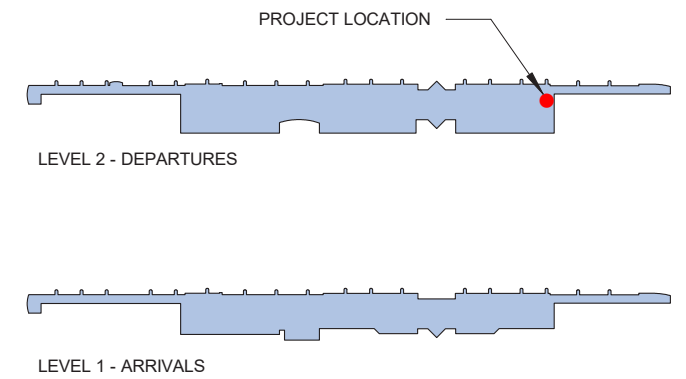
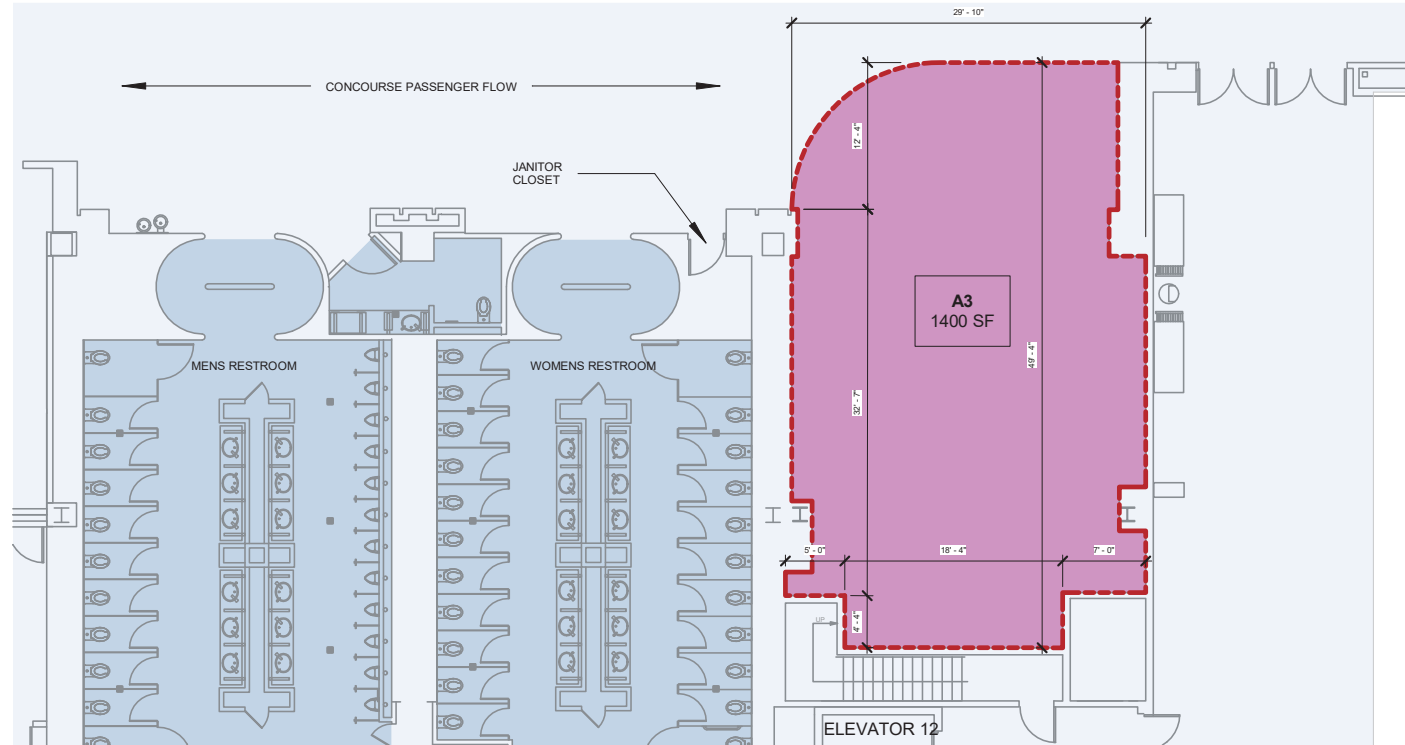
EXISTING UTILITIES

Electric	480/277 - 100amp Breaker
Domestic Water	1"
Waste	3"
Grease Waste	3"
Vent	4"
Gas	80 CFH
HVAC	Tenant Provided RTU

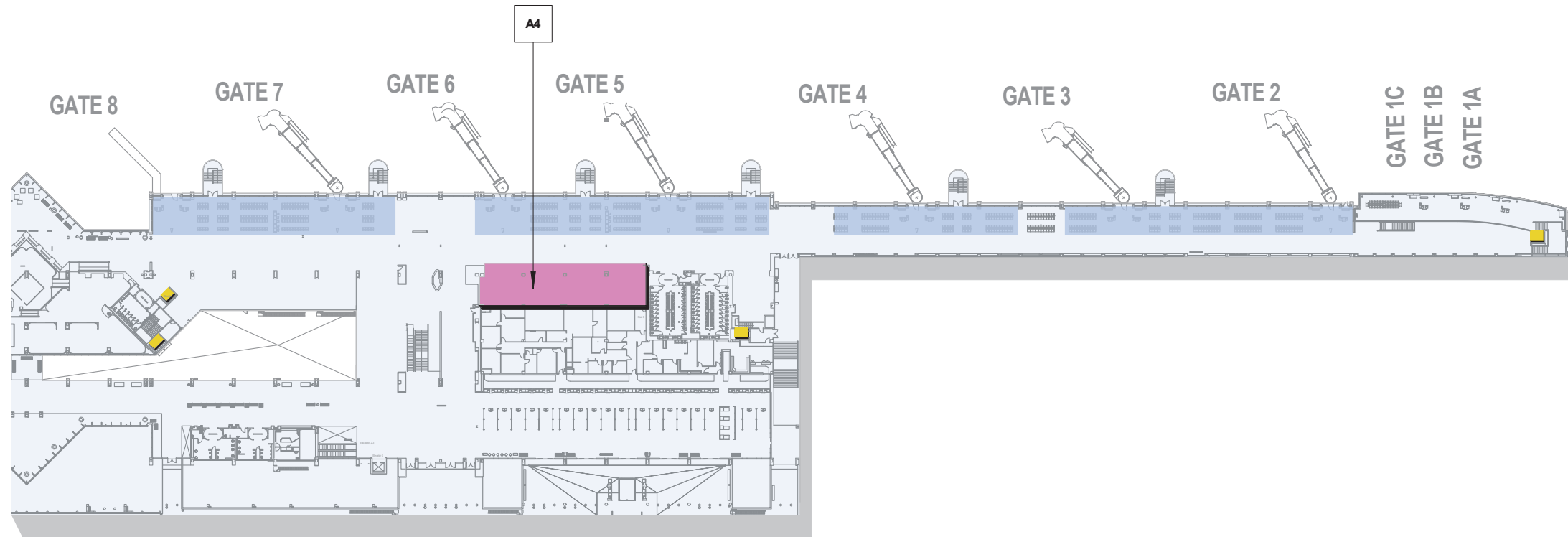
NOTES

A3 - NATIONAL BRAND COFFEE CAFE / BAKERY

1 A3 Concourse Plan
N.T.S.



2 A3
1/16" = 1'-0"



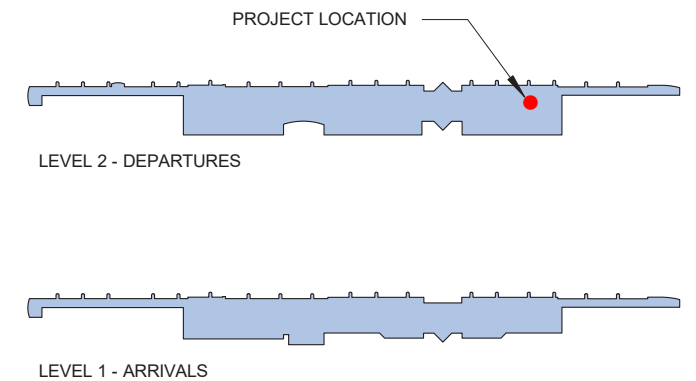
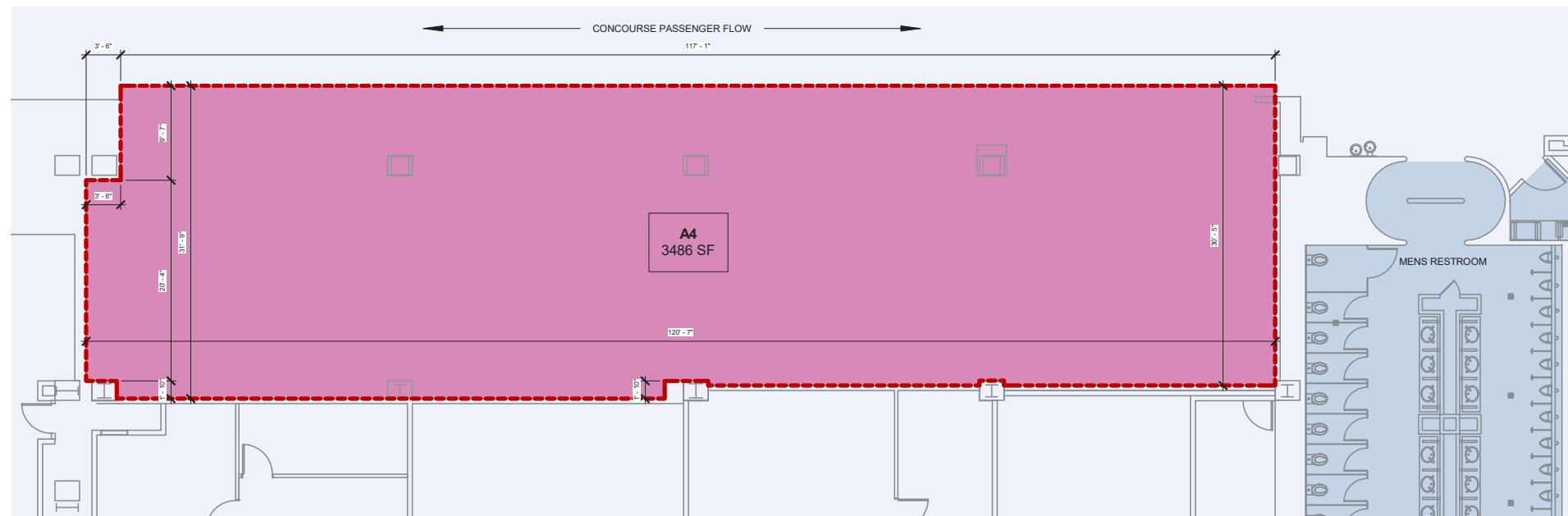
EXISTING UTILITIES

Electric	A4 - 480/277 - 400amp + 100amp
Domestic Water	A4 - 1"
Waste	A4 - 3"
Grease Waste	A4 - 3"
Vent	A4 - 2.5"
Gas	A4 - none
HVAC	Tenant Provided RTU

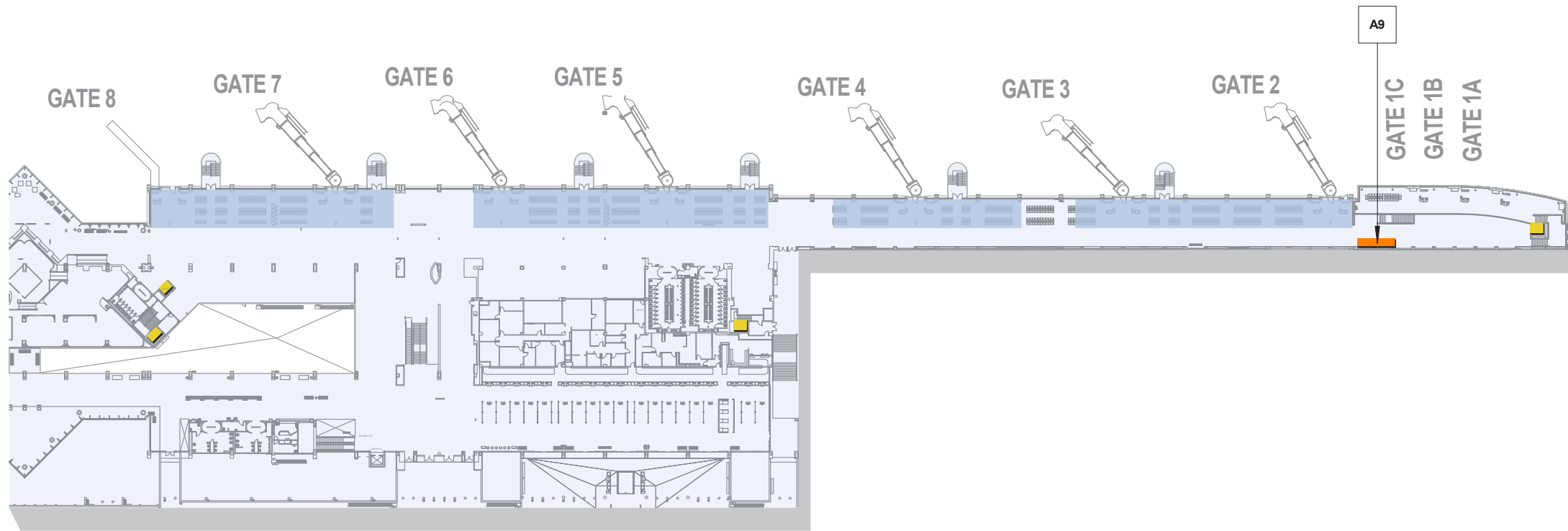
NOTES

- A4.1 - CHICKEN
- A4.2 - OPEN TO PROPOSER
- A4.3 - ASIAN

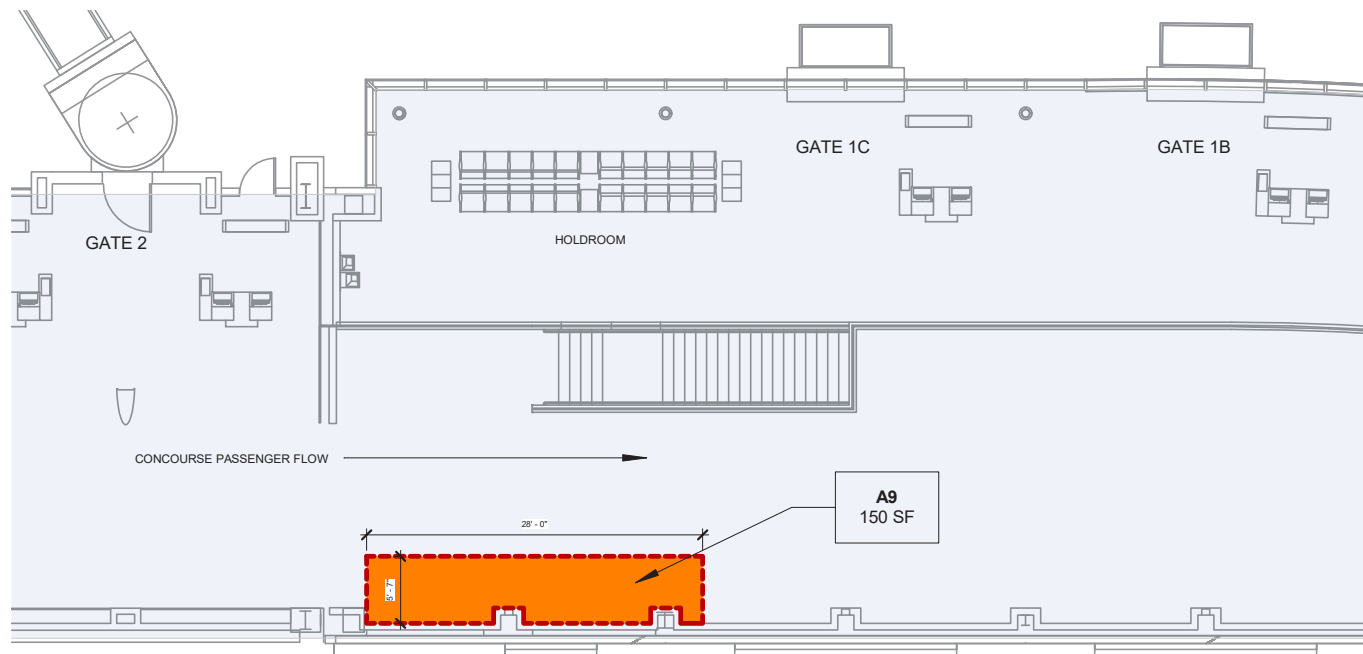
① A4 Concourse Plan
N.T.S.



② A4
1/16" = 1'-0"



2 A9 Concourse Plan
N.T.S.



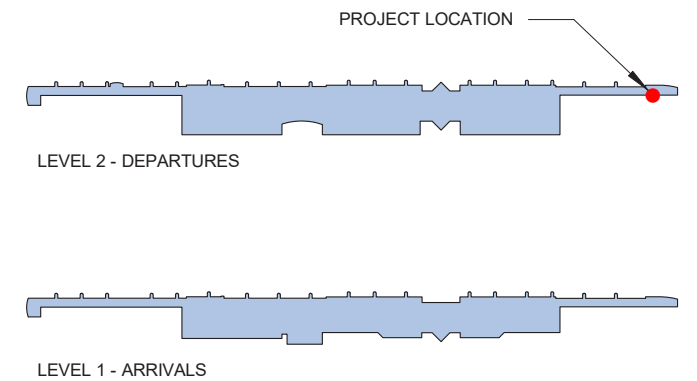
1 A9
1/16" = 1'-0"

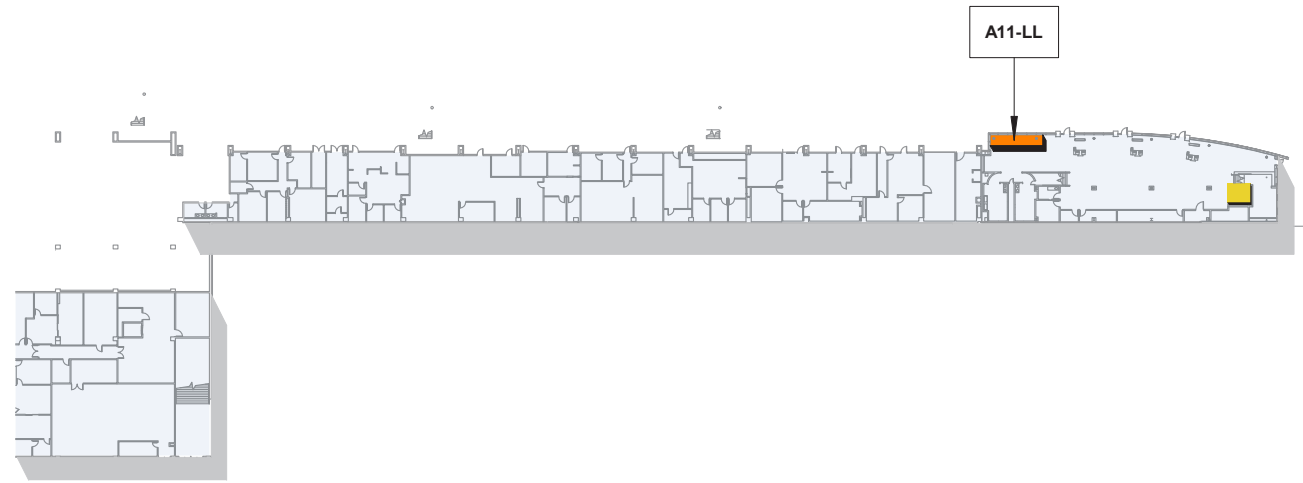
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Grease Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
HVAC	Concourse Air

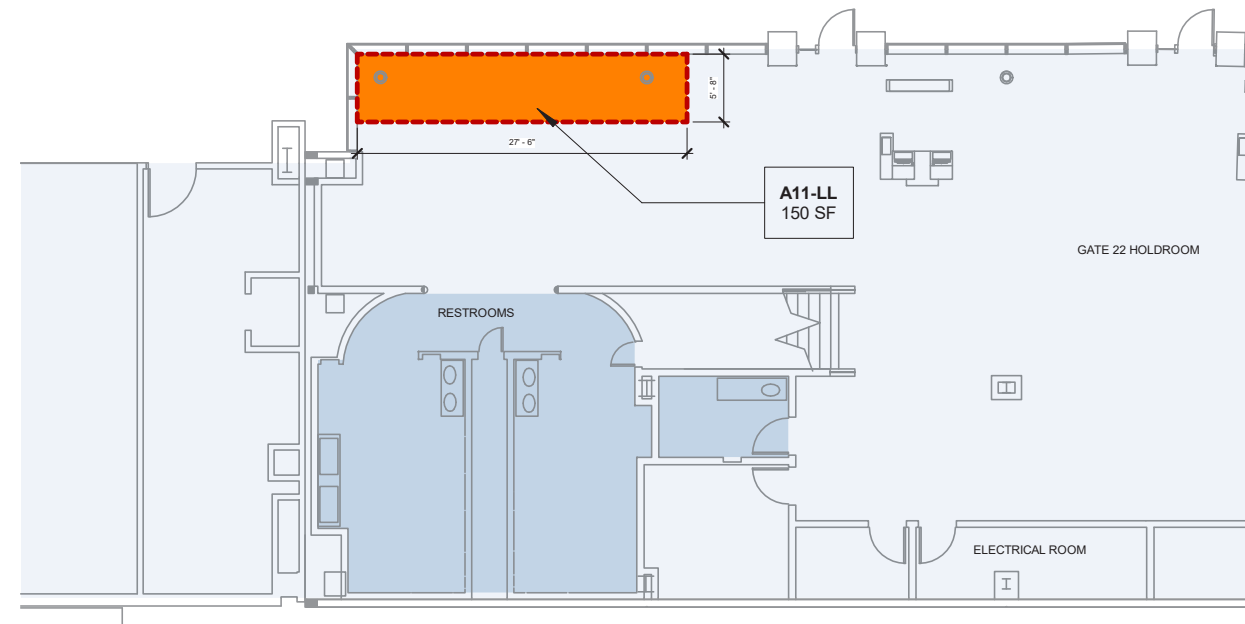
NOTES

A9 - FOOD - OPEN TO PROPOSER.





2 A11-LL Concourse Plan
N.T.S.



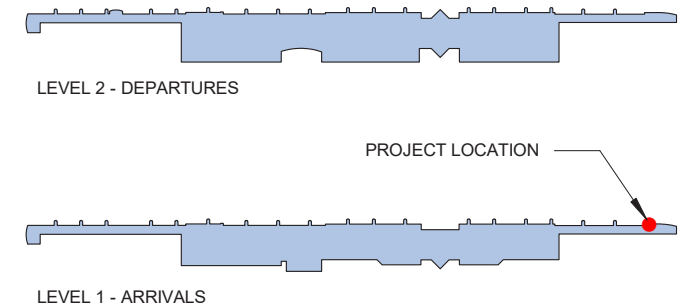
1 A11-LL
1/16" = 1'-0"

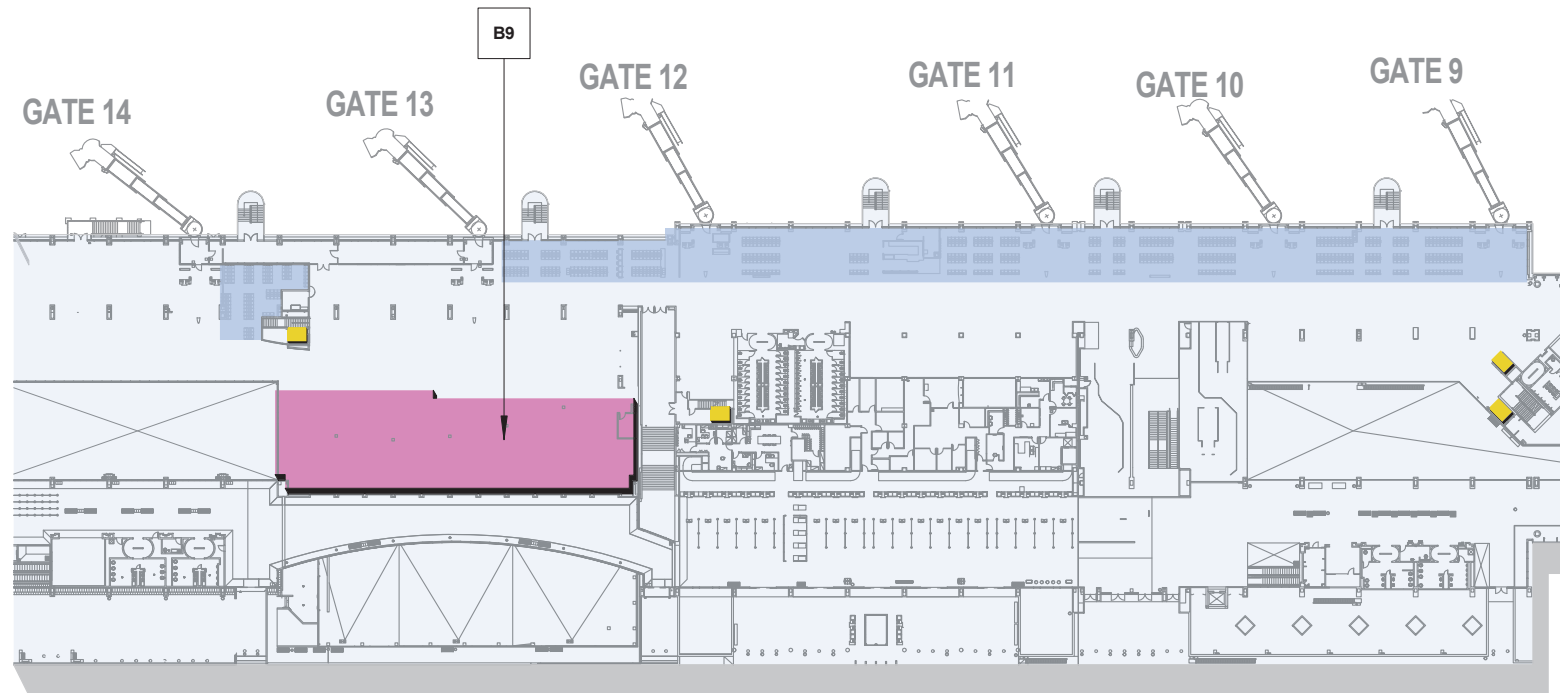
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	1.5"
Waste	Restroom Below
Grease Waste	none
Vent	3"
Gas	none
HVAC	Concourse Air

NOTES

A11-LL - FOOD - OPEN TO PROPOSER.





2 B9 Concourse Plan
N.T.S.

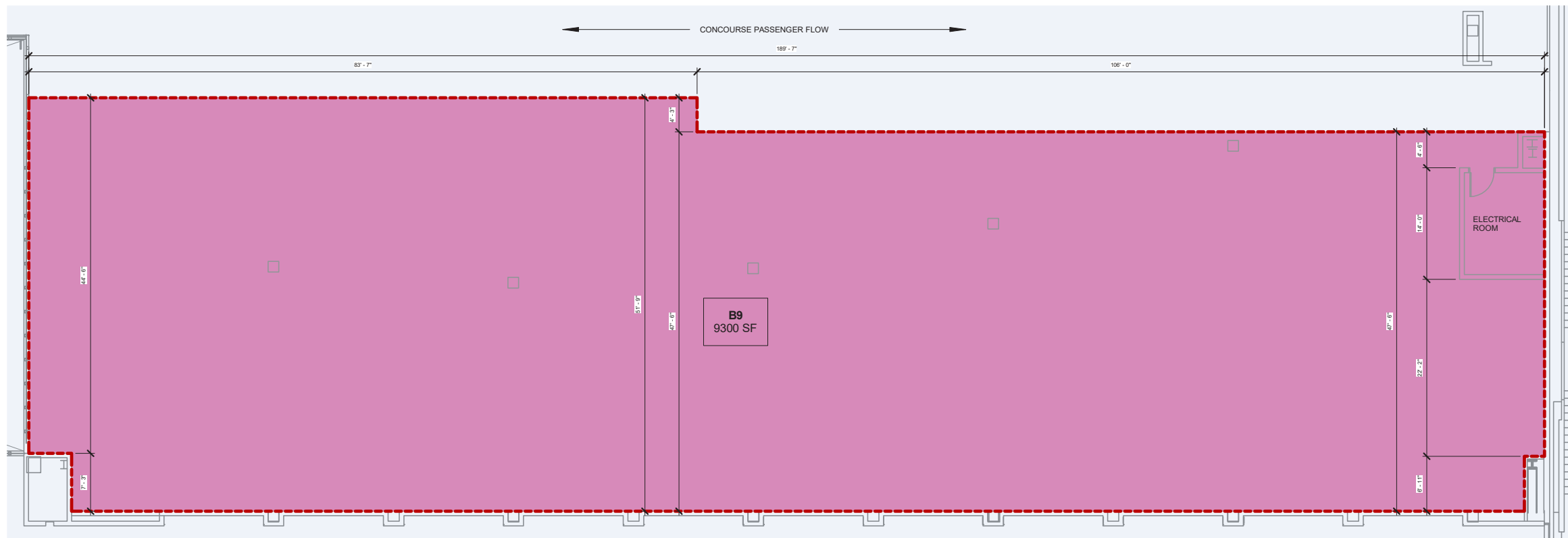
EXISTING UTILITIES

Electric	B9.1: 480/277 - 200amp + 200amp (120/208) B9.2: 480/277 - 400 + 400 + 400 amp
Domestic Water	B9.1 - 1.25"; B9.2 - 3/4", 1", 2"
Waste	B9.1 - 3"; B9.2 - 2", 3"
Grease Waste	B9.1 - (2) 3"; B9.2 - 3", 4"
Vent	B9.1, B9.2 - Several existing
Gas	B9.1 - 1088 CFH; B9.2 - 1003, 290, 54 CFH
HVAC	Tenant Provided RTU

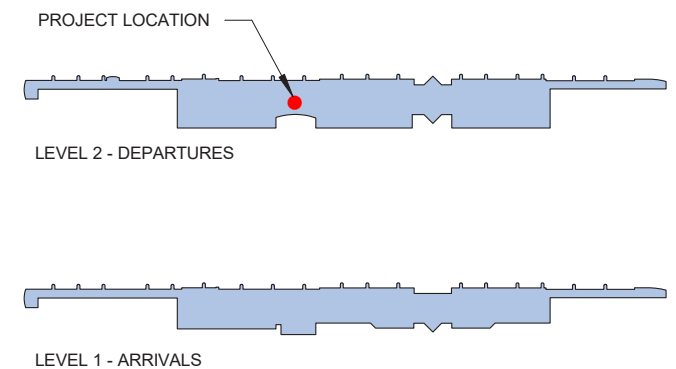
NOTES

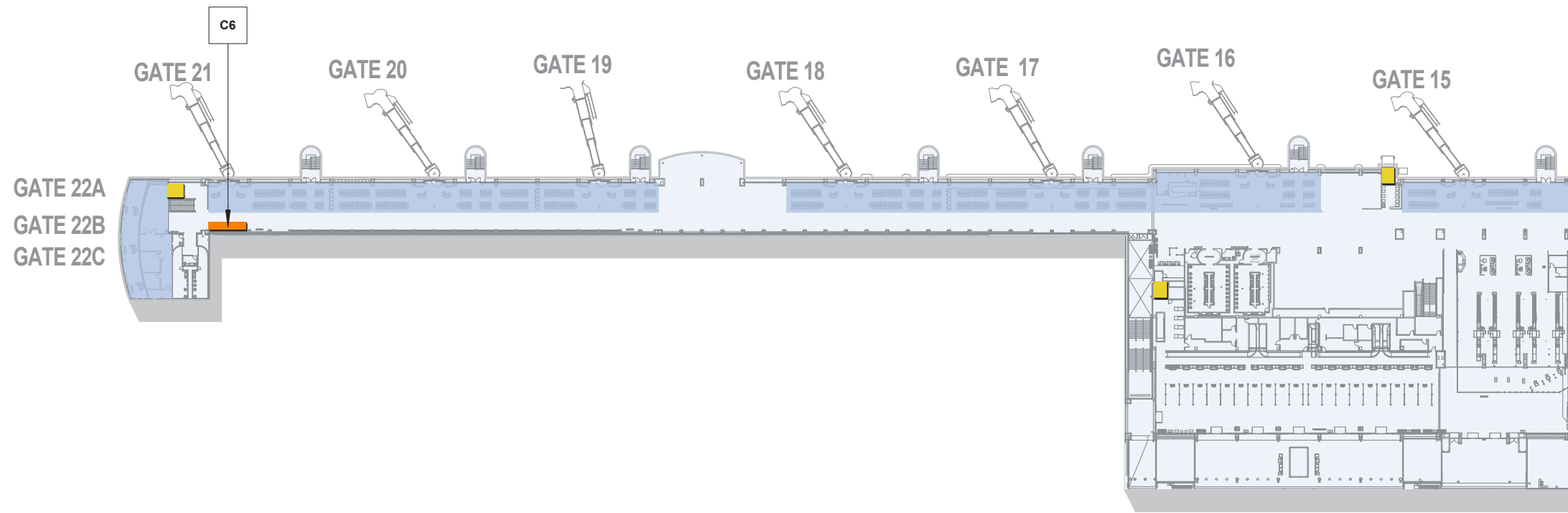
- B9.1 - BRAZILIAN CHURRASCARIA, MEXICAN, ASIAN, COASTAL CALIFORNIA CUISINE RESTAURANT WITH BAR.
- B9.2 - FOOD HALL - OPEN TO PROPOSER.
- B9.3 - FOOD HALL - OPEN TO PROPOSER.
- B9.4 - FOOD HALL - OPEN TO PROPOSER.

PROPOSER TO PROVIDE APPROX. 2300 SF OF SEATING AREA IN THE FOOD HALL.



1 B9
1/16" = 1'-0"





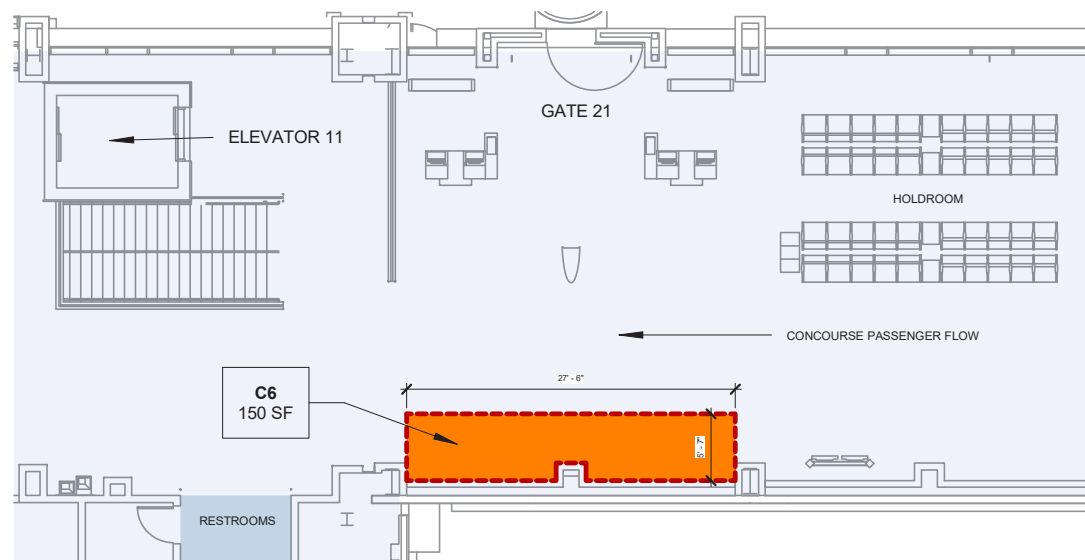
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	3" Below
Waste	6" Pumped Below
Grease Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
HVAC	Concourse Air

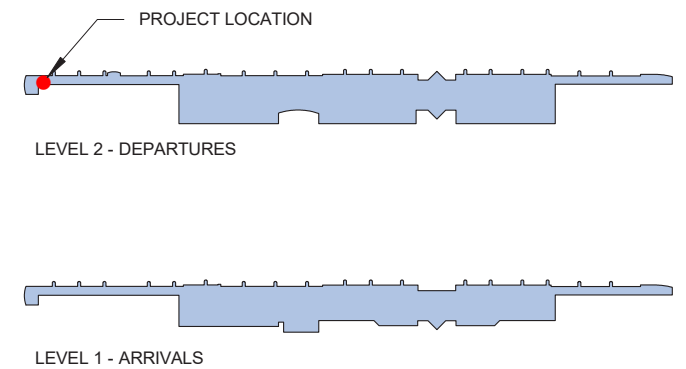
NOTES

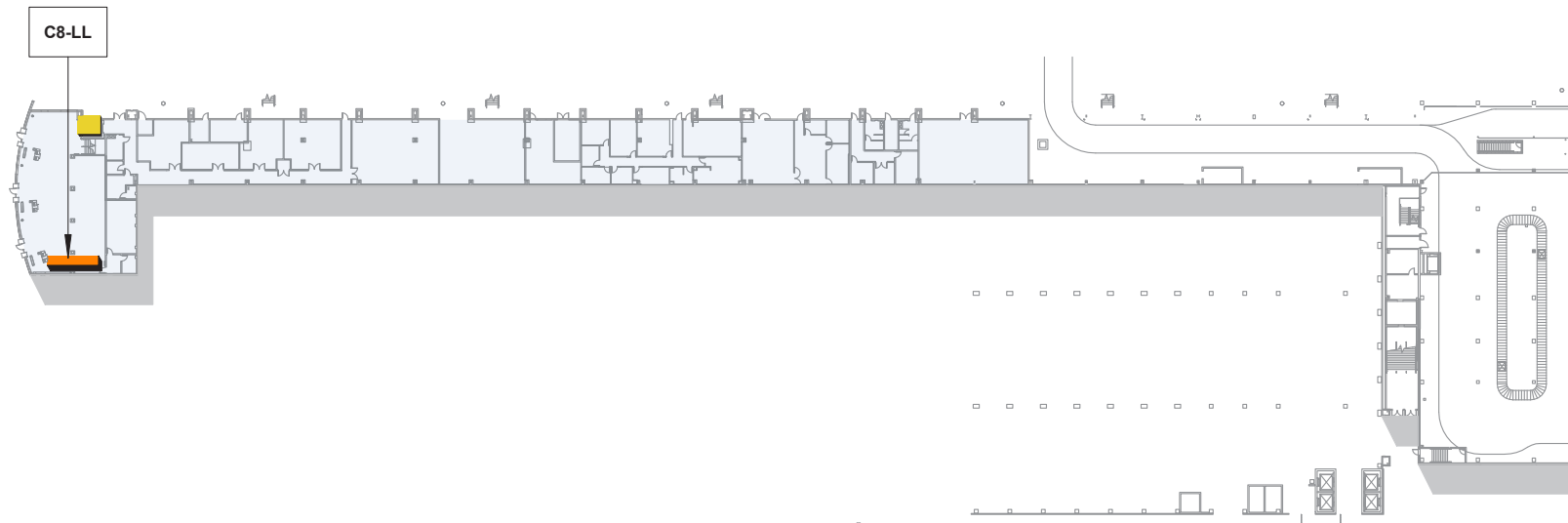
C6 - FOOD - OPEN TO PROPOSER.

① C6 Concourse Plan
N.T.S.

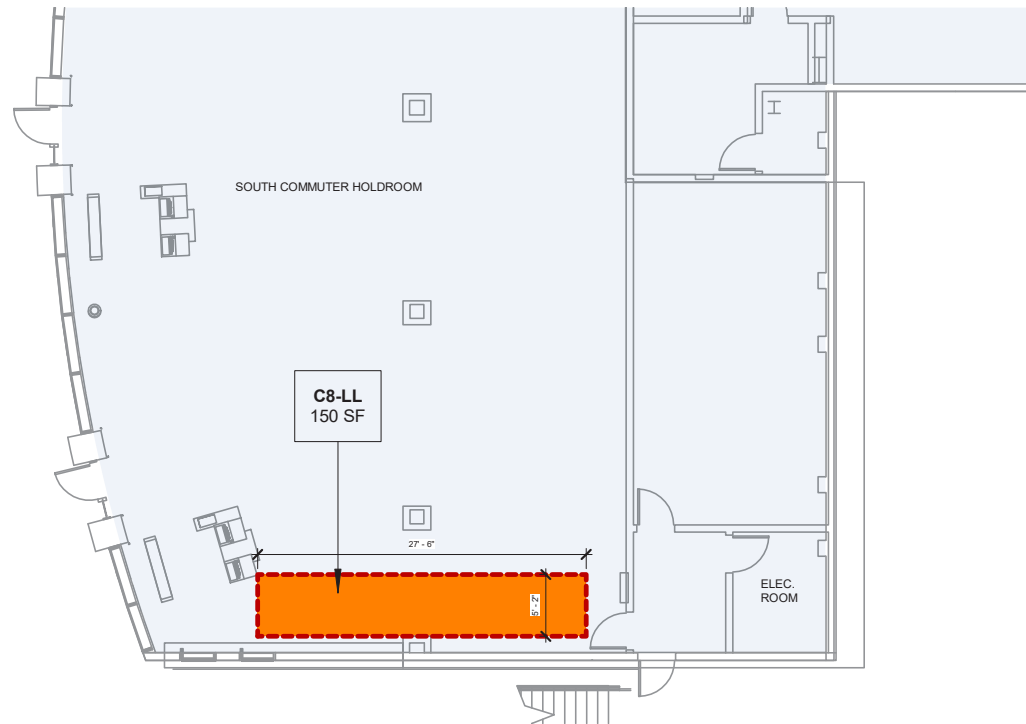


② C6
1/16" = 1'-0"





① C8-LL Concourse Plan
N.T.S.



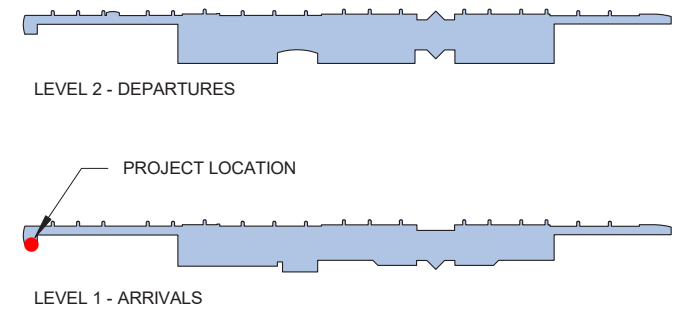
② C8-LL
1/16" = 1'-0"

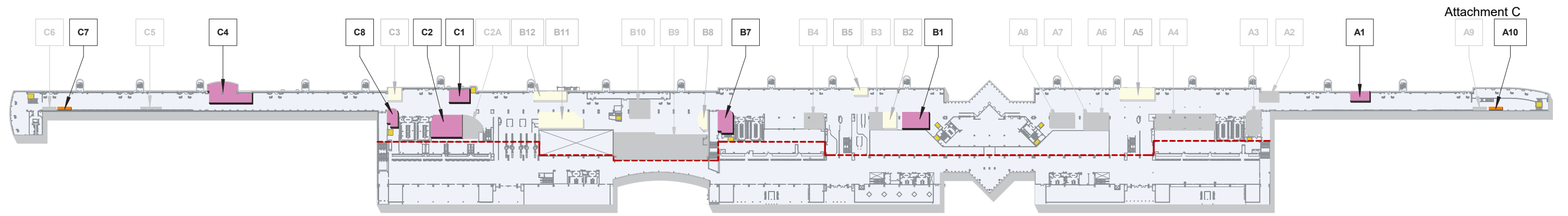
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	none
Waste	4" Underground
Grease Waste	none
Vent	none
Gas	none
HVAC	Concourse Air

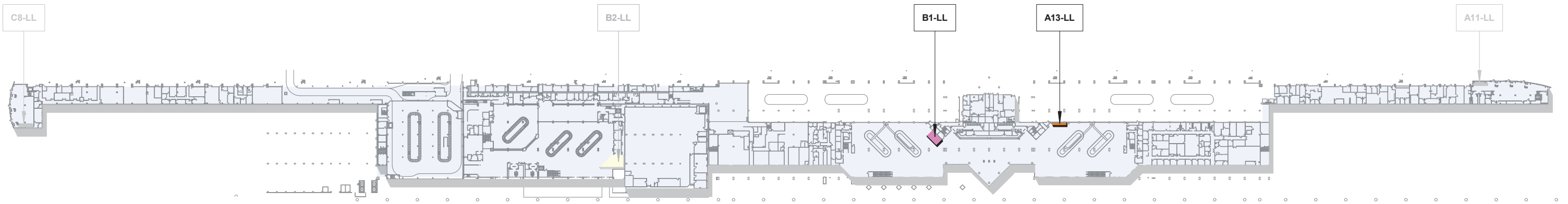
NOTES

C8-LL - FOOD - OPEN TO PROPOSER.



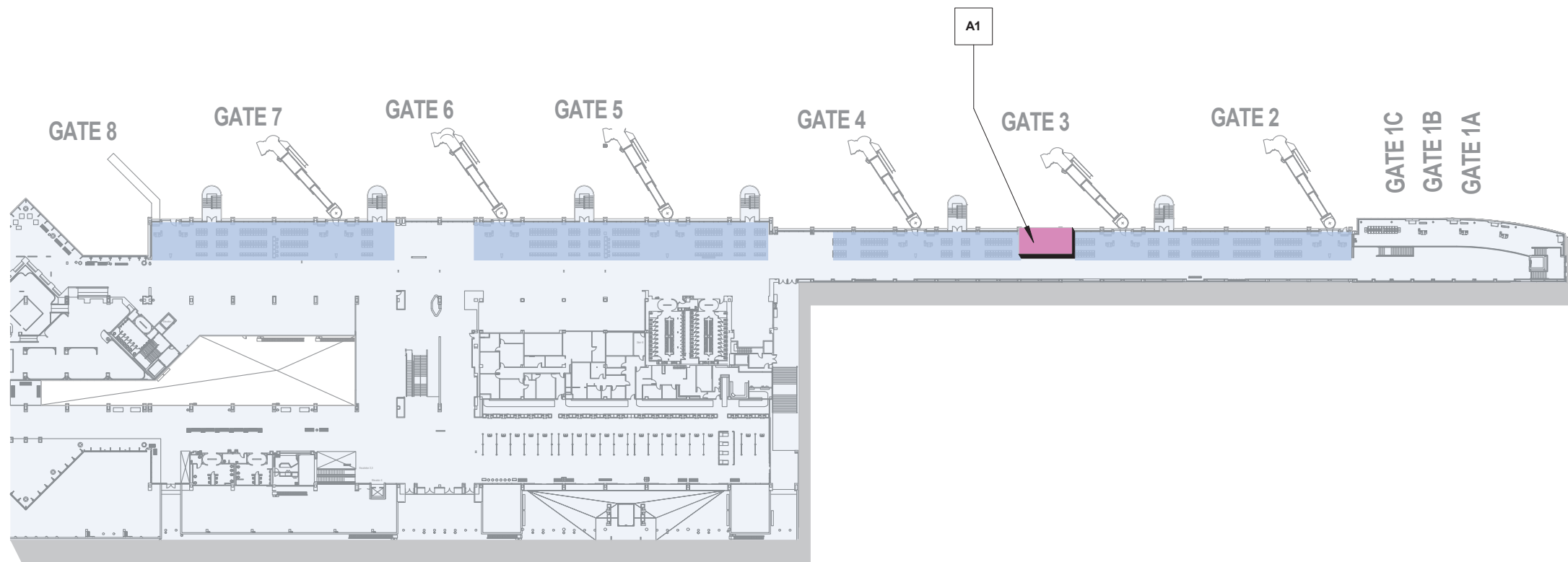


① DEPARTURES LEVEL - FB2
N.T.S.



② ARRIVALS LEVEL - FB2
N.T.S.

LOCATION CONCEPT TYPE	SPACE ID	TERMINAL	NEAR GATE	SF
BAR WITH SNACKS	A1	A	3 & 4	750
WINE BAR WITH FOOD	B1	B	9 & 10	1,722
NATIONAL BRAND COFFEE	B1-LL	B	BAGGAGE	445
NATIONAL BRAND COFFEE CAFE / BAKERY	B7	B	12	1,345
SNACK / CANDY	C8	C	17	750
SANDWICH OR OPEN TO PROPOSER	C2-B	C	15 & 16	1,430
SUSHI	C2-C	C	15 & 16	1,430
LOCAL CASUAL DINING RESTAURANT WITH FULL BAR	C4	C	18 & 19	3,000
BAR WITH SNACKS	C1	C	16 & 17	1,135
AUTOMATED RETAIL - FOOD (OPEN TO PROPOSER)	A10	A	10	150
AUTOMATED RETAIL - FOOD (OPEN TO PROPOSER)	A13-LL	A	1A	150
AUTOMATED RETAIL - FOOD (OPEN TO PROPOSER)	C7	C	21	150
TOTAL	12			12,457



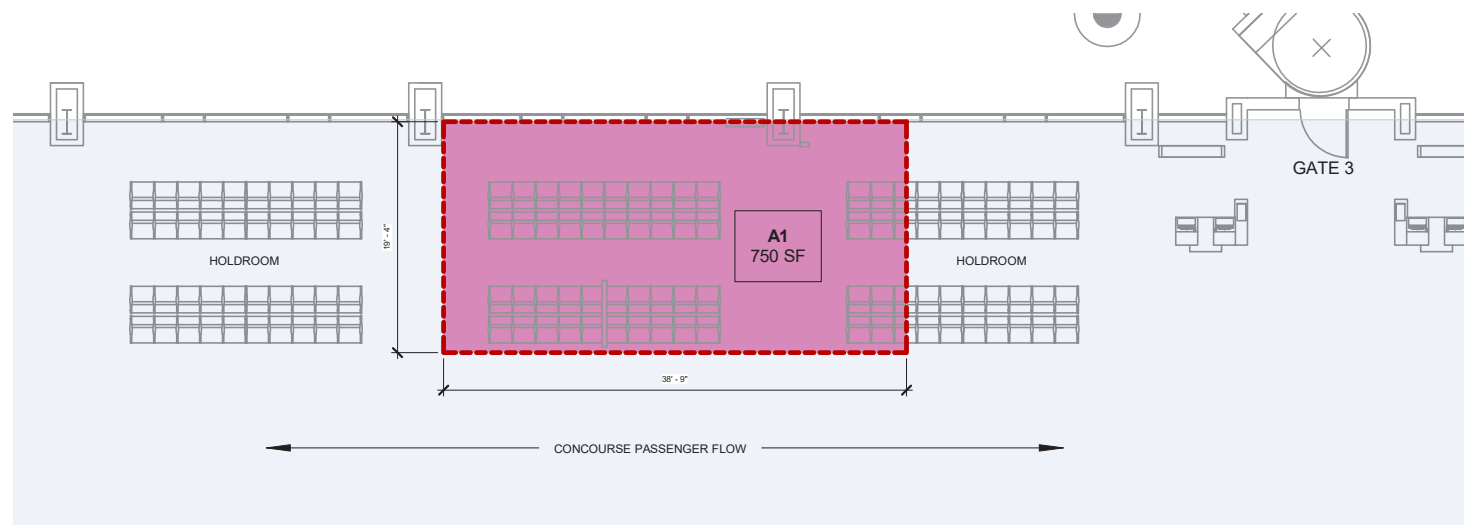
EXISTING UTILITIES

Electric	480/277 - 100amp Breaker
Domestic Water	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Grease Waste	none
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	none
HVAC	Concourse Air

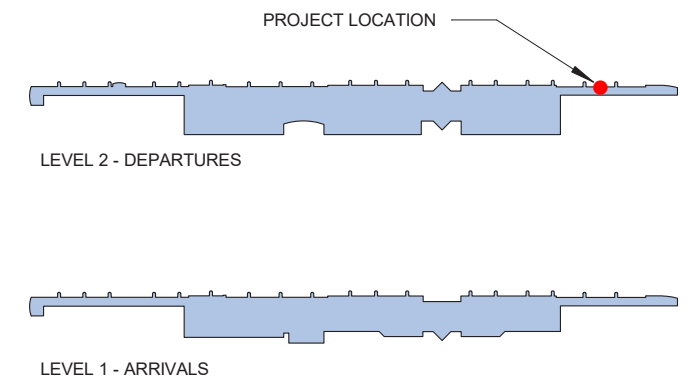
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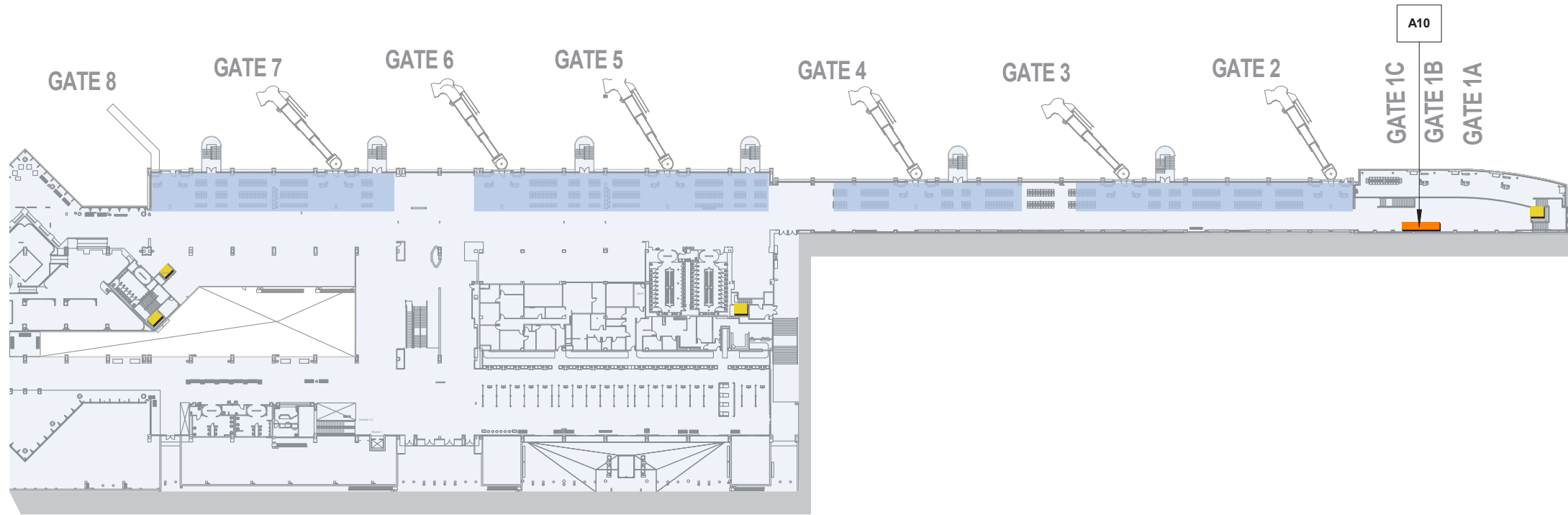
A1 - BAR WITH SNACKS

① A1 Concourse Plan
N.T.S.



② A1
1/16" = 1'-0"





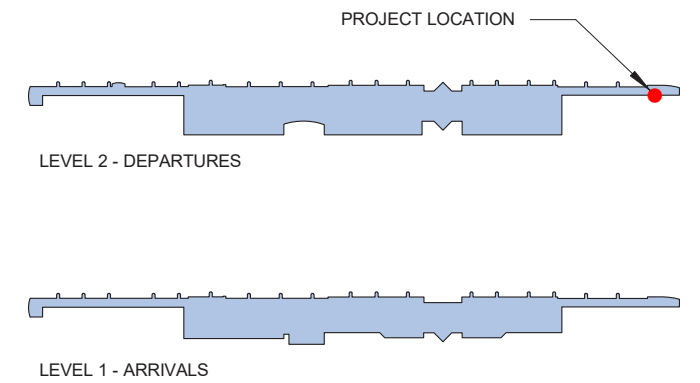
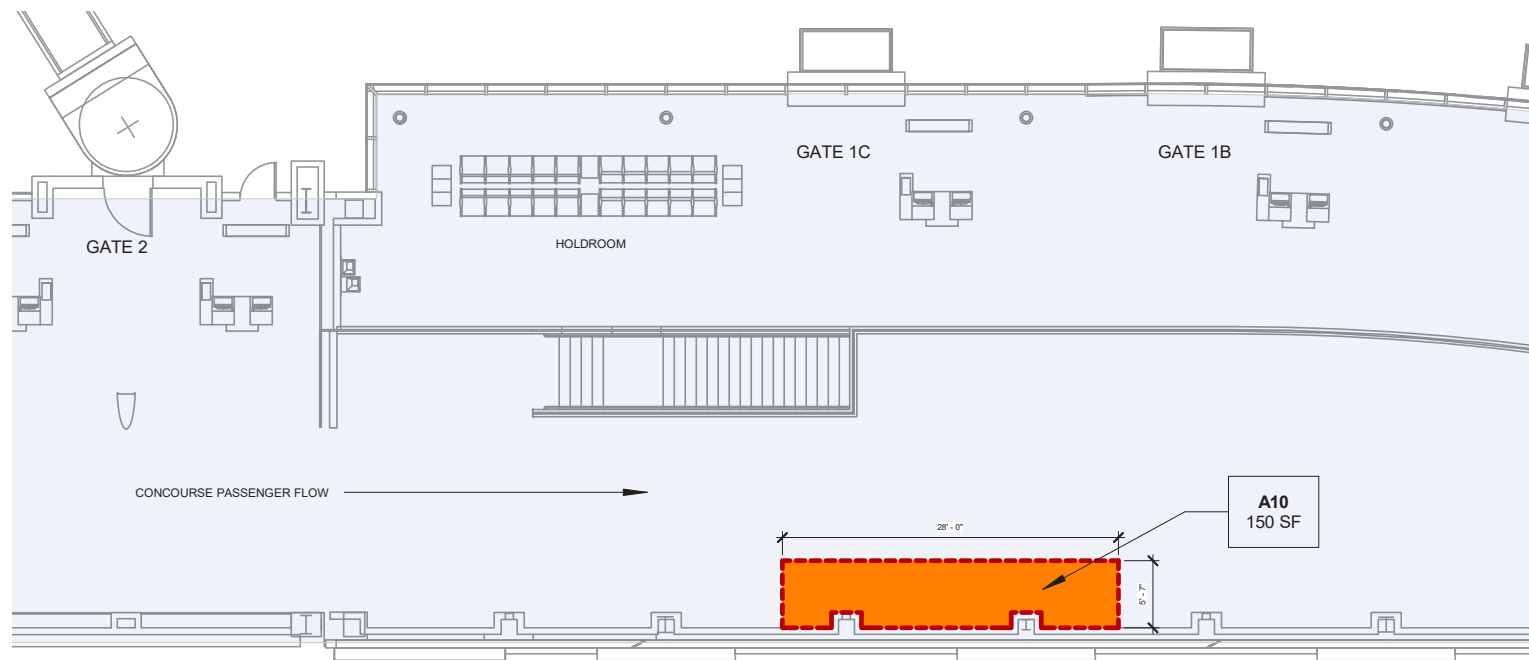
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	1.5"
Waste	Restroom Below
Grease Waste	none
Vent	3"
Gas	none
HVAC	Concourse Air

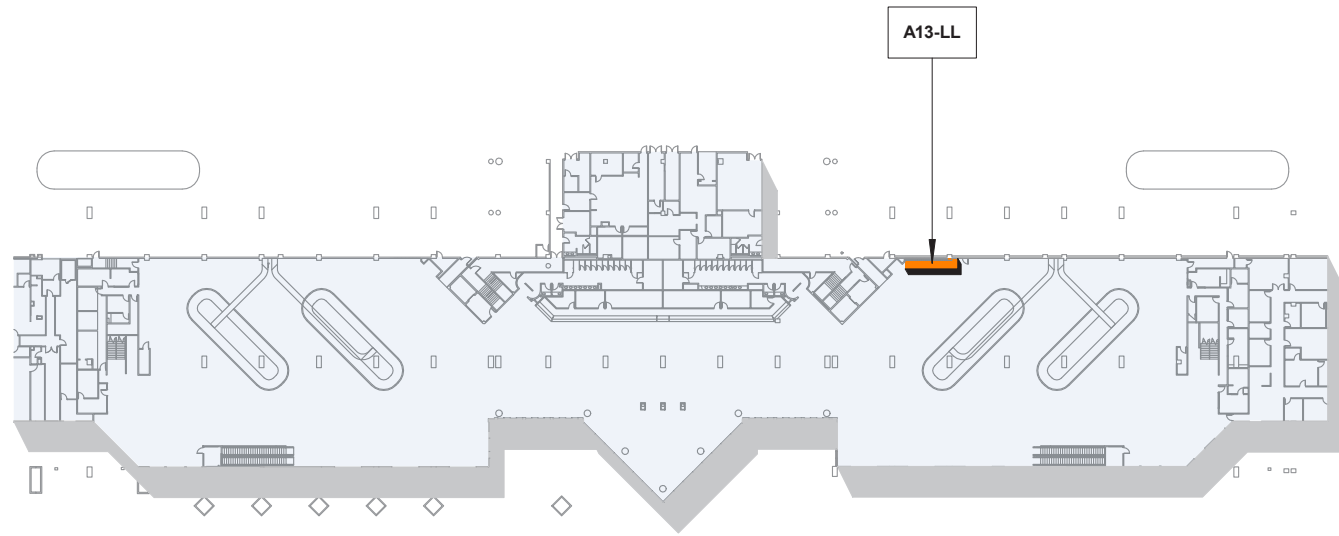
NOTES

A10 - FOOD (OPEN TO PROPOSER)

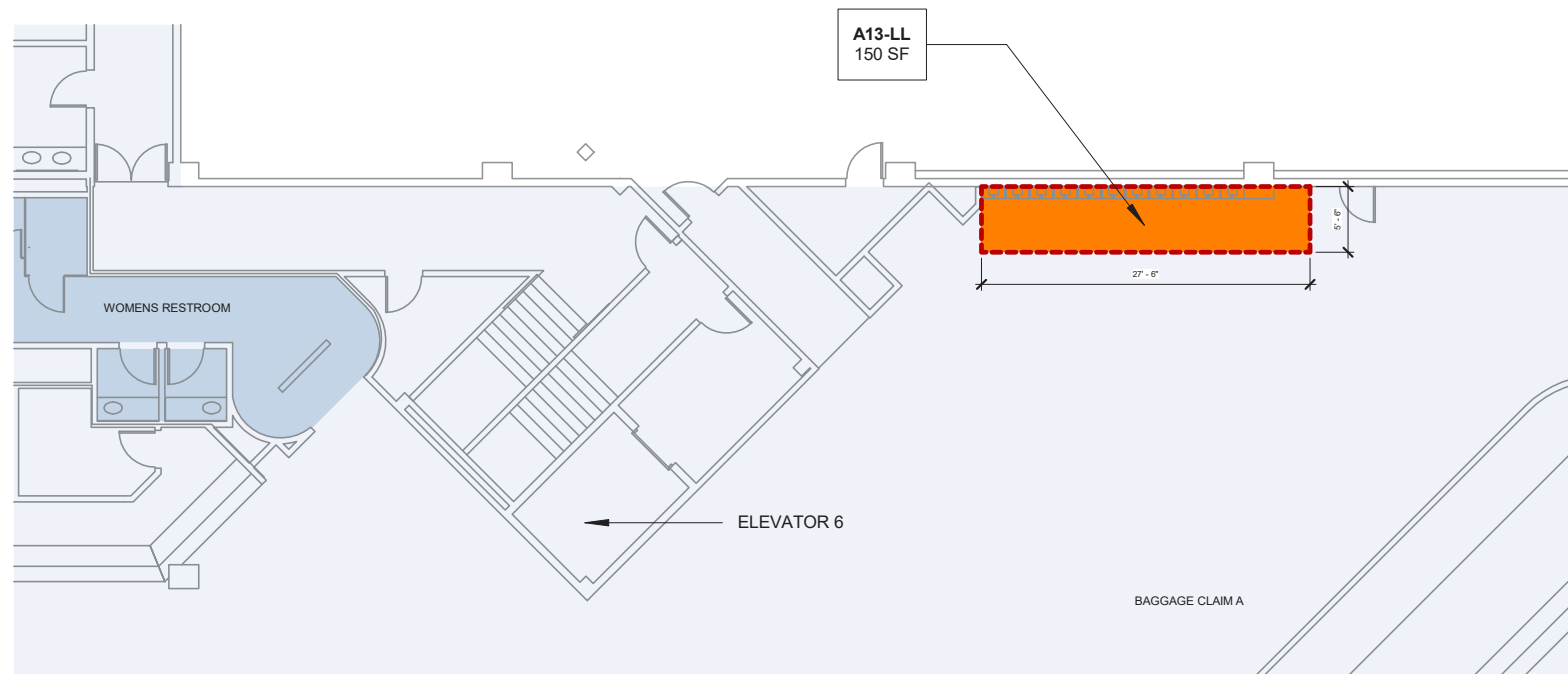
① A10 Concourse Plan
N.T.S.



② A10
1/16" = 1'-0"



① A13-LL Concourse Plan
N.T.S.



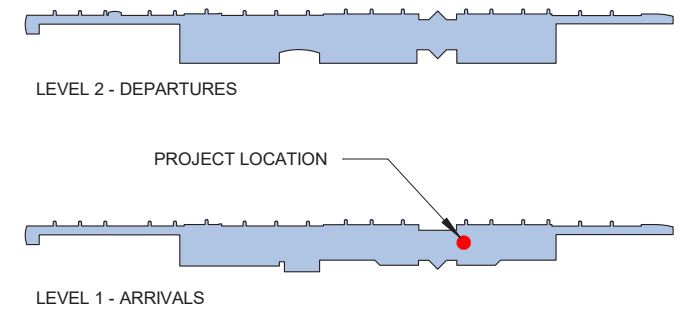
② A13-LL
1/16" = 1'-0"

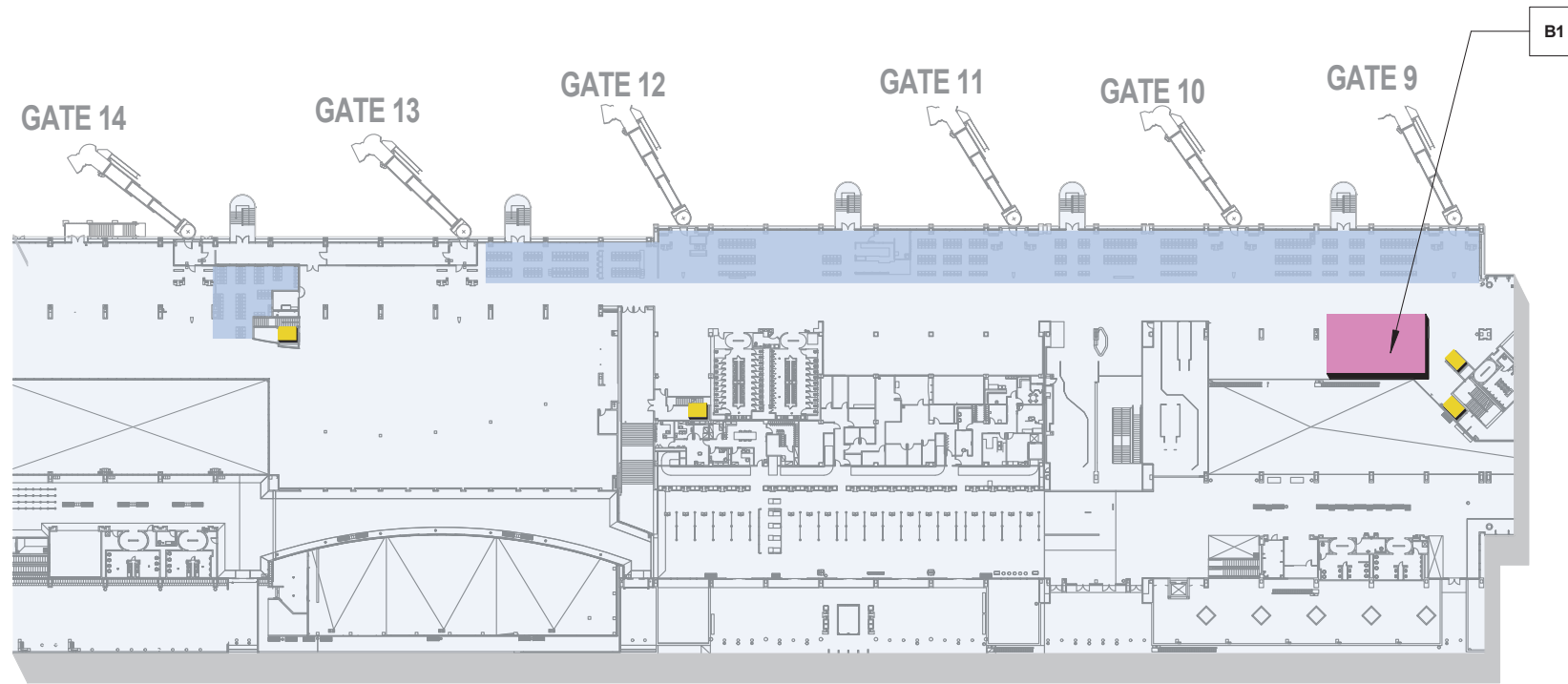
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	Adjacent Room
Waste	Adjacent Room
Grease Waste	none
Vent	Adjacent Room
Gas	none
HVAC	Concourse Air

NOTES

A13-LL - FOOD (OPEN TO PROPOSER)





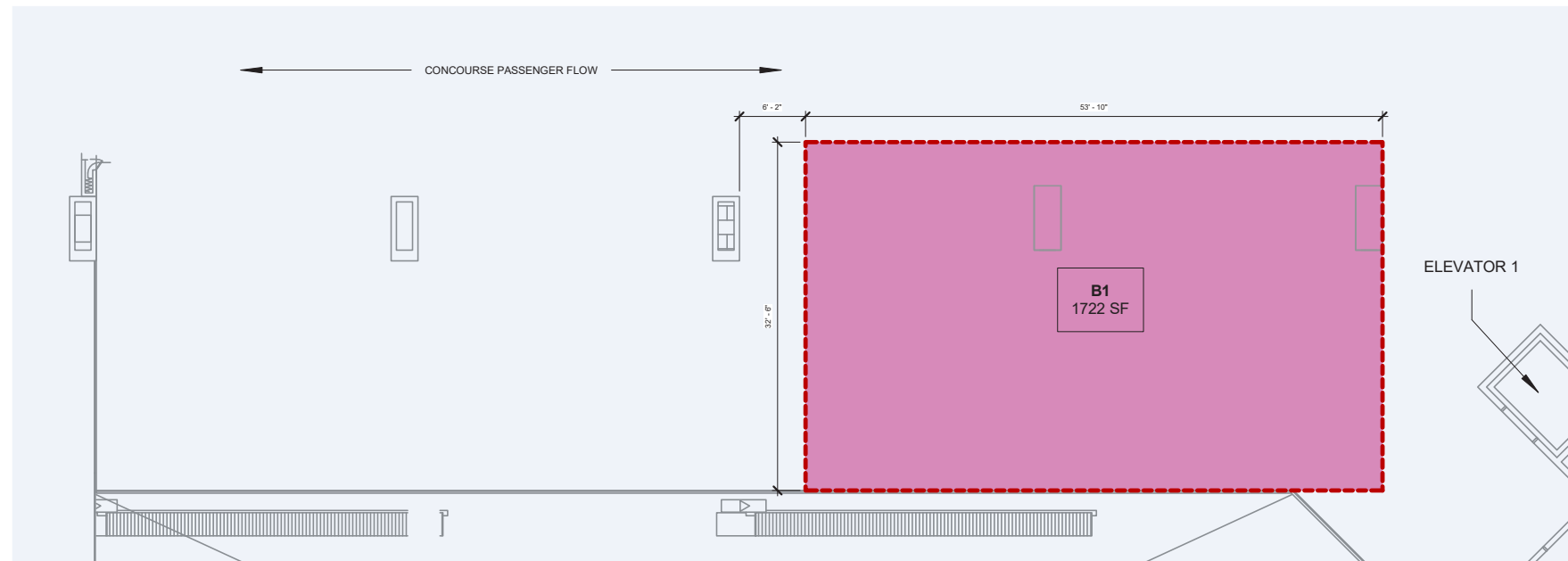
1 B1 Concourse Plan
N.T.S.

EXISTING UTILITIES

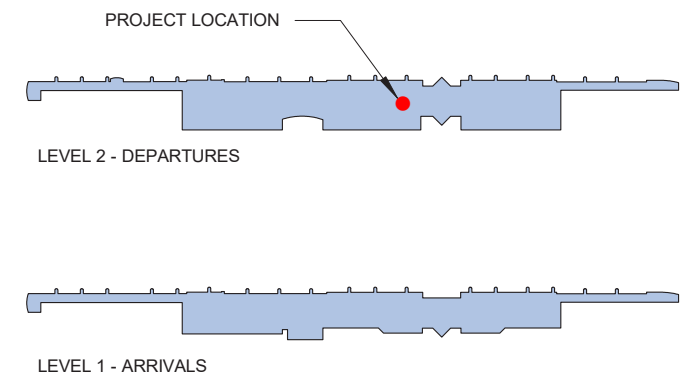
Electric	B1 - 480/277 - 100amp
Domestic Water	B1 - 1"
Waste	B1 - 3"
Grease Waste	B1 - none
Vent	B1 - 2"
Gas	B1 - none
HVAC	Concourse Air

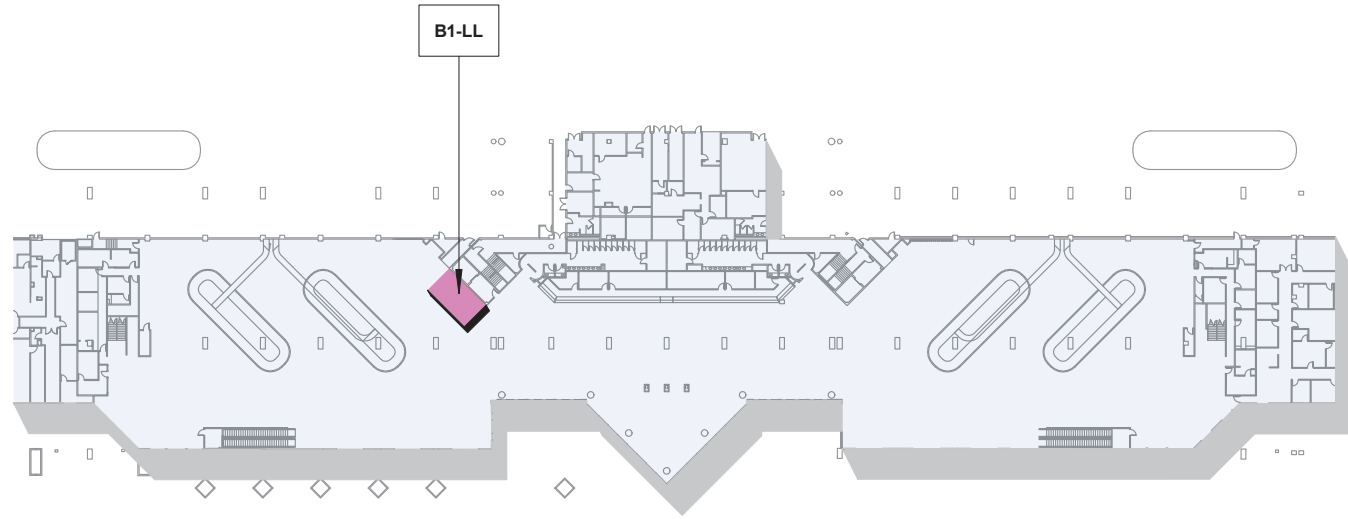
NOTES

B1 - WINE BAR WITH FOOD



2 B1
1/16" = 1'-0"





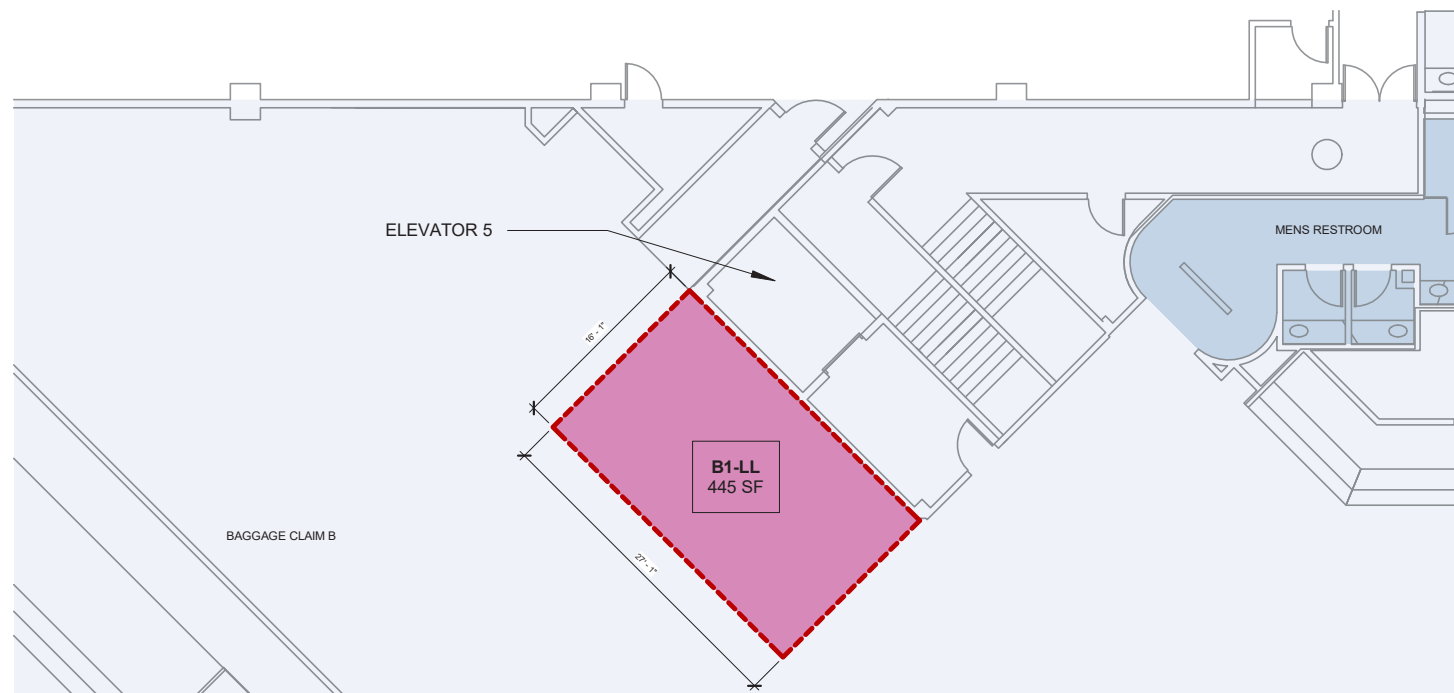
1 B1-LL Concourse Plan
1" = 100'-0"

EXISTING UTILITIES

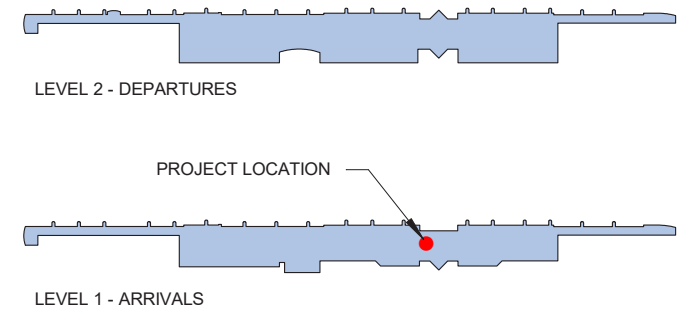
Electric	Existing
Domestic Water	Existing
Waste	Existing
Grease Waste	Existing
Vent	Existing
Gas	none
HVAC	Concourse Air

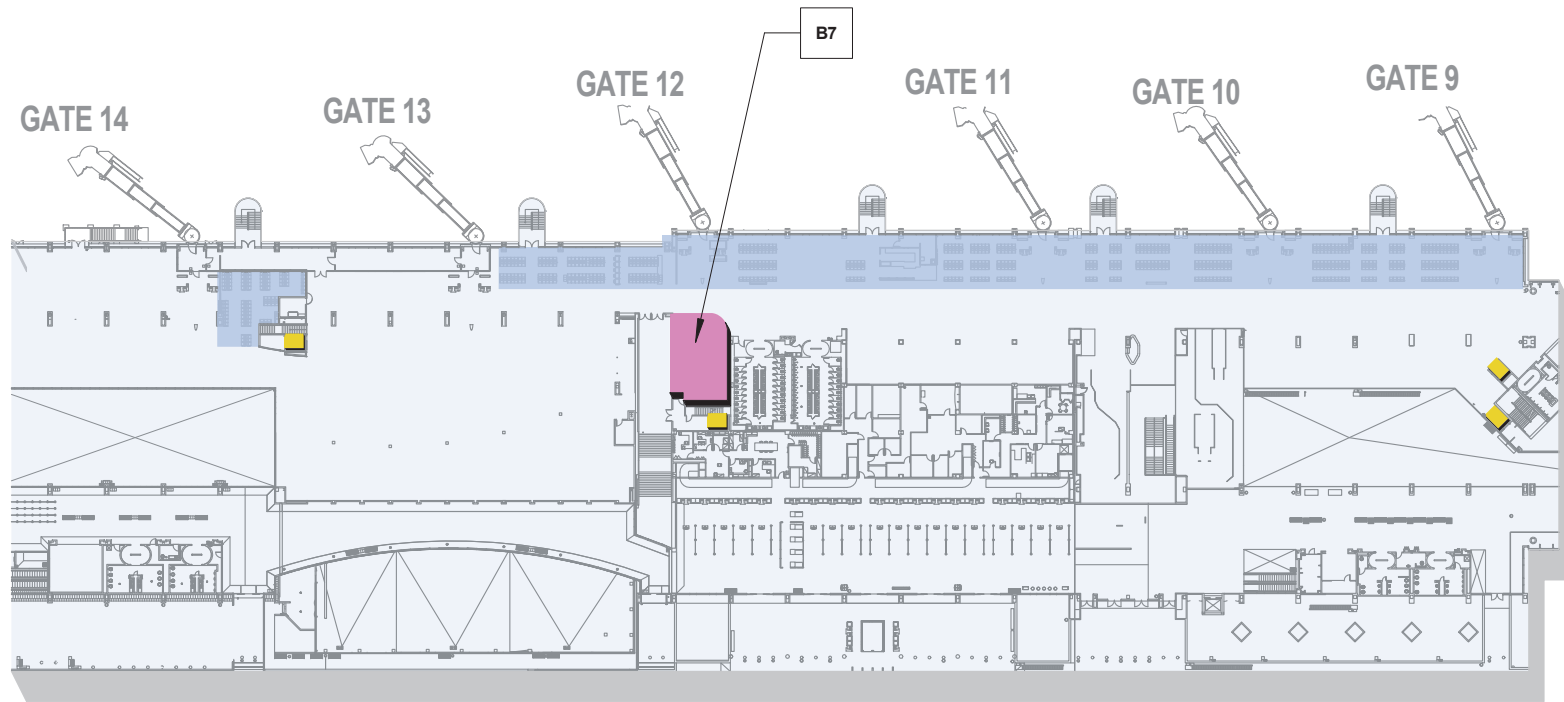
NOTES

B1-LL - NATIONAL BRAND COFFEE



2 B1-LL
1/16" = 1'-0"





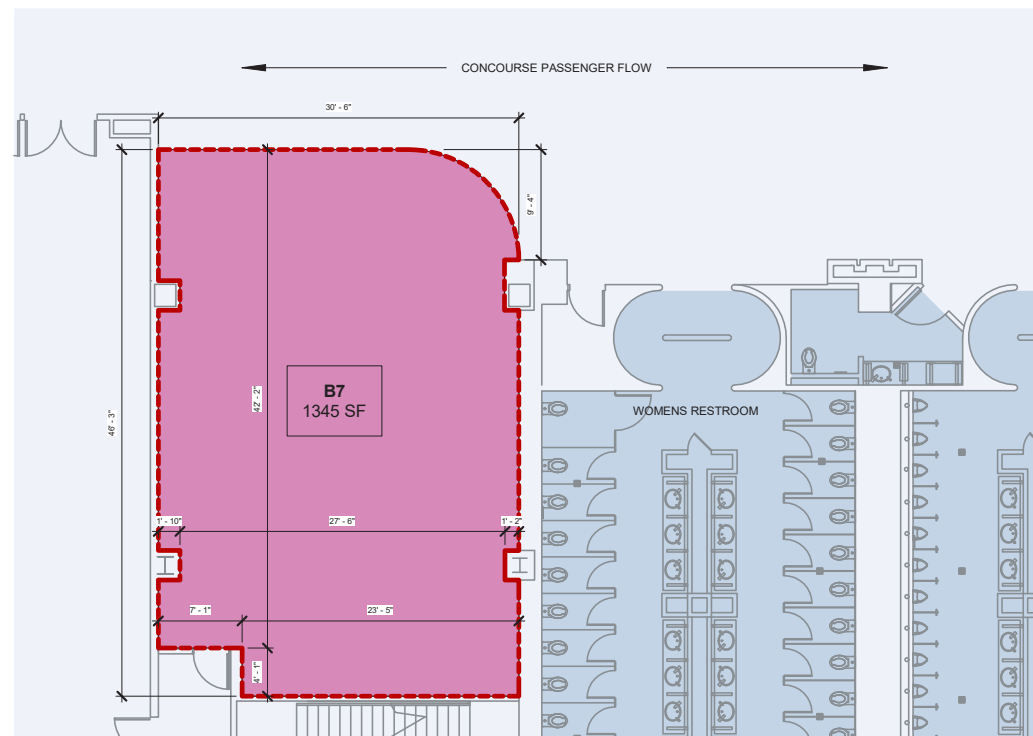
1 B7 Concourse Plan
N.T.S.

EXISTING UTILITIES

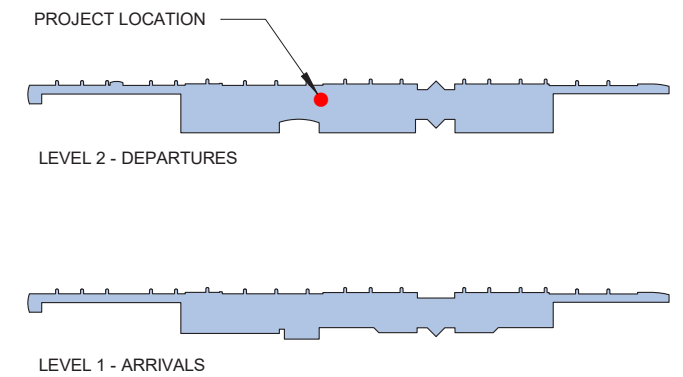
Electric	480/277 - 100amp Breaker
Domestic Water	1.25"
Waste	3"
Grease Waste	3"
Vent	3"
Gas	none
HVAC	Tenant Provided RTU

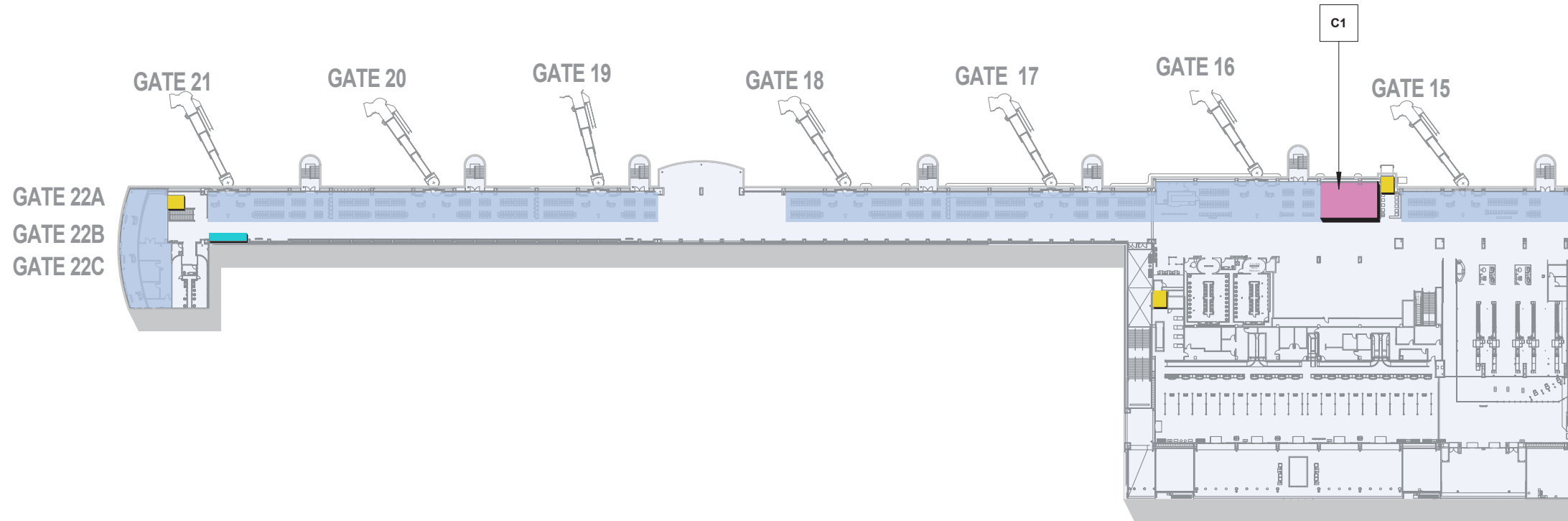
NOTES

B7 - NATIONAL BRAND COFFEE CAFE / BAKERY



2 B7
1/16" = 1'-0"





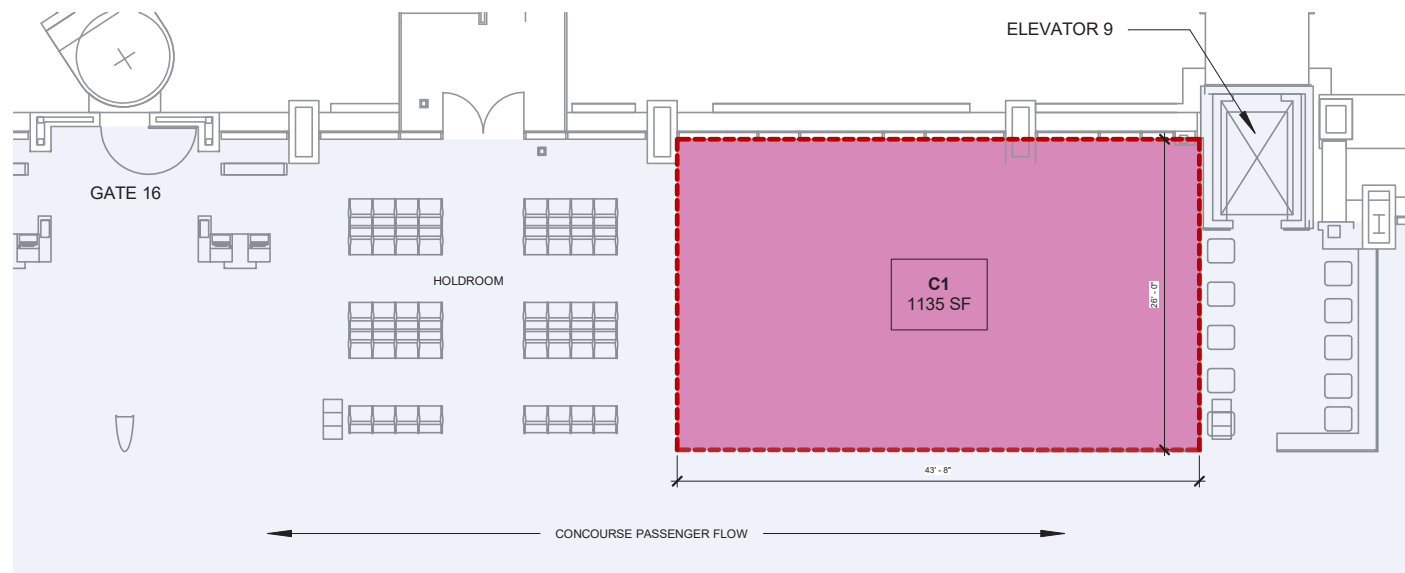
EXISTING UTILITIES

Electric	120/208 - 60amp
Domestic Water	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Grease Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	none
HVAC	Concourse Air

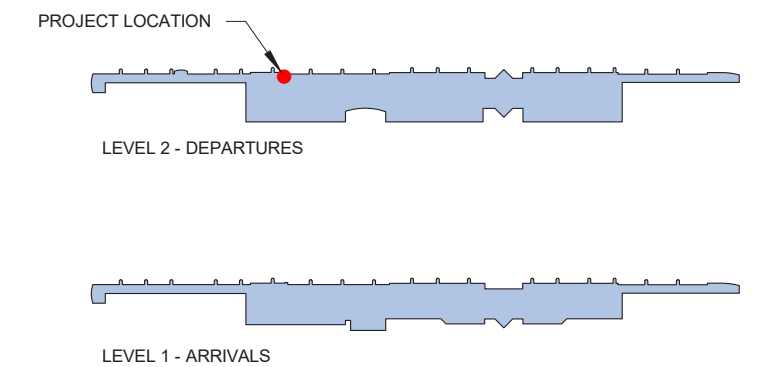
① C1 Concourse Plan
N.T.S.

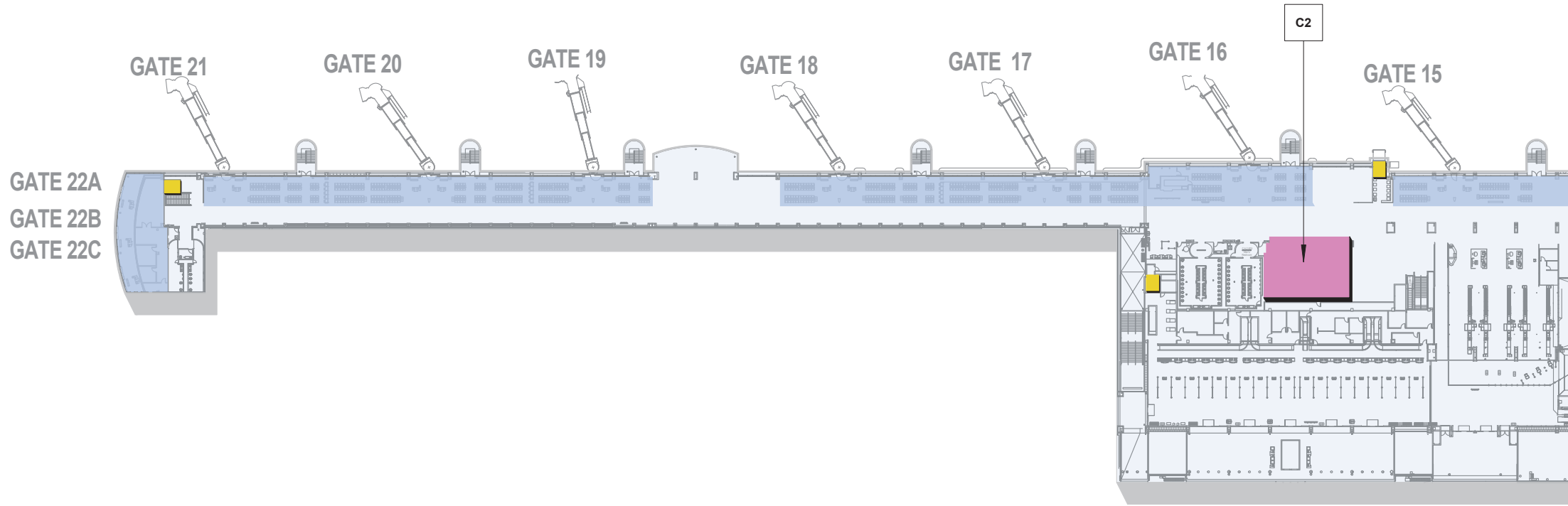
NOTES

C1 - BAR WITH SNACKS



② C1
1/16" = 1'-0"





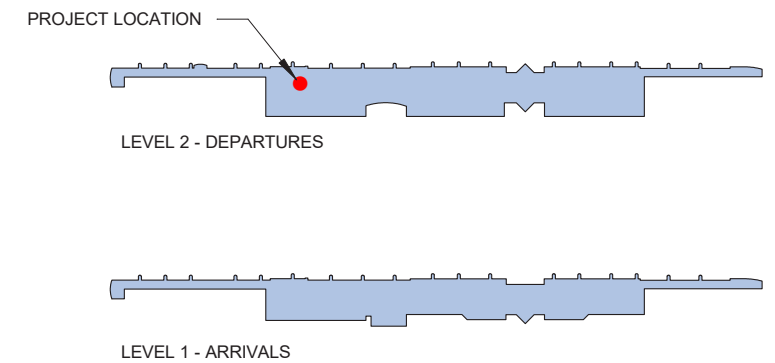
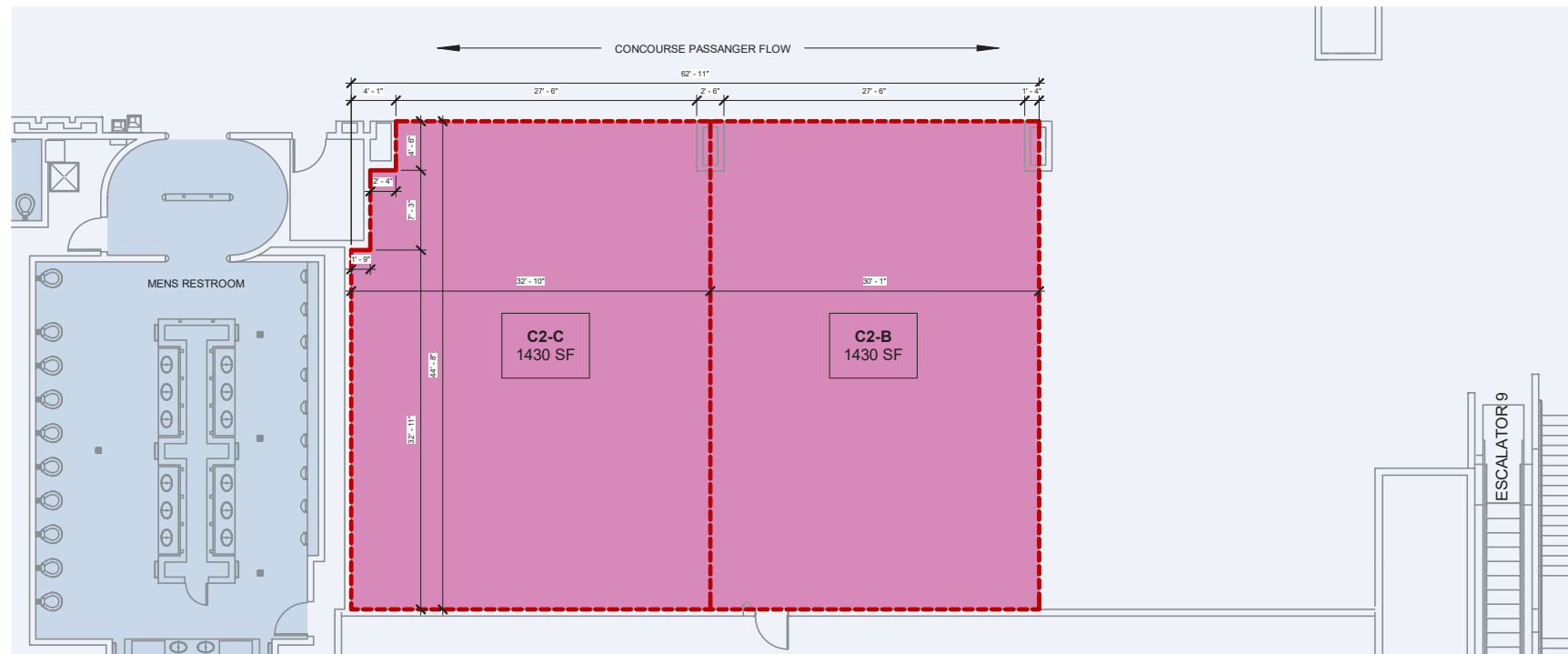
EXISTING UTILITIES

Electric	C2 - 480/277 - 250amp + 50amp
Domestic Water	C2 - 1"
Waste	C2 - 3"
Grease Waste	C2 - 4"
Vent	C2 - 3"
Gas	C2 - 1006 CFH
HVAC	Tenant Provided RTU

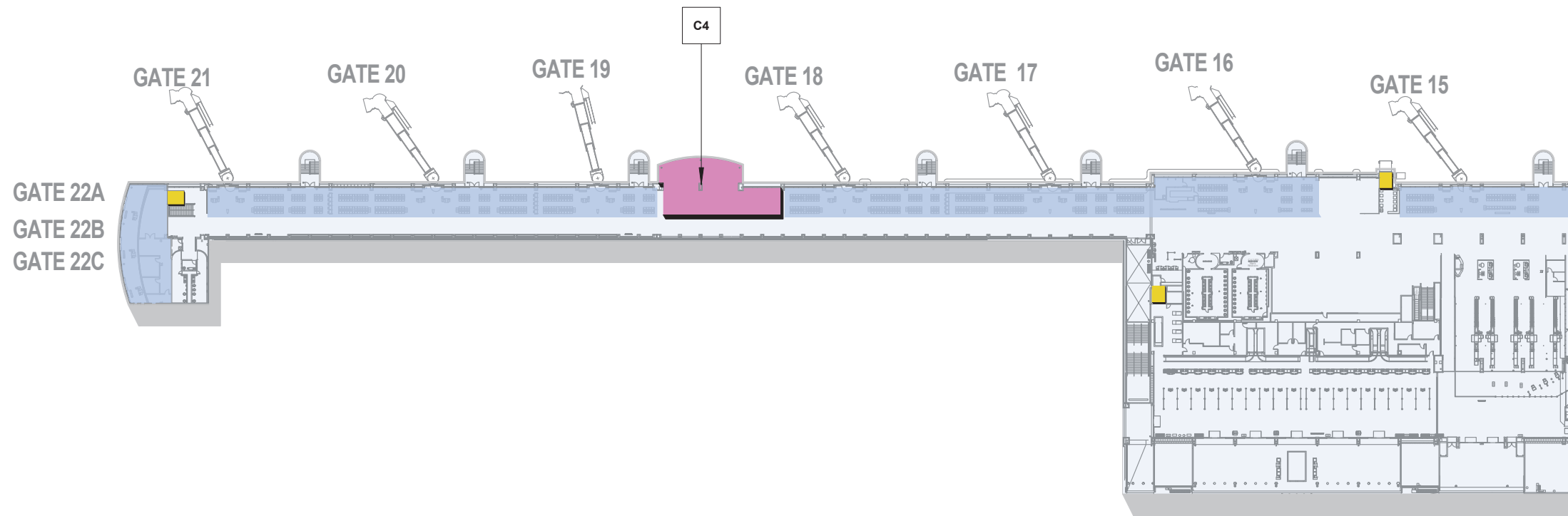
NOTES

- C2B - SANDWICH OR OPEN TO PROPOSER
- C2C - SUSHI

① C2 Concourse Plan
N.T.S.



② C2
1/16" = 1'-0"



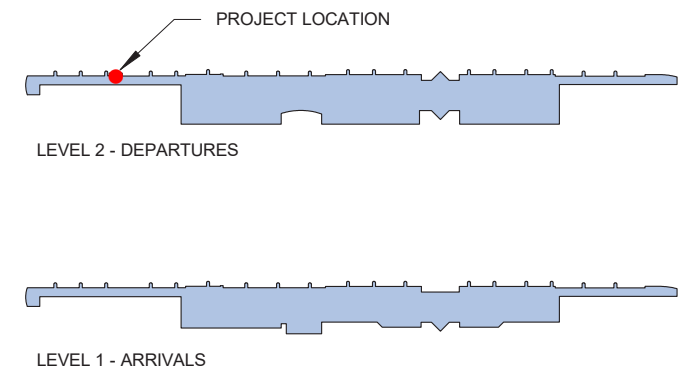
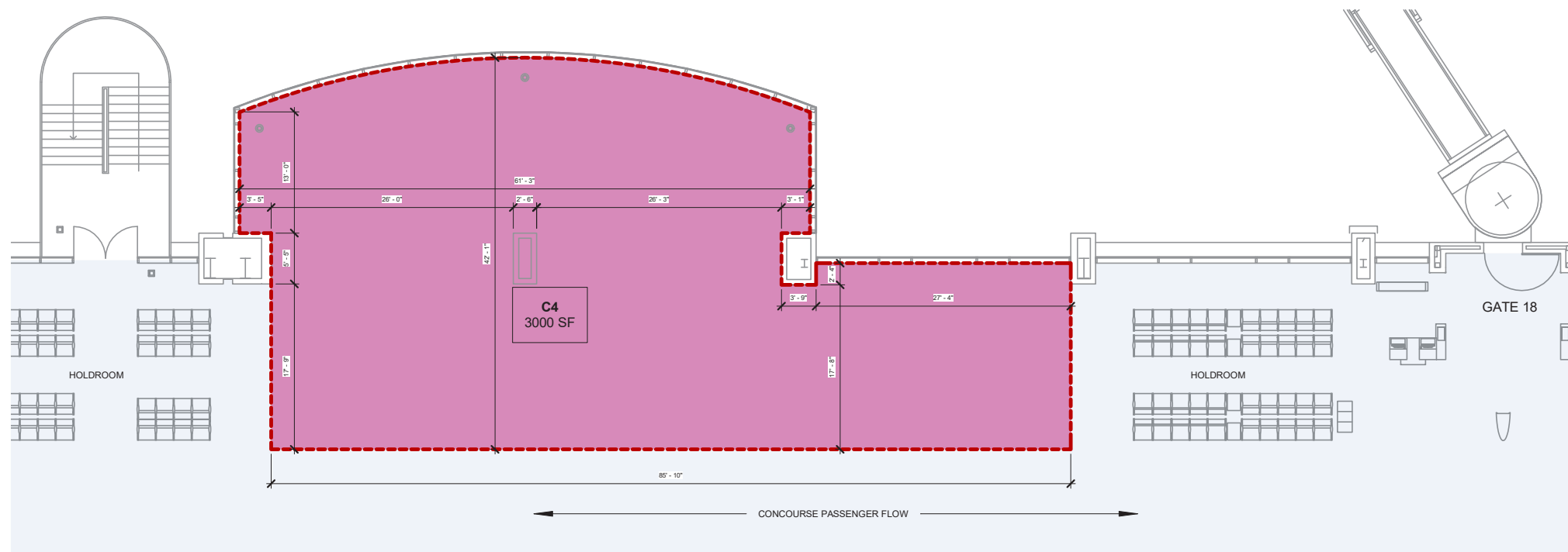
EXISTING UTILITIES

Electric	480/277 - 200amp
Domestic Water	1.25"
Waste	3"
Grease Waste	4"
Vent	4"
Gas	287 CFH
HVAC	Tenant Provided RTU

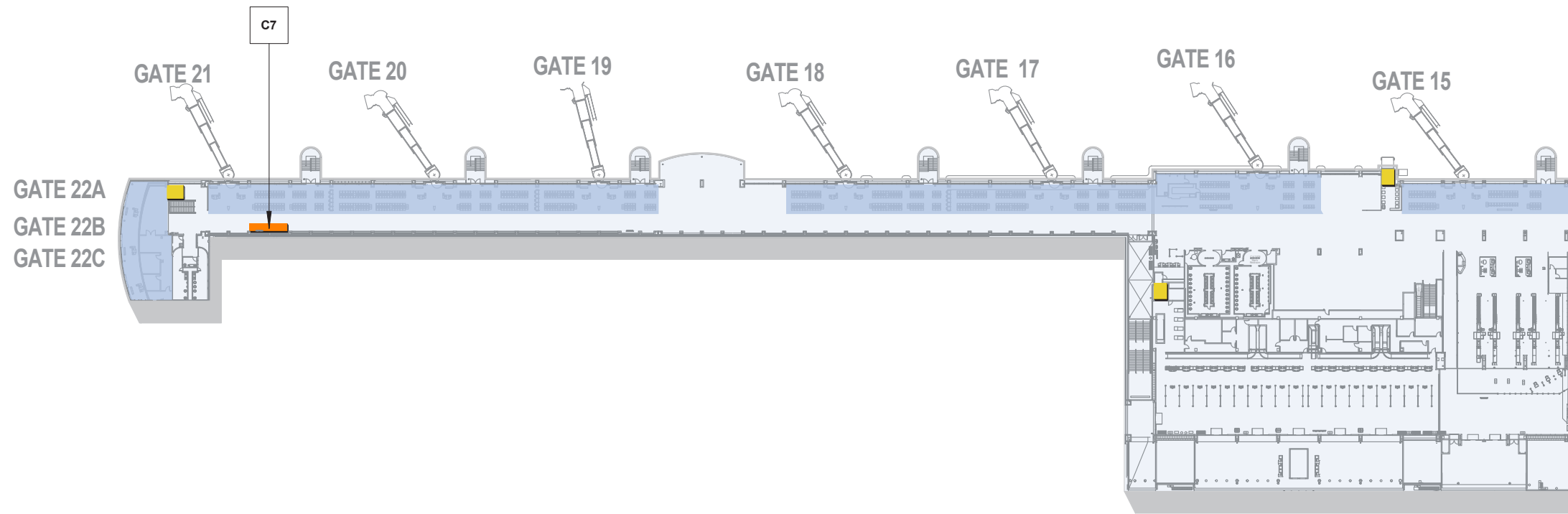
NOTES

- C4 - LOCAL CASUAL DINING RESTAURANT WITH FULL BAR

① C4 Concourse Plan
N.T.S.



② C4
1/16" = 1'-0"



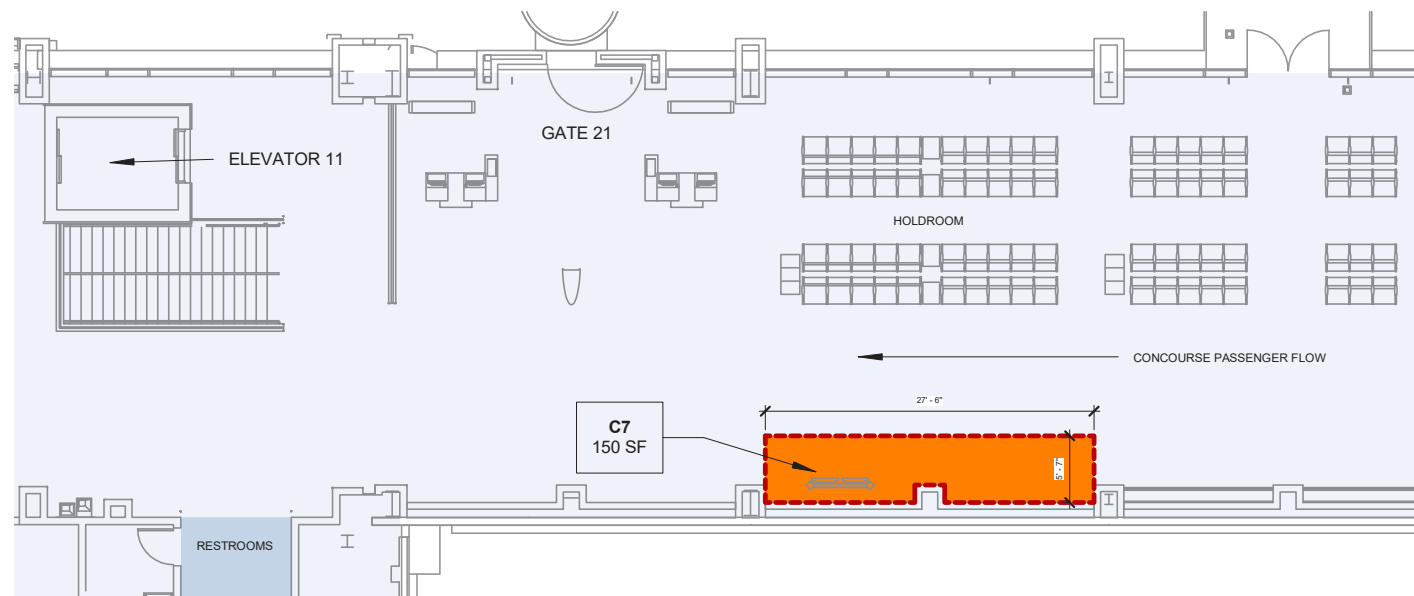
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	3" Below
Waste	6" Pumped Below
Grease Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	none
HVAC	Concourse Air

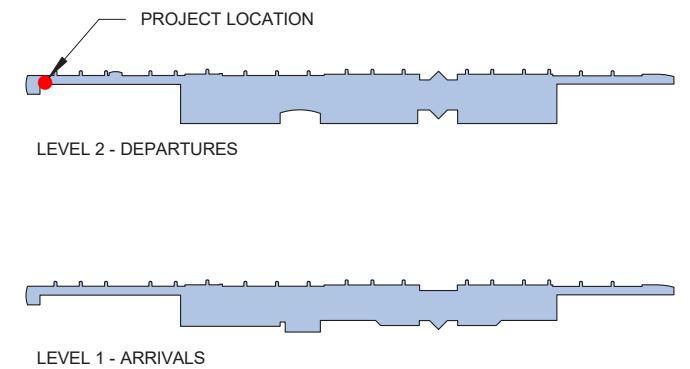
NOTES

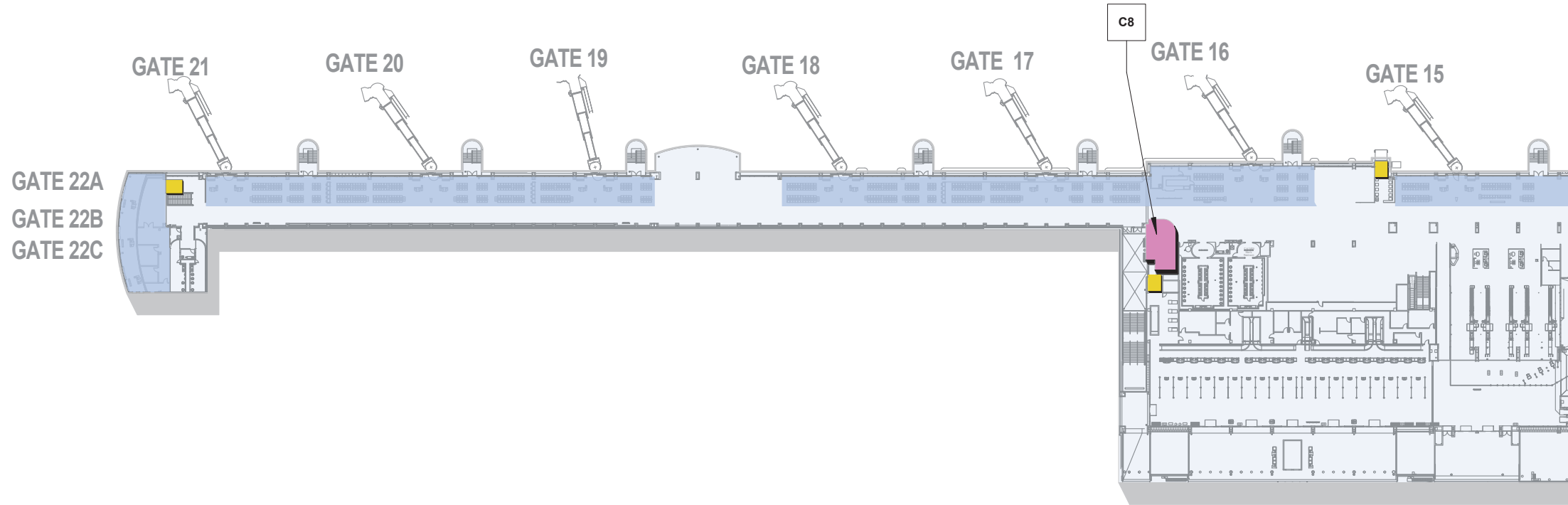
C7 - FOOD (OPEN TO PROPOSER)

① C7 Concourse Plan
N.T.S.



② C7
1/16" = 1'-0"





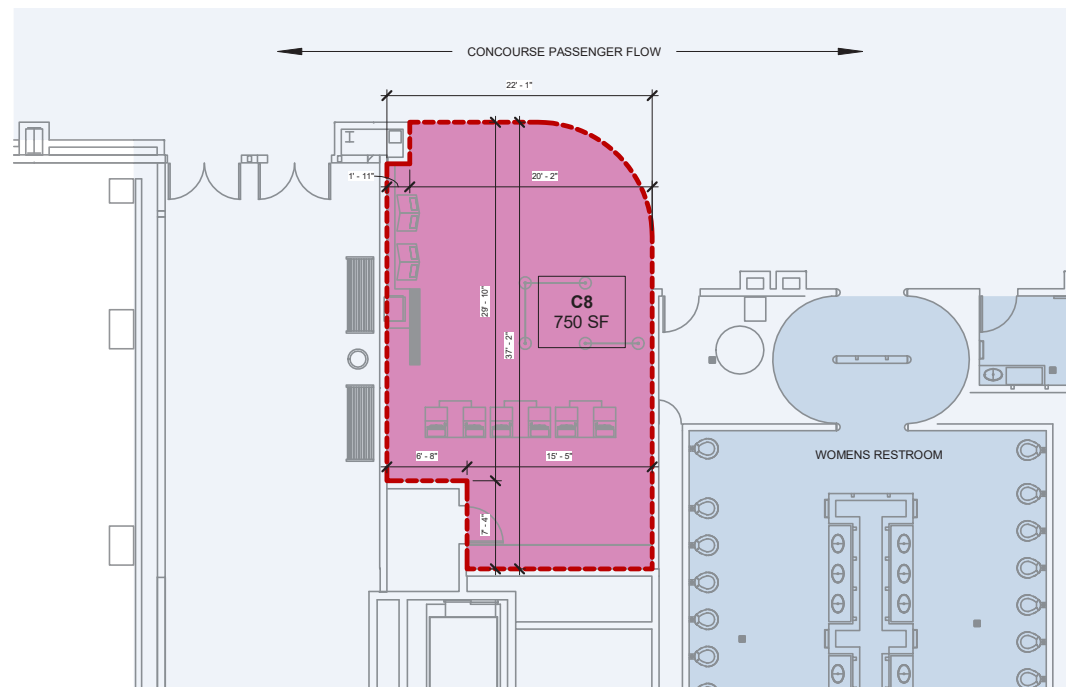
EXISTING UTILITIES

Electric	480/277 - 100amp
Domestic Water	1.25"
Waste	4"
Grease Waste	none
Vent	3"
Gas	none
HVAC	Tenant provided RTU

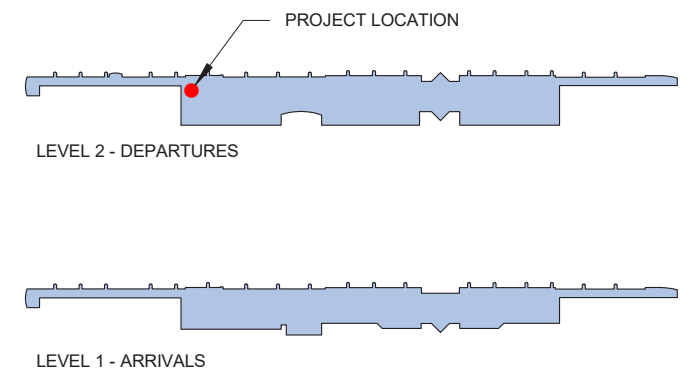
NOTES

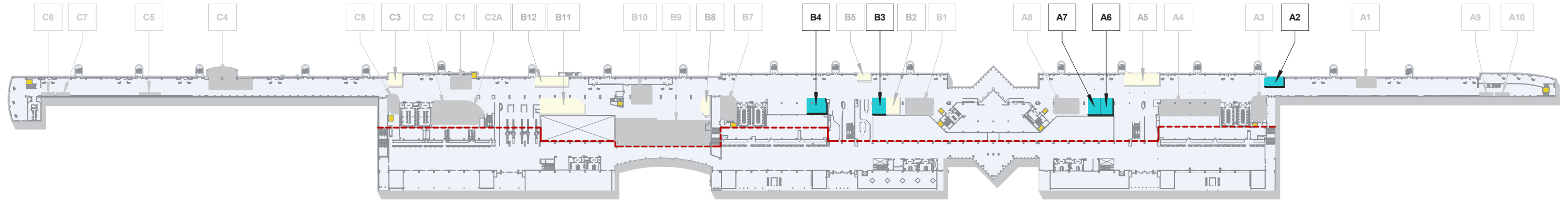
C8 - SNACK / CANDY

① C8 Concourse Plan
N.T.S.

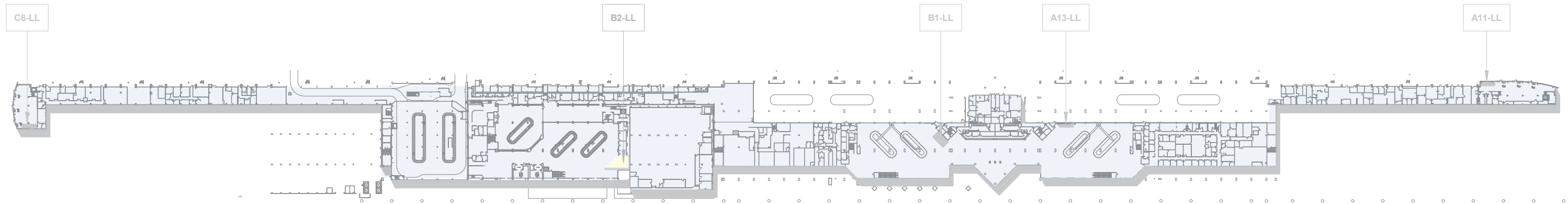


② C8
1/16" = 1'-0"



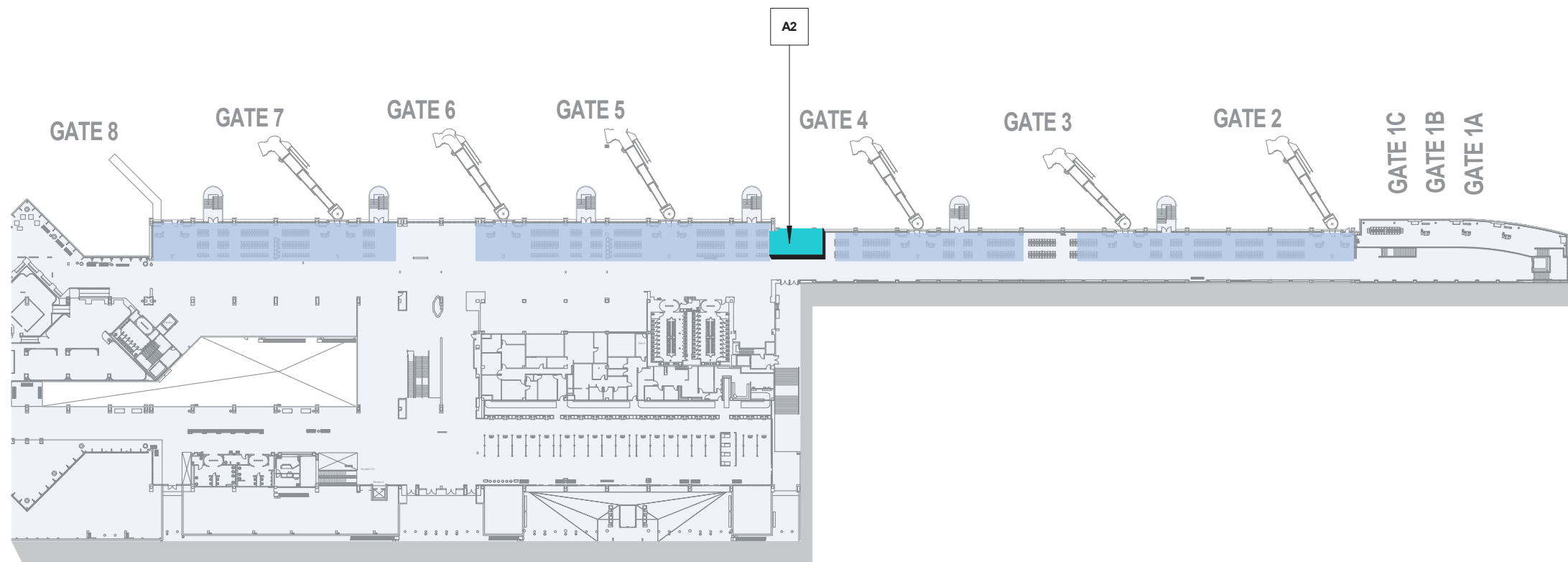


① DEPARTURES LEVEL - RTL1
N.T.S.



② ARRIVALS LEVEL - RTL1
N.T.S.

LOCATION CONCEPT TYPE	SPACE ID	TERMINAL	NEAR GATE	SF
TRAVEL ESSENTIALS	A2	A	4 & 5	750
SPECIALTY RETAIL - COSMETICS	A6	A	7	930
SPECIALTY RETAIL - ELECTRONICS	A7	A	7	930
SPECIALTY RETAIL - ELECTRONICS OR OPEN TO PROPOSER	B3	B	10	920
TRAVEL ESSENTIALS	B4	B	11 & 12	1,145
TOTAL	5			4,675



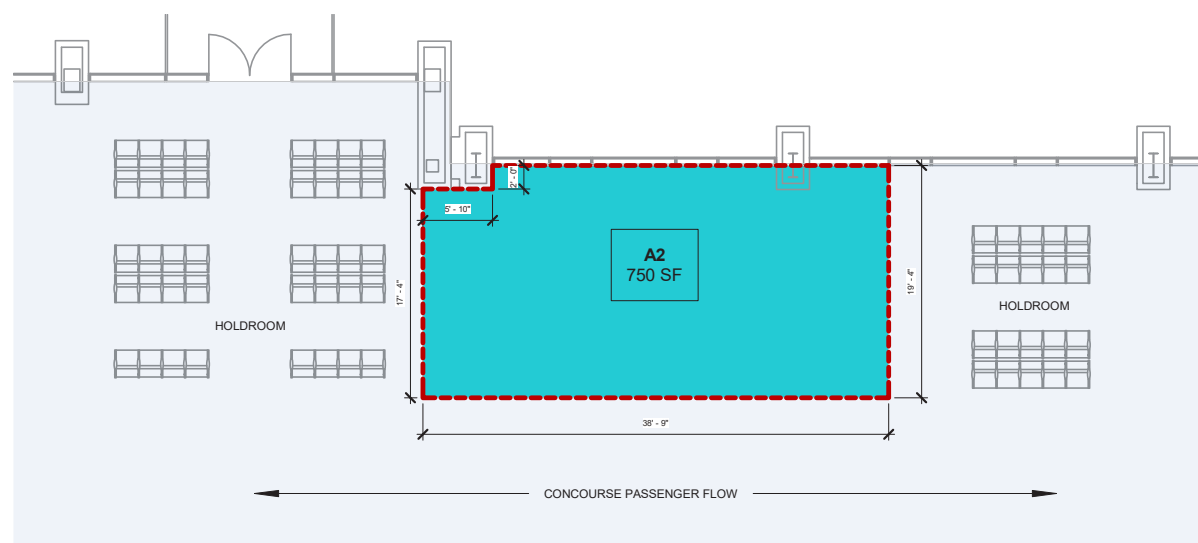
EXISTING UTILITIES

Electric	120/208 - 150amp Breaker
Domestic Water	1.25"
Waste	3"
Grease Waste	none
Vent	3"
Gas	none
HVAC	Concourse Air

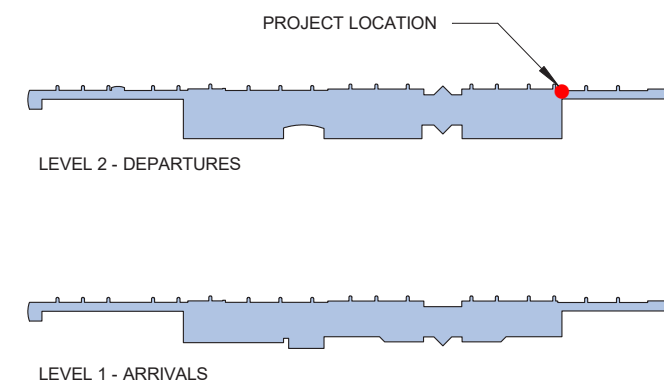
NOTES

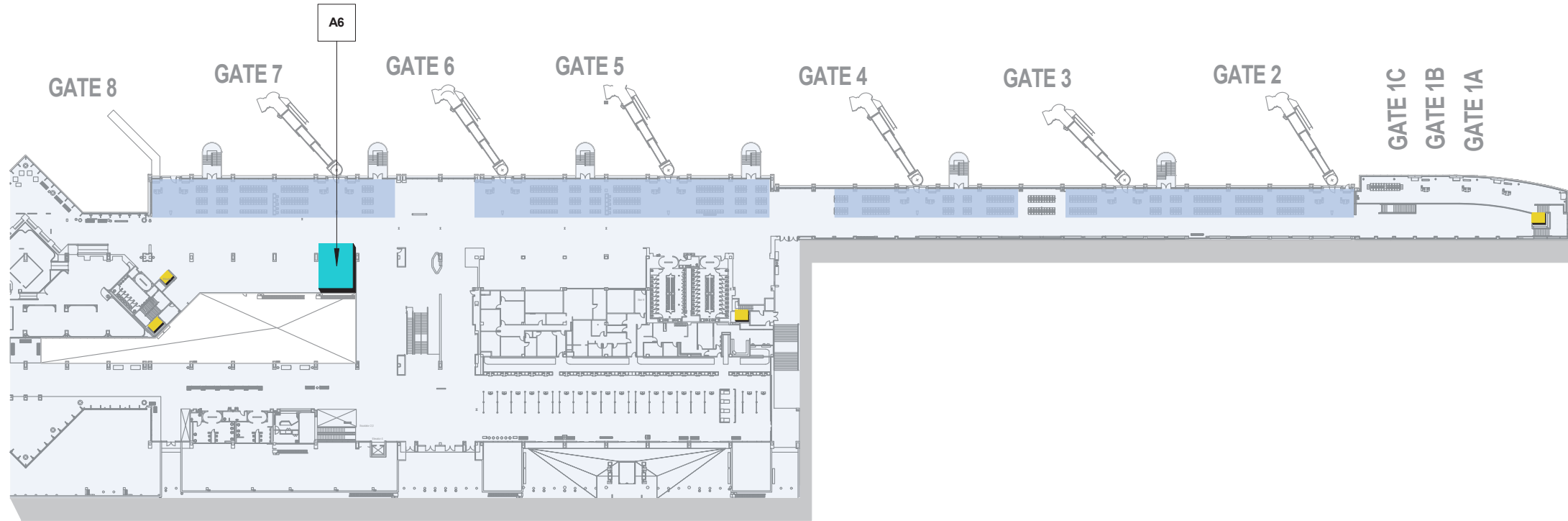
A2 - TRAVEL ESSENTIALS

① A2 Concourse Plan
N.T.S.



② A2
1/16" = 1'-0"





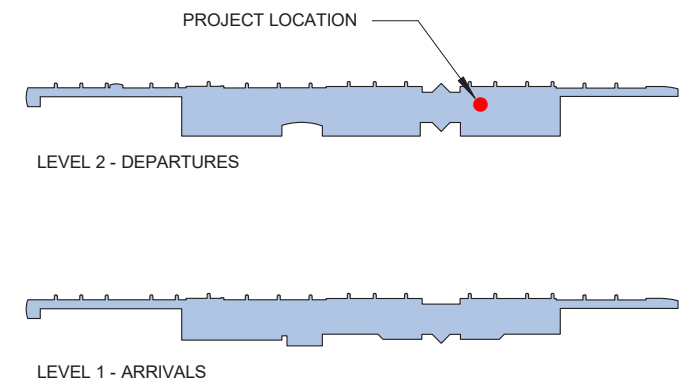
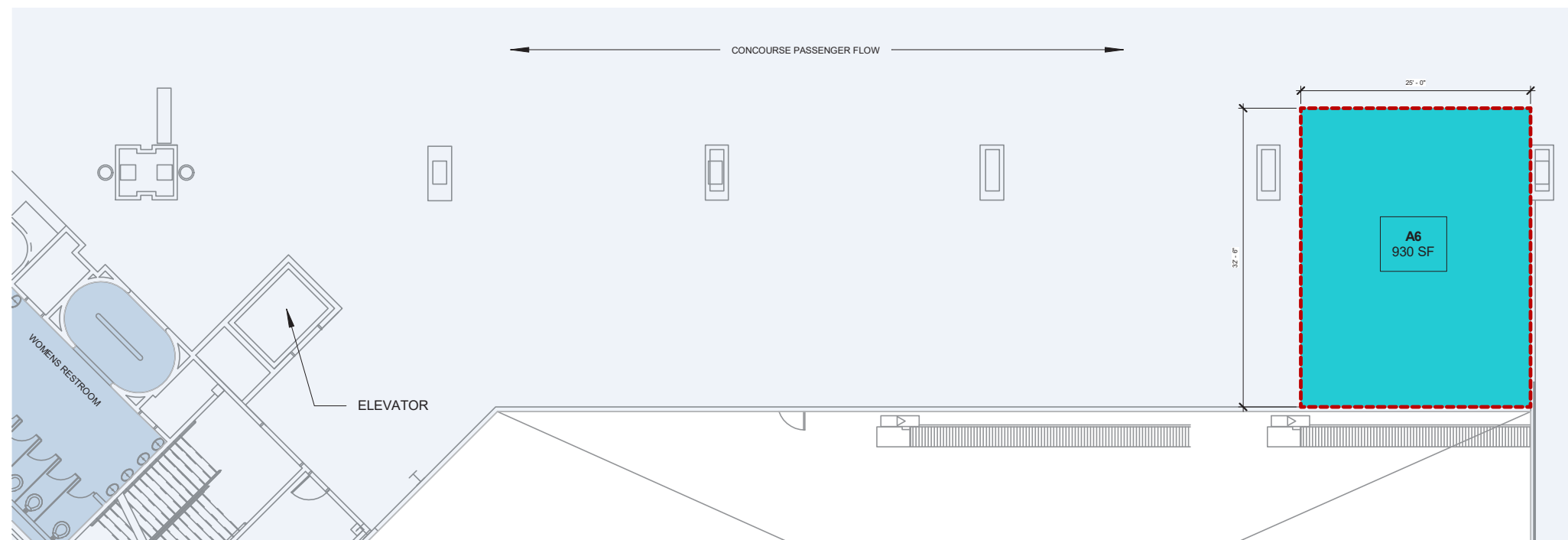
EXISTING UTILITIES

Electric	A6 - 480/277 - 100amp + 100amp + 100amp
Domestic Water	A6 - none
Waste	A6 - none
Grease Waste	A6 - none
Vent	A6 - none
Gas	A6 - none
HVAC	Concourse Air

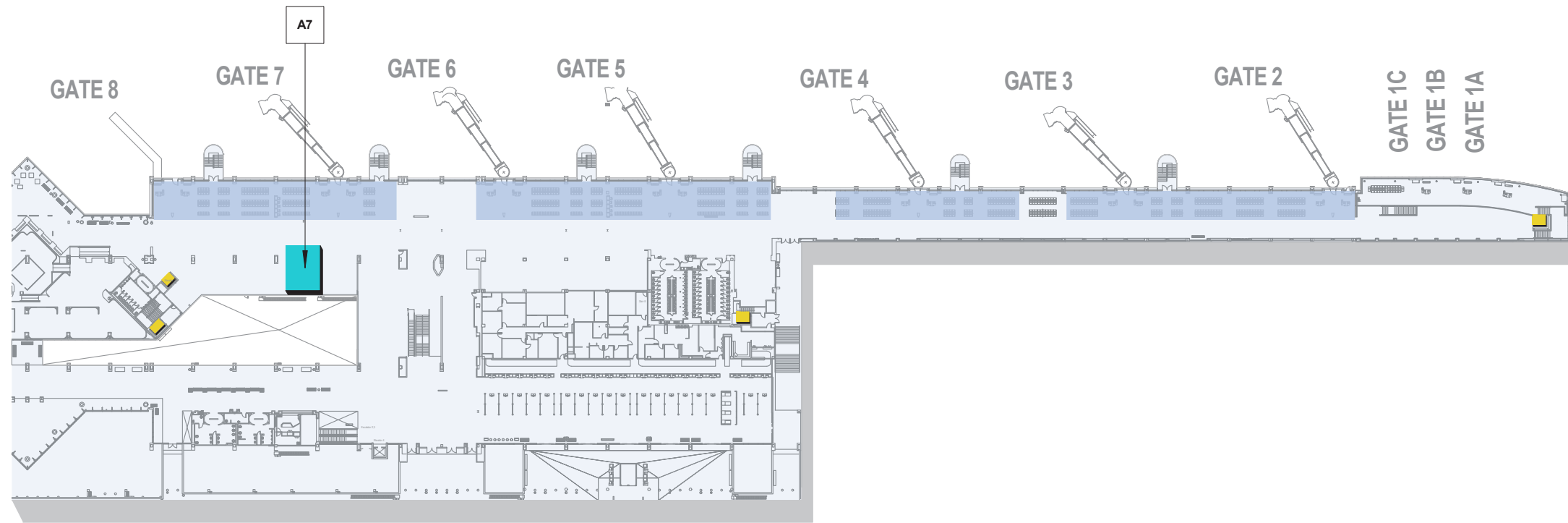
NOTES

A6 - SPECIALTY RETAIL - COSMETICS

① A6 Concourse Plan
N.T.S.



② A6
1/16" = 1'-0"



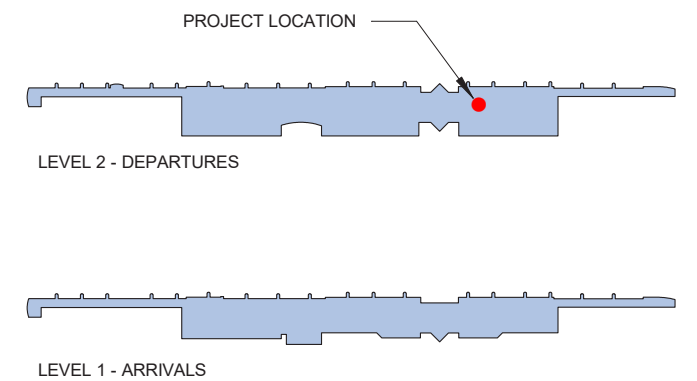
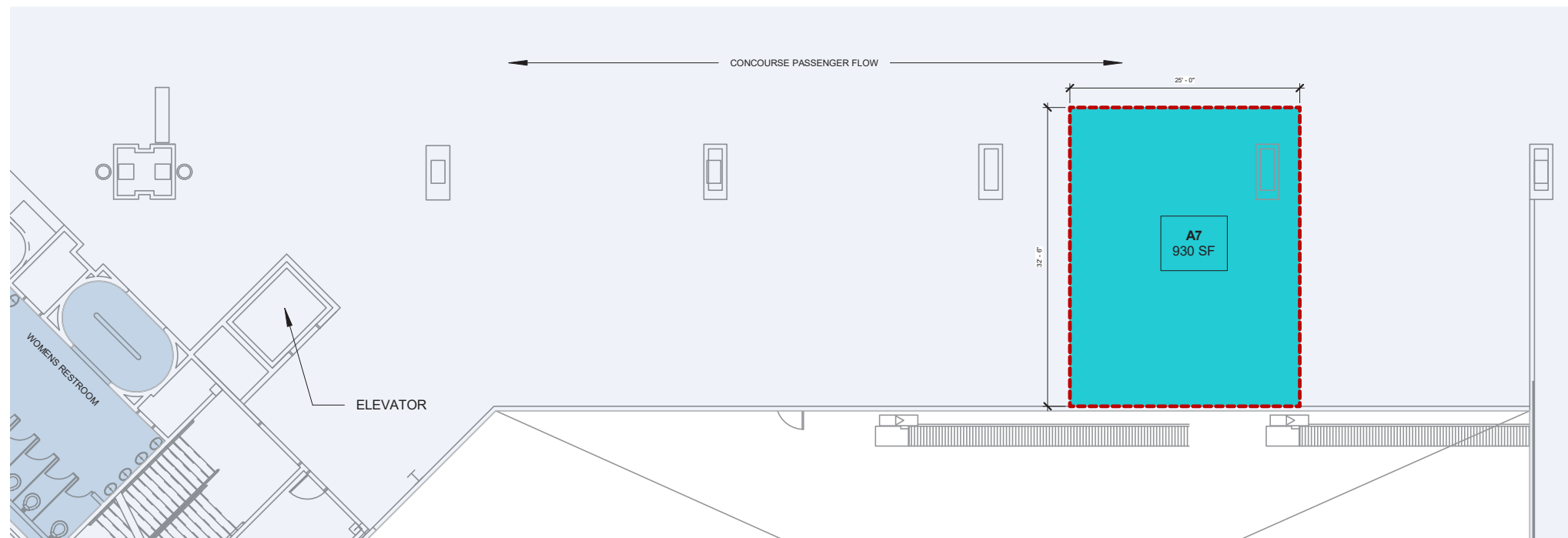
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	none
Waste	none
Grease Waste	none
Vent	none
Gas	none
HVAC	Concourse Air

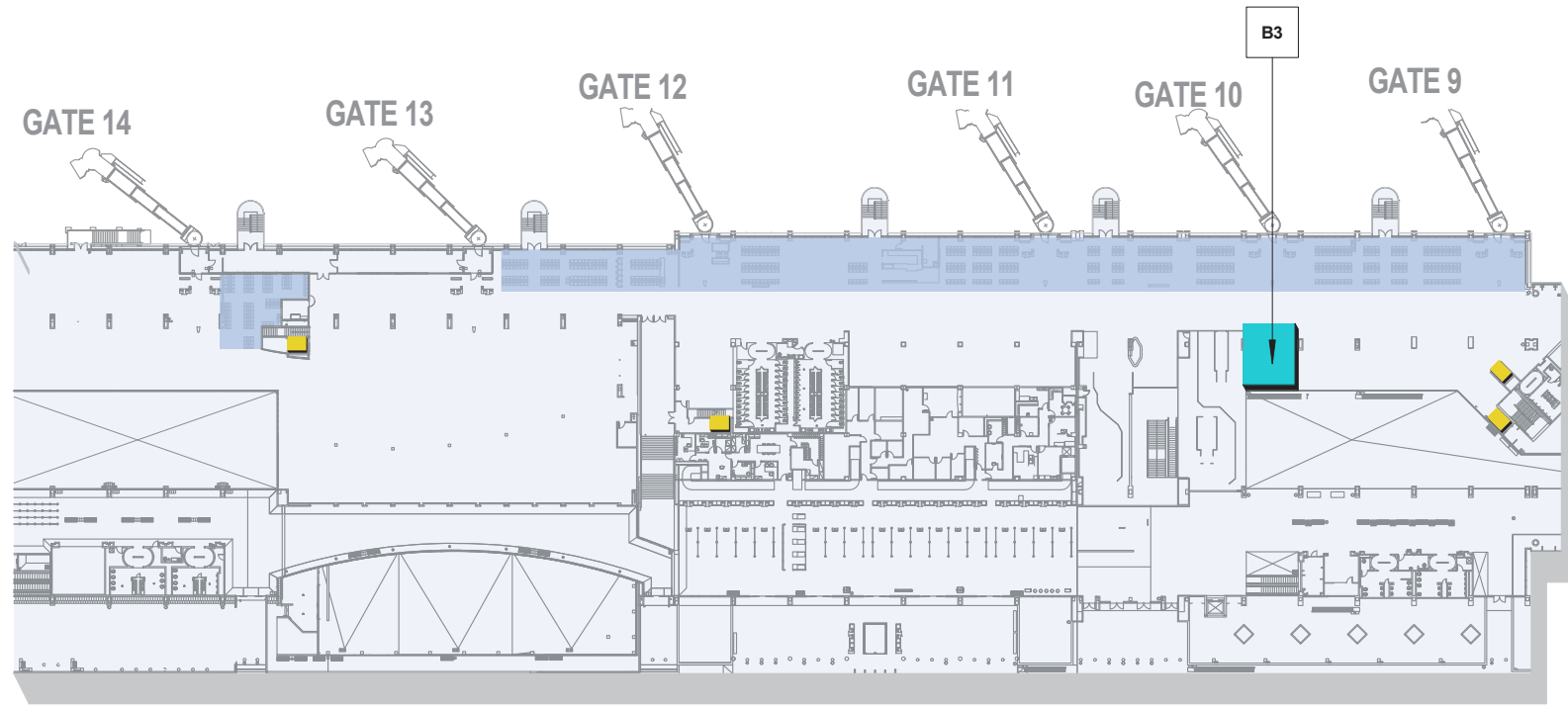
NOTES

A7 - SPECIALTY RETAIL - ELECTRONICS

1 A7 Concourse Plan
N.T.S.



2 A7
1/16" = 1'-0"



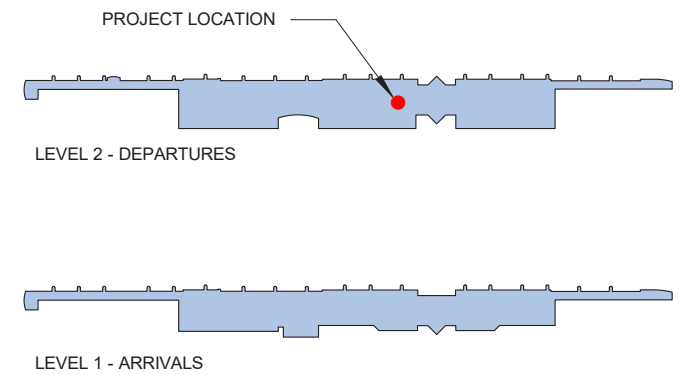
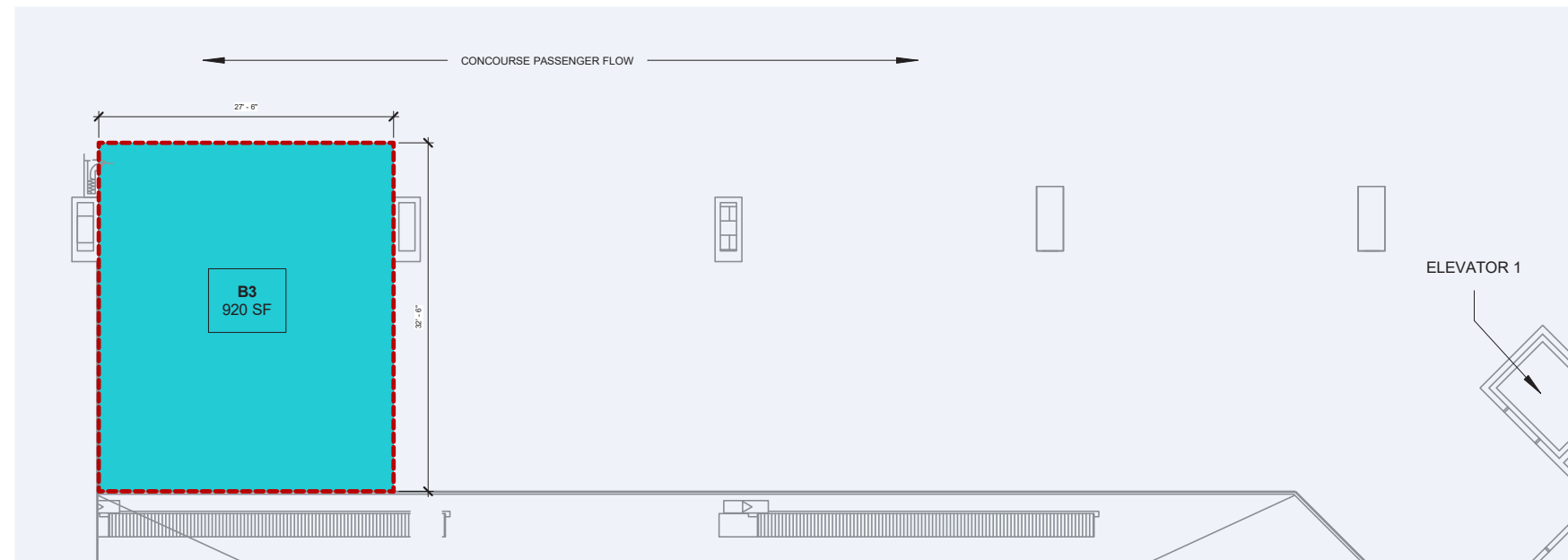
EXISTING UTILITIES

Electric	B3 - 480/277 - 100amp
Domestic Water	B3 - 3/4"
Waste	B3 - 3"
Grease Waste	B3 - none
Vent	B3 - 2"
Gas	B3 - none
HVAC	Concourse Air

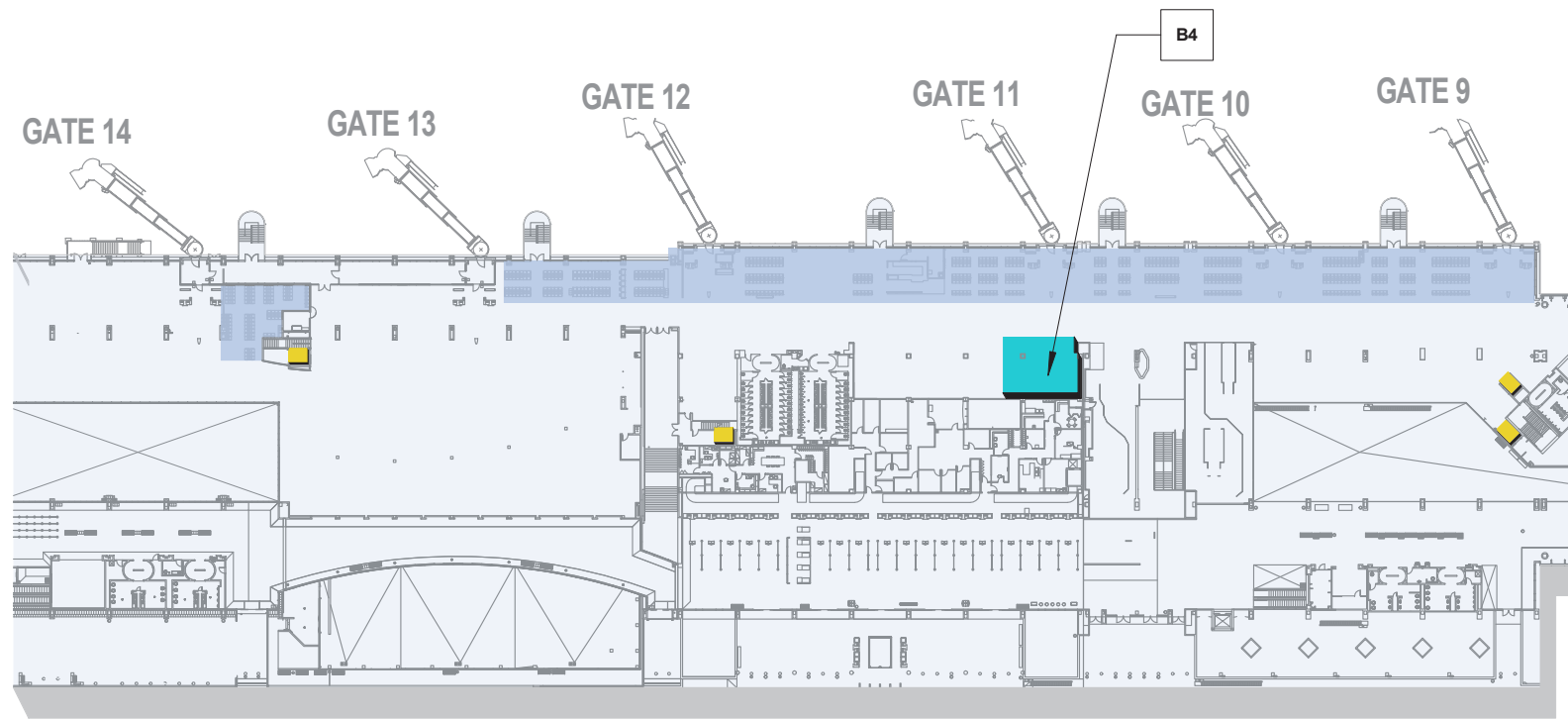
NOTES

B3 - SPECIALTY RETAIL - ELECTRONICS OR OPEN TO PROPOSER.

1 B3 Concourse Plan
N.T.S.



2 B3
1/16" = 1'-0"



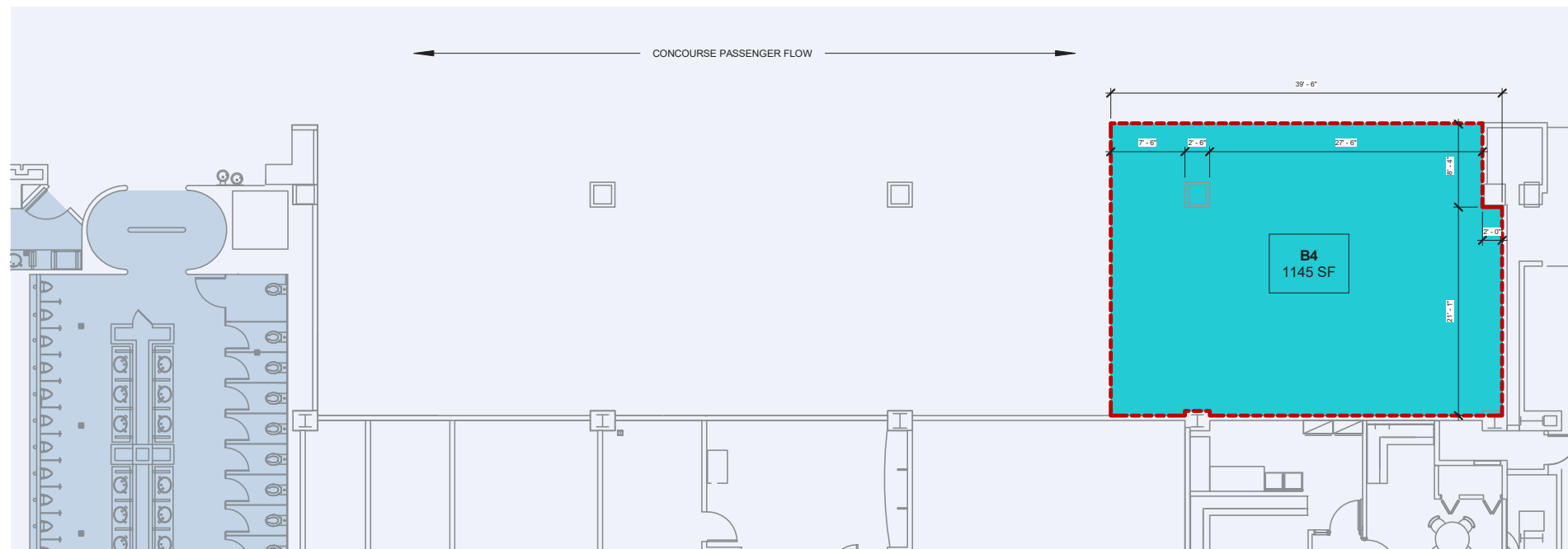
① B4 Concourse Plan
N.T.S.

EXISTING UTILITIES

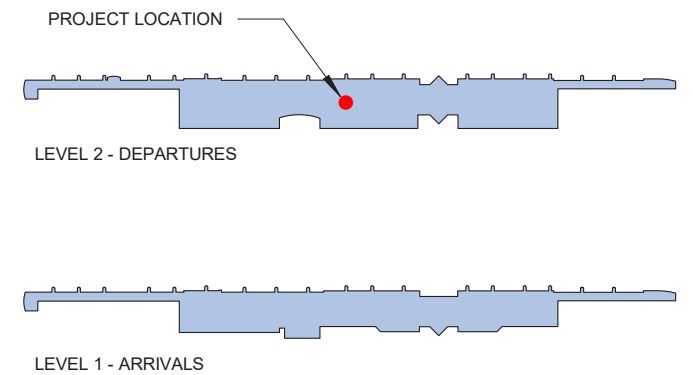
Electric	B4 - 480/277 - 50amp
Domestic Water	B4 - none
Waste	B4 - none
Grease Waste	B4 - none
Vent	B4 - none
Gas	B4 - none
HVAC	Tenant Provided RTU

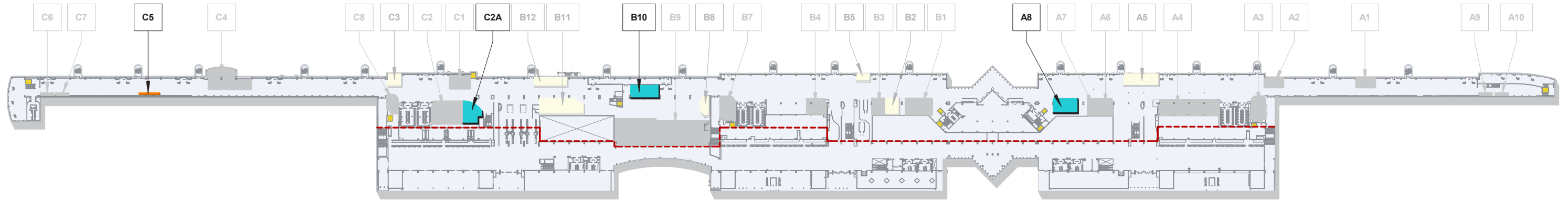
NOTES

B4 - TRAVEL ESSENTIALS

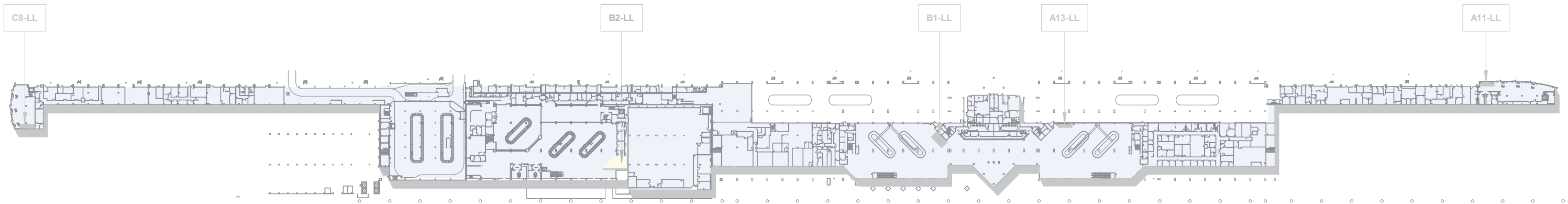


② B4
1/16" = 1'-0"



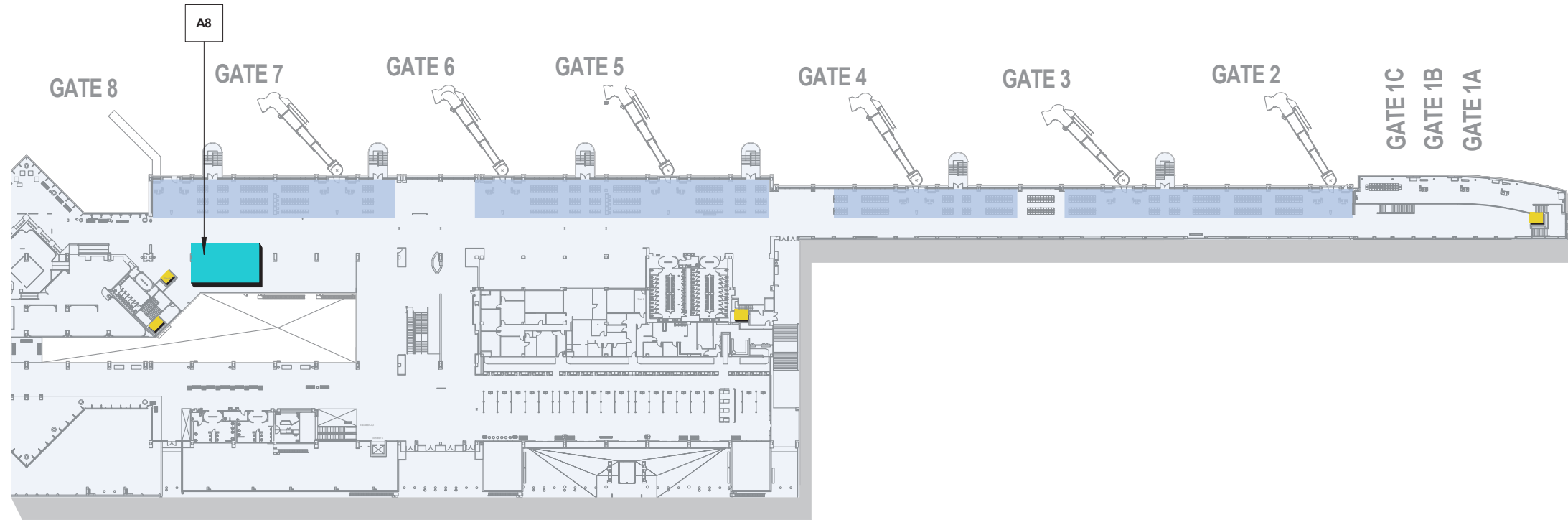


1 DEPARTURES LEVEL - RTL2
N.T.S.



2 ARRIVALS LEVEL - RTL2
N.T.S.

LOCATION CONCEPT TYPE	SPACE ID	TERMINAL	NEAR GATE	SF
TRAVEL ESSENTIALS	A8	A/B	7 & 8	1,420
TRAVEL ESSENTIALS & GOURMET MARKET	B10	B/C	13 & 14	1,694
TRAVEL ESSENTIALS	C2-A	C	15 & 16	1,370
TRAVEL ESSENTIALS	C5	C	19 & 20	200
TOTAL	4			4,684



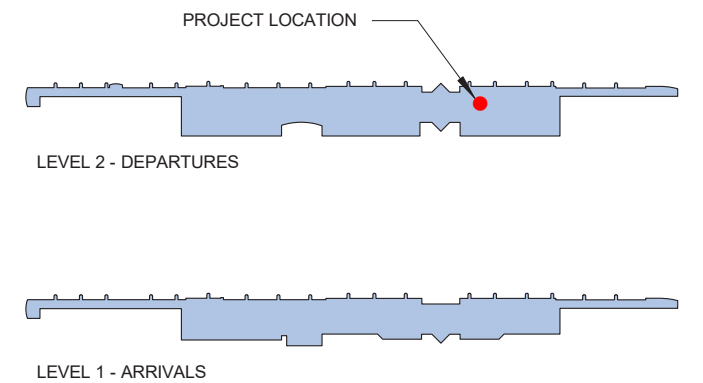
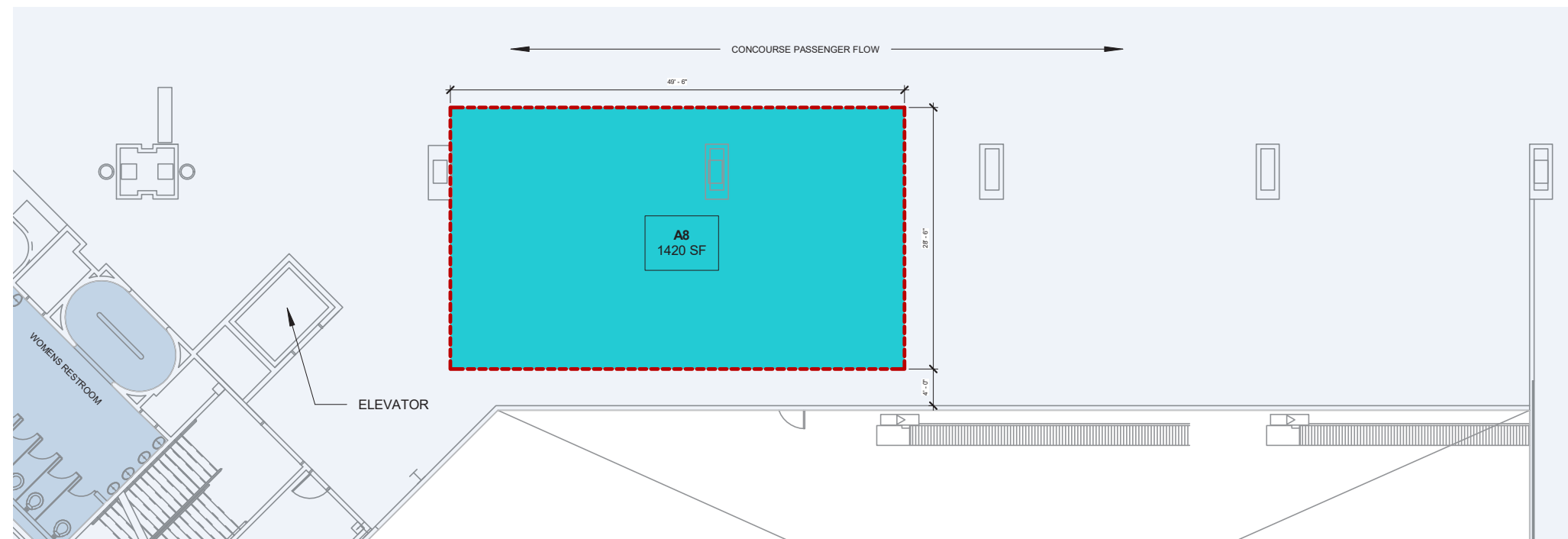
EXISTING UTILITIES

Electric	A8 - 480/277 - 100amp + 100amp
Domestic Water	A8 - none
Waste	A8 - none
Grease Waste	A8 - none
Vent	A8 - none
Gas	A8 - none
HVAC	Concourse Air

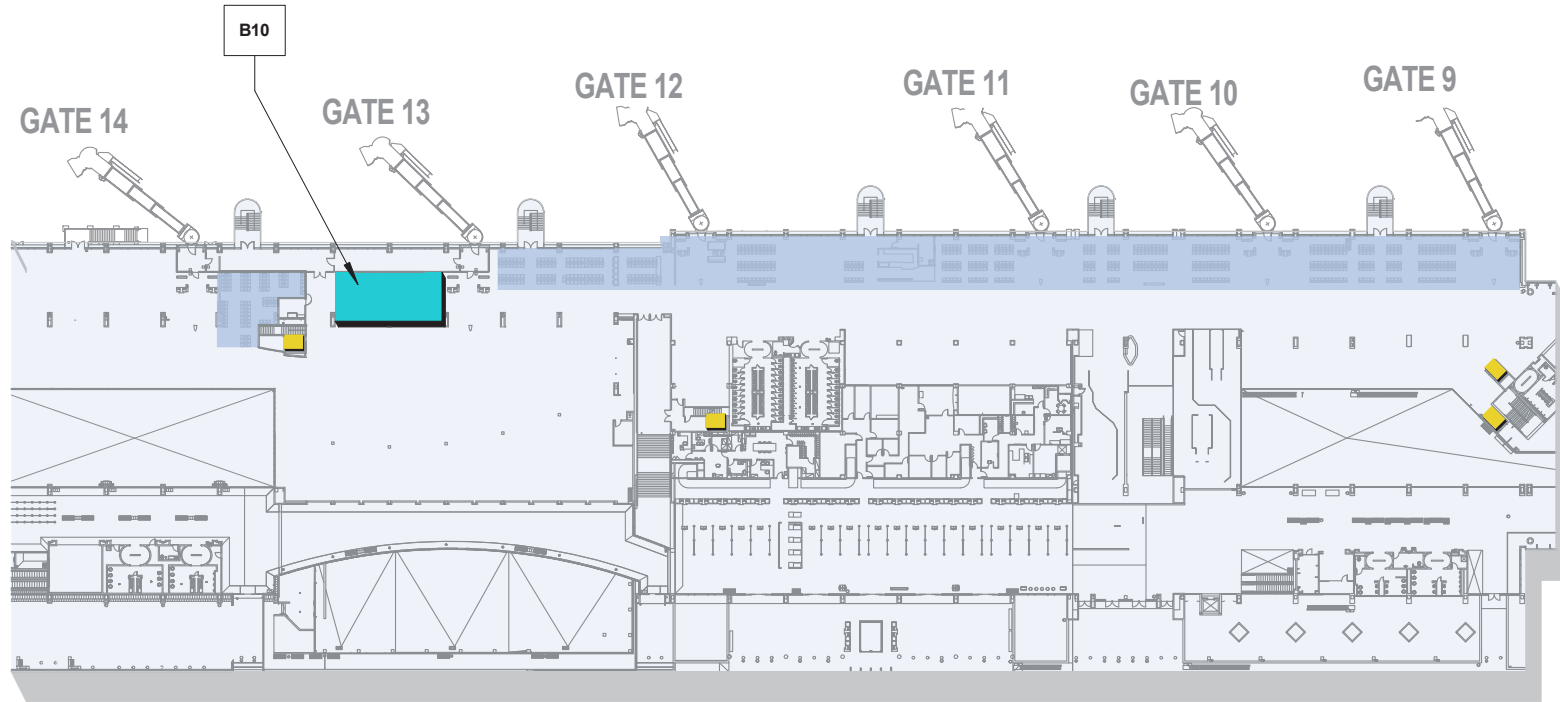
NOTES

A8 - TRAVEL ESSENTIALS

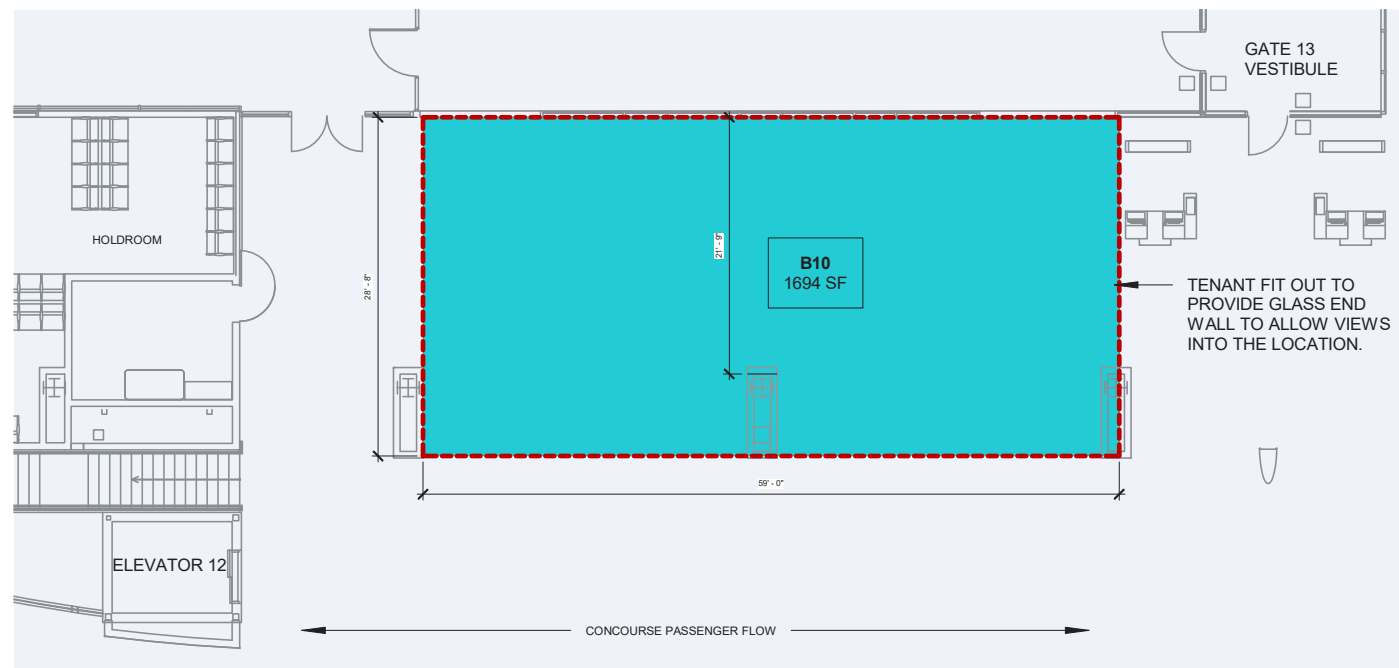
① A8 Concourse Plan
N.T.S.



② A8
1/16" = 1'-0"



① B10 Concourse Plan
N.T.S.



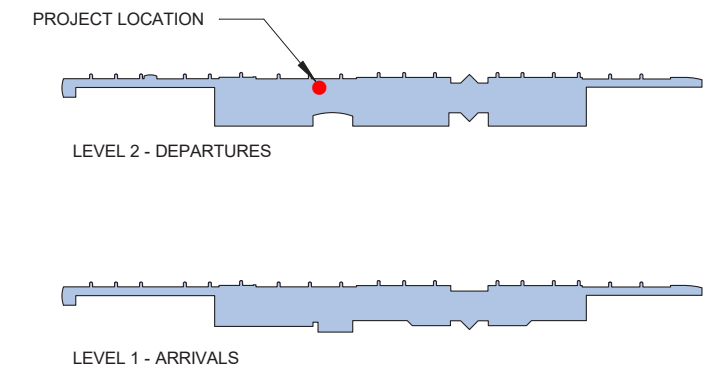
② B10
1/16" = 1'-0"

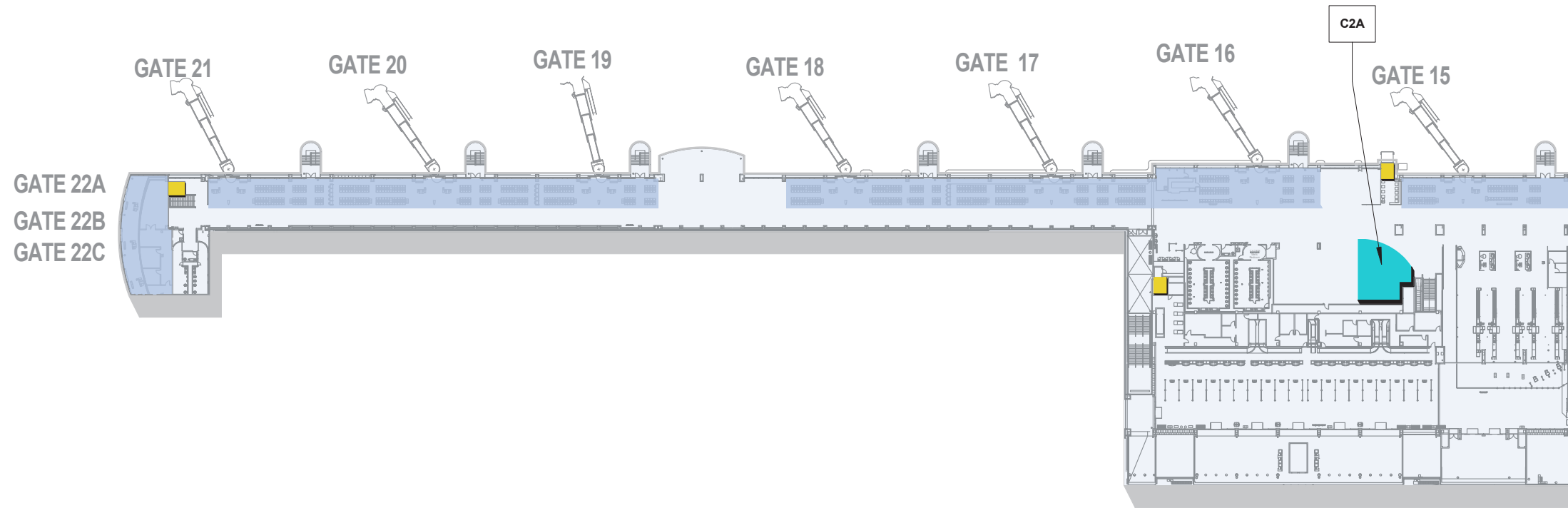
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Grease Waste	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Vent	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Gas	none
HVAC	Tenant Provided RTU

NOTES

B10 - TRAVEL ESSENTIALS & GOURMET MARKET





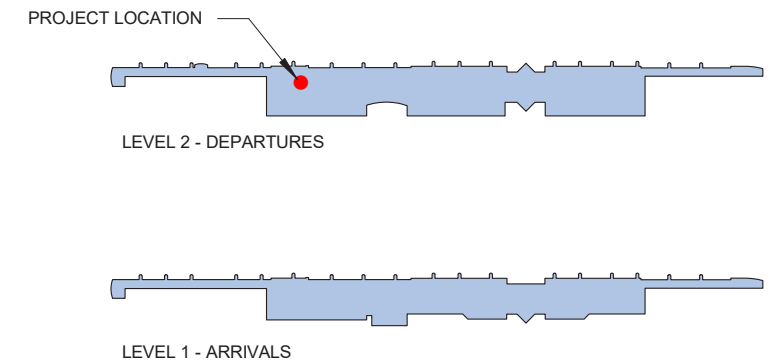
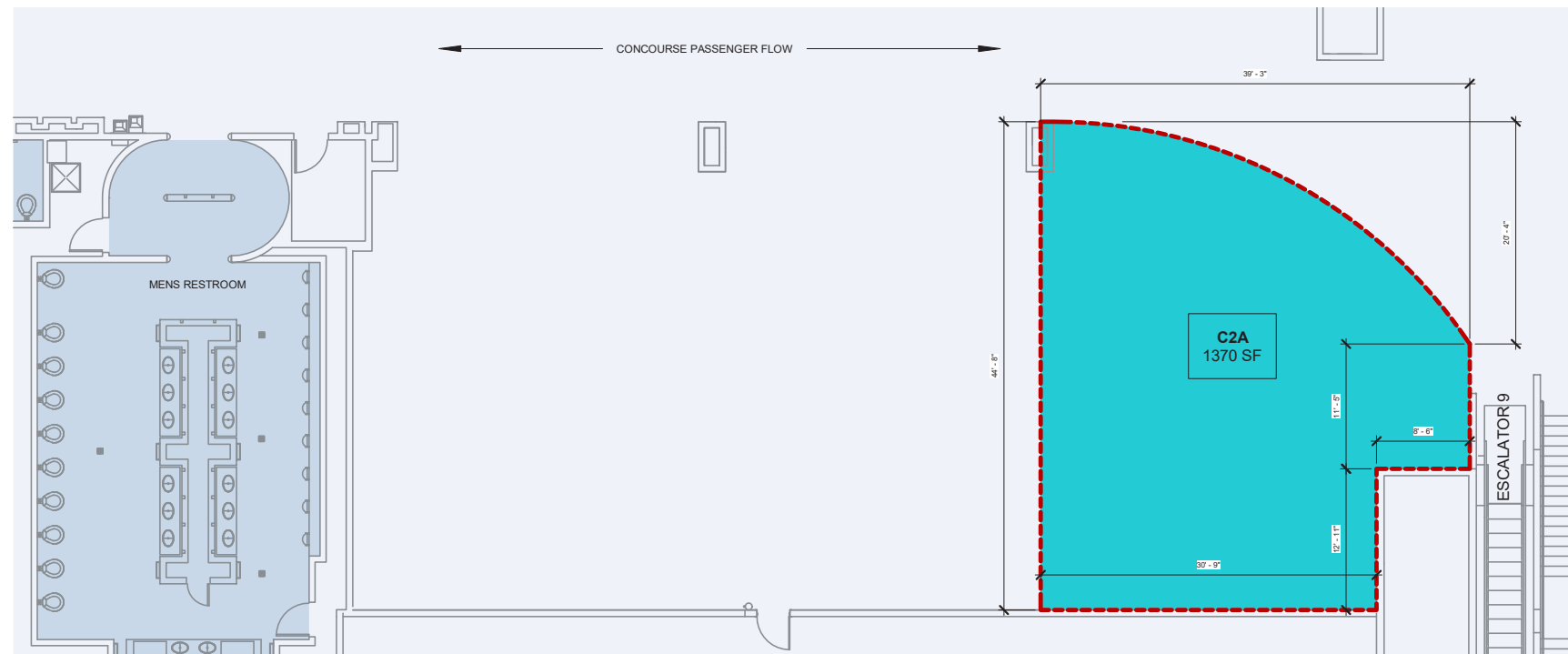
EXISTING UTILITIES

Electric	C2A - 480/277 - 40amp
Domestic Water	C2A - none
Waste	C2A - none
Grease Waste	C2A - none
Vent	C2A - none
Gas	C2A - none
HVAC	Tenant Provided RTU

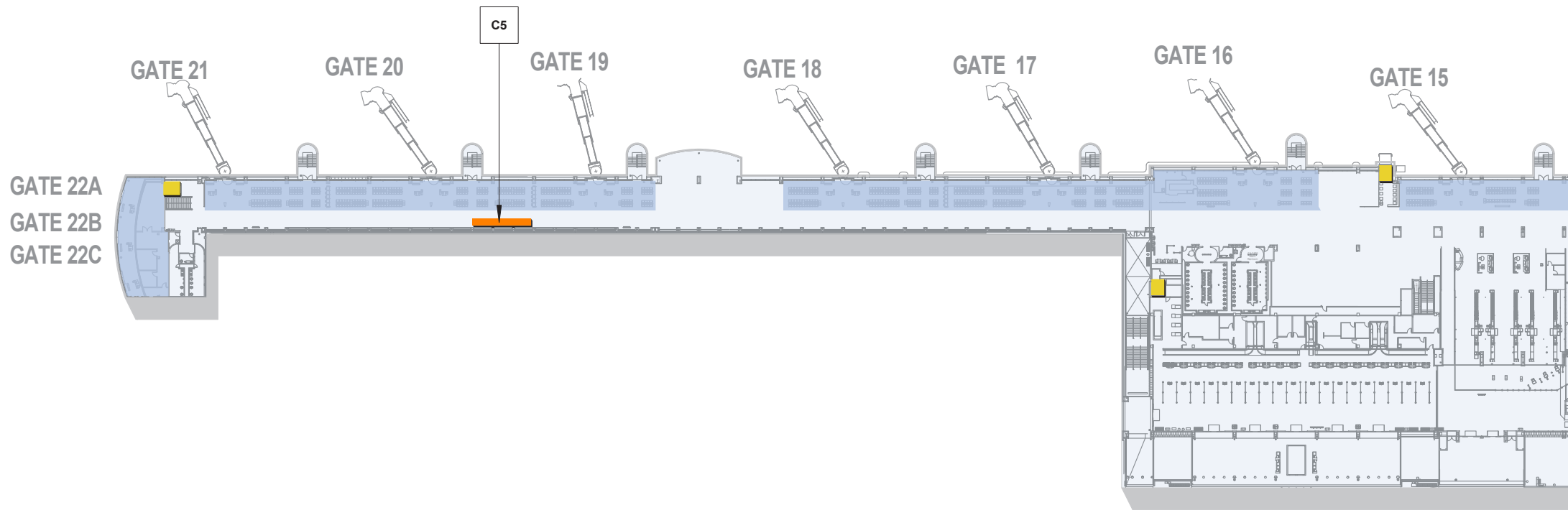
NOTES

C2A - TRAVEL ESSENTIALS

① C2A Concourse Plan
N.T.S.



② C2A
1/16" = 1'-0"



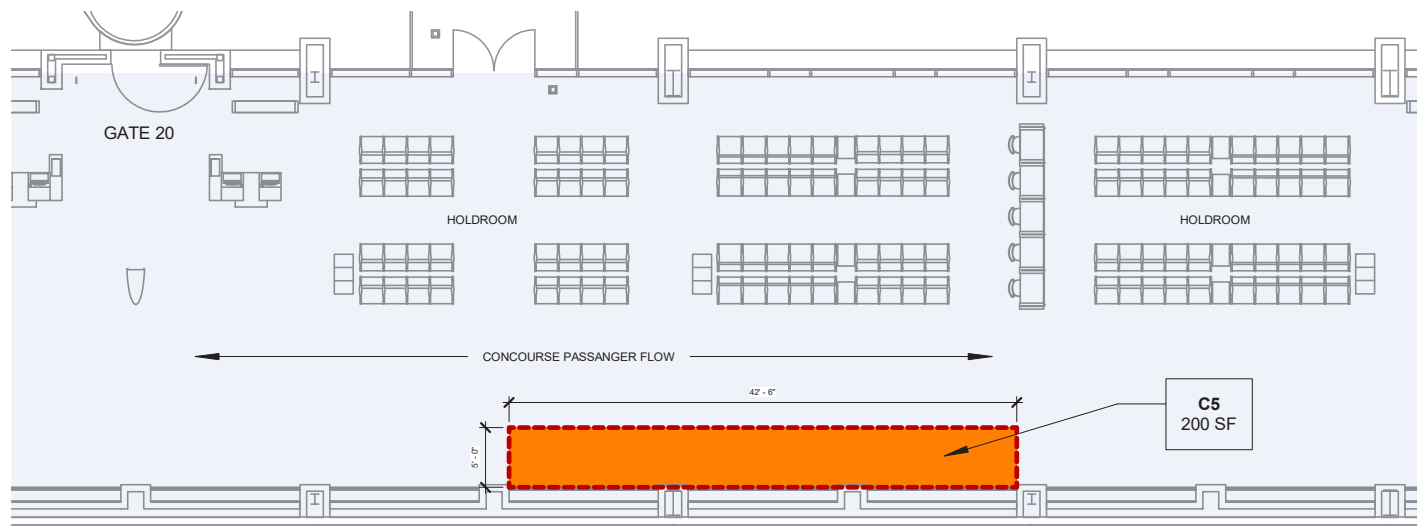
EXISTING UTILITIES

Electric	Tenant to extend utility to tenant space, tie in point to be coordinated with JWA.
Domestic Water	none
Waste	none
Grease Waste	none
Vent	none
Gas	none
HVAC	Concourse Air

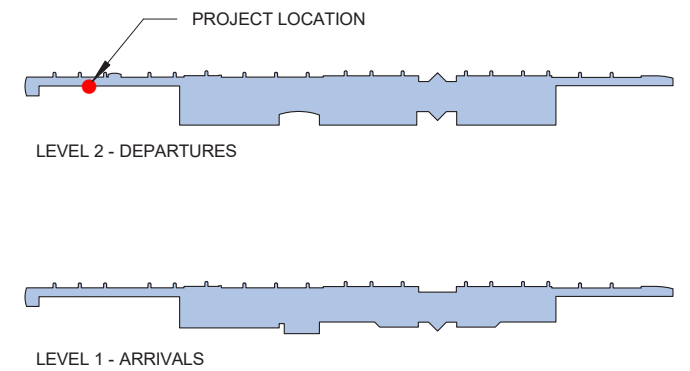
NOTES

C5 - TRAVEL ESSENTIALS

① C5_ConcoursePlan
N.T.S.



② C5
1/16" = 1'-0"



ATTACHMENT 1 – PACKAGES AND LOCATIONS**Addendum ____**

Version Dated: April 21, 2023

Package FB1

LOCATION CONCEPT TYPE	ID #	TERMINAL	NEAR GATE	SIZE (SF)
National Brand Coffee Café/Bakery	A3	A	4 & 5	1,400
Chicken	A4.1	A	5 & 6	1,162
Open to Proposer	A4.2	A	5 & 6	1,162
Asian	A4.3	A	5 & 6	1,162
Brazilian Churrascaria, Mexican, Asian, Coastal California Cuisine Restaurant With Bar	B9.1	B/C	13 & 14	9,300
Food Hall – Open to Proposer	B9.2	B/C	13 & 14	
Food Hall – Open to Proposer	B9.3	B/C	13 & 14	
Food Hall – Open to Proposer	B9.4	B/C	13 & 14	
Automated Retail – Food (Open to Proposer)	A9	A	9	150
Automated Retail – Food (Open to Proposer)	A11-LL	A	1A	150
Automated Retail – Food (Open to Proposer)	C6	C	21	150
Automated Retail – Food (Open to Proposer)	C8-LL	C	1C	150
TOTAL	12			14,786

BUSINESS TERMS FOR PACKAGE FB1

Term	15 years from Commencement Date
Base Rent	\$75 per SF
Percentage Rent	See location descriptions below
ACDBE Participation Goal	Race-neutral goal of 27.7%

It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvement and utility conditions, size and configuration to confirm the feasibility of the Proposer's proposed project.

Name and Title of Signer: (Print or Type) _____

Signature: _____

Date: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Addendum ____

Version Dated: April 21, 2023

A3 - National Brand Coffee/Bakery – 1,400 SF

Permitted Use

The offered location is intended for the operation of a branded coffee café and/or bakery selling premium quality fresh-made pastries, breads, bagels, salads, and sandwiches along with the sale of hot and cold coffee and tea-based beverages, juices, and soft drinks. Touchless transactions, remote ordering, at your gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing and seating must be contained within the premises. The menu should include healthy options, and cover all three dayparts: breakfast, lunch, and dinner. The sale of alcoholic beverages is not permitted. The Airport prefers a nationally recognized café and/or bakery brand concept.

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

A4.1, A4.2, A4.3 – Chicken/Open/Asian – 3,486 SF (3 X 1,162 SF)

Permitted Use

These offered locations are intended for three Quick Service Restaurants (“QSRs”). However, Airport is open to a minimum of two or no more than three QSRs if the Proposer feels their offer would be a more productive use of the space, or if the utilities available constrain the level of offerings. In no event shall this be considered for a single QSR, fast casual, sit-down, or other type of restaurant use. Chicken and Asian concepts are desirable. Proposer shall not propose burgers or any other use that would be in direct competition with uses currently in operation or being solicited in this RFP located in Terminals A & B. The primary use for each location within the described premises shall be for the sale of fast food/quick service food and non-alcoholic beverages in a counter-service setting. The Airport prefers the QSRs to be recognized national brands. Touchless transactions, remote ordering, at your gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing must be contained within the premises. The menu for all of the QSRs must serve all three dayparts (breakfast, lunch, and dinner) and should include healthy menu items in response to the growing needs and preferences of the health-conscious traveler. The concepts should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Addendum _____

Version Dated: April 21, 2023

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

B9.1 – Brazilian Churrascaria, Mexican, Asian, or California Coastal Cuisine Restaurant With Bar and

B9.2, B9.3, B9.4 - Food Hall – Open to Proposer

Total 9,300 SF

Permitted Use

This entire space consists of 9,300 SF. The proposer should allocate space for a “Restaurant with Bar,” three QSR concepts, and food hall common area seating in a manner that best meets passenger needs and optimizes operations. Allocations must be accurately reflected in the space layout plan submitted for this location. The proposer will be responsible for all FF&E, trash/janitorial, and maintenance for the seating area within this location. The proposer will only be responsible for paying Base Rent on the actual in-line footprint of the Premises (the food hall common area seating square footage will be excluded from Base Rent). This combination of locations is intended to feature a signature, sit-down restaurant with a full bar as well as a multi-unit food hall. The offered location is intended for the operation of a sit-down Brazilian, Mexican, Asian, or California Coastal Cuisine Restaurant With Bar and/or Distillery and three local/regional QSR concepts. All locations are expected to have menus that service the three dayparts: breakfast, lunch, and dinner, contain healthy menu options, and to the extent possible, are not duplicative of other dining options within the terminal. Proposers shall not propose burger as a primary use for any of the QSRs. The sit-down restaurant location will be required to have a full bar including beer, wine, and spirits. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The Airport expects the overall space to accommodate seating within the sit-down restaurant location as well as common seating for the three QSR locations. The design and feel should cohesively join the sit-down restaurant and the food hall. Touchless transactions, remote ordering, at your gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing and seating must be contained within the premises. Each QSR as well as the sit-down restaurant location should include healthy menu items in response to the growing needs and preferences of the health-conscious traveler. The concepts should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Addendum _____

Version Dated: April 21, 2023

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

A9, A11 – LL, C6, C8-LL – Automated Retail - Food (Open to Proposer) – 600 SF (4 x 150 SF)

Permitted Use

These four offered locations are intended for the operation of automated vending machines. These machines are intended for non-alcoholic beverages, food products such as pre-made sandwiches, salads, fresh pre-packaged fruits, yogurt parfaits, or other meal-type items conducive to being carried in a vending format, or snacks such as cookies, chips, candy bars, cupcakes, or other such “snack” items. Proposers are to determine what product line, and/or brands they wish to carry. Machines shall accept, at all times, cash, all major credit cards, Apple Pay, Google Pay, and other NFC based payments. Machines should be cellular capable and not reliant on ground-based communication services. Proposers should include in their description of the machine and its menu, the frequency of and required types of services required. Packaging, to the extent possible, shall be eco-friendly and made from sustainable sources. Packing will also be required to comply with all Federal, State, and local laws and regulations.

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Automated Retail	All Gross Receipts		25.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS**Addendum ____**

Version Dated: April 21, 2023

Package FB2

LOCATION CONCEPT TYPE	ID #	TERMINAL	NEAR GATE	SIZE (SF)
Bar With Snacks	A1	A	3 & 4	750
Wine Bar With Food	B1	B	9 & 10	1,722
National Brand Coffee	B1 LL	D	Baggage	445
National Brand Coffee Café/Bakery	B7	B	12	1,345
Snack/Candy	C8	C	17	750
Sandwich or Open to Proposer	C2-B	C	15 & 16	1,430
Sushi	C2-C	C	15 & 16	1,430
Local Casual Dining Restaurant With Bar	C4	C	18 & 19	3,000
Bar With Snacks	C1	C	16 & 17	1,135
Automated Retail – Food (Open to Proposer)	A10	A	10	150
Automated Retail – Food (Open to Proposer)	A13 LL	A	1A	150
Automated Retail – Food (Open to Proposer)	C7	C	21	150
TOTAL	12			12,457

BUSINESS TERMS FOR PACKAGE FB2

Term	15 years from Commencement Date
Base Rent	\$75 per SF
Percentage Rent	See location descriptions below
ACDBE Participation Goal	Race-neutral goal of 27.7%

It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvement and utility conditions, size and configuration to confirm the feasibility of the Proposer's proposed project.

Name and Title of Signer: (Print or Type) _____

Signature: _____

Date: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Addendum ____

Version Dated: April 21, 2023

A1 – Bar With Snacks – 750 SF

Permitted Use

The offered location is intended for the operation of a full-service bar selling beer, wine, and spirits. A menu consisting of draft and bottled/canned beer, wine by the glass, and a full spirits menu. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The menu should also include food items such as appetizers, “bar snacks,” and charcuterie plates.

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

B1 – Wine Bar With Food – 1,722 SF

Permitted Use

The offered location is intended for the operation of a wine bar selling wine by the glass and bottle as well as soft drinks. Menu should consist of tasting “flights” offering smaller portions of multiple wines aimed at educating passengers of the variety and types of wines offered by a certain region, country, or varietal. “To-go” sales of unopened bottles will be permitted subject to local liquor license regulations and FFA guidelines. Operator may sell bottles to be shipped directly to passengers as permitted by law. A food menu consisting of light snacks and appetizers is required. The food menu may be more extensive at the discretion of the Proposer. At least one on-site employee must be a certified sommelier.

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

B1 LL – National Brand Coffee – 445 SF

Permitted Use

The offered location is intended for the operation of a branded coffee selling premium quality custom-made hot and cold coffee and tea-based beverages, as well as juices, and soft drinks. The menu should

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Addendum ____

Version Dated: April 21, 2023

also include related food items, either made-to-order or pre-packaged. The sale of alcoholic beverages is not permitted. The Airport prefers a nationally recognized coffee brand concept.

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

B7 – National Brand Coffee Café/Bakery – 1,345 SF

Permitted Use

The offered location is intended for the operation of a branded coffee café and/or bakery selling premium quality fresh-made pastries, breads, bagels, salads, and sandwiches as well as custom-made hot and cold coffee and tea-based beverages, juices, and soft drinks. The menu should include healthy options, and cover all three dayparts: breakfast, lunch, and dinner. The sale of alcoholic beverages is not permitted. The Airport prefers a nationally recognized café and/or bakery brand concept.

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

C8 – Snack/Candy – 750 SF

Permitted Use

The offered location is intended for the operation of a snack or candy concept. Snacks are defined as food items such as pretzels, pastries, ice cream, or smoothies. The snack concepts may also sell water and soft drinks. The candy concept shall carry branded pre-packaged and bulk candies for sale by the pound, branded individual candy bars, and other miscellaneous pre-packaged confectionary items. The sale of water and soft drinks shall be limited to one cooler, no more than six feet by three feet (6' x 3').

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Addendum ____

Version Dated: April 21, 2023

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

C2-B – Sandwich or Open to Proposer – 1,430 SF

Permitted Use

The offered location is intended for the sale of fast food/quick service food and non-alcoholic beverages in a counter-service setting. The Airport prefers the QSR to be a recognized national brand. The preferred use for the QSR is sandwiches. Touchless transactions, remote ordering, at your gate delivery, and self-service ordering kiosks should be included to the extent possible. Queuing must be contained within the premises. The menu should cover all three dayparts: breakfast, lunch, and dinner and include healthy menu items in response to the growing needs and preferences of the health-conscious traveler. The concept should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging. The sale of alcoholic beverages is not permitted.

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

C2-C – Sushi – 1,430 SF

Permitted Use

The offered location is intended for the sale of Asian style fast food/quick service food and non-alcoholic beverages in a counter-service setting. The Airport prefers the quick service restaurant to be a recognized national brand specializing in menu items such as Sushi, Ramen, Pho, Korean, Thai, or Bao, however all Asian cuisine will be considered. Additionally, the menu should include sides, beverages, and desserts with an overall menu that covers all dayparts. Touchless transactions, remote ordering, at your gate delivery, and self-service ordering kiosks should be included to the extent possible. Queuing must be contained within the Premises. The concept should offer only premium products, served

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Addendum ____

Version Dated: April 21, 2023

quickly and efficiently in high-quality, sustainable packaging. Additionally, the concept should include healthy menu items in response to the growing needs and preferences of the health-conscious traveler.

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

C4 – Local Casual Dining Restaurant w/ Full Bar – 3,000 SF

Permitted Use

The offered location is intended for the operation of a local branded casual dining restaurant. This restaurant is expected to have a menu that service all three dayparts: breakfast, lunch, and dinner, contain healthy menu options, and is, to the extent possible, not duplicative of other dining options within the terminal. This location will be required to have a full bar including beer, wine, and spirits. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. It is expected that the overall space is designed to accommodate seating within the casual dining location. Touchless transactions, remote ordering, at your gate delivery (for food items & Soft Drinks), and self-service at table ordering should be included to the extent possible. The concept will offer only premium quality products, served quickly and efficiently.

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

C1 – Bar with Snacks – 1,135 SF

Permitted Use

The offered location is intended for the operation of a full-service Bar selling beer, wine, and spirits. A menu consisting of draft and bottled/canned beer, wine by the glass, and a full spirits menu. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The menu should also include food items such as appetizers, “bar” snacks, and charcuterie plates.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Addendum ____

Version Dated: April 21, 2023

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

A10, A13 – LL, C7 – Automated Retail - Food (Open to Proposer) – 450 SF (3 x 150 SF)

Permitted Use

These three offered locations are intended for the operation of automated vending machines. These machines are intended for non-alcoholic Beverages, Food products such as pre-made sandwiches, salads, fresh pre-packaged fruits, yogurt parfaits, or other meal-type items may be carried in a vending format, or snacks such as cookies, chips, candy bars, cupcakes, or other such “snack” items may be carried in a vending format. Proposers are to determine what product line, and/or brands they wish to carry. Machines shall accept, at all times, cash, all major credit cards, Apple Pay, Google Pay, and other NFC based payments. Machines should be cellular capable and not reliant on ground-based communication services. Proposers should include in their description of the machine and its menu, the frequency of and required types of services required. Packaging, to the extent possible, shall be eco-friendly and made from sustainable sources. Packing will also be required to comply with any and all Federal, State, or Local laws and regulations.

Category	Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Automated Retail	All Gross Receipts		25.0%

EXHIBIT D: PROPOSER CHECKLIST

Nonresponsive or Late Proposals: Proposals not submitted in the manner described herein may be considered nonresponsive and subject to rejection. Late Proposals will be rejected and returned to the Proposer.

Page Limit: Proposals shall not exceed **seventy-five (75) two-sided pages**, excluding front and back covers, section dividers, financial statements, Conceptual Development Plans, foam boards, and table of contents.

Format: Proposals must be typewritten in Times New Roman 12-point font on white 8½" x 11" paper (except as noted below for 11" x 17" plans) in portrait format, and must be unbound. White three-ring binders with clear covers are required and must include Proposer's information inserted in the cover. All pages of the Proposal are to be numbered for ease of review by the evaluation panel.

Format for conceptual renderings, layouts, and material boards:

- All foam boards must be 11" x 17" in size.
- Color/sample boards with material legend identifying all items and their locations (for both interior and exterior finishes).
- All of the above items are required to be color copied onto 11" x 17" paper and inserted into each Proposal package consisting of eight (8) complete sets (see below). The color copies onto 11" x 17" paper are included in the page count.

Number of Proposals: **Eight (8)** full sets of your written Proposal, **one (1)** original clearly marked "Original" with original ink signatures, **seven (7)** copies and **eight (8)** USB flash drives containing files in PDF file format along with Proposer's deposit.

Additionally, Proposers must submit **four (4) complete half size hard copy sets (18" x 24")** and **four (4) USB flash drives with PDFs** of Conceptual Development Facility Plans prepared by a California licensed Architect and Engineer (A/E) fully depicting the Proposer's proposed development.

Packaging and Identification: Proposer shall submit its Proposal in a sealed package and shall write/type the following identification information on the outermost portion of the sealed package:

SEALED PROPOSAL

County of Orange/John Wayne Airport
 Eddie Martin Administration Building
 Deputy Airport Director, BD – Concession RFP
 3160 Airway Avenue
 Costa Mesa, CA 92626

The following items are required to be checked and submitted. Proposal must be tabbed in the order outlined below. Failure to do so may result in disqualification.

- Tab 1 - Proposer Cover Sheet – Exhibit C**
- Tab 2- Proposer Checklist – Exhibit D Signed and Dated**
- Tab 3 - Signed and dated Acknowledgement and Approval of Proposal Deposit and Draft Lease Provisions - Exhibit B**
- Tab 4 - Proposal Deposit of \$25,000**
- Tab 5 - Cover Letter including all information specified in the RFP**
- Tab 6 - Proposed Concept/Executive Summary**
- Tab 7 - Business Plan, Design Intention and Capital Investment**
- Tab 8 - Management Experience**
- Tab 9 – Sustainability**
- Tab 10 - Operations Plan, Customer Service, Employee Retention**
- Tab 11 – Required Forms**
 - Proposer Form and Questionnaire – Exhibit E
 - Pro-Forma Template – Exhibit F
 - Financial Viability Form – Exhibit G
 - Disclosure Act Levine Form – Exhibit I
 - **Packages and Locations – Attachment 1**

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

NAME AND TITLE OF AUTHORIZED OFFICIAL:

SIGNATURE: _____

DATE: _____

COUNTY OF ORANGE
John Wayne Airport

Concession Development Program

Request for Proposals for
(2) Food & Beverage Packages
(2) Retail Packages

<p>3160 Airway Avenue Costa Mesa, CA 92626</p>	<p>PROPOSALS MUST BE RECEIVED ON OR BEFORE</p> <p>July 17, 2023</p> <p>By</p> <p>4:00 P.M. PST</p> <p>PM 1121-0345-0034</p>	<p>Issued: March 27, 2023</p>
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JOHN WAYNE AIRPORT
ORANGE COUNTY



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PART 1 – WELCOME AND GENERAL INFORMATION

A Word from the Airport Director, Charlene Reynolds

John Wayne Airport (“JWA or “Airport”) has been a major cornerstone of Orange County, CA for 100 years, serving as the aviation gateway to the world. We provide more than 33,000 jobs to local workers and bring billions of dollars to the local economy. In 2022, we served more than 11.36 million annual passengers, flying to more than 40 non-stop destinations throughout the U.S., Mexico, and Canada.

JWA is consistently ranked among the best airports in North America, rated first in overall customer satisfaction among large airports in 2017 and 2018, and second in 2019, 2020, and 2022. There’s no question that we strive every day to deliver a superior guest experience, with a wide variety of services and amenities, first class convenience from check-in to the gate, and concessions that embrace the unparalleled character of our community and strengthen local business.

Our commitment to our guests never ends and that is why we’re always looking at new ways to improve.

In 2023, we have a pivotal opportunity to transform the JWA program with 80% of the concession program being redeveloped with long-term leases that will shape and define the unique essence and diversity of this world-class airport. The County of Orange evokes many colorful images, and everyone has their own list, but some of the highlights include:

- Legendary, world renown tourist attractions
- Stunning beach communities, each with its own vibe
- Trendy, eclectic food scene as diverse as the community it serves
- World class and chic retail
- Spectacular outdoor activities within easy driving distance
- Focus on healthy lifestyles
- And of course, near perfect weather



We are diligently seeking business partners that share our vision and can provide extraordinary food, beverage and retail options that reflect and showcase what makes this stunning part of Southern California so special.

Thank you for your interest in John Wayne Airport. I encourage you to thoroughly review this entire Request for Proposals (“RFP”) that establishes clear guidelines to ensure each Proposer has an equal opportunity to be a part of JWA’s future.

A. SOLICITATION OPPORTUNITY

The Airport, owned and operated by the County of Orange (“County”), is requesting proposals for its Concession Development Program (“Proposals”). The JWA Concession Development Program (“CDP”) will consist of a total of two (2) Food & Beverage Lease Packages and two (2) Retail Lease Packages. The RFP Evaluation Panel will score and create a slate of responsive Proposals that will be provided to the County’s Board of Supervisors (“Board”) for consideration. Pursuant to California Government Code Section 25536, the Board has the plenary authority to award leases to the Proposers it deems qualified, regardless of the Evaluation Panel’s recommendation. Project design and permitting will begin immediately after lease execution, with projected construction completion and opening dates in 2024. Through this RFP process, the Airport will: (1) solicit Proposals from qualified entities to operate concessions at JWA; (2) evaluate and score responsive Proposals pursuant to the criteria set forth in this RFP; and (3) present slate of qualified Proposers to the Board for selection and award.

B. TIMELINE

▪ Outreach Meeting	February 16, 2023
▪ Solicitation Advertised/Released	March 27, 2023
▪ Pre-Proposal/Site Tour Meeting	April 12, 2023
▪ Questions Deadline (Must be received by 4 p.m. PST)	April 28, 2023
▪ Response Deadline (Must be received by 4 p.m. PST)	July 17, 2023
▪ Minimum Qualifications/RFP Conformance Review	July 19, 2023
▪ Evaluation Panel Meeting	On or about August 10, 2023
▪ Interviews	August 2023
▪ Selection and Award	October/November 2023
▪ Agreement Commencement	January 2024

*All dates are subject to change at the Airport’s sole discretion.
Proposals received after the due date and time shall not be considered.*

PART 2 – ABOUT JOHN WAYNE AIRPORT

A. AIRPORT INFORMATION

John Wayne Airport is the only commercial airport in Orange County, California. The Airport is located approximately 35 miles south of Los Angeles, bordered by the cities of Costa Mesa, Newport Beach, and Irvine.

JWA spans approximately 510 acres and its two runways serve commercial and general aviation (i.e., private) aircraft. The Airport serves the major commercial airlines throughout the 730,505 linear square foot, multi-level, Thomas F. Riley Terminal facility. Terminals A, B, and C provide 20 commercial passenger gates and two commuter passenger terminals at the north and south ends. A passenger can walk all three terminals in less than eight minutes which provides attractive and efficient access for all concessions throughout the Airport. The Airport operates as “common use” and it includes six baggage carousels, two airline club lounges (American and United), and a federal inspection facility to accommodate international arrivals. In 2022, JWA served more than 11.36 million annual passengers.

The Airport has four parking garages on-site, with 6500 parking spaces, including 51 electric vehicle charging stations. The off-site parking lot includes 1921 spaces, with 10 EV charging stations. Curbside valet is also available in two locations on the Departure Level.

B. SETTLEMENT AGREEMENT BACKGROUND

The 1985 “Settlement Agreement” between the County of Orange, the City of Newport Beach, and two community groups establishes guidelines to which facility and operational improvements can be implemented at JWA.

The 2014 Settlement Agreement Amendment authorizes the Airport to serve up to 11.8 Million Annual Passengers (MAP) through December 31, 2025. Effective January 1, 2026, through December 31, 2030, the Airport will be permitted to serve up to 12.5 MAP. Commercial airline departures at JWA are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 10:00 p.m. Arrivals are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 11:00 p.m.

Please reference the following link for more information on the 1985 Settlement Agreement and associated documents: <https://www.ocair.com/about/administration/settlement-agreement/>

C. PASSENGER STATISTICS

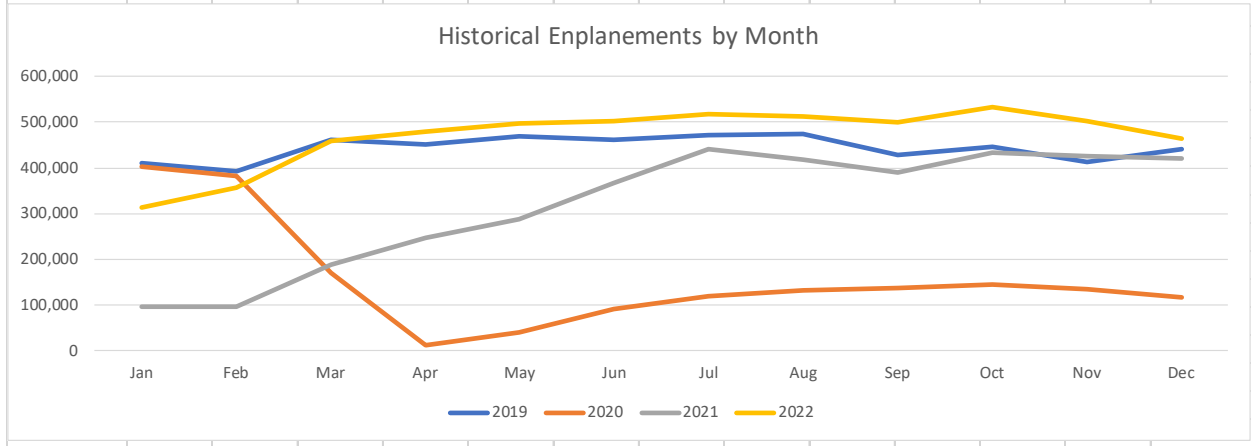
JWA is an origin and destination airport. In calendar year 2022, JWA served more than **11.36 million passengers** to almost **40 direct destinations** within Canada, Mexico, and the United States.

Non-stop Destinations



Monthly Enplanements

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2019	409,972	393,441	462,074	450,680	469,225	460,390	470,962	473,104	428,516	445,258	413,996	440,669	5,318,287
2020	402,291	381,771	171,445	12,633	41,164	90,600	119,946	131,073	136,590	145,149	135,213	115,738	1,883,613
2021	95,256	96,928	189,185	247,596	289,080	366,078	439,645	417,070	389,625	433,153	424,785	420,797	3,809,198
2022	314,300	357,029	458,677	478,347	497,682	502,831	516,843	511,369	498,822	533,481	502,437	463,652	5,635,470



Annual Passenger History and Projection



D. COUNTY OF ORANGE DEMOGRAPHICS

Approximately 32,000 passengers depart and arrive out of JWA daily. The Airport is currently experiencing growth, with passenger counts exceeding pre-COVID levels by 6.3%.

As of the 2020 census, the population of Orange County was 3,186,989, making it the **third-most-populous county in California** and the sixth largest county in the United States by total population. The county's three most-populous cities are Anaheim, Santa Ana, and Irvine. **The average annual household income in Orange County is \$134,610**, while the median household income sits at \$102,756 per year. Residents aged 25 to 44 earn \$107,390, while those between 45 and 64 years old have a median earning of \$118,796.

The County is a legendary tourist destination, with attractions like Disneyland, Knott's Berry Farm, Mission San Juan Capistrano, Modjeska House, Segerstrom Center for the Arts, Yost Theater, Bowers Museum, Balboa Island, Angel Stadium, Downtown Santa Ana, Crystal Cove Historic District, Honda Center, Old Orange County Courthouse, Irvine Ranch Natural Landmarks, and several popular beaches along its more than 40 miles of coastline.

PASSENGER SURVEY RESULTS

JWA recently conducted a passenger survey in August 2022. Historically a biannual assessment, the survey measures traveler preferences and satisfaction with their Airport experience.

The 2022 Passenger Survey results confirm John Wayne Airport continues to earn consistently high approval ratings from travelers, both visitors and residents alike. The findings include:

Focus on Customer Satisfaction

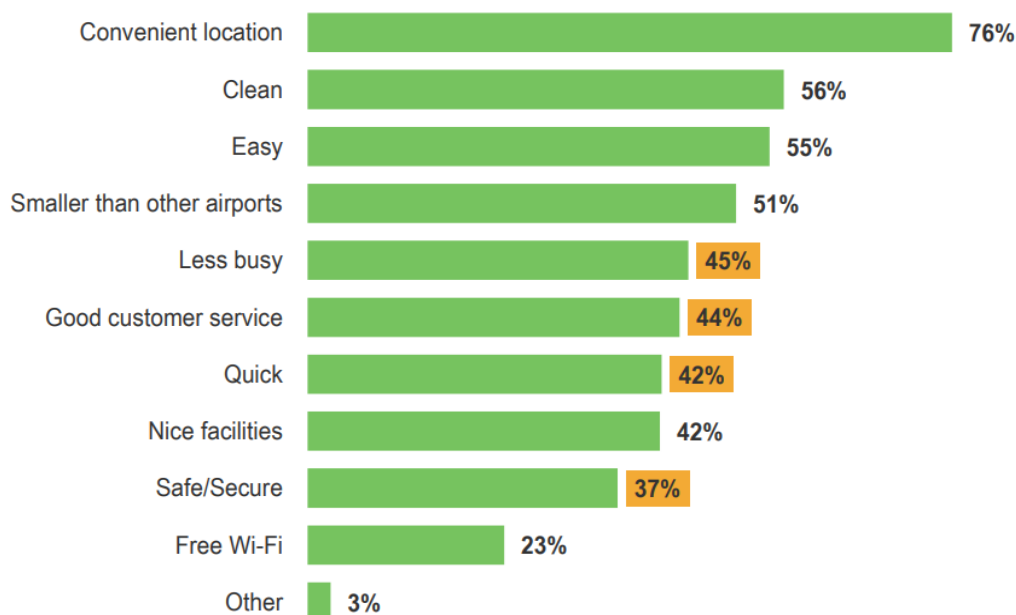
Overall, **73% of on-site passengers rated JWA as 5 out of 5 (on a 5-point scale)**, a significant increase over the 2019 survey results, with 94% rating it a 4 or a 5. With these high customer satisfaction ratings, the gross revenue potential at JWA is an appealing opportunity for business operators.

Convenience Driven

The predominant reason both visitors and residents choose JWA is its **convenient location**, with 76% of residents and 65% of passengers indicating proximity as their primary motivation.



Reasons for High Satisfaction Rating Among Passengers Giving a Positive Rating (4 or 5)



This year's data is compared to data collected in 2019 at the 95% confidence level. Significant differences are indicated by teal (significantly higher) or orange (significantly lower) highlighting

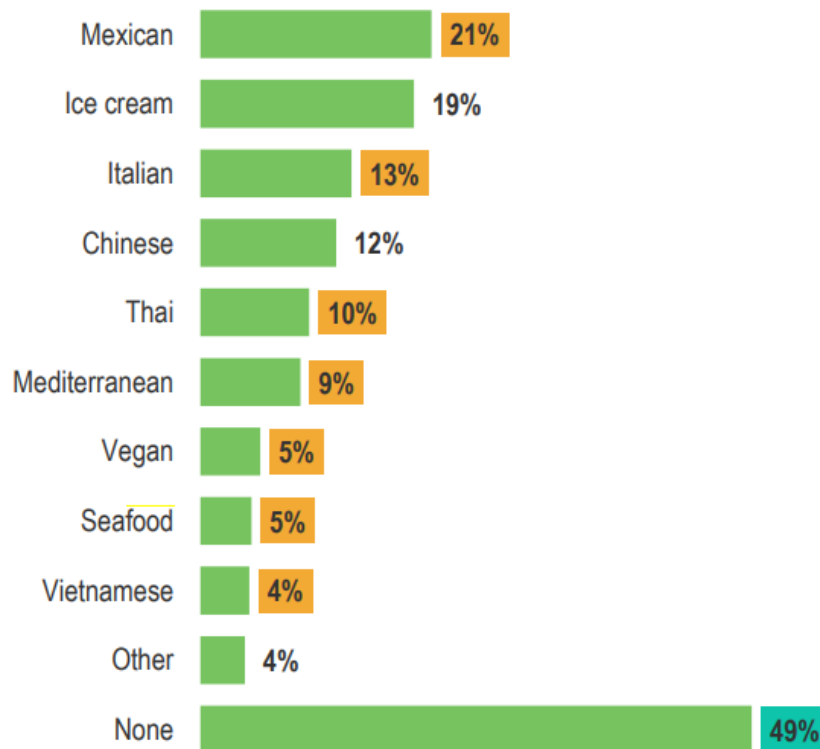
JWA passengers arrive an average 2 hours and 6 minutes before their scheduled flight departure, providing ample time to enjoy shopping and dining amenities within the terminals.

FOOD DESIRED

In a recent passenger survey, **21% of JWA passengers** indicated they **desire more Mexican food** options.



Food Venue Additions Desired Among All Passengers



Shift to Leisure

Travel for pleasure/leisure has increased and is the largest proportion of on-site passengers surveyed, at **55%**. Leisure travel has come back faster and stronger than business travel due to post-COVID-19 conditions. However, it remains to be seen if this is a long-term trend at JWA.

	2019	2022
Sample Size	599	505
Q14: Primary Purpose of Trip		
Business	26%	31%
Pleasure/Leisure	53%	55%
School/Education	1%	4%
Military	0%	0%
Personal	17%	7%
Other	3%	3%

Frequent Travelers

68% of passengers are visitors. The average passenger had flown out of JWA four or more times in the past year.

Q27: Flown out of JWA Past 12 Months (incl. today)		
Average (Mean)	3.0	4.6
1	51%	35%
2	18%	18%
3	10%	13%
4	4%	7%
5	2%	4%
6	4%	4%
7	2%	3%
8	1%	1%
9	1%	1%
10 - 15	4%	5%
16 - 20	1%	3%
Over 20	1%	5%

To view the complete JWA 2022 passenger survey:
<https://www.ocair.com/news/2022/11/18/2022-passenger-survey-results/>

E. CONCESSIONS DEVELOPMENT PROGRAM

On August 27, 2019, the Board awarded Leases for the Phase I Concessions Development Program that consisted of two (2) casual dining/bar locations, one (1) quick-service location, two (2) coffee locations, one (1) acai bowl kiosk, and two (2) specialty retail locations. Phase I is currently under development and concepts will open in Q2-Q3 of 2023. The remaining concession locations are included in this RFP and will consist of the final phase redevelopment of approximately eighty percent (80%) of the CDP.



F. VISION

The final phase CDP will feature food, beverage, and retail options that truly represent the culture and feel of Orange County. Each city within the County exudes its own distinct and unique sense of place. The County expects the food, beverage, and retail options at JWA to embody the unique attributes of Southern California.

G. GOALS AND OBJECTIVES

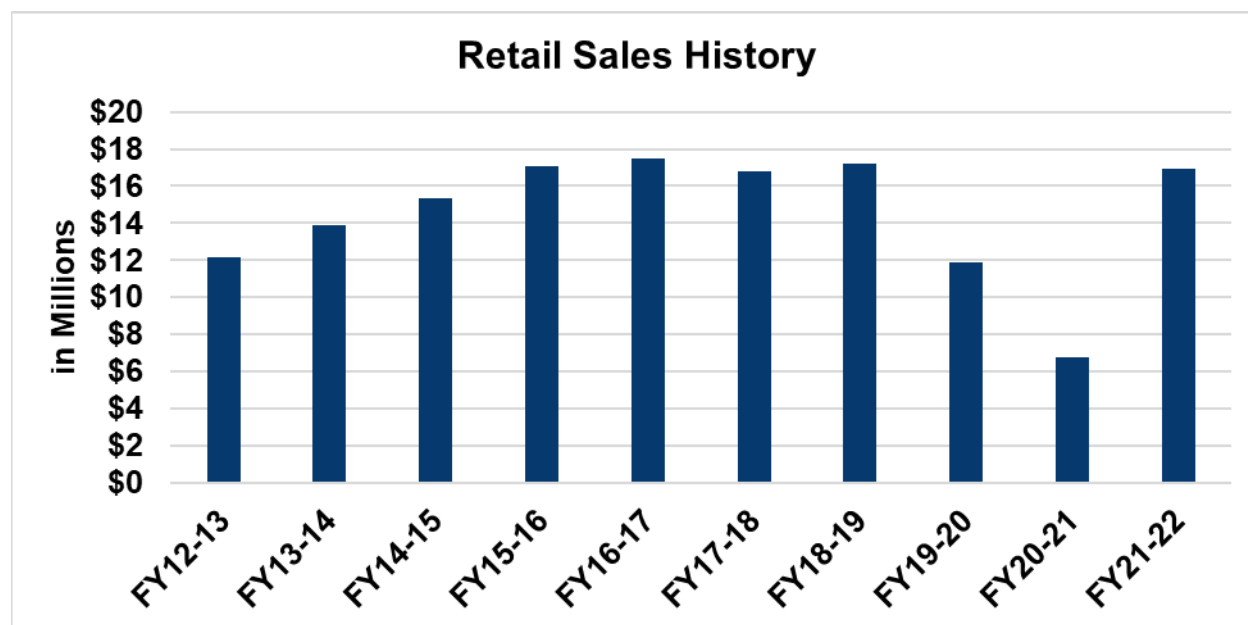
- Establish a sense of place that reflects Orange County
- Create extraordinary experience, quality, and value for guests of the Airport
- Provide new food and beverage options that reflect the evolving tastes and preferences of travelers, including a mix of local, regional, and national brands
- Design and build innovative facilities that complement the existing terminal architecture
- Provide uninterrupted service to the traveling public during all phases of the renovation
- Explore specialty retail concepts that highlight merchandise from the County of Orange and Southern California
- Promote sustainability through design and operational improvements such as biodegradable packaging options, food-waste diversion, and phasing out single-use plastics
- Provide opportunities for small business, local business, veteran-owned small business, and airport concession disadvantaged business enterprises to participate in the program
- Optimize concession sales and Airport revenues
- Provide innovative and cutting-edge technology into the CDP

H. EXISTING INVENTORY AND PERFORMANCE

Current Retail Concessions

Concessionaire	Concept	Location(s)
Hudson	News & Gift and Specialty Retail	CNN (Terminal A - Pre-Security) Hudson News wall (Terminal A) Sunglass Hut/Rip Curl (Terminal A) Orange County Market (Terminal A) Hudson News (Terminal A) Brookstone (Terminal B) OC Marketplace (Terminal C) Tech on the Go (Terminal C) CNN (Terminal C)
Paradies	News & Gift and Specialty Retail	CNBC (Terminal B - Pre-Security) South Coast News (Terminal B) OC TravelMart (Terminal C - Pre-Security) CNBC News wall (Terminal C)
La Boutique	Specialty Retail	La Boutique (Terminal B) (under development) La Boutique (Terminal C) (under development)

Retail Gross Receipts (Fiscal Year is July through June)

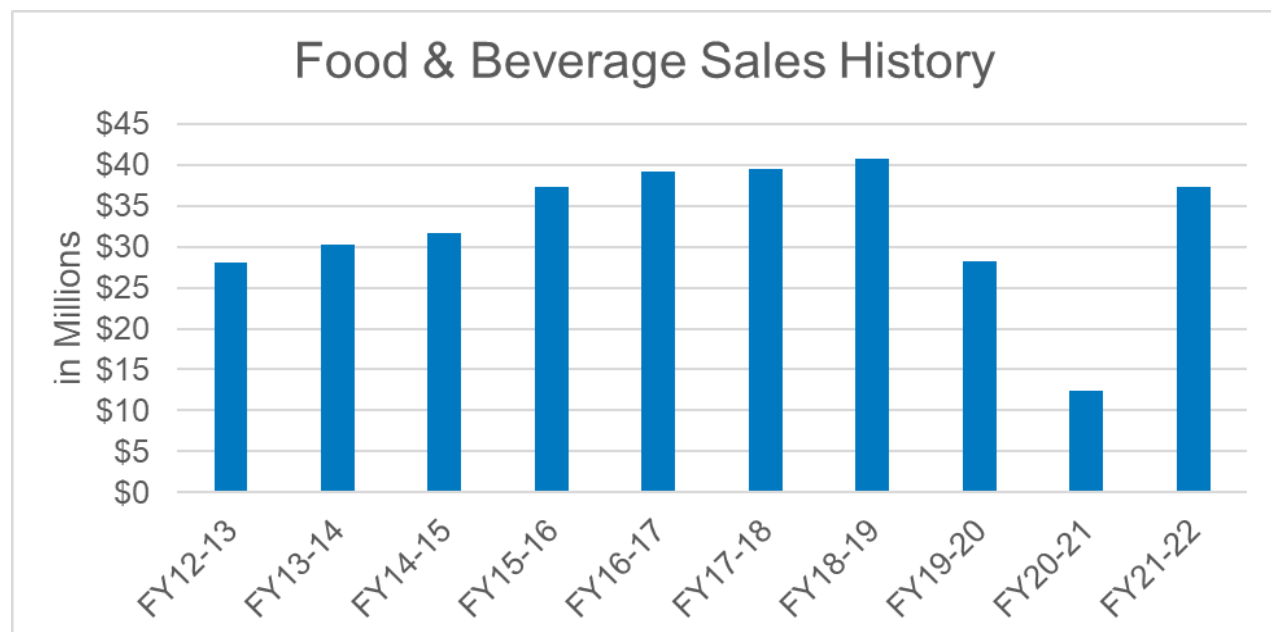


New retail opportunities can reinvigorate revenue growth at JWA. **New concepts highlighting merchandise from Orange County and Southern California will create a fresh retail experience.**

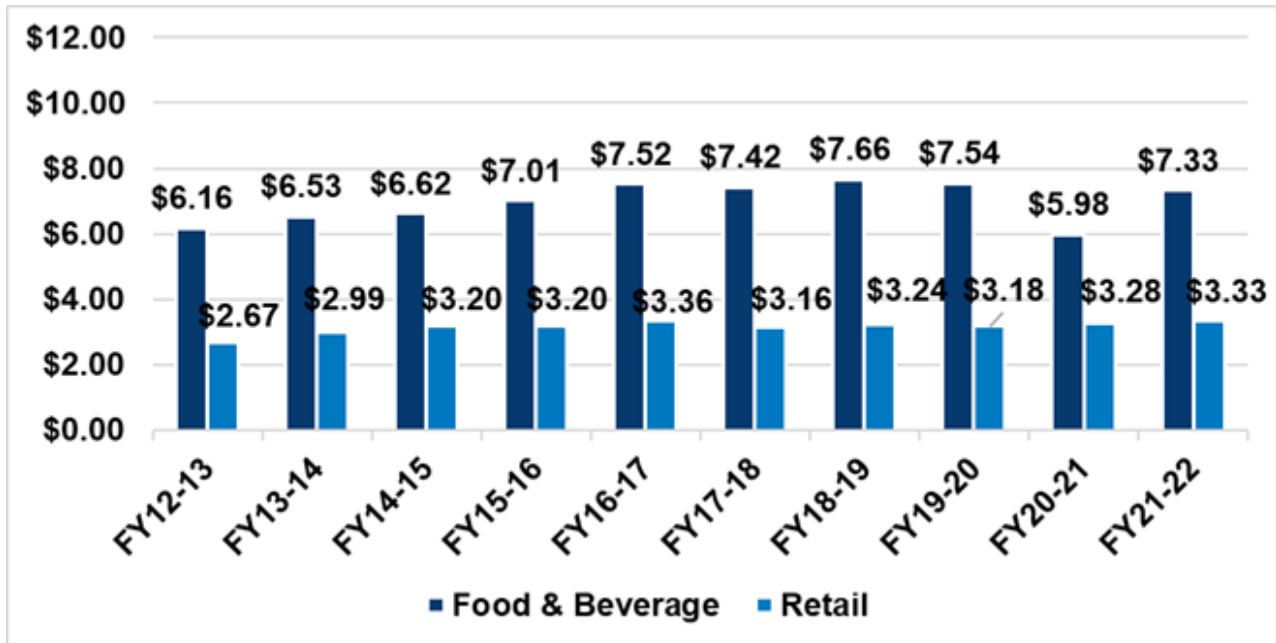
Current Food & Beverage Concessions

Concessionaire	Concept	Location(s)
Host	Primary Food & Beverage	California Pizza Kitchen (Terminal A) Ruby's Diner (Rotated Square) Farmers Market (Rotated Square) Starbucks (Terminal B) Hobie's Sand Bar (Terminal B) Stella Bar (Terminal C) Ciao (Terminal C) Ducks Bar (Terminal C)
Fly Away Foods	Food & Beverage	OC Pizza (Terminal C) Qdoba (Terminal C) Jamba Juice (Terminal C)
McDonald's	Quick Service	Terminal A Terminal B
Vino Volo	Specialty	Terminal B
Carl's Jr.	Quick Service	Terminal C
Brodard	Quick Service	Terminal C (under development)
Mission Yogurt	Casual Dining & Bar	Taps Fish House (Terminal C) (under development) Greenleaf (Terminal A) (under development)
Bambuza	Specialty Coffee/Acai	(2) Coffee Bean & Tea Leaf (Terminal C) Sambazon Acai (Terminal B) (under development)

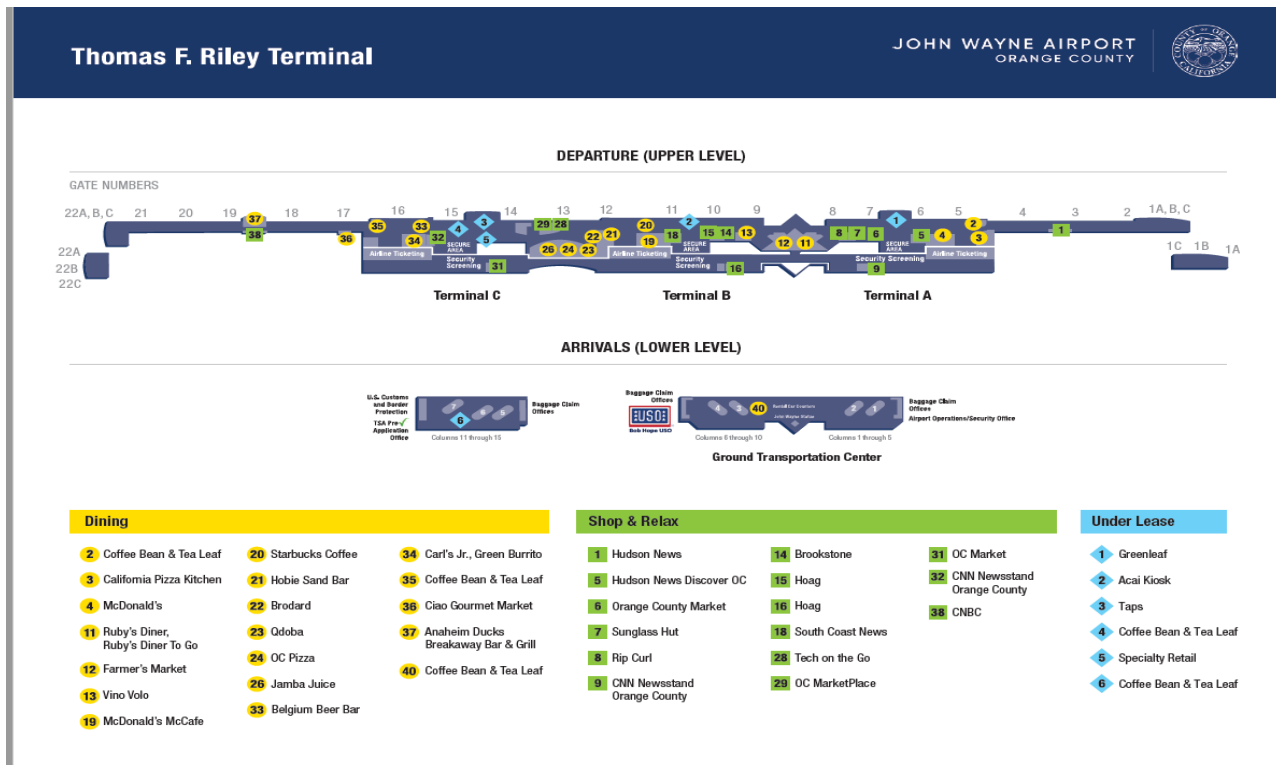
Food & Beverage Gross Receipts (Fiscal Year is July through June)



Historical Sales per Enplaned Passenger



Source: John Wayne Airport Monthly Concession Revenue Report



A passenger can walk all three terminals in less than eight minutes.

I. HOURS OF OPERATION

Commercial airline departures at JWA are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 10:00 p.m. Arrivals are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 11:00 p.m.

Each concession must be open for business not less than sixteen (16) hours per day, seven days per week, or an hour before the first outgoing departure and 30 minutes before the last departure.

Proposers must consider the JWA hours of operation when staffing and when completing their financial pro-forma in response to this RFP, as labor costs will be impacted with lower rates than comparable airports that are open 24-hours per day.

J. DELIVERIES

All concessionaires are required to schedule their deliveries between the hours of 11:00 p.m. to 9:00 a.m., which may be amended from time to time. Due to early morning peak traffic periods, concessionaires must leave the lower roadway clear of large delivery trucks.

PART 3 – PACKAGES AVAILABLE

A. LOCATIONS AND PACKAGES

This RFP provides the opportunity for qualified Proposers to submit Proposals for concepts in four concession package offerings, two (2) Food & Beverage and two (2) Retail. These concession packages consist of approximately 33 units and approximately 36,602 square feet of concession space. Due to size, adjacencies, and customer needs, JWA has established permitted uses for each location to best optimize customer satisfaction and sales potential. The permitted use, rent requirements, square footage of each space, location within the terminals, and utility availability is provided in **Attachment 1**. The final square footage will be re-measured within ninety days of **all locations opening** within the corresponding concession package.

Proposers may submit Proposals on one or more concession packages identified in this RFP. However, a Proposer may only be awarded no more than one (1) Retail Concessions Lease Package and one (1) Food and Beverage Concessions Lease Package total. **If proposing on more than one concession package, the Proposer must submit a separate and complete Proposal for each.**

B. CONCEPT FIT AND SENSE OF PLACE

The final phase of the CDP will feature food, beverage, and retail options that truly represent the culture and feel of Orange County. The 34 cities that comprise Orange County cities are unique, and together, offer a distinct sense of place. The goal of the CDP is to provide food, beverage, and retail options that reflect the diverse attributes of Southern California and Orange County through locally inspired concepts.

The County reserves the right to award locations based on the best fit for the overall Concession Development Program. The County also reserves the right to phase construction as necessary to minimize impacts on the Airport's guests and tenants, including but not limited to, airlines, existing concessionaires, and new concessionaires. The timelines expressed in this RFP are estimates and subject to change. JWA will not be liable to tenants for any circumstances resulting in delayed construction completion.

C. "AS-IS" ACCEPTANCE

TENANTS SHALL ACKNOWLEDGE THAT THEY ACCEPT THE LEASED PREMISES AND ALL APPURTENANCES "AS IS" AND "WHERE IS" AND THAT COUNTY HAS MADE NO REPRESENTATIONS OR WARRANTIES RESPECTING THE SUITABILITY THEREOF FOR PROPOSERS' PURPOSES. Except as specifically provided herein, the County has no obligation whatsoever to repair, maintain, renovate, or otherwise incur any cost or expense with respect to the Leased Premises, or any leasehold improvement or fixtures, furnishings, or equipment installed on or used on the Leased Premises. It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvements and utility conditions, premises encumbrances, conditions of title, metes and bounds, total square footage, and the feasibility of the Proposer's Concession Proposal. It is also each Proposer's sole responsibility, as part of its due diligence, to confirm the size, configuration, and condition of the proposed premises, including, but not limited to, title and environmental conditions. The County makes no representations or warranties as to the accuracy, completeness, or pertinence of any documents referenced in this RFP or otherwise, and, in addition, the County shall not be responsible for any conclusions Proposer may draw therefrom. Proposer assumes all risk when relying on the information provided by the County or any of its employees, contractors, or agents.

D. CONCESSION CONSTRUCTION REQUIREMENTS

JWA's goal is to provide a superior guest experience by setting the highest concession standards and establishing an atmosphere that maximizes the operational and economic performance of all concessions.

Tenants shall construct, equip, and complete concession improvements for the locations specified by this RFP in accordance with JWA Tenant Design Guidelines ("TDG") (version dated 3.27.23), and plans and specifications approved by the County. Tenants will be required to complete their development plans within (6) months of lease award and may be fined for non-compliance. Proposers can access JWA's TDG for this RFP at:

https://files.ocair.com/media/2023-03/JWA%20Tenant%20Design%20Criteria%20Manual_03.27.23.pdf?VersionId=eFltfqcc8K3s_awEqBd.g48WyAtL3gJh

Tenants shall be responsible for all concession interior and exterior finish work, including but not limited to, shelving, counters, and interior design. Tenants shall be responsible for installing utility hook-ups from the point of connection into the leased premises.

Upon award of a concession package, tenants may identify existing equipment in concession spaces that can be reutilized. The list of identified equipment may be submitted to the Deputy Airport Director, Business Development for review and approval. **REUTILIZED EQUIPMENT SHALL BE ACCEPTED BY TENANTS IN AS-IS CONDITION WITH ALL FAULTS AND THE COUNTY DISCLAIMS ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** The maintenance of all equipment shall be the responsibility of the tenant and County shall have no obligation whatsoever to repair, maintain, renovate, or otherwise incur any cost or expense with respect to the same.

E. STORAGE SPACE

Storage space may be available, depending on concessionaire needs, under a separate agreement with the County. Off-site storage facilities may be required and shall be determined after lease award. Cost of storage rent shall be based on the latest rates and charges schedule established by the County. The rate is subject to adjustments twice a year. The current rate, as of January 2023, is \$63.16 per square foot per annum. Proposers are required to identify and submit requested storage space, as part of their Proposal, using **Exhibit E - Proposer Form and Questionnaire**. The Airport will attempt to locate storage space as close to the requested amount as feasible and available.

F. CONCESSION MIDTERM REFURBISHMENT

At the Midterm of the Lease, each tenant shall be required to make a reinvestment for the purpose of keeping technology contemporary and competitive with current concession trends and methods. Refer to **Exhibit H – Draft Lease** for additional information.

PART 4 – PROPOSAL SUBMITTAL REQUIREMENTS

A. MINIMUM QUALIFICATIONS

Unless stated otherwise, Proposal qualifications for both Food & Beverage and Retail concessions are the same.

Proposers must meet the following minimum qualifications to be eligible to participate in this solicitation. If the Proposer is a partnership, joint venture or newly formed entity (e.g. limited liability company or corporation), the minimum qualifications set forth in this section and throughout the RFP must be satisfied by the entity or individual that owns and controls a majority equity (at least 51%) of the partnership, joint venture, or newly formed entity.

- Proposer shall explain in detail and provide evidence of a minimum of three (3) years prior experience within the last five (5) years in the marketing, development, operation, and management of similar business at an airport, other transportation facility, shopping center, mall, or street-side location.
- Proposer must show the ability to finance and undertake the monetary commitments to successfully develop, construct, and operate the proposed development plan. Documents of ability must include:
 - Sum of Proposers i) net working capital, ii) cash flow from existing operations, and iii) demonstrated access to credit of equity from external sources must be greater than the proposed investment in the concessions (including proposed investment common area improvements and tenant/subtenant leasehold improvements).
 - If Proposer is relying on financial resources of a parent entity, joint venture partner, or non-affiliated external source(s), which may include proposed subtenants, then Proposer must submit sufficient (audited) satisfactory documentation as specified herein to show that it meets the minimum financial qualification. Moreover, a corporate guaranty from any such parent entity or external source will be required to ensure Proposer's ability to complete the concessions development plan.
- Proposer shall submit with its Proposal documentation that demonstrates Proposer is duly authorized to conduct business within the State of California and County of Orange.
- Proposers must have the ability to obtain minimum insurance coverage and limits as required with this RFP.
- Proposers must NOT be listed on the California Convicted Vendor List.
- Proposers must NOT be listed on the California Scrutinized List of Prohibited Companies.

B. REQUIRED ITEMS TO BE SUBMITTED WITH PROPOSAL

The following items are required to be submitted and must be tabbed in the order as outlined below. Failure to do so may result in disqualification.

Tab 1 - Proposal Cover Sheet – Exhibit C

Tab 2 - Proposer Checklist – Exhibit D

Tab 3 - Signed and dated Acknowledgement and Approval of Proposal Deposit and Draft Lease Provisions - Exhibit B.

Tab 4 - Proposal Deposit of \$25,000

- Cashier’s check, letter of credit, or wire transfer confirmation page must be included in the “Original” Proposal package(s).

Tab 5 - Cover Letter – to include the following information:

- Name, title, telephone, and email address of the personnel responsible for the primary communication with the County regarding the Proposal.
- Structure of Proposer: Proposer must include a detailed discussion of its legal and ownership structures including providing copies of its organizational documents (i.e., partnership or operating agreement, articles of incorporation or organization, bylaws, or equivalent documents).
- Proposers who include ACDBE participants are required to submit the following information regarding intended participation by ACDBEs.
- **Minimum Qualifications as identified in Part 4 (A):**
 - The names and addresses of ACDBE firms that will participate in the contract.
 - The dollar amount percentage of participation by each named ACDBE firm listed in the Proposal.
 - A description of the work that each ACDBE will perform.
 - Proof of ACDBE certification for all ACDBE firms listed in the Proposal at the time of submission. ACDBEs must be certified by a certifying agency under the California Unified Certification Program (CUCP) with the appropriate NAICS code for their type of business. To be certified, ACDBE firms must meet eligibility criteria as established by 49 CFR Part 23.
 - If the Proposer is a Joint Venture (JV), as defined in 49 CFR Part 23, Section 23.3, the Proposer must provide the following:
 - A copy of the proposed JV Agreement, subject to review and approval by JWA, prior to lease execution, and must be in compliance with JV guidance as issued by the FAA and as it may be amended in the future.
 - A copy of any loan agreement from the non-ACDBE partner to the ACDBE partner that has or will be used in connection with this opportunity.
 - Each party to the JV must be identified and the roles that each will have in the development and/or operation of the Project must be described.
 - A letter of agreement to participate in the JV as well as the percentage of participation must be submitted from each JV partner.

- The Proposer must represent and warrant that (i) Proposer has the power and authority to execute and deliver the Proposal, and (ii) the Proposal has been duly and validly executed and is a legal, valid, and binding obligation of Proposer. ACDBE certifications also must be provided.
- A summary of the Proposal, including the services intended to be offered and how the existing facilities will be utilized during the planning and development of the new Concession Development Program. Include a description of the Proposer’s brand or company and how association with that brand would benefit the Airport and its users.
- A statement of Proposer’s mission, vision, and values.
- A statement indicating Proposer’s clear understanding of this RFP and a statement as to whether Proposer and/or Proposer’s partners, subcontractor(s), joint venture associates, or any other individual or entity of Proposer’s team has any potential conflicts that may arise in the performance of the services requested in this RFP, performing the work, or operating the concession development program contemplated within this RFP.

Tab 6 - Proposed Concept(s) and Executive Summary

A summary to include the below:

- The Spirit of the County of Orange – Sense of Place
 - Reflective of the unique attributes of Southern California - its environment, culture, diversity, and historical attributes which travelers recognize and appreciate
 - Reflective of the flavor of the Orange County/SoCal region through iconic businesses
 - Identifying opportunities for the sourcing and/or sale of manufactured or agricultural products with strong ties to the Orange County/So Cal region
 - **Proposers shall not be awarded additional points based on the geographic location of their firm** (*Pursuant to 49 CFR Part 23 §23.79, JWA cannot use a “local geographic preference” that gives an ACDBE located in Orange County an advantage over ACDBEs from other geographical areas.)
- Brands and Concepts
 - Proposed concepts appeal to passengers
 - Provides a wide variety of merchandise and price points
 - Capital Investment by location
- Interior and exterior design with renderings and floor plan layouts
- Use of emerging and innovative technology
- On-going methodologies for staying current with market trends

Tab 7 - Business Plan, Design Intention and Capital Investment

- Financial Compensation Proposal
 - Pro Forma Development (**Exhibit F - Pro Forma Template**)
 - Include Key Assumptions
 - Merchandise List/Menu per location with prices compliant with Pricing Policy
 - List of specific merchandise offerings and items for each concept.

* County understands that there will be some product overlap at stores within the terminals. The County desires to minimize this in order to maintain a healthy sales environment for all concessionaires while providing first-class shopping and dining to Airport guests.

The Airport reserves the right to restrict or prohibit the sale of those items which, in the opinion of the Airport, are not in the public interest, or which might compete unfairly with other terminal concessions. The lease shall prohibit each tenant from conducting or permitting, any public or private nuisance in, on, or from the leased premises. The lease shall also prohibit each tenant from committing or permitting any waste in, on or from the leased premises.

- Financial Capability
 - Fund continuing operations
 - Net worth to successfully perform the business operations
 - Historical Financial Information
- Description of Proposed Design
 - Overall appeal and quality of design
 - Renderings depicting the front elevation, signage, floor plan and interior design intent.
 - Photographs of existing similar facilities along with a discussion of the design intent for JWA are acceptable
 - One original set of three 11x17 foam boards depicting the design, materials, and concept for each location with colored copies in the RFP binder.
 - Design supports the proposed brand/concept, and an incorporated strong merchandising strategy
- Capital Investment Plan
 - Capital capacity
 - Sources of funding

Tab 8 - Management Experience

- Company Background & Experience
- Organization/Staffing Chart showing reporting structure, management/operating committees (if applicable), names of owners, partners, management, supervisors, and staff
- Degree of relevant experience in operating in a non-traditional environment, if applicable (i.e., airports, malls, stadiums/sports venues, universities, etc.)
- Number of years of proposer's relevant experience with proposed concept(s) or a similar concept(s)
- ACDBE Plan (if applicable)
 - Development of ACDBE partners
 - Management of ACDBE partnerships

Tab 9 – Sustainability

- Sustainability Plan
 - Environmental/Recycling Plan

- Demonstrate and provide a sustainable design to CalGreen Tier I (**Exhibit J**)
- Ties to the community
- Biodegradable packaging options
- Food waste diversion plan

Tab 10 - Operations Plan, Customer Service, Employee Retention

- Phasing and Temporary Program
 - Identify how phasing will minimally interrupt service operations
 - Provide interim revenue plan during construction
 - Identify what opportunities are available for temporary/kiosk offerings during construction
 - Identify the phasing of construction and opening schedule for each concept, providing minimal disruption
- Staffing Plan
 - Provide staffing levels and schedules
 - Identify on-site general manager, regional manager, and other key management/culinary staff experience
 - Support of the operations from corporate headquarters
- Logistics & Maintenance Plan
 - Store standards such as cleanliness of the location and orderly display of merchandise
 - Store maintenance plan, repair, and on-going upkeep
 - Merchandise replenishment and inventory logistics and control
 - Concept specific quality assurance procedures and product or service guarantees
- Disaster Minimization Plan
- Customer Service Plan
 - Customer service standards and training
 - Customer service assurance procedures and guarantees
- Customer Communication and Product Offering Plan
 - Staying current with market trends for products and/or services
 - Achieving sales growth through marketing and promotion
- Staffing and Employee Plan
 - Employee Retention Plan
 - Training programs
 - Employee recruiting plan (including hiring from existing labor pool)
 - Employee standards and expectations

Tab 11 - Required Forms

- Proposer Form and Questionnaire – **Exhibit E**
- Pro-Forma Template – **Exhibit F**
- Financial Viability Form – **Exhibit G**
- Levine Act Disclosure Form – **Exhibit I**

- **Packages and Locations – Attachment 1**

Proposers are solely and independently responsible for reviewing and understanding the various documents, regulations, and approvals relevant to the CDP, and should not rely solely on the summaries set forth herein.

PART 5 – BUSINESS TERMS

A. LEASE TERMINOLOGY – ALL PACKAGES

USE

Operation of a concession as proposed, for the sale of a particular type of food, beverages, products, or services incidental to said concession.

OR

Operation of a retail concession as proposed, for the sale of particular retail products, including merchandise or services incidental to said concession.

LEASED PREMISES

Food and Beverage concession consisting of approximately _____ sq. ft. located in Terminal ___ as proposed, and storage space in an amount and location to be determined in the storage area in the arrivals level in Terminal ___ at John Wayne Airport.

OR

Retail concession consisting of approximately _____ sq. ft. located in Terminal ___ as proposed, and storage space in an amount and location to be determined in the storage area in the arrivals level in Terminal ___ at John Wayne Airport.

TERM

Fifteen (15) years commencing upon the Term Commencement Date.

RENT

Pursuant to Section IV of the Model Lease, the tenant shall pay monthly 1/12th of the Base Rent of \$75 per sq. ft. per annum or Percentage Rent, whichever is greater. The tenant shall report final adjusted sales in arrears on the 15th of the month along with payment of Base Rent or Percentage Rent, whichever is higher. The Percentage Rent will be tiered based on gross receipts.

If at any time during the Term there is a severe decline in enplanements for three consecutive months, as compared to same time period in the previous year, then Tenant shall provide notice to the Airport Director, and at the Airport Director's discretion and upon approval of the Board of Supervisors, Concession Space Rent may be temporarily suspended or reduced. The Airport Director shall have the sole discretion as to whether there exists a severe decline in enplanements.

RENT REVISION

The Base Rent shall be adjusted annually by the Consumer Price Index (CPI) of the annual rent paid for the preceding accounting year, whichever is greater. In no case shall the Base Rent be reduced by reason of such adjustment.

PRICING POLICY

JWA's pricing policy is, **PRICING MUST NOT EXCEED STREET PRICES PLUS FIFTEEN PERCENT (15%)**. This means, prices of items for sale shall not exceed one hundred and fifteen percent (115%) of prices comparable items found in other locations of the Orange County area.

EMPLOYEE RETENTION

The County of Orange is dedicated to exceptional customer service and will require the Successful Proposer to operate concessions in an efficient, customer friendly, well-run manner to meet the needs of customers. Existing concession employees who have worked at JWA have developed invaluable knowledge and experience regarding JWA concession operations and the professional handling of conditions specific to an airport, such as sudden influxes of customers during peak periods of the day, changes in airline schedules, customer service, etc.

If replacing an existing concession, the new Tenant shall make every effort to hire and train the previous concession employees subject to the Tenant hiring policies and procedures.

TENANT MARKETING FUND

The County has established a marketing fund for the Airport to conduct sales promotions, Airport-wide advertising, and related activities intended to promote the Airport and its tenants. concessionaire shall pay to County an amount equal to 0.5% of the previous month's gross receipts concurrently with the rent payment.

AMERICANS WITH DISABILITIES ACT ("ADA")

Tenant must comply with all ADA requirements. Tenant shall be responsible to be aware of and comply with the applicable ADA requirements. Tenant shall be required to develop a work plan to correct or avoid any violations or non-compliance with the ADA, and to address the processing of ADA complaints.

TITLE VI SOLICITATION NOTICE

JWA, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all Proposers that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

PART 6 – AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION REQUIREMENTS

A. REQUIREMENTS OF 49 CFR PART 23, PARTICIPATION OF DISADVANTAGED BUSINESS ENTERPRISE IN AIRPORT CONCESSIONS

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation (“DOT”), apply to this concession opportunity. JWA’s policy is to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit Proposals. Award of the concession packages will be conditioned upon satisfying the requirements of this Proposal specification. These requirements apply to all concession’s firms and suppliers, including those who qualify as an ACDBE.

B. POLICY

JWA has established an ACDBE program in accordance with DOT regulations 49 CFR Part 23. JWA is a primary Airport and has received federal funds authorized for Airport development after January 1988 (authorized under Title 49 of the United States Code). JWA has signed Airport Sponsor Grant Assurances agreeing that it will comply with 49 CFR Part 23.

JWA’s policy is to ensure that ACDBEs, as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. JWA’s policy is also:

- To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance
- To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions
- To ensure that our ACDBE program is narrowly tailored in accordance with applicable law
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs at our Airport
- To help remove barriers to the participation of ACDBEs in opportunities for concessions at the Airport; and
- To provide appropriate flexibility to our Airport in establishing and providing opportunities for ACDBEs.

JWA’s full ACDBE Program is posted at the following webpage:
<https://www.ocair.com/business/business-opportunities/dbe-acdbe/airport-concessions-disadvantaged-business-enterprise/>

C. ACDBE GOAL

JWA has not established ACDBE concession-specific goals for this opportunity but has established an overall race-neutral goal of 27.7% for terminal concessions, excluding car rental, during federal fiscal years 2021 through 2023 (October 1, 2020 – September 30, 2023).

JWA's goal encourages participation by firms owned and controlled by socially and economically disadvantaged persons. The overall goal applicable to future periods will be posted at the following location when available:

<https://www.ocair.com/business/business-opportunities/dbe-acdbe/airport-concessions-disadvantaged-business-enterprise/>

D. ACDBE CERTIFICATION

For purposes of the ACDBE Program, an ACDBE is defined as a for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. There are several other eligibility criteria to be certified as an ACDBE. To apply for certification as an ACDBE, a firm must meet the eligibility requirements set forth in 49 CFR Part 23.

Firms wishing to be certified as an ACDBE and are not currently certified by an ACDBE certifying agency in California, must complete a certification application. To learn more about becoming ACDBE certified, visit the Caltrans website at <https://dot.ca.gov/programs/civil-rights/dbe-certification-information>

Please allow sufficient time for the processing of the Certification Application. You can contact the appropriate certifying agency to determine the length of time required for processing. A roster of certifying agencies in California, including ACDBE certifying agencies, is available on the Caltrans website at the following link: <https://dot.ca.gov/-/media/dot-media/programs/civil-rights/documents/dbe/cucp-roster-of-certifying-agencies-1-2021-a11y.pdf>

To obtain additional information about the federal ACDBE program, visit the Federal Aviation Administration (FAA) website at: https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/

E. PROPOSAL REQUIREMENTS

Proposers who include ACDBE participants are required to submit information regarding intended participation by ACDBE's as stated in Part 4, Section B.

F. REPORTING REQUIREMENTS AND COMPLIANCE

A successful Proposer shall provide all information and reports required by the Airport and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Airport to be pertinent to ascertain compliance with the regulations or directives.

PART 7 – PRE-PROPOSAL TOUR AND COMMUNICATION

A. PRE-PROPOSAL TOUR

The Pre-Proposal Tour is scheduled for April 12, 2023

County of Orange/John Wayne Airport
18601 Airport Way, Santa Ana, CA 92707 – JWA Administrative Offices

The Pre-Proposal tour of the CDP sites will start promptly at 1:00 pm and is expected to take approximately 1 to 2 hours. For participation on the Pre-Proposal tour, R.S.V.P. is required.

pan

Please Register through Survey Monkey at:

<https://forms.office.com/Pages/ResponsePage.aspx?id=VppE5D3NukCuMiWmPegrO2ARnXmE61ZGqNlixAVwGnxUOVlyRFVPWktDSFM3Qlc5TE5SQUNEUI1NFRS4u>

PROPOSERS ARE NOT REQUIRED TO ATTEND THE PRE-PROPOSAL TOUR, BUT THOSE PLANNING TO SUBMIT PROPOSALS ARE ENCOURAGED TO ATTEND. THIS WILL OCCUR ONE TIME ONLY AND THE AIRPORT WILL NOT SCHEDULE INDIVIDUAL MEETINGS OR AIRPORT TOURS.

B. COMMUNICATION

All questions related to this RFP must be submitted through Periscope (www.periscopeholdings.com/s2g). For Periscope assistance, please contact the Vendor Support Team at 800-990-9339, Option 1.

Proposers shall not directly contact Airport staff with any questions or clarifications concerning this RFP. Any such action could lead to disqualification of a Proposer from the RFP process.

The Deputy Airport Director, Business Development, will provide all official communication concerning this RFP. With respect to this RFP, any County response other than a written response from the Deputy Airport Director, Business Development, will be deemed unauthorized and the County shall bear no responsibility for any reliance upon unauthorized communication.

Addenda to the RFP, if necessary, will be posted on Periscopeholdings.com. Proposers are responsible to comply with all posted addenda.

PART 8 – PROPOSER SUBMITTAL INSTRUCTIONS

A. GENERAL INFORMATION

Please read the following instructions and "Proposer Checklist" carefully and check your Proposal concession package immediately upon downloading from Periscope to ensure that you have in your possession all the necessary documents. The information presented in this RFP is provided solely for the convenience of Proposers and other interested parties. It is the responsibility of the Proposer and interested parties to assure themselves that the information contained in the concession package is accurate and complete. The County and its advisors provide no assurances pertaining to the accuracy of the data in the RFP.

All Proposal documents and supplementary material or information submitted to the County shall become the property of the County. All costs associated with the preparation and submission of any Proposal shall be borne entirely by the Proposer. When the Evaluation Panel's scores have been completed and published, the County will make Proposer's Questionnaire, conceptual renderings, and layouts available to the public. Upon award, all documents submitted in connection with this RFP may be subject to public disclosure pursuant to the California Public Records Act (Cal. Gov. Code § 6250 *et seq.*).

The Proposer must identify, in writing, all copyrighted material, trade secrets, or other proprietary information that Proposer claims is exempt from disclosure pursuant to the Public Records Act. **The Proposer who claims such an exemption must also state in the Proposal, executed by a signatory authorized to so bind the Proposer that, "The Proposer agrees to indemnify, defend with counsel approved in writing by County, and hold the County, its elected and appointed officials, officers, employees, and agents harmless from any and all claims, demands, or liability of any kind or nature arising from County's refusal to disclose to any party any records Proposer has identified as copyrighted, trade secret, or other proprietary information."**

Pursuant to California Government Section 25536, the County reserves the right to award Concessions Lease(s) for specific site locations to the Proposers it deems qualified regardless of the Evaluation Panel's recommendation, to reject any or all Proposals, to cause re-soliciting of the Proposals, or to take such other course of action as the County deems appropriate at its sole and absolute discretion.

B. PROPOSAL DEPOSIT

Each Proposer's "Original" Proposal must be accompanied by a deposit in the amount of Twenty-Five Thousand Dollars (\$25,000.00), in the form of a cashier's check made payable to the County of Orange/John Wayne Airport, a letter of credit, in a form approved by John Wayne Airport, or through a wire transfer of funds to the County of Orange/John Wayne Airport, must be submitted in a sealed envelope. For wiring instructions, please contact JWA Accounting via e-mail at AccountsReceivable@ocair.com. The \$25,000 cashier's check, letter of credit, or wire fund confirmation must accompany each Proposal, or the Proposal will be rejected.

Deposits submitted by unsuccessful Proposers will be returned within thirty (30) days after execution of all Concessions Leases, or after all Proposals are rejected.

The proposal deposit of a successful Proposer shall be refunded within thirty (30) days after submittal of the security deposit and proof of insurance required by the Concessions Lease. Successful Proposer agrees, should they fail to submit the required security deposit or insurance within thirty (30) days of full execution of the Lease, the Lease shall be terminated, and the proposal deposit shall be retained by the County as liquidated damages for the Proposer's breach.

Pursuant to Government Code Section 25536, the Board may thereafter award such Lease to another Proposer, solicit new Proposals, or take such other action as the Board deems appropriate in its absolute and sole discretion.

C. FORMAT REQUIREMENTS

Nonresponsive or Late Proposals: Proposals not submitted in the manner described herein may be considered nonresponsive and subject to rejection. Late Proposals shall be rejected and returned to the Proposer.

This deadline is ABSOLUTE. All Proposals received after the due date and time shall not be considered.

Proposers must select a method of delivery that ensures Proposals will be delivered to the correct location before the due date and time.

Page Limit: Proposals shall not exceed **one-hundred (100) two-sided pages**, excluding front and back covers, section dividers, financial statements, Conceptual Development Plans, training and operating plans, foam boards, required forms, and table of contents. Proposals should be prepared in a concise manner that clearly responds without embellishment to the information requested in this RFP. **Any additional pages will be discarded and will not be reviewed.**

Format: Proposals must be typewritten in Times New Roman 12-point font on white 8½" x 11" paper (except as noted below for 11" x 17" plans) in portrait format and be unbound. White three-ring binders with clear covers are required and must include Proposer's information inserted in the cover and each section tabbed. All pages of the Proposal are to be numbered for ease of review by the Evaluation Panel.

Format for conceptual renderings, layouts, and material boards:

- All foam boards must be 11" x 17" in size.
- Color/sample boards with material legend identifying all items and their locations (for both interior and exterior finishes).
- All of the above items are required to be color copied onto 11" x 17" paper and inserted into each Proposal package consisting of eight (8) complete sets (see below). The color copies onto 11" x 17" paper are included in the page count.

D. SUBMISSION OF PROPOSALS VIA SEALED PACKAGE

Proposers must submit their Proposals in sealed packaging as described below.

Number of Proposals: **Eight (8)** full sets of your written Proposal, **one (1)** original clearly marked “Original” with original ink signatures, **seven (7)** copies and **eight (8)** USB flash drives containing files in PDF file format along with Proposer’s deposit.

Additionally, Proposers must submit **four (4) complete half size hard copy sets (18” x 24”)** and **four (4) USB flash drives with PDFs** of Conceptual Development Facility Plans prepared by a California licensed architect and/or engineer (“A/E”) fully depicting the Proposer’s proposed development.

All Proposals must be delivered and received before the time and date shown below:

Proposal Due Date and Time: July 17, 2023, by 4:00 p.m. PST

Address: Proposers must submit Proposals to the following address:

County of Orange/John Wayne Airport
Eddie Martin Administration Building
Deputy Airport Director, BD – Concession Proposal
3160 Airway Avenue
Costa Mesa, CA 92626

Packaging and Identification: Proposer shall submit its Proposal in a sealed package and shall write/type the following identification information on the outermost portion of the sealed package:

SEALED PROPOSAL
County of Orange/John Wayne Airport
Eddie Martin Administration Building
Deputy Airport Director, BD – Concession RFP
3160 Airway Avenue
Costa Mesa, CA 92626

PART 9 – EVALUATION PROCESS

This RFP process will allow a slate of qualified Proposals to be submitted to the Board that best meet the Airport's goals and objectives. The evaluation process will consist of two parts:

1. Determination of Responsive Proposals (using Proposal compliance to determine responsiveness of Proposals)
2. Panel Evaluation of Responsive Proposals (using scoring criteria)

The County reserves the right to reject a Proposal as nonresponsive based upon a review of Proposer's experience and financial qualifications. The County further reserves the right to conduct an investigation of information submitted, to seek publicly available information about the Proposer and its development team, and to request additional information with regard to Proposer's experience and financial qualifications.

A. EVALUATION PANEL

An Evaluation Panel established by the County will evaluate and score Proposals in accordance with the evaluation criteria outlined below. The Evaluation Panel may consist of members from within or outside the County. The Evaluation Panel will provide a slate of recommended Proposals to the Board for consideration and selection. The Evaluation Panel's recommendation shall not be binding upon the Board. The Board will exercise its sole discretion when selecting and awarding its preferred concession operators.

PART 10 - EVALUATION CRITERIA

Each area of the Proposal will be subject to evaluation. Proposals will be assessed according to the following criteria:

A. PROPOSAL COMPLIANCE

The County will screen all Proposals to ensure compliance with the RFP's requirements. Proposers will be notified in writing of Proposals not meeting the minimum qualifications set forth in this RFP and will be disqualified from further consideration.

Proposer must complete and submit for each concession package Proposal: (1) a signed Proposal including Proposer's deposit; (2) a Proposer's Questionnaire; and (3) all required documents as identified on the Proposer Checklist. Proposer must review the Proposal submittal instructions and submit all required sets of documents as specified in this RFP.

If proposing on more than one concession package, the Proposer must submit a separate and complete Proposal for each.

Selected Proposers will be awarded no more than one (1) Retail Concessions Lease Package and one (1) Food & Beverage Concessions Lease Package each.

The minimum qualifications for Proposals are as follows:

- Completeness of Proposal against RFP Requirements, including submittal of all required documents.
- Conformance to specific requirements set forth in this RFP.
- Documentation of Minimum Experience and Financial Capability of Proposer.
- Completed Proposer Checklist, initialed and dated (Exhibit D).
- Demonstration of Proposer's ability to incorporate CALGreen Tier 1 certification development into its project (Exhibit J).
- A signed statement, attached as **Exhibit B**, that Proposer has read **Exhibit H - Draft Lease** and takes no exception to the language therein. Throughout the RFP process and upon selection by the Board, minor modifications to the Lease that do not materially alter the terms or financial obligations to the County can be made. Following award to the successful Proposer by the Board, but prior to Lease Commencement, the County must receive all items required by the Lease including the required security deposit and evidence of insurance.

B. SCORING PHASE

The Evaluation Panel will score Proposals and provide a slate of recommended Proposers to the Board using the criteria outlined below.

PANEL RATING CRITERIA FOR PROPOSALS

Category	Points
Minimum Qualifications	Pass/Fail
Proposed Concepts/Executive Summary	350
Business Plan, Design Intention and Capital Investment	200
Management Experience	150
Sustainability	75
Operations Plan, Customer Service, Employee Retention	125
Question and Answer Panel Review • 5 pre-set questions on the above categories	100
Total	1,000

C. PANEL ORAL INTERVIEW OF PROPOSER

JWA will require all qualified Proposers to participate in a structured oral interview as part of the rating criteria and, if the Panel requests, the interviews will be used for further clarification of the written Proposals. The structured oral interview will include the same questions for each interviewee. **There will be no presentation permitted during the oral interview.** Proposers shall be ready to attend the Oral Interview within five (5) business days of notification.

D. PROPOSER SELECTION FOR RECOMMENDATION TO THE COUNTY OF ORANGE BOARD OF SUPERVISORS

Once the Evaluation Panel completes its review of the Proposals, the Airport will present its recommended slate of Proposers to the Board for consideration and selection.

The County reserves the right to award Concessions Lease(s) for specific site locations to the Proposers it deems qualified regardless of the Evaluation Panel's recommendation, to reject any or all Proposals, to cause re-soliciting of the Proposals, or to take such other course of action as the County deems appropriate at its sole and absolute discretion.

Although not intended to be an exhaustive list of causes for disqualification, any one or more of the following will be considered sufficient for the disqualification of a Proposer and the rejection of the Proposal:

- Evidence of collusion among Proposers.
- Incomplete or late submittals of Proposals or other requested information.
- Submittal of Proposal in a format or order other than required.
- Non-submittal of Proposer's deposit, or submittal in a form other than cashier's check, letter of credit, or confirmation of wire transfer to the County of Orange/John Wayne Airport.
- Insufficient evidence of business skills or financial resources necessary to successfully operate and manage a concession as revealed by either financial statements or experience.
- Insufficient evidence of experience as shown by past work, references, or other factors.
- Default or termination of other contracts or agreements.
- Omission, inaccuracy, misstatement, or failure to submit any portion of the Proposal and signed Acknowledgement and Approval of Proposal Deposit and Draft Lease Provisions in the Proposal.
- Documents and information submitted with Request for Proposal that do not match or support the information submitted during the Request for Qualification process.
- Other causes as the County deems appropriate at the County's sole and absolute discretion.

The Airport will determine whether to recommend a Proposal for selection based on the information furnished as well as other sources determined to be relevant by the County. An award will not be made until after any such investigation, as deemed necessary, is made by the County regarding the experience and financial responsibility of the Proposer. By submitting a Proposal, each Proposer consents to permit such an investigation by the County. The Evaluation Panel's recommendation will be advisory to the Board. The County intends to award each concessions lease package to the most qualified and responsible Proposer.

NOTE: Please notify your business references, in writing, that Airport staff will be contacting them concerning the financial and experience information furnished with your Proposal.

The selection and recommendation of award shall be in accordance with the following process:

- For each of the concession packages, using the scoring criteria above, a slate of Proposals and their corresponding scores will be recommended to the Board for consideration.
- The Airport reserves the right to recommend award based the best needs of the Airport, including preferred site location. In addition, the Board may decide to offer Proposer a different concession package than the one requested in a Proposal.

PART 11 - PROTEST POLICY

A. PROTEST PROCESS

Any actual or prospective Proposer who alleges a grievance with regard to the solicitation of Proposals or proposed award of a lease may submit a protest to the Deputy Airport Director, Business Development.

All protests shall be typed under the protester's letterhead and submitted in accordance with the provisions stated herein. All protests shall include at a minimum the following information:

- The name, address and telephone number of the protester
- The signature of the protester or the protester's representative
- The solicitation or contract number
- A detailed statement of the legal and/or factual grounds for the protest; and
- The form of relief requested.

B. PROTEST OF PROPOSAL SPECIFICATIONS

All protests related to Proposal specifications must be submitted to the Deputy Airport Director, Business Development no later than five (5) business days after the close of the Questions & Answer period. Protests received after the five (5) business day deadline will not be considered by the County.

In the event the protest of specifications is denied, and the protester wishes to continue in the solicitation process, they must still submit a Proposal prior to the close of the solicitation in accordance with the Proposal submittal procedures provided herein.

C. PROTEST OF PROPOSED AWARD OF LEASE

In protests related to the proposed award of a lease, the protest must be submitted no later than five (5) business days after the notice of the proposed award is provided by the Deputy Airport Director, Business Development. Protests relating to a proposed award which are received after the five (5) business day deadline will not be considered by the County.

Protest Process

- In the event of a timely protest, the County shall not proceed with the solicitation or award of the lease until the Deputy Airport Director, Business Development renders a decision on the protest.
- Upon receipt of a timely protest, the Deputy Airport Director, Business Development will, within five (5) business days of the receipt of the protest, issue a decision in writing which shall state the reasons for the actions taken.

Appeal Process

- If the protester disagrees with the decision of the Deputy Airport Director, Business Development, the protestor may submit a written appeal to the Assistant Airport Director.
- Within ten (10) business days, the Assistant Airport Director will review all materials in connection with the protest, assess the merits of the protest, and provide a written determination that shall contain their decision on whether the protest shall be forwarded to the Airport Director.
- If the protester wishes to appeal the decision of the Assistant Airport Director, the protester must submit, within three (3) business days from receipt of the Assistant Airport Director's decision, a written appeal to the Assistant Airport Director requesting a review by the Airport Director.
- The decision of the Assistant Airport Director on whether to allow the appeal to go forward to the Airport Director will be final and there shall be no right to administrative appeal of this decision.
- If an appeal reaches the Airport Director, the Airport Director's decision will constitute the final administrative determination with respect to the protest.

EXHIBITS AND FORMS

Attachment 1 – Packages and Locations

Exhibit A – Map

Exhibit B – Acknowledgement of Proposal Deposit and Approval of Draft Lease Provisions

Exhibit C – Proposal Cover Sheet

Exhibit D – Proposer Checklist

Exhibit E – Proposer Form and Questionnaire

Exhibit F – Pro Forma Template

Exhibit G – Financial Viability Form

Exhibit H – Draft Lease Agreement

Exhibit I – Disclosure Form Levine Act

Exhibit J – CalGreen Tier 1 Checklist

Request for Proposal Addendum #6

Part 1 Section B Timeline Modified To:

Questions Deadline (Must be received by 4 p.m. PST) will be modified from April 28, 2023, to May 1, 2023 (Must be received by 4 p.m. PST).

Part 3 Section D Will be Modified in its Entirety to the Below:

D. CONCESSION CONSTRUCTION REQUIREMENTS

JWA's goal is to provide a superior guest experience by setting the highest concession standards and establishing an atmosphere that maximizes the operational and economic performance of all concessions.

Tenants shall construct, equip, and complete concession improvements for the locations specified by this RFP in accordance with JWA Tenant Design Guidelines ("TDG") (version dated 3.27.23), and plans and specifications approved by the County. Tenants will be required to complete their development plans within (6) months of lease award and may be fined for non-compliance. Proposers can access JWA's TDG for this RFP at:

https://files.ocair.com/media/2023-03/JWA%20Tenant%20Design%20Criteria%20Manual_03.27.23.pdf?VersionId=eFltfqcc8K3s_awEqBd.g48WyAtL3gJh

Tenants shall be responsible for all concession interior and exterior finish work, including but not limited to, shelving, counters, and interior design. After the lease award, Tenants shall be responsible for identifying existing point of connections within the premises with Orange County Public Works (OCPW). Any relocation from existing point of connections shall be identified by Tenant and communicated with OCPW who will conduct relocations at the sole cost of the tenant, if applicable.

Upon award of a concession package, tenants may identify existing equipment in concession spaces that can be reutilized. The list of identified equipment may be submitted to the Deputy Airport Director, Business Development for review and approval. **REUTILIZED EQUIPMENT SHALL BE ACCEPTED BY TENANTS IN AS-IS CONDITION WITH ALL FAULTS AND THE COUNTY DISCLAIMS ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** The maintenance of all equipment shall be the responsibility of the tenant and County shall have no obligation whatsoever to repair, maintain, renovate, or otherwise incur any cost or expense with respect to the same.

COUNTY OF ORANGE
John Wayne Airport

Concession Development Program

Request for Proposals for
(2) Food & Beverage Packages
(2) Retail Packages

<p>3160 Airway Avenue Costa Mesa, CA 92626</p>	<p>PROPOSALS MUST BE RECEIVED ON OR BEFORE</p> <p>July 17, 2023</p> <p>By</p> <p>4:00 P.M. PST</p> <p>PM 1121-0345-0034</p>	<p>Issued: March 27, 2023</p>
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JOHN WAYNE AIRPORT
ORANGE COUNTY



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PART 1 – WELCOME AND GENERAL INFORMATION

A Word from the Airport Director, Charlene Reynolds

John Wayne Airport (“JWA or “Airport”) has been a major cornerstone of Orange County, CA for 100 years, serving as the aviation gateway to the world. We provide more than 33,000 jobs to local workers and bring billions of dollars to the local economy. In 2022, we served more than 11.36 million annual passengers, flying to more than 40 non-stop destinations throughout the U.S., Mexico, and Canada.

JWA is consistently ranked among the best airports in North America, rated first in overall customer satisfaction among large airports in 2017 and 2018, and second in 2019, 2020, and 2022. There’s no question that we strive every day to deliver a superior guest experience, with a wide variety of services and amenities, first class convenience from check-in to the gate, and concessions that embrace the unparalleled character of our community and strengthen local business.

Our commitment to our guests never ends and that is why we’re always looking at new ways to improve.

In 2023, we have a pivotal opportunity to transform the JWA program with 80% of the concession program being redeveloped with long-term leases that will shape and define the unique essence and diversity of this world-class airport. The County of Orange evokes many colorful images, and everyone has their own list, but some of the highlights include:

- Legendary, world renown tourist attractions
- Stunning beach communities, each with its own vibe
- Trendy, eclectic food scene as diverse as the community it serves
- World class and chic retail
- Spectacular outdoor activities within easy driving distance
- Focus on healthy lifestyles
- And of course, near perfect weather



We are diligently seeking business partners that share our vision and can provide extraordinary food, beverage and retail options that reflect and showcase what makes this stunning part of Southern California so special.

Thank you for your interest in John Wayne Airport. I encourage you to thoroughly review this entire Request for Proposals (“RFP”) that establishes clear guidelines to ensure each Proposer has an equal opportunity to be a part of JWA’s future.

A. SOLICITATION OPPORTUNITY

The Airport, owned and operated by the County of Orange (“County”), is requesting proposals for its Concession Development Program (“Proposals”). The JWA Concession Development Program (“CDP”) will consist of a total of two (2) Food & Beverage Lease Packages and two (2) Retail Lease Packages. The RFP Evaluation Panel will score and create a slate of responsive Proposals that will be provided to the County’s Board of Supervisors (“Board”) for consideration. Pursuant to California Government Code Section 25536, the Board has the plenary authority to award leases to the Proposers it deems qualified, regardless of the Evaluation Panel’s recommendation. Project design and permitting will begin immediately after lease execution, with projected construction completion and opening dates in 2024. Through this RFP process, the Airport will: (1) solicit Proposals from qualified entities to operate concessions at JWA; (2) evaluate and score responsive Proposals pursuant to the criteria set forth in this RFP; and (3) present slate of qualified Proposers to the Board for selection and award.

B. TIMELINE

▪ Outreach Meeting	February 16, 2023
▪ Solicitation Advertised/Released	March 27, 2023
▪ Pre-Proposal/Site Tour Meeting	April 12, 2023
▪ Questions Deadline (Must be received by 4 p.m. PST)	May 1, 2023
▪ Response Deadline (Must be received by 4 p.m. PST)	July 17, 2023
▪ Minimum Qualifications/RFP Conformance Review	July 19, 2023
▪ Evaluation Panel Meeting	On or about August 10, 2023
▪ Interviews	August 2023
▪ Selection and Award	October/November 2023
▪ Agreement Commencement	January 2024

*All dates are subject to change at the Airport’s sole discretion.
Proposals received after the due date and time shall not be considered.*

PART 2 – ABOUT JOHN WAYNE AIRPORT

A. AIRPORT INFORMATION

John Wayne Airport is the only commercial airport in Orange County, California. The Airport is located approximately 35 miles south of Los Angeles, bordered by the cities of Costa Mesa, Newport Beach, and Irvine.

JWA spans approximately 510 acres and its two runways serve commercial and general aviation (i.e., private) aircraft. The Airport serves the major commercial airlines throughout the 730,505 linear square foot, multi-level, Thomas F. Riley Terminal facility. Terminals A, B, and C provide 20 commercial passenger gates and two commuter passenger terminals at the north and south ends. A passenger can walk all three terminals in less than eight minutes which provides attractive and efficient access for all concessions throughout the Airport. The Airport operates as “common use” and it includes six baggage carousels, two airline club lounges (American and United), and a federal inspection facility to accommodate international arrivals. In 2022, JWA served more than 11.36 million annual passengers.

The Airport has four parking garages on-site, with 6500 parking spaces, including 51 electric vehicle charging stations. The off-site parking lot includes 1921 spaces, with 10 EV charging stations. Curbside valet is also available in two locations on the Departure Level.

B. SETTLEMENT AGREEMENT BACKGROUND

The 1985 “Settlement Agreement” between the County of Orange, the City of Newport Beach, and two community groups establishes guidelines to which facility and operational improvements can be implemented at JWA.

The 2014 Settlement Agreement Amendment authorizes the Airport to serve up to 11.8 Million Annual Passengers (MAP) through December 31, 2025. Effective January 1, 2026, through December 31, 2030, the Airport will be permitted to serve up to 12.5 MAP. Commercial airline departures at JWA are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 10:00 p.m. Arrivals are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 11:00 p.m.

Please reference the following link for more information on the 1985 Settlement Agreement and associated documents: <https://www.ocair.com/about/administration/settlement-agreement/>

C. PASSENGER STATISTICS

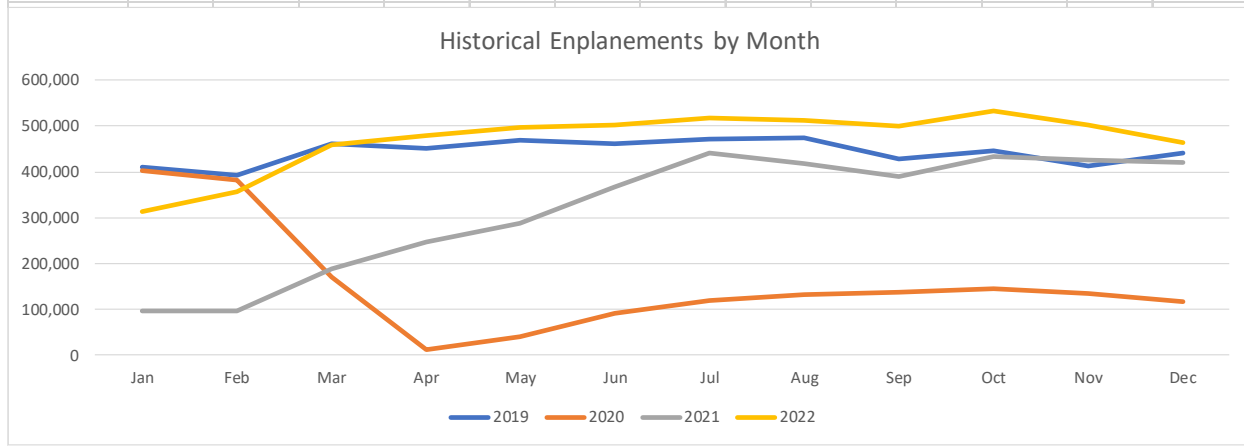
JWA is an origin and destination airport. In calendar year 2022, JWA served more than **11.36 million passengers** to almost **40 direct destinations** within Canada, Mexico, and the United States.

Non-stop Destinations



Monthly Enplanements

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2019	409,972	393,441	462,074	450,680	469,225	460,390	470,962	473,104	428,516	445,258	413,996	440,669	5,318,287
2020	402,291	381,771	171,445	12,633	41,164	90,600	119,946	131,073	136,590	145,149	135,213	115,738	1,883,613
2021	95,256	96,928	189,185	247,596	289,080	366,078	439,645	417,070	389,625	433,153	424,785	420,797	3,809,198
2022	314,300	357,029	458,677	478,347	497,682	502,831	516,843	511,369	498,822	533,481	502,437	463,652	5,635,470



Annual Passenger History and Projection



D. COUNTY OF ORANGE DEMOGRAPHICS

Approximately 32,000 passengers depart and arrive out of JWA daily. The Airport is currently experiencing growth, with passenger counts exceeding pre-COVID levels by 6.3%.

As of the 2020 census, the population of Orange County was 3,186,989, making it the **third-most-populous county in California** and the sixth largest county in the United States by total population. The county's three most-populous cities are Anaheim, Santa Ana, and Irvine. **The average annual household income in Orange County is \$134,610**, while the median household income sits at \$102,756 per year. Residents aged 25 to 44 earn \$107,390, while those between 45 and 64 years old have a median earning of \$118,796.

The County is a legendary tourist destination, with attractions like Disneyland, Knott's Berry Farm, Mission San Juan Capistrano, Modjeska House, Segerstrom Center for the Arts, Yost Theater, Bowers Museum, Balboa Island, Angel Stadium, Downtown Santa Ana, Crystal Cove Historic District, Honda Center, Old Orange County Courthouse, Irvine Ranch Natural Landmarks, and several popular beaches along its more than 40 miles of coastline.

PASSENGER SURVEY RESULTS

JWA recently conducted a passenger survey in August 2022. Historically a biannual assessment, the survey measures traveler preferences and satisfaction with their Airport experience.

The 2022 Passenger Survey results confirm John Wayne Airport continues to earn consistently high approval ratings from travelers, both visitors and residents alike. The findings include:

Focus on Customer Satisfaction

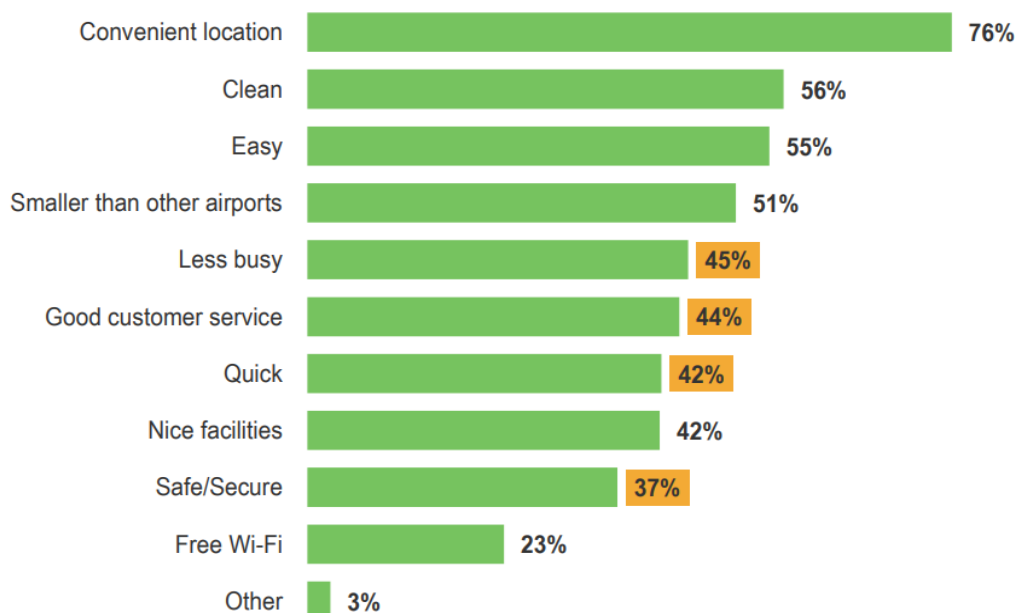
Overall, **73% of on-site passengers rated JWA as 5 out of 5 (on a 5-point scale)**, a significant increase over the 2019 survey results, with 94% rating it a 4 or a 5. With these high customer satisfaction ratings, the gross revenue potential at JWA is an appealing opportunity for business operators.

Convenience Driven

The predominant reason both visitors and residents choose JWA is its **convenient location**, with 76% of residents and 65% of passengers indicating proximity as their primary motivation.



Reasons for High Satisfaction Rating Among Passengers Giving a Positive Rating (4 or 5)



This year's data is compared to data collected in 2019 at the 95% confidence level. Significant differences are indicated by teal (significantly higher) or orange (significantly lower) highlighting

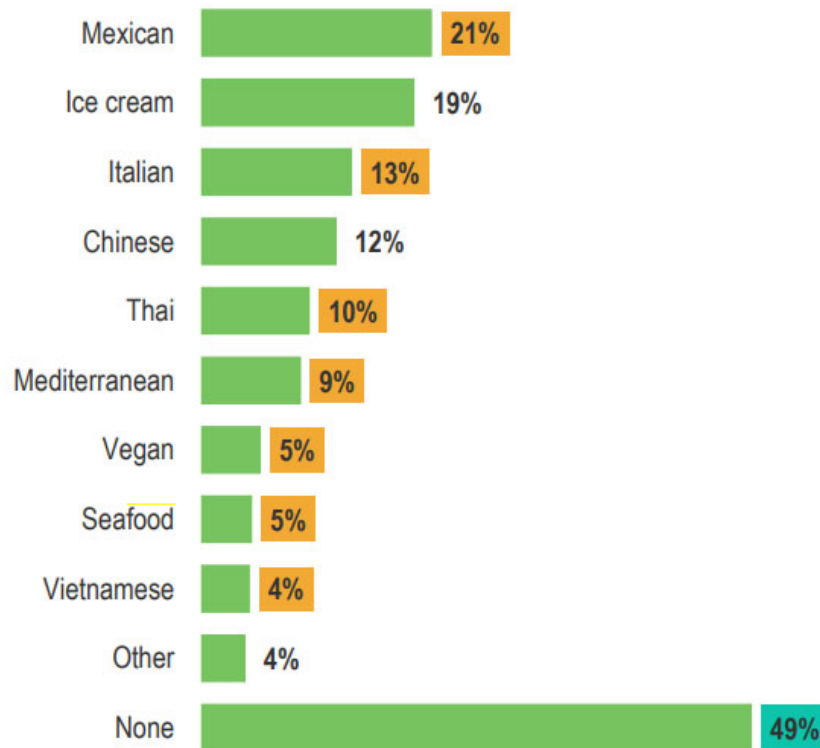
JWA passengers arrive an average 2 hours and 6 minutes before their scheduled flight departure, providing ample time to enjoy shopping and dining amenities within the terminals.

FOOD DESIRED

In a recent passenger survey, **21% of JWA passengers** indicated they **desire more Mexican food** options.



Food Venue Additions Desired Among All Passengers



Shift to Leisure

Travel for pleasure/leisure has increased and is the largest proportion of on-site passengers surveyed, at **55%**. Leisure travel has come back faster and stronger than business travel due to post-COVID-19 conditions. However, it remains to be seen if this is a long-term trend at JWA.

Frequent Travelers

68% of passengers are visitors. The average passenger had flown out of JWA four or more times in the past year.

	2019	2022
<i>Sample Size</i>	599	505
Q14: Primary Purpose of Trip		
Business	26%	31%
Pleasure/Leisure	53%	55%
School/Education	1%	4%
Military	0%	0%
Personal	17%	7%
Other	3%	3%
Q27: Flown out of JWA Past 12 Months (incl. today)		
<i>Average (Mean)</i>	3.0	4.6
1	51%	35%
2	18%	18%
3	10%	13%
4	4%	7%
5	2%	4%
6	4%	4%
7	2%	3%
8	1%	1%
9	1%	1%
10 - 15	4%	5%
16 - 20	1%	3%
Over 20	1%	5%

To view the complete JWA 2022 passenger survey:
<https://www.ocair.com/news/2022/11/18/2022-passenger-survey-results/>

E. CONCESSIONS DEVELOPMENT PROGRAM

On August 27, 2019, the Board awarded Leases for the Phase I Concessions Development Program that consisted of two (2) casual dining/bar locations, one (1) quick-service location, two (2) coffee locations, one (1) acai bowl kiosk, and two (2) specialty retail locations. Phase I is currently under development and concepts will open in Q2-Q3 of 2023. The remaining concession locations are included in this RFP and will consist of the final phase redevelopment of approximately eighty percent (80%) of the CDP.



F. VISION

The final phase CDP will feature food, beverage, and retail options that truly represent the culture and feel of Orange County. Each city within the County exudes its own distinct and unique sense of place. The County expects the food, beverage, and retail options at JWA to embody the unique attributes of Southern California.

G. GOALS AND OBJECTIVES

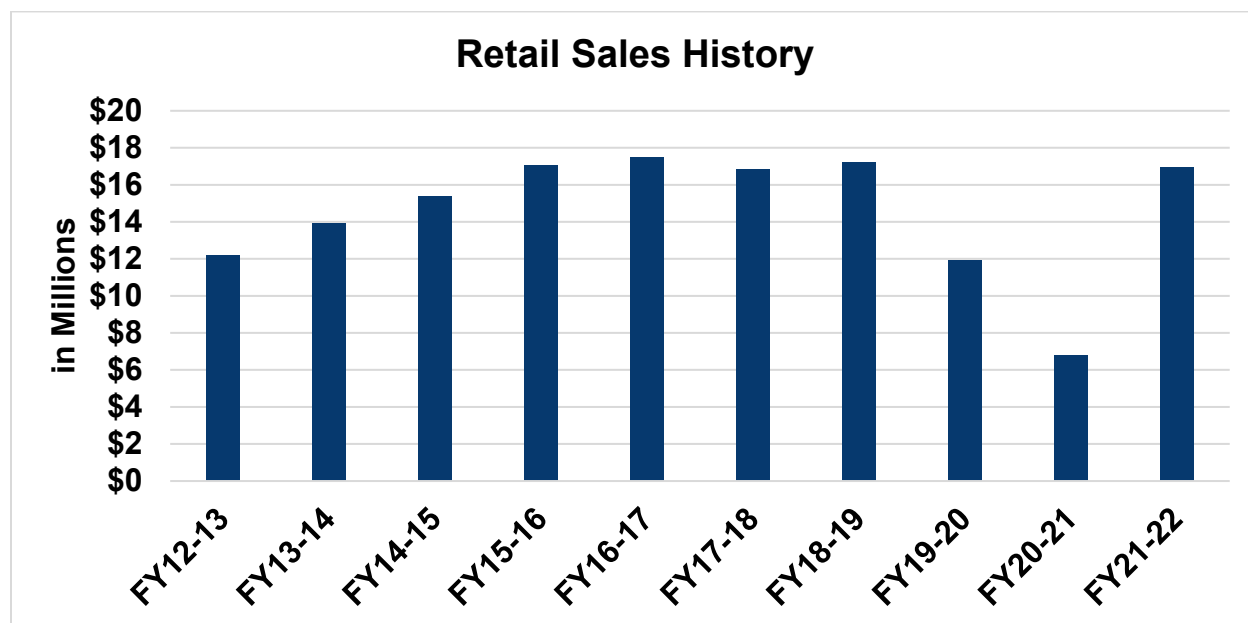
- Establish a sense of place that reflects Orange County
- Create extraordinary experience, quality, and value for guests of the Airport
- Provide new food and beverage options that reflect the evolving tastes and preferences of travelers, including a mix of local, regional, and national brands
- Design and build innovative facilities that complement the existing terminal architecture
- Provide uninterrupted service to the traveling public during all phases of the renovation
- Explore specialty retail concepts that highlight merchandise from the County of Orange and Southern California
- Promote sustainability through design and operational improvements such as biodegradable packaging options, food-waste diversion, and phasing out single-use plastics
- Provide opportunities for small business, local business, veteran-owned small business, and airport concession disadvantaged business enterprises to participate in the program
- Optimize concession sales and Airport revenues
- Provide innovative and cutting-edge technology into the CDP

H. EXISTING INVENTORY AND PERFORMANCE

Current Retail Concessions

Concessionaire	Concept	Location(s)
Hudson	News & Gift and Specialty Retail	CNN (Terminal A - Pre-Security) Hudson News wall (Terminal A) Sunglass Hut/Rip Curl (Terminal A) Orange County Market (Terminal A) Hudson News (Terminal A) Brookstone (Terminal B) OC Marketplace (Terminal C) Tech on the Go (Terminal C) CNN (Terminal C)
Paradies	News & Gift and Specialty Retail	CNBC (Terminal B - Pre-Security) South Coast News (Terminal B) OC TravelMart (Terminal C - Pre-Security) CNBC News wall (Terminal C)
La Boutique	Specialty Retail	La Boutique (Terminal B) (under development) La Boutique (Terminal C) (under development)

Retail Gross Receipts (Fiscal Year is July through June)

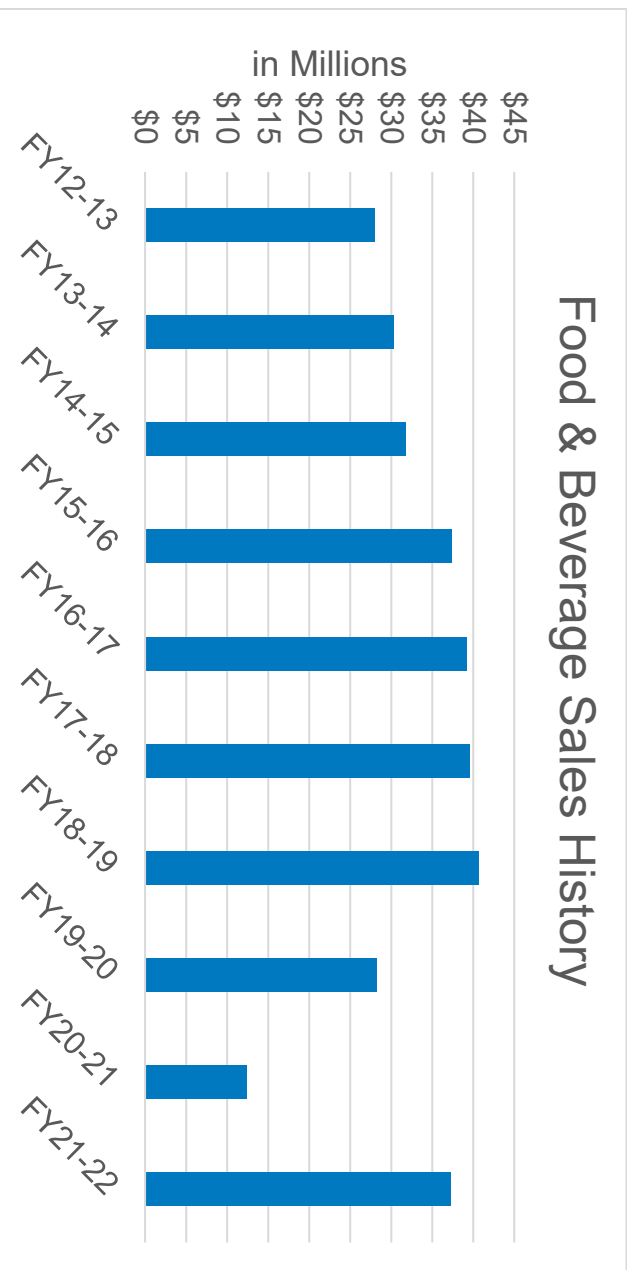


New retail opportunities can reinvigorate revenue growth at JWA. **New concepts highlighting merchandise from Orange County and Southern California will create a fresh retail experience.**

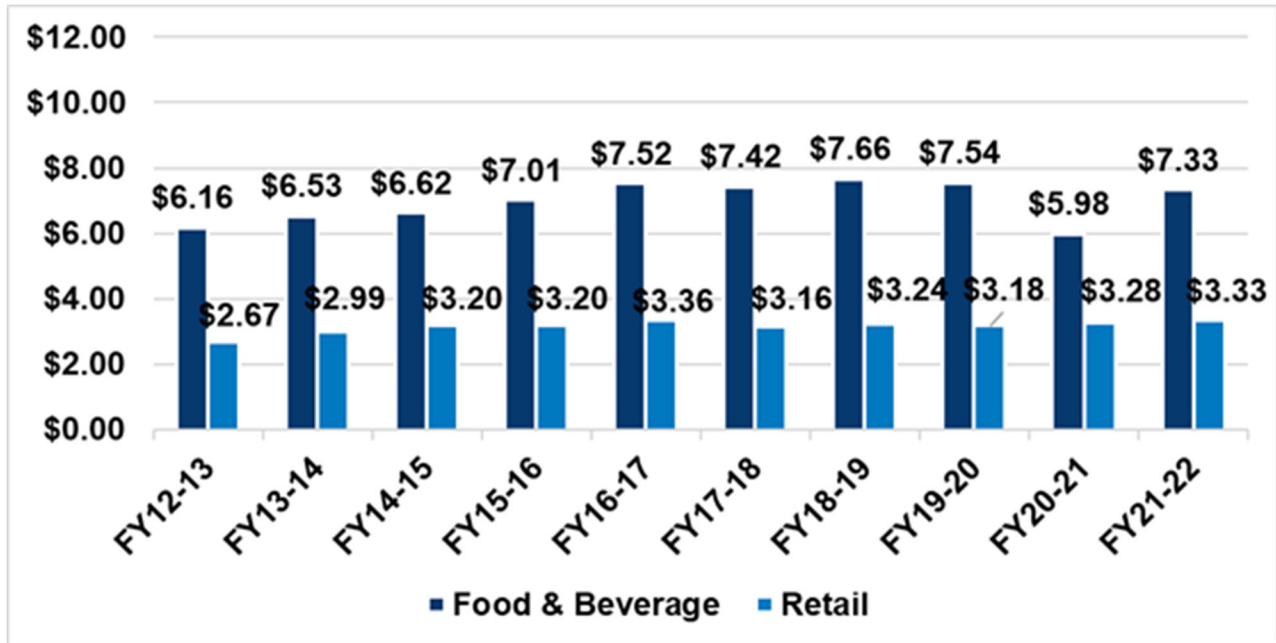
Current Food & Beverage Concessions

Concessionaire	Concept	Location(s)
Host	Primary Food & Beverage	California Pizza Kitchen (Terminal A) Ruby's Diner (Rotated Square) Farmers Market (Rotated Square) Starbucks (Terminal B) Hobie's Sand Bar (Terminal B) Stella Bar (Terminal C) Ciao (Terminal C) Ducks Bar (Terminal C)
Fly Away Foods	Food & Beverage	OC Pizza (Terminal C) Qdoba (Terminal C) Jamba Juice (Terminal C)
McDonald's	Quick Service	Terminal A Terminal B
Vino Volo	Specialty	Terminal B
Carl's Jr.	Quick Service	Terminal C
Brodard	Quick Service	Terminal C (under development)
Mission Yogurt	Casual Dining & Bar	Taps Fish House (Terminal C) (under development) Greenleaf (Terminal A) (under development)
Bambuza	Specialty Coffee/Acai	(2) Coffee Bean & Tea Leaf (Terminal C) Sambazon Acai (Terminal B) (under development)

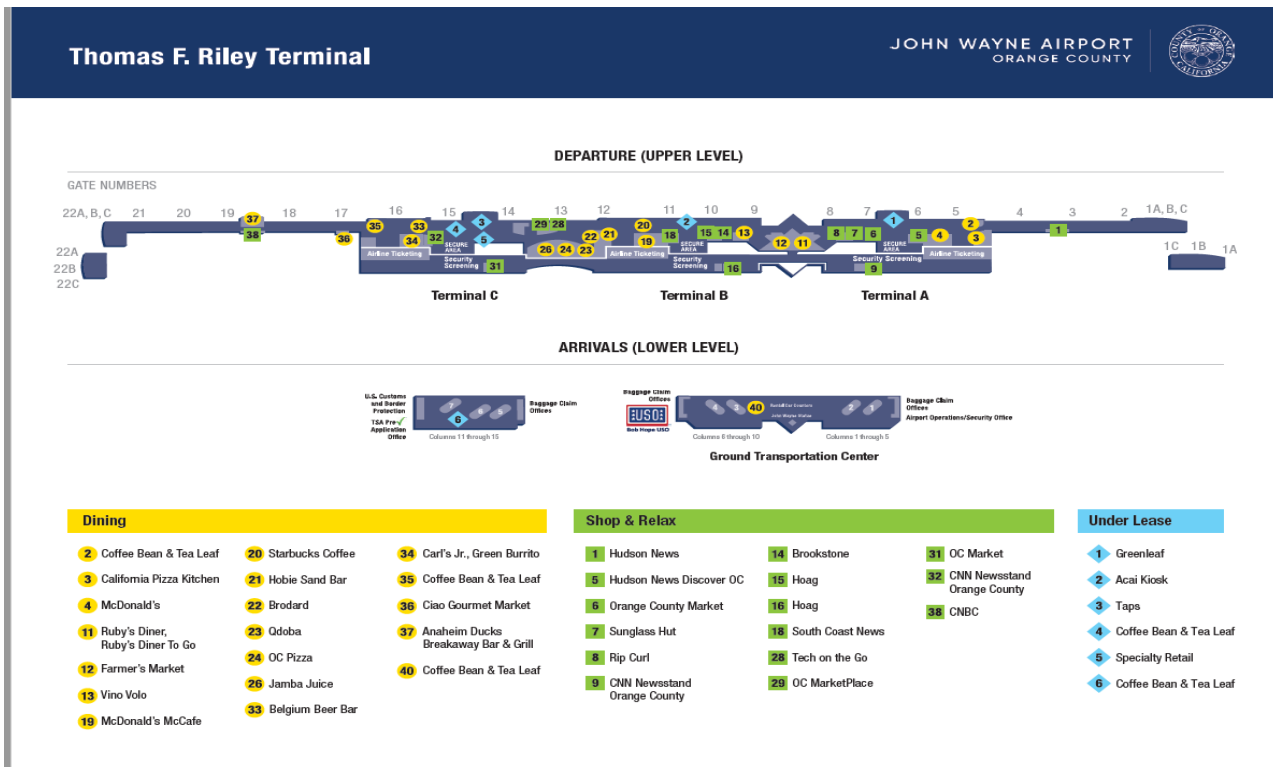
Food & Beverage Gross Receipts
(Fiscal Year is July through June)



Historical Sales per Enplaned Passenger



Source: John Wayne Airport Monthly Concession Revenue Report



A passenger can walk all three terminals in less than eight minutes.

I. HOURS OF OPERATION

Commercial airline departures at JWA are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 10:00 p.m. Arrivals are permitted between the hours of 7:00 a.m. (8:00 a.m. on Sundays) and 11:00 p.m.

Each concession must be open for business not less than sixteen (16) hours per day, seven days per week, or an hour before the first outgoing departure and 30 minutes before the last departure.

Proposers must consider the JWA hours of operation when staffing and when completing their financial pro-forma in response to this RFP, as labor costs will be impacted with lower rates than comparable airports that are open 24-hours per day.

J. DELIVERIES

All concessionaires are required to schedule their deliveries between the hours of 11:00 p.m. to 9:00 a.m., which may be amended from time to time. Due to early morning peak traffic periods, concessionaires must leave the lower roadway clear of large delivery trucks.

PART 3 – PACKAGES AVAILABLE

A. LOCATIONS AND PACKAGES

This RFP provides the opportunity for qualified Proposers to submit Proposals for concepts in four concession package offerings, two (2) Food & Beverage and two (2) Retail. These concession packages consist of approximately 33 units and approximately 36,602 square feet of concession space. Due to size, adjacencies, and customer needs, JWA has established permitted uses for each location to best optimize customer satisfaction and sales potential. The permitted use, rent requirements, square footage of each space, location within the terminals, and utility availability is provided in **Attachment 1**. The final square footage will be re-measured within ninety days of **all locations opening** within the corresponding concession package.

Proposers may submit Proposals on one or more concession packages identified in this RFP. However, a Proposer may only be awarded no more than one (1) Retail Concessions Lease Package and one (1) Food and Beverage Concessions Lease Package total. **If proposing on more than one concession package, the Proposer must submit a separate and complete Proposal for each.**

B. CONCEPT FIT AND SENSE OF PLACE

The final phase of the CDP will feature food, beverage, and retail options that truly represent the culture and feel of Orange County. The 34 cities that comprise Orange County cities are unique, and together, offer a distinct sense of place. The goal of the CDP is to provide food, beverage, and retail options that reflect the diverse attributes of Southern California and Orange County through locally inspired concepts.

The County reserves the right to award locations based on the best fit for the overall Concession Development Program. The County also reserves the right to phase construction as necessary to minimize impacts on the Airport's guests and tenants, including but not limited to, airlines, existing concessionaires, and new concessionaires. The timelines expressed in this RFP are estimates and subject to change. JWA will not be liable to tenants for any circumstances resulting in delayed construction completion.

C. "AS-IS" ACCEPTANCE

TENANTS SHALL ACKNOWLEDGE THAT THEY ACCEPT THE LEASED PREMISES AND ALL APPURTENANCES "AS IS" AND "WHERE IS" AND THAT COUNTY HAS MADE NO REPRESENTATIONS OR WARRANTIES RESPECTING THE SUITABILITY THEREOF FOR PROPOSERS' PURPOSES. Except as specifically provided herein, the County has no obligation whatsoever to repair, maintain, renovate, or otherwise incur any cost or expense with respect to the Leased Premises, or any leasehold improvement or fixtures, furnishings, or equipment installed on or used on the Leased Premises. It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvements and utility conditions, premises encumbrances, conditions of title, metes and bounds, total square footage, and the feasibility of the Proposer's Concession Proposal. It is also each Proposer's sole responsibility, as part of its due diligence, to confirm the size, configuration, and condition of the proposed premises, including, but not limited to, title and environmental conditions. The County makes no representations or warranties as to the accuracy, completeness, or pertinence of any documents referenced in this RFP or otherwise, and, in addition, the County shall not be responsible for any conclusions Proposer may draw therefrom. Proposer assumes all risk when relying on the information provided by the County or any of its employees, contractors, or agents.

D. CONCESSION CONSTRUCTION REQUIREMENTS

JWA's goal is to provide a superior guest experience by setting the highest concession standards and establishing an atmosphere that maximizes the operational and economic performance of all concessions.

Tenants shall construct, equip, and complete concession improvements for the locations specified by this RFP in accordance with JWA Tenant Design Guidelines ("TDG") (version dated 3.27.23), and plans and specifications approved by the County. Tenants will be required to complete their development plans within (6) months of lease award and may be fined for non-compliance. Proposers can access JWA's TDG for this RFP at:

https://files.ocair.com/media/2023-03/JWA%20Tenant%20Design%20Criteria%20Manual_03.27.23.pdf?VersionId=eFltfqcc8K3sawEqBd.g48WyAtL3gJh

Tenants shall be responsible for all concession interior and exterior finish work, including but not limited to, shelving, counters, and interior design. **After the lease award, Tenants shall be responsible for identifying existing point of connections within the premises with Orange County Public Works (OCPW). Any relocation from existing point of connections shall be identified by**

Tenant and communicated with OCPW who will conduct relocations at the sole cost of the tenant, if applicable.

Upon award of a concession package, tenants may identify existing equipment in concession spaces that can be reutilized. The list of identified equipment may be submitted to the Deputy Airport Director, Business Development for review and approval. **REUTILIZED EQUIPMENT SHALL BE ACCEPTED BY TENANTS IN AS-IS CONDITION WITH ALL FAULTS AND THE COUNTY DISCLAIMS ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** The maintenance of all equipment shall be the responsibility of the tenant and County shall have no obligation whatsoever to repair, maintain, renovate, or otherwise incur any cost or expense with respect to the same.

E. STORAGE SPACE

Storage space may be available, depending on concessionaire needs, under a separate agreement with the County. Off-site storage facilities may be required and shall be determined after lease award. Cost of storage rent shall be based on the latest rates and charges schedule established by the County. The rate is subject to adjustments twice a year. The current rate, as of January 2023, is \$63.16 per square foot per annum. Proposers are required to identify and submit requested storage space, as part of their Proposal, using **Exhibit E - Proposer Form and Questionnaire**. The Airport will attempt to locate storage space as close to the requested amount as feasible and available.

F. CONCESSION MIDTERM REFURBISHMENT

At the Midterm of the Lease, each tenant shall be required to make a reinvestment for the purpose of keeping technology contemporary and competitive with current concession trends and methods. Refer to **Exhibit H – Draft Lease** for additional information.

PART 4 – PROPOSAL SUBMITTAL REQUIREMENTS

A. MINIMUM QUALIFICATIONS

Unless stated otherwise, Proposal qualifications for both Food & Beverage and Retail concessions are the same.

Proposers must meet the following minimum qualifications to be eligible to participate in this solicitation. If the Proposer is a partnership, joint venture or newly formed entity (e.g. limited liability company or corporation), the minimum qualifications set forth in this section and throughout the RFP must be satisfied by the entity or individual that owns and controls a majority equity (at least 51%) of the partnership, joint venture, or newly formed entity.

- Proposer shall explain in detail and provide evidence of a minimum of three (3) years prior experience within the last five (5) years in the marketing, development, operation, and management of similar business at an airport, other transportation facility, shopping center, mall, or street-side location.
- Proposer must show the ability to finance and undertake the monetary commitments to successfully develop, construct, and operate the proposed development plan. Documents of ability must include:
 - Sum of Proposers i) net working capital, ii) cash flow from existing operations, and iii) demonstrated access to credit of equity from external sources must be greater than the proposed investment in the concessions (including proposed investment common area improvements and tenant/subtenant leasehold improvements).
 - If Proposer is relying on financial resources of a parent entity, joint venture partner, or non-affiliated external source(s), which may include proposed subtenants, then Proposer must submit sufficient (audited) satisfactory documentation as specified herein to show that it meets the minimum financial qualification. Moreover, a corporate guaranty from any such parent entity or external source will be required to ensure Proposer's ability to complete the concessions development plan.
- Proposer shall submit with its Proposal documentation that demonstrates Proposer is duly authorized to conduct business within the State of California and County of Orange.
- Proposers must have the ability to obtain minimum insurance coverage and limits as required with this RFP.
- Proposers must NOT be listed on the California Convicted Vendor List.
- Proposers must NOT be listed on the California Scrutinized List of Prohibited Companies.

B. REQUIRED ITEMS TO BE SUBMITTED WITH PROPOSAL

The following items are required to be submitted and must be tabbed in the order as outlined below. Failure to do so may result in disqualification.

Tab 1 - Proposal Cover Sheet – Exhibit C

Tab 2 - Proposer Checklist – Exhibit D

Tab 3 - Signed and dated Acknowledgement and Approval of Proposal Deposit and Draft Lease Provisions - Exhibit B.

Tab 4 - Proposal Deposit of \$25,000

- Cashier’s check, letter of credit, or wire transfer confirmation page must be included in the “Original” Proposal package(s).

Tab 5 - Cover Letter – to include the following information:

- Name, title, telephone, and email address of the personnel responsible for the primary communication with the County regarding the Proposal.
- Structure of Proposer: Proposer must include a detailed discussion of its legal and ownership structures including providing copies of its organizational documents (i.e., partnership or operating agreement, articles of incorporation or organization, bylaws, or equivalent documents).
- Proposers who include ACDBE participants are required to submit the following information regarding intended participation by ACDBEs.
- **Minimum Qualifications as identified in Part 4 (A):**
 - The names and addresses of ACDBE firms that will participate in the contract.
 - The dollar amount percentage of participation by each named ACDBE firm listed in the Proposal.
 - A description of the work that each ACDBE will perform.
 - Proof of ACDBE certification for all ACDBE firms listed in the Proposal at the time of submission. ACDBEs must be certified by a certifying agency under the California Unified Certification Program (CUCP) with the appropriate NAICS code for their type of business. To be certified, ACDBE firms must meet eligibility criteria as established by 49 CFR Part 23.
 - If the Proposer is a Joint Venture (JV), as defined in 49 CFR Part 23, Section 23.3, the Proposer must provide the following:
 - A copy of the proposed JV Agreement, subject to review and approval by JWA, prior to **Board approval** ~~lease execution~~, and must be in compliance with JV guidance as issued by the FAA and as it may be amended in the future.
 - A copy of any loan agreement from the non-ACDBE partner to the ACDBE partner that has or will be used in connection with this opportunity.
 - Each party to the JV must be identified and the roles that each will have in the development and/or operation of the Project must be described.
 - A letter of agreement to participate in the JV as well as the percentage of participation must be submitted from each JV partner.

- The Proposer must represent and warrant that (i) Proposer has the power and authority to execute and deliver the Proposal, and (ii) the Proposal has been duly and validly executed and is a legal, valid, and binding obligation of Proposer. ACDBE certifications also must be provided.
- A summary of the Proposal, including the services intended to be offered and how the existing facilities will be utilized during the planning and development of the new Concession Development Program. Include a description of the Proposer’s brand or company and how association with that brand would benefit the Airport and its users.
- A statement of Proposer’s mission, vision, and values.
- A statement indicating Proposer’s clear understanding of this RFP and a statement as to whether Proposer and/or Proposer’s partners, subcontractor(s), joint venture associates, or any other individual or entity of Proposer’s team has any potential conflicts that may arise in the performance of the services requested in this RFP, performing the work, or operating the concession development program contemplated within this RFP.

Tab 6 - Proposed Concept(s) and Executive Summary

A summary to include the below:

- The Spirit of the County of Orange – Sense of Place
 - Reflective of the unique attributes of Southern California - its environment, culture, diversity, and historical attributes which travelers recognize and appreciate
 - Reflective of the flavor of the Orange County/SoCal region through iconic businesses
 - Identifying opportunities for the sourcing and/or sale of manufactured or agricultural products with strong ties to the Orange County/So Cal region
 - **Proposers shall not be awarded additional points based on the geographic location of their firm** (*Pursuant to 49 CFR Part 23 §23.79, JWA cannot use a “local geographic preference” that gives an ACDBE located in Orange County an advantage over ACDBEs from other geographical areas.)
- Brands and Concepts
 - Proposed concepts appeal to passengers
 - Provides a wide variety of merchandise and price points
 - Capital Investment by location
- Interior and exterior design with renderings and floor plan layouts
- Use of emerging and innovative technology
- On-going methodologies for staying current with market trends

Tab 7 - Business Plan, Design Intention and Capital Investment

- Financial Compensation Proposal
 - Pro Forma Development (**Exhibit F - Pro Forma Template**)
 - Include Key Assumptions
 - Merchandise List/Menu per location with prices compliant with Pricing Policy
 - List of specific merchandise offerings and items for each concept.

* County understands that there will be some product overlap at stores within the terminals. The County desires to minimize this in order to maintain a healthy sales environment for all concessionaires while providing first-class shopping and dining to Airport guests.

The Airport reserves the right to restrict or prohibit the sale of those items which, in the opinion of the Airport, are not in the public interest, or which might compete unfairly with other terminal concessions. The lease shall prohibit each tenant from conducting or permitting, any public or private nuisance in, on, or from the leased premises. The lease shall also prohibit each tenant from committing or permitting any waste in, on or from the leased premises.

- Financial Capability
 - Fund continuing operations
 - Net worth to successfully perform the business operations
 - Historical Financial Information
- Description of Proposed Design
 - Overall appeal and quality of design
 - **Conceptual Development Plans shall include:**
 - All foam boards must be 11" x 17" in size (can be digital).
 - Color/sample boards with material legend identifying all items and their locations (for both interior and exterior finishes).
 - Images depicting front elevation, interior elevation, signage with discussion for design intent for JWA.
 - A unit location floor plan showing all elements of operations, such as:
 - Equipment placement
 - Customer ordering and queuing areas
 - Customer seating (if applicable)
 - Effective use of limited space to maximize capacity
 - ~~Photographs of existing similar facilities along with a discussion of the design intent for JWA are acceptable~~
 - Design supports the proposed brand/concept, and an incorporated strong merchandising strategy
- Capital Investment Plan
 - Capital capacity
 - Sources of funding

Tab 8 - Management Experience

- Company Background & Experience
- Organization/Staffing Chart showing reporting structure, management/operating committees (if applicable), names of owners, partners, management, supervisors, and staff
- Degree of relevant experience in operating in a non-traditional environment, if applicable (i.e., airports, malls, stadiums/sports venues, universities, etc.)
- Number of years of proposer's relevant experience with proposed concept(s) or a similar concept(s)
- ACDBE Plan (if applicable)

- Development of ACDBE partners
- Management of ACDBE partnerships

Tab 9 – Sustainability

- Sustainability Plan
 - Environmental/Recycling Plan
 - Demonstrate and provide a sustainable design to CalGreen Tier I (**Exhibit J**)
 - Ties to the community
 - Biodegradable packaging options
 - Food waste diversion plan

Tab 10 - Operations Plan, Customer Service, Employee Retention

- Phasing and Temporary Program
 - Identify how phasing will minimally interrupt service operations
 - Provide interim revenue plan during construction
 - Identify what opportunities are available for temporary/kiosk offerings during construction
 - Identify the phasing of construction and opening schedule for each concept, providing minimal disruption
- Staffing Plan
 - Provide staffing levels and schedules
 - Identify on-site general manager, regional manager, and other key management/culinary staff experience
 - Support of the operations from corporate headquarters
- Logistics & Maintenance Plan
 - Store standards such as cleanliness of the location and orderly display of merchandise
 - Store maintenance plan, repair, and on-going upkeep
 - Merchandise replenishment and inventory logistics and control
 - Concept specific quality assurance procedures and product or service guarantees
- Disaster Minimization Plan
- Customer Service Plan
 - Customer service standards and training
 - Customer service assurance procedures and guarantees
- Customer Communication and Product Offering Plan
 - Staying current with market trends for products and/or services
 - Achieving sales growth through marketing and promotion
- Staffing and Employee Plan
 - Employee Retention Plan
 - Training programs
 - Employee recruiting plan (including hiring from existing labor pool)
 - Employee standards and expectations

Tab 11 - Required Forms

- Proposer Form and Questionnaire – **Exhibit E**
- Pro-Forma Template – **Exhibit F**
- Financial Viability Form – **Exhibit G**
- Levine Act Disclosure Form – **Exhibit I**
- **Packages and Locations** – **Attachment 1**

Proposers are solely and independently responsible for reviewing and understanding the various documents, regulations, and approvals relevant to the CDP, and should not rely solely on the summaries set forth herein.

PART 5 – BUSINESS TERMS

A. LEASE TERMINOLOGY – ALL PACKAGES

USE

Operation of a concession as proposed, for the sale of a particular type of food, beverages, products, or services incidental to said concession.

OR

Operation of a retail concession as proposed, for the sale of particular retail products, including merchandise or services incidental to said concession.

LEASED PREMISES

Food and Beverage concession consisting of approximately _____ sq. ft. located in Terminal ___ as proposed, and storage space in an amount and location to be determined in the storage area in the arrivals level in Terminal ___ at John Wayne Airport.

OR

Retail concession consisting of approximately _____ sq. ft. located in Terminal ___ as proposed, and storage space in an amount and location to be determined in the storage area in the arrivals level in Terminal ___ at John Wayne Airport.

TERM

Fifteen (15) years commencing upon the Term Commencement Date.

RENT

Pursuant to Section IV of the Model Lease, the tenant shall pay monthly 1/12th of the Base Rent of \$75 per sq. ft. per annum or Percentage Rent, whichever is greater. The tenant shall report final adjusted sales in arrears on the 15th of the month along with payment of Base Rent or Percentage Rent, whichever is higher. The Percentage Rent will be tiered based on gross receipts.

If at any time during the Term there is a severe decline in enplanements for three consecutive months, as compared to same time period in the previous year, then Tenant shall provide notice to the Airport Director, and at the Airport Director's discretion and upon approval of the Board of Supervisors, Concession Space Rent may be temporarily suspended or reduced. The Airport Director shall have the sole discretion as to whether there exists a severe decline in enplanements.

RENT REVISION

The Base Rent shall be adjusted annually by the Consumer Price Index (CPI) of the annual rent paid for the preceding accounting year, whichever is greater. In no case shall the Base Rent be reduced by reason of such adjustment.

PRICING POLICY

JWA's pricing policy is, **PRICING MUST NOT EXCEED STREET PRICES PLUS FIFTEEN PERCENT (15%)**. This means, prices of items for sale shall not exceed one hundred and fifteen percent (115%) of prices comparable items found in other locations of the Orange County area.

EMPLOYEE RETENTION

The County of Orange is dedicated to exceptional customer service and will require the Successful Proposer to operate concessions in an efficient, customer friendly, well-run manner to meet the needs of customers. Existing concession employees who have worked at JWA have developed invaluable knowledge and experience regarding JWA concession operations and the professional handling of conditions specific to an airport, such as sudden influxes of customers during peak periods of the day, changes in airline schedules, customer service, etc.

Section Added for Additional Employee Retention Terms:

A. Tenant shall fill its non-managerial Concessions positions at JWA by first hiring from the workforce which has been or is being displaced by the departure or reduction in force of a Predecessor Tenant or its subtenants. For an initial 90-day period, Tenant shall retain, and shall not discharge without just cause, employees for whom it has received information demonstrating that they were employed by a Predecessor Tenant or its subtenants in their Concessions operations at JWA for the preceding two months or longer.

B. Within ten days of receiving the contact information for the employees of the Predecessor Tenant or its subtenants, Tenant shall make written offers of employment for the 90-day period referred to above to eligible workers by the following means: (a) letters sent by certified mail; and either (b) e-mail or (c) text message sent to a worker's cellular phone. If Tenant is not able to make an employment offer by e-mail or text message, Tenant must call the worker to provide information regarding such offer.

C. Tenant shall offer employment to any workers eligible for retention to whom it has not yet offered employment by seniority within each employment classification by the same means described above during the first year as Successor Tenant.

D. Tenant may offer continued employment in its JWA Concessions operations to each retained worker who receives a satisfactory performance evaluation at the end of the initial ninety (90) day period of employment under the terms and conditions established by Tenant for comparable employees.

E. Tenant shall provide to any Successor Tenant a list that includes the name, address, telephone number, cellular phone number if known, personal e-mail address if known, date of hire, and employment occupation classification of each current worker in the Tenant's JWA Concessions operations, including the employees of the Tenant's subtenants.

F. Tenant shall cause the worker retention requirements under this Article to be posted at its place of business at JWA, to be conspicuous to the workers employed at such facilities. Additionally, Tenant is required to post in a public view during construction period.

G. Tenant shall maintain records for two (2) years showing (a) the reasons for not hiring or for discharging eligible or retained workers during the initial ninety (90) day period and (b) documentation of the employment offers described above. Each eligible or retained worker and their designees, with signed affidavit, are authorized to review relevant records upon reasonable request to ascertain compliance with this Article, and Tenant shall provide such information within fourteen (14) days of a written request for such information.

Predecessor Tenant: The Tenant immediately prior to Tenant that provided the same or essentially the same Concessions services as are awarded by this Contract.

Successor Tenant: A Tenant immediately succeeding Tenant in providing the same or essentially the same Concessions services as are awarded by this Contract.

~~If replacing an existing concession, the new Tenant shall make every effort to hire and train the previous concession employees subject to the Tenant hiring policies and procedures.~~

TENANT MARKETING FUND

The County has established a marketing fund for the Airport to conduct sales promotions, Airport-wide advertising, and related activities intended to promote the Airport and its tenants. concessionaire shall pay to County an amount equal to 0.5% of the previous month's gross receipts concurrently with the rent payment.

AMERICANS WITH DISABILITIES ACT ("ADA")

Tenant must comply with all ADA requirements. Tenant shall be responsible to be aware of and comply with the applicable ADA requirements. Tenant shall be required to develop a work plan to correct or avoid any violations or non-compliance with the ADA, and to address the processing of ADA complaints.

TITLE VI SOLICITATION NOTICE

JWA, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all Proposers that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

PART 6 – AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION REQUIREMENTS

A. REQUIREMENTS OF 49 CFR PART 23, PARTICIPATION OF DISADVANTAGED BUSINESS ENTERPRISE IN AIRPORT CONCESSIONS

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation (“DOT”), apply to this concession opportunity. JWA’s policy is to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit Proposals. Award of the concession packages will be conditioned upon satisfying the requirements of this Proposal specification. These requirements apply to all concession’s firms and suppliers, including those who qualify as an ACDBE.

B. POLICY

JWA has established an ACDBE program in accordance with DOT regulations 49 CFR Part 23. JWA is a primary Airport and has received federal funds authorized for Airport development after January 1988 (authorized under Title 49 of the United States Code). JWA has signed Airport Sponsor Grant Assurances agreeing that it will comply with 49 CFR Part 23.

JWA’s policy is to ensure that ACDBEs, as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. JWA’s policy is also:

- To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance
- To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions
- To ensure that our ACDBE program is narrowly tailored in accordance with applicable law
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs at our Airport
- To help remove barriers to the participation of ACDBEs in opportunities for concessions at the Airport; and
- To provide appropriate flexibility to our Airport in establishing and providing opportunities for ACDBEs.

JWA’s full ACDBE Program is posted at the following webpage:
<https://www.ocair.com/business/business-opportunities/dbe-acdbe/airport-concessions-disadvantaged-business-enterprise/>

C. ACDBE GOAL

JWA has not established ACDBE concession-specific goals for this opportunity but has established an overall race-neutral goal of 27.7% for terminal concessions, excluding car rental, during federal fiscal years 2021 through 2023 (October 1, 2020 – September 30, 2023).

JWA's goal encourages participation by firms owned and controlled by socially and economically disadvantaged persons. The overall goal applicable to future periods will be posted at the following location when available:

<https://www.ocair.com/business/business-opportunities/dbe-acdbe/airport-concessions-disadvantaged-business-enterprise/>

D. ACDBE CERTIFICATION

For purposes of the ACDBE Program, an ACDBE is defined as a for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. There are several other eligibility criteria to be certified as an ACDBE. To apply for certification as an ACDBE, a firm must meet the eligibility requirements set forth in 49 CFR Part 23.

Firms wishing to be certified as an ACDBE and are not currently certified by an ACDBE certifying agency in California, must complete a certification application. To learn more about becoming ACDBE certified, visit the Caltrans website at <https://dot.ca.gov/programs/civil-rights/dbe-certification-information>

Please allow sufficient time for the processing of the Certification Application. You can contact the appropriate certifying agency to determine the length of time required for processing. A roster of certifying agencies in California, including ACDBE certifying agencies, is available on the Caltrans website at the following link: <https://dot.ca.gov/-/media/dot-media/programs/civil-rights/documents/dbe/cucp-roster-of-certifying-agencies-1-2021-a11y.pdf>

To obtain additional information about the federal ACDBE program, visit the Federal Aviation Administration (FAA) website at: https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/

E. PROPOSAL REQUIREMENTS

Proposers who include ACDBE participants are required to submit information regarding intended participation by ACDBE's as stated in Part 4, Section B.

F. REPORTING REQUIREMENTS AND COMPLIANCE

A successful Proposer shall provide all information and reports required by the Airport and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Airport to be pertinent to ascertain compliance with the regulations or directives.

PART 7 – PRE-PROPOSAL TOUR AND COMMUNICATION

A. PRE-PROPOSAL TOUR

The Pre-Proposal Tour is scheduled for April 12, 2023

County of Orange/John Wayne Airport
18601 Airport Way, Santa Ana, CA 92707 – JWA Administrative Offices

The Pre-Proposal tour of the CDP sites will start promptly at 1:00 pm and is expected to take approximately 1 to 2 hours. For participation on the Pre-Proposal tour, R.S.V.P. is required.

pan

Please Register through Survey Monkey at:

<https://forms.office.com/Pages/ResponsePage.aspx?id=VppE5D3NukCuMiWmPegrO2ARnXmE61ZGqNlixAVwGnxUOVlyRFVPWktDSFM3Qlc5TE5SQUNEUI1NFRS4u>

PROPOSERS ARE NOT REQUIRED TO ATTEND THE PRE-PROPOSAL TOUR, BUT THOSE PLANNING TO SUBMIT PROPOSALS ARE ENCOURAGED TO ATTEND. THIS WILL OCCUR ONE TIME ONLY AND THE AIRPORT WILL NOT SCHEDULE INDIVIDUAL MEETINGS OR AIRPORT TOURS.

B. COMMUNICATION

All questions related to this RFP must be submitted through Periscope (www.periscopeholdings.com/s2g). For Periscope assistance, please contact the Vendor Support Team at 800-990-9339, Option 1.

Proposers shall not directly contact Airport staff with any questions or clarifications concerning this RFP. Any such action could lead to disqualification of a Proposer from the RFP process.

The Deputy Airport Director, Business Development, will provide all official communication concerning this RFP. With respect to this RFP, any County response other than a written response from the Deputy Airport Director, Business Development, will be deemed unauthorized and the County shall bear no responsibility for any reliance upon unauthorized communication.

Addenda to the RFP, if necessary, will be posted on Periscopeholdings.com. Proposers are responsible to comply with all posted addenda.

PART 8 – PROPOSER SUBMITTAL INSTRUCTIONS

A. GENERAL INFORMATION

Please read the following instructions and "Proposer Checklist" carefully and check your Proposal concession package immediately upon downloading from Periscope to ensure that you have in your possession all the necessary documents. The information presented in this RFP is provided solely for the convenience of Proposers and other interested parties. It is the responsibility of the Proposer and interested parties to assure themselves that the information contained in the concession package is accurate and complete. The County and its advisors provide no assurances pertaining to the accuracy of the data in the RFP.

All Proposal documents and supplementary material or information submitted to the County shall become the property of the County. All costs associated with the preparation and submission of any Proposal shall be borne entirely by the Proposer. When the Evaluation Panel's scores have been completed and published, the County will make Proposer's Questionnaire, ~~conceptual~~ renderings, and layouts available to the public. Upon award, all documents submitted in connection with this RFP may be subject to public disclosure pursuant to the California Public Records Act (Cal. Gov. Code § 7920 *et seq.*).

The Proposer must identify, in writing, all copyrighted material, trade secrets, or other proprietary information that Proposer claims is exempt from disclosure pursuant to the Public Records Act. **The Proposer who claims such an exemption must also state in the Proposal, executed by a signatory authorized to so bind the Proposer that, "The Proposer agrees to indemnify, defend with counsel approved in writing by County, and hold the County, its elected and appointed officials, officers, employees, and agents harmless from any and all claims, demands, or liability of any kind or nature arising from County's refusal to disclose to any party any records Proposer has identified as copyrighted, trade secret, or other proprietary information."**

Pursuant to California Government Section 25536, the County reserves the right to award Concessions Lease(s) for specific site locations to the Proposers it deems qualified regardless of the Evaluation Panel's recommendation, to reject any or all Proposals, to cause re-soliciting of the Proposals, or to take such other course of action as the County deems appropriate at its sole and absolute discretion.

B. PROPOSAL DEPOSIT

Each Proposer's "Original" Proposal must be accompanied by a deposit in the amount of Twenty-Five Thousand Dollars (\$25,000.00), in the form of a cashier's check made payable to the County of Orange/John Wayne Airport, a letter of credit, in a form approved by John Wayne Airport, or through a wire transfer of funds to the County of Orange/John Wayne Airport, must be submitted in a sealed envelope. For wiring instructions, please contact JWA Accounting via e-mail at AccountsReceivable@ocair.com. The \$25,000 cashier's check, letter of credit, or wire fund confirmation must accompany each Proposal, or the Proposal will be rejected.

Deposits submitted by unsuccessful Proposers will be returned within thirty (30) days after execution of all Concessions Leases, or after all Proposals are rejected.

The proposal deposit of a successful Proposer shall be refunded within thirty (30) days after submittal of the security deposit and proof of insurance required by the Concessions Lease. Successful Proposer agrees, should they fail to submit the required security deposit or insurance within thirty (30) days of full execution of the Lease, the Lease shall be terminated, and the proposal deposit shall be retained by the County as liquidated damages for the Proposer's breach.

Pursuant to Government Code Section 25536, the Board may thereafter award such Lease to another Proposer, solicit new Proposals, or take such other action as the Board deems appropriate in its absolute and sole discretion.

C. FORMAT REQUIREMENTS

Nonresponsive or Late Proposals: Proposals not submitted in the manner described herein may be considered nonresponsive and subject to rejection. Late Proposals shall be rejected and returned to the Proposer.

This deadline is ABSOLUTE. All Proposals received after the due date and time shall not be considered.

Proposers must select a method of delivery that ensures Proposals will be delivered to the correct location before the due date and time.

Page Limit: Proposals shall not exceed **one-hundred (100) two-sided pages**, excluding front and back covers, section dividers, financial statements, Conceptual Development Plans, training and operating plans, foam boards, required forms, and table of contents. Proposals should be prepared in a concise manner that clearly responds without embellishment to the information requested in this RFP. **Any additional pages will be discarded and will not be reviewed.**

Format: Proposals must be typewritten in Times New Roman 12-point font on white 8½" x 11" paper (except as noted below for 11" x 17" plans) in portrait format and be unbound. White three-ring binders with clear covers are required and must include Proposer's information inserted in the cover and each section tabbed. All pages of the Proposal are to be numbered for ease of review by the Evaluation Panel.

Format for ~~conceptual~~ renderings, layouts, and material boards (**excluded from page count**) **must include the following**:

- All foam boards must be 11" x 17" in size (**can be digital**).
- Color/sample boards with material legend identifying all items and their locations (for both interior and exterior finishes).
- **Images depicting front elevation, interior elevation, signage with discussion for design intent for JWA**
- **Design supports the proposed brand/concept, and a strong merchandising strategy is incorporated into design**
- **A unit location floor plan showing all elements of operations, such as:**
 - **Equipment placement**
 - **Customer ordering and queuing areas**
 - **Customer seating (if applicable)**
- **Effective use of limited space to maximize capacity**

- All of the above items are required to be color copied onto 11" x 17" paper and inserted into each Proposal package consisting of eight (8) complete sets (see below). The color copies onto 11" x 17" paper are ~~included~~ **excluded** in the page count.

D. SUBMISSION OF PROPOSALS VIA SEALED PACKAGE

Proposers must submit their Proposals in sealed packaging as described below.

Number of Proposals: **Eight (8)** full sets of your written Proposal, **one (1)** original clearly marked “Original” with original ink signatures, **seven (7)** copies and **eight (8)** USB flash drives containing files in PDF file format along with Proposer’s deposit.

Additionally, Proposers must submit **four (4) complete half size hard copy sets (18” x 24”)** and **four (4) USB flash drives with PDFs** of Conceptual **Development Plans** prepared by a California licensed architect and/or engineer (“A/E”) fully depicting the Proposer’s proposed development.

All Proposals must be delivered and received before the time and date shown below:

Proposal Due Date and Time: July 17, 2023, by 4:00 p.m. PST

Address: Proposers must submit Proposals to the following address:

County of Orange/John Wayne Airport
 Eddie Martin Administration Building
 Deputy Airport Director, BD – Concession Proposal
 3160 Airway Avenue
 Costa Mesa, CA 92626

Packaging and Identification: Proposer shall submit its Proposal in a sealed package and shall write/type the following identification information on the outermost portion of the sealed package:

SEALED PROPOSAL

County of Orange/John Wayne Airport
 Eddie Martin Administration Building
 Deputy Airport Director, BD – Concession RFP
 3160 Airway Avenue
 Costa Mesa, CA 92626

PART 9 – EVALUATION PROCESS

This RFP process will allow a slate of qualified Proposals to be submitted to the Board that best meet the Airport’s goals and objectives. The evaluation process will consist of two parts:

1. Determination of Responsive Proposals (using Proposal compliance to determine responsiveness of Proposals)
2. Panel Evaluation of Responsive Proposals (using scoring criteria)

The County reserves the right to reject a Proposal as nonresponsive based upon a review of Proposer’s experience and financial qualifications. The County further reserves the right to conduct an investigation of information submitted, to seek publicly available information about the Proposer and its development team, and to request additional information with regard to Proposer’s experience and financial qualifications.

A. EVALUATION PANEL

An Evaluation Panel established by the County will evaluate and score Proposals in accordance with the evaluation criteria outlined below. The Evaluation Panel may consist of members from within or outside the County. The Evaluation Panel will provide a slate of recommended Proposals to the Board for consideration and selection. The Evaluation Panel’s recommendation shall not be binding upon the Board. The Board will exercise its sole discretion when selecting and awarding its preferred concession operators.

PART 10 - EVALUATION CRITERIA

Each area of the Proposal will be subject to evaluation. Proposals will be assessed according to the following criteria:

A. PROPOSAL COMPLIANCE

The County will screen all Proposals to ensure compliance with the RFP’s requirements. Proposers will be notified in writing of Proposals not meeting the minimum qualifications set forth in this RFP and will be disqualified from further consideration.

Proposer must complete and submit for each concession package Proposal: (1) a signed Proposal including Proposer’s deposit; (2) a Proposer’s Questionnaire; and (3) all required documents as identified on the Proposer Checklist. Proposer must review the Proposal submittal instructions and submit all required sets of documents as specified in this RFP.

If proposing on more than one concession package, the Proposer must submit a separate and complete Proposal for each.

Selected Proposers will be awarded no more than one (1) Retail Concessions Lease Package and one (1) Food & Beverage Concessions Lease Package each.

The minimum qualifications for Proposals are as follows:

- Completeness of Proposal against RFP Requirements, including submittal of all required documents.
- Conformance to specific requirements set forth in this RFP.
- Documentation of Minimum Experience and Financial Capability of Proposer.
- Completed Proposer Checklist, initialed and dated (Exhibit D).
- Demonstration of Proposer's ability to incorporate CALGreen Tier 1 certification development into its project (Exhibit J).
- A signed statement, attached as **Exhibit B**, that Proposer has read **Exhibit H - Draft Lease** and takes no exception to the language therein. Throughout the RFP process and upon selection by the Board, minor modifications to the Lease that do not materially alter the terms or financial obligations to the County can be made. Following award to the successful Proposer by the Board, but prior to Lease Commencement, the County must receive all items required by the Lease including the required security deposit and evidence of insurance.

B. SCORING PHASE

The Evaluation Panel will score Proposals and provide a slate of recommended Proposers to the Board using the criteria outlined below.

PANEL RATING CRITERIA FOR PROPOSALS

Category	Points
Minimum Qualifications	Pass/Fail
Proposed Concepts/Executive Summary	350
Business Plan, Design Intention and Capital Investment	200
Management Experience	150
Sustainability	75
Operations Plan, Customer Service, Employee Retention	125
Question and Answer Panel Review • 5 pre-set questions on the above categories	100
Total	1,000

C. PANEL ORAL INTERVIEW OF PROPOSER

JWA will require all qualified Proposers to participate in a structured oral interview as part of the rating criteria and, if the Panel requests, the interviews will be used for further clarification of the written Proposals. The structured oral interview will include the same questions for each interviewee. **There will be no presentation permitted during the oral interview.** Proposers shall be ready to attend the Oral Interview within five (5) business days of notification.

D. PROPOSER SELECTION FOR RECOMMENDATION TO THE COUNTY OF ORANGE BOARD OF SUPERVISORS

Once the Evaluation Panel completes its review of the Proposals, the Airport will present its recommended slate of Proposers to the Board for consideration and selection.

The County reserves the right to award Concessions Lease(s) for specific site locations to the Proposers it deems qualified regardless of the Evaluation Panel's recommendation, to reject any or all Proposals, to cause re-soliciting of the Proposals, or to take such other course of action as the County deems appropriate at its sole and absolute discretion.

Although not intended to be an exhaustive list of causes for disqualification, any one or more of the following will be considered sufficient for the disqualification of a Proposer and the rejection of the Proposal:

- Evidence of collusion among Proposers.

- Incomplete or late submittals of Proposals or other requested information.
- Submittal of Proposal in a format or order other than required.
- Non-submittal of Proposer's deposit, or submittal in a form other than cashier's check, letter of credit, or confirmation of wire transfer to the County of Orange/John Wayne Airport.
- Insufficient evidence of business skills or financial resources necessary to successfully operate and manage a concession as revealed by either financial statements or experience.
- Insufficient evidence of experience as shown by past work, references, or other factors.
- Default or termination of other contracts or agreements.
- Omission, inaccuracy, misstatement, or failure to submit any portion of the Proposal and signed Acknowledgement and Approval of Proposal Deposit and Draft Lease Provisions in the Proposal.
- Documents and information submitted with Request for Proposal that do not match or support the information submitted during the Request for Qualification process.
- Other causes as the County deems appropriate at the County's sole and absolute discretion.

The Airport will determine whether to recommend a Proposal for selection based on the information furnished as well as other sources determined to be relevant by the County. An award will not be made until after any such investigation, as deemed necessary, is made by the County regarding the experience and financial responsibility of the Proposer. By submitting a Proposal, each Proposer consents to permit such an investigation by the County. The Evaluation Panel's recommendation will be advisory to the Board. The County intends to award each concessions lease package to the most qualified and responsible Proposer.

NOTE: Please notify your business references, in writing, that Airport staff will be contacting them concerning the financial and experience information furnished with your Proposal.

The selection and recommendation of award shall be in accordance with the following process:

- For each of the concession packages, using the scoring criteria above, a slate of Proposals and their corresponding scores will be recommended to the Board for consideration.
- The Airport reserves the right to recommend award based the best needs of the Airport, including preferred site location. In addition, the Board may decide to offer Proposer a different concession package than the one requested in a Proposal.

PART 11 - PROTEST POLICY

A. PROTEST PROCESS

Any actual or prospective Proposer who alleges a grievance with regard to the solicitation of Proposals or proposed award of a lease may submit a protest to the Deputy Airport Director, Business Development.

All protests shall be typed under the protester's letterhead and submitted in accordance with the provisions stated herein. All protests shall include at a minimum the following information:

- The name, address and telephone number of the protester
- The signature of the protester or the protester's representative
- The solicitation or contract number
- A detailed statement of the legal and/or factual grounds for the protest; and
- The form of relief requested.

B. PROTEST OF PROPOSAL SPECIFICATIONS

All protests related to Proposal specifications must be submitted to the Deputy Airport Director, Business Development no later than five (5) business days after the close of the Questions & Answer period. Protests received after the five (5) business day deadline will not be considered by the County.

In the event the protest of specifications is denied, and the protester wishes to continue in the solicitation process, they must still submit a Proposal prior to the close of the solicitation in accordance with the Proposal submittal procedures provided herein.

C. PROTEST OF PROPOSED AWARD OF LEASE

In protests related to the proposed award of a lease, the protest must be submitted no later than five (5) business days after the notice of the proposed award is provided by the Deputy Airport Director, Business Development. Protests relating to a proposed award which are received after the five (5) business day deadline will not be considered by the County.

Protest Process

- In the event of a timely protest, the County shall not proceed with the solicitation or award of the lease until the Deputy Airport Director, Business Development renders a decision on the protest.
- Upon receipt of a timely protest, the Deputy Airport Director, Business Development will, within five (5) business days of the receipt of the protest, issue a decision in writing which shall state the reasons for the actions taken.

Appeal Process

- If the protester disagrees with the decision of the Deputy Airport Director, Business Development, the protester may submit a written appeal to the Assistant Airport Director.
- Within ten (10) business days, the Assistant Airport Director will review all materials in connection with the protest, assess the merits of the protest, and provide a written determination that shall contain their decision on whether the protest shall be forwarded to the Airport Director.
- If the protester wishes to appeal the decision of the Assistant Airport Director, the protester must submit, within three (3) business days from receipt of the Assistant Airport Director's decision, a written appeal to the Assistant Airport Director requesting a review by the Airport Director.
- The decision of the Assistant Airport Director on whether to allow the appeal to go forward to the Airport Director will be final and there shall be no right to administrative appeal of this decision.
- If an appeal reaches the Airport Director, the Airport Director's decision will constitute the final administrative determination with respect to the protest.

EXHIBITS AND FORMS

Attachment 1 – Packages and Locations

Exhibit A – Map

Exhibit B – Acknowledgement of Proposal Deposit and Approval of Draft Lease Provisions

Exhibit C – Proposal Cover Sheet

Exhibit D – Proposer Checklist

Exhibit E – Proposer Form and Questionnaire

Exhibit F – Pro Forma Template

Exhibit G – Financial Viability Form

Exhibit H – Draft Lease Agreement

Exhibit I – Disclosure Form Levine Act

Exhibit J – CalGreen Tier 1 Checklist

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

1. Name of Proposer exactly as it will appear on the Lease:

2. Address of Proposer for purposes of notice or other communication relating to the Lease:

3. Telephone Number of Proposer:

4. Contact:

5. Title:

6. FAX number of Proposer:

7. E-mail Address:

8. Local Contact

Address:

Telephone number:

FAX number

E-mail Address:

9. Proposer intends to operate the business with which this proposal is concerned as a

Sole Proprietorship []; Partnership []; Corporation []; Joint Venture []; LLC [];

or:

Explain:

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE**SOLE PROPRIETORSHIP STATEMENT**

If a Sole Proprietorship, furnish the following:

1. Name in full _____
2. Residence Address: _____
 _____ Zip Code: _____
3. Business Address: _____
 _____ Zip Code: _____

PARTNERSHIP STATEMENT

If a Partnership, answer the following:

1. Date of Organization _____
2. General Partnership
 Limited Partnership
3. Statement of Partnership recorded? Yes No

_____ Date _____ Book _____ Page _____ County _____

4. Has the Partnership done business in Orange County? Yes No

When? _____

Name, address, and partnership share of each general partner:

<u>Name</u>	<u>Residence Address</u>	<u>Share</u>
A. _____	_____	_____ %
B. _____	_____	_____ %
C. _____	_____	_____ %
D. _____	_____	_____ %

5. Attach a complete copy of the Statement of Partnership and the Partnership Agreement.

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

LIMITED LIABILITY COMPANY STATEMENT

1. Provide an organizational chart for the LLC and a diagram showing its relationship to any other related corporations, limited liability companies or related organizations.
2. Furnish the information as shown below for the Corporation Statement as appropriate for a limited liability company including when and where formed, the number of voting units, non-voting units, and number of unit holders. Include the requested information regarding each manager, managing member and principal unit holder.

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

CORPORATION STATEMENT

If a Corporation, answer the following:

1. When incorporated? _____
2. Where incorporated? _____
3. Is the Corporation authorized to do business in California? Yes [] No []

If so, as of what date? _____

4. The Corporation is held: Publicly [] Privately []
5. If publicly held, how and where is the stock traded?

6. List the following:

Authorized Issued Outstanding

- | | | | | |
|----|----------------------------------|-------|-------|-------|
| A. | Number of voting shares: | _____ | _____ | _____ |
| B. | Number of nonvoting shares: | _____ | _____ | _____ |
| C. | Number of shareholders: | _____ | _____ | _____ |
| D. | Value per share of common stock: | _____ | _____ | _____ |

Par \$ _____

Book \$ _____

Market \$ _____

7. Furnish the name, title, residence address, and the number of voting and nonvoting shares of stock held by each officer, director, and principal shareholder.

<u>Name</u>	<u>Title</u>	<u>Residence Address</u>	<u>Voting Shares</u>	<u>Nonvoting Shares</u>
A. _____ _____	_____ _____	_____ _____	_____ _____	_____ _____
B. _____ _____	_____ _____	_____ _____	_____ _____	_____ _____
C. _____ _____	_____ _____	_____ _____	_____ _____	_____ _____
D. _____ _____	_____ _____	_____ _____	_____ _____	_____ _____

REQUEST FOR PROPOSALS

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CONCESSIONS

Initial _____ Date _____

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

CORPORATION STATEMENT (continued)

8. Furnish Corporate Resolution indicating parties authorized to contract on behalf of the Corporation. Corporate Resolution must contain corporate seal and be certified by the Secretary of the Corporation.
9. Affiliation with Other Corporations. Have the principals of the proposing corporation been part of any other corporations as corporate officers, holders of 51% or more of the stock or directors within the last 5 years? If so, furnish name of principal as listed with other corporations, name of the other corporation including any dba names, the date of incorporation, position and percentage of shares held.

<u>Principal</u>	<u>Corporation</u>	<u>Date</u>	<u>Position</u>	<u>% shares</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

JOINT VENTURE STATEMENT

If a Joint Venture, answer the following:

1. Date of Organization _____
2. Joint Venture Agreement recorded? Yes [] No []
3. Has the Joint Venture done business in Orange County? Yes [] No []

When? _____

4. Name and address of each Joint Venturer:

<u>Name</u>	<u>Address</u>
A. _____	_____
B. _____	_____
C. _____	_____
D. _____	_____

5. Attach a complete copy of the Joint Venture Agreement.

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

EXPERIENCE

Proposers shall provide the following:

- a. A detailed description of the duration and extent of Proposer’s business experience with the operation and management of a Food and Beverage or Specialty Retail Concession (as applicable) including a list of current (and previous) locations where Proposer operates or has operated a Food and Beverage or Specialty Retail Concession.
- b. Does the Proposer have a collective bargaining agreement in place? Yes No
- ~~c. Provide the last fiscal year revenues for each location where you operate a concession.~~
- d. Provide information, including resumes, of the background and relevant experience of the persons who will be directly involved in the management and oversight of the proposed concession at JWA.

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE**REFERENCES: Management**

List four (4) persons or firms for whom you have been associated with as a Specialty Retail or Food & Beverage Concession for the last five (5) years. Attach additional sheets if necessary.

Reference No. 1

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature of Relationship:

_____Reference No. 2

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature of Relationship:

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE

Reference No. 3

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature of Relationship:

Reference No. 4

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature and magnitude:

EXHIBIT E – PROPOSER FORM AND QUESTIONNAIRE**REFERENCES: Payment History**

List two (2) persons or firms who have knowledge of your payment history. Attach additional sheets if necessary.

Reference No. 1

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature and magnitude:

Reference No. 2

Name: _____

Title: _____

Firm: _____

Address: _____

_____ Zip: _____

Telephone: () _____ Fax: () _____

Email: _____

Nature and magnitude:

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CONCESSIONS

Initial _____ Date _____

Addendum #9 – Grease Locations

All locations need to be field verified.

GREASE INTERCEPTOR SUMMARY TABLE					
**REFERENCE JOHN WAYNE AIRPORT (JWA) TERMINAL GREASE INTERCEPTOR INFRASTRUCTURE ASSESSMENT" FOR ADDITIONAL DETAILS					
TAG	INTERCEPTOR TYPE	LOCATION	TOTAL CAPACITY	CONCESSIONS SERVICE	YEAR INSTALLED
GI-1	HYDRO-MECHANICAL, STEEL IN-GROUND	UTILITY CORRIDOR BETWEEN COLUMN LINES 21&22	250 GPM, 500-LB GREASE CAPACITY	MCDONALDS, HOBIE'S	2012
GI-2	HYDRO-MECHANICAL, STEEL IN-GROUND	UTILITY CORRIDOR BETWEEN COLUMN LINES 33&34	250 GPM, 500-LB GREASE CAPACITY	RUBY'S, FARMER'S MARKET	2012
GI-3	HYDRO-MECHANICAL, STEEL IN-GROUND	UTILITY CORRIDOR BETWEEN COLUMN LINES 50 &51	250 GPM, 500-LB GREASE CAPACITY	MCDONALDS, CALI. PIZZA KITCHEN	2012
GI-4	HYDRO-MECHANICAL, STEEL ABOVE-GROUND	AIRSIDE BETWEEN COLUMN LINES 16 & 17	100 GPM, 200-LB GREASE CAPACITY	DUCK'S BAR	2021
GI-5	GRAVITY TYPE, CONCRETE IN-GROUND	LANDSIDE BETWEEN COLUMN LINES 10 & 11	2000 GAL GREASE CAP. @ 216 DFU	JAVI'S, QDOBA, OC PIZZA, AND JAMBA JUICE	2010
GI-6	GRAVITY TYPE, CONCRETE IN-GROUND	LANDSIDE BETWEEN COLUMN LINES 2 & 3	2000 GAL GREASE CAP. @ 216 DFU	CARL'S JR	2010
GI-7	FIBERGLASS, ABOVE GROUND, ZURN	AIRSIDE BETWEEN COLUMN LINES 21' & 22'	750 GAL GREASE CAP. @ 21 DFU	NONE CURRENTLY	2021
GI-8	FIBERGLASS, ABOVE GROUND, ZURN	AIRSIDE BETWEEN COLUMN LINES 10' & 11'	750 GAL GREASE CAP. @ 21 DFU	NONE CURRENTLY	2021
GI-9	FIBERGLASS, ABOVE GROUND, ZURN	AIRSIDE BETWEEN COLUMN LINES 6 & 7	1500 GAL GREASE CAP. @ 172 DFU	NONE CURRENTLY	2021
GI-10	FIBERGLASS, ABOVE GROUND, ZURN	AIRSIDE BETWEEN COLUMN LINES 26 & 27	750 GAL GREASE CAP. @ 21 DFU	NONE CURRENTLY	2021
GI-11	FIBERGLASS, ABOVE GROUND, ZURN	AIRSIDE BETWEEN COLUMN LINES 45 & 46	750 GAL GREASE CAP. @ 21 DFU	NONE CURRENTLY	2021
GI-12	FIBERGLASS, ABOVE GROUND, ZURN	AIRSIDE BETWEEN COLUMN LINES 60 & 61	1500 GAL GREASE CAP. @ 172 DFU	NONE CURRENTLY	2021
GI-13	FIBERGLASS, ABOVE GROUND, ZURN	AIRSIDE BETWEEN COLUMN LINES 45 & 46	750 GAL GREASE CAP. @ 21 DFU	NONE CURRENTLY	2021
GI-14	NO INFO	NEAR BIFFY DUMP	NO INFO	TRASH COLLECTION	NO INFO

EXHIBIT D: PROPOSER CHECKLIST

Nonresponsive or Late Proposals: Proposals not submitted in the manner described herein may be considered nonresponsive and subject to rejection. Late Proposals will be rejected and returned to the Proposer.

Page Limit: Proposals shall not exceed **one-hundred (100) two-sided pages**, excluding front and back covers, section dividers, financial statements, Conceptual Development Plans, foam boards, and table of contents.

Format: Proposals must be typewritten in Times New Roman 12-point font on white 8½" x 11" paper (except as noted below for 11" x 17" plans) in portrait format and must be unbound. White three-ring binders with clear covers are required and must include Proposer's information inserted in the cover. All pages of the Proposal are to be numbered for ease of review by the evaluation panel.

Format for conceptual renderings, layouts, and material boards: **(excluded from page count)**

- All foam boards must be 11" x 17" in size **(can be digital)**
- **Color/sample boards with material legend identifying all items and their locations (for both interior and exterior finishes).**
- **Images depicting front elevation, interior elevation, signage with discussion for design intent for JWA**
- **Design supports the proposed brand/concept, and a strong merchandising strategy is incorporated into design**
- **A unit location floor plan showing all elements of operations, such as:**
 - Equipment placement
 - Customer ordering and queuing areas
 - Customer seating (if applicable)
 - Effective use of limited space to maximize capacity
- All of the above items are required to be color copied onto 11" x 17" paper and inserted into each Proposal package consisting of eight (8) complete sets (see below). The color copies onto 11" x 17" paper are ~~included~~ **excluded** in the page count.

Number of Proposals: **Eight (8)** full sets of your written Proposal, **one (1)** original clearly marked "Original" with original ink signatures, **seven (7)** copies and **eight (8)** USB flash drives containing files in PDF file format along with Proposer's deposit.

Additionally, Proposers must submit **four (4) complete half size hard copy sets (18" x 24")** and **four (4) USB flash drives with PDFs** of Conceptual Development Facility Plans prepared by a California licensed Architect and Engineer (A/E) fully depicting the Proposer's proposed development.

Packaging and Identification: Proposer shall submit its Proposal in a sealed package and shall write/type the following identification information on the outermost portion of the sealed package:

SEALED PROPOSAL

County of Orange/John Wayne Airport
Eddie Martin Administration Building
Deputy Airport Director, BD – Concession RFP
3160 Airway Avenue
Costa Mesa, CA 92626

The following items are required to be checked and submitted. Proposal must be tabbed in the order outlined below. Failure to do so may result in disqualification.

- Tab 1 - Proposer Cover Sheet – Exhibit C**
- Tab 2- Proposer Checklist – Exhibit D Signed and Dated**
- Tab 3 - Signed and dated Acknowledgement and Approval of Proposal Deposit and Draft Lease Provisions - Exhibit B**
- Tab 4 - Proposal Deposit of \$25,000**
- Tab 5 - Cover Letter including all information specified in the RFP**
- Tab 6 - Proposed Concept/Executive Summary**
- Tab 7 - Business Plan, Design Intention and Capital Investment**
- Tab 8 - Management Experience**
- Tab 9 – Sustainability**
- Tab 10 - Operations Plan, Customer Service, Employee Retention**
- Tab 11 – Required Forms**
 - Proposer Form and Questionnaire – Exhibit E
 - Pro-Forma Template – Exhibit F
 - Financial Viability Form – Exhibit G
 - Disclosure Act Levine Form – Exhibit I
 - **Packages and Locations – Attachment 1**

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

NAME AND TITLE OF AUTHORIZED OFFICIAL:

SIGNATURE: _____

DATE: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Package FB1

LOCATION CONCEPT TYPE	ID #	TERMINAL	NEAR GATE	SIZE (SF)
National Brand Coffee Café/Bakery	A3	A	4 & 5	1,400
Chicken	A4.1	A	5 & 6	1,162
Open to Proposer	A4.2	A	5 & 6	1,162
Asian	A4.3	A	5 & 6	1,162
Brazilian Churrascaria, Mexican, Asian, Coastal California Cuisine Restaurant With Bar	B9.1	B/C	13 & 14	9,300
Food Hall – Open to Proposer	B9.2	B/C	13 & 14	
Food Hall – Open to Proposer	B9.3	B/C	13 & 14	
Food Hall – Open to Proposer	B9.4	B/C	13 & 14	
Automated – Food (Open to Proposer)	A9	A	2	150
Automated – Food (Open to Proposer)	A11-LL	A	1A	150
Automated – Food (Open to Proposer)	C6	C	21	150
Automated – Food (Open to Proposer)	C8-LL	C	1C	150
TOTAL	12			14,786

BUSINESS TERMS FOR PACKAGE FB1

Term	15 years from Term Commencement Date
Base Rent	\$75 per SF
Percentage Rent	See location descriptions below
ACDBE Participation Goal	Race-neutral goal of 27.7%

It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvement and utility conditions, size and configuration to confirm the feasibility of the Proposer's proposed project.

Name and Title of Signer: (Print or Type) _____

Signature: _____

Date: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

A3 National Brand Coffee/Bakery 1,400 SF

Permitted Use

The offered location is intended for the operation of a branded coffee café and/or bakery selling premium quality fresh-made pastries, breads, bagels, salads, and sandwiches along with the sale of custom-made hot and cold coffee and tea-based beverages, juices, and soft drinks. Touchless transactions, remote ordering, at-your-gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing and seating must be contained within the premises. The menu should include healthy options, and cover all three dayparts: breakfast, lunch, and dinner. The sale of alcoholic beverages is not permitted. The Airport prefers a nationally recognized café and/or bakery brand concept.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

A4.1, A4.2, A4.3 Chicken/Open/Asian 3,486 SF (3 X 1,162 SF)

Permitted Use

These offered locations are intended for three Quick Service Restaurants (“QSRs”). However, Airport is open to a minimum of two or no more than three QSRs if the Proposer feels their offer would be a more productive use of the space, or if the utilities available constrain the level of offerings. In no event shall this be considered for a single QSR, fast casual, sit-down, or other type of restaurant use. Chicken and Asian concepts are desirable. Proposer shall not propose burgers or any other use that would be in direct competition with uses currently in operation or being solicited in this RFP located in Terminals A & B. The primary use for each location within the described premises shall be for the sale of fast food/quick service food and non-alcoholic beverages in a counter-service setting. The Airport prefers nationally recognized QSRs brands. Touchless transactions, remote ordering, at-your-gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing must be contained within the premises. The menu for all of the QSRs must serve all three dayparts (breakfast, lunch, and dinner) and should include healthy menu items in response to the growing needs and preferences of the health-conscious traveler. The concepts should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

B9.1 Brazilian Churrascaria, Mexican, Asian, or California Coastal Cuisine Restaurant With Bar and

B9.2, B9.3, B9.4 Food Hall Open to Proposer

Total 9,300 SF

Permitted Use

This entire space consists of 9,300 SF. The proposer should allocate space for a “Restaurant with Bar,” three QSR concepts, and food hall common area seating in a manner that best meets passenger needs and optimizes operations. Allocations must be accurately reflected in the space layout plan submitted for this location. The proposer will be responsible for all FF&E, trash/janitorial, and maintenance for the seating area within this location. The proposer will only be responsible for paying Base Rent on the actual in-line footprint of the Premises (the food hall common area seating square footage will be excluded from Base Rent). This combination of locations is intended to feature a signature, sit-down restaurant with a full bar as well as a multi-unit food hall. The offered location is intended for the operation of a sit-down restaurant with bar. A Brazilian, Mexican, Asian, or California Coastal Cuisine Restaurant with Bar and/or Distillery concept and three local/regional QSR concepts are envisioned but not mandatory. All locations are expected to have menus that service the three dayparts: breakfast, lunch, and dinner, contain healthy menu options, and to the extent possible, are not duplicative of other dining options within the terminal. Proposers shall not propose burger as a primary use for any of the QSRs. The sit-down restaurant location will be required to have a full bar including beer, wine, and spirits. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The Airport expects the overall space to accommodate seating within the sit-down restaurant location as well as common seating for the three QSR locations. The design and feel should cohesively join the sit-down restaurant and the food hall. Touchless transactions, remote ordering, at-your-gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing and seating must be contained within the premises. Each QSR as well as the sit-down restaurant location should include healthy menu items in response to the growing needs and preferences of the health-conscious traveler. The concepts should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

A9, A11 LL, C6, C8 LL Automated Food (Open to Proposer) 600 SF (4 x 150 SF)

Permitted Use

These four offered locations are intended for the operation of automated food machines. These machines are intended for non-alcoholic beverages, food products such as pre-made sandwiches, salads, fresh pre-packaged fruits, yogurt parfaits, or other meal-type items conducive to being carried in a vending format, or snacks such as cookies, chips, candy bars, cupcakes, or other such “snack” items. Proposers are to determine what product line, and/or brands they wish to carry. Machines shall accept, at all times, cash, all major credit cards, Apple Pay, Google Pay, and other NFC based payments. Machines should be cellular capable and not reliant on ground-based communication services. Proposers should include in their description of the machine and its menu, the frequency of and types of services and maintenance required. Packaging, to the extent possible, shall be eco-friendly and made from sustainable sources. Packaging shall also comply with all Federal, State, and local laws and regulations.

Category	Total Annual Cumulative Gross Receipts	Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
Automated Food	All Gross Receipts	25.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Package FB2

LOCATION CONCEPT TYPE	ID #	TERMINAL	NEAR GATE	SIZE (SF)
Bar With Snacks	A1	A	3 & 4	750
Wine Bar With Food	B1	B	9 & 10	1,722
National Brand Coffee	B1 LL	B	Baggage	445
National Brand Coffee Café/Bakery	B7	B	12	1,345
Snack/Candy	C8	C	17	750
Sandwich or Open to Proposer	C2-B	C	15 & 16	1,430
Sushi	C2-C	C	15 & 16	1,430
Local Casual Dining Restaurant With Bar	C4	C	18 & 19	3,000
Bar With Snacks	C1	C	16 & 17	1,135
Automated Retail – Food (Open to Proposer)	A10	A	10	150
Automated Retail – Food (Open to Proposer)	A13 LL	A	1A	150
Automated Retail – Food (Open to Proposer)	C7	C	21	150
TOTAL	12			12,457

BUSINESS TERMS FOR PACKAGE FB2

Term	15 years from Term Commencement Date
Base Rent	\$75 per SF
Percentage Rent	See location descriptions below
ACDBE Participation Goal	Race-neutral goal of 27.7%

It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvement and utility conditions, size and configuration to confirm the feasibility of the Proposer's proposed project.

Name and Title of Signer: (Print or Type) _____

Signature: _____

Date: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

A1 Bar With Snacks 750 SF

Permitted Use

The offered location is intended for the operation of a full-service bar selling beer, wine, and spirits. A menu consisting of draft and bottled/canned beer, wine by the glass, and a full spirits menu. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The menu should also include food items such as appetizers, “bar snacks,” and charcuterie plates.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

B1 Wine Bar With Food 1,722 SF

Permitted Use

The offered location is intended for the operation of a wine bar selling wine by the glass and bottle as well as soft drinks. Menu should consist of tasting “flights” offering smaller portions of multiple wines aimed at educating passengers of the variety and types of wines offered by a certain region, country, or varietal. “to-go” sales of unopened bottles will be permitted subject to local liquor license regulations and FFA guidelines. Operator may sell bottles to be shipped directly to passengers as permitted by law. A food menu consisting of light snacks and appetizers is required. The food menu may be more extensive at the discretion of the Proposer. At least one on-site employee must be a certified sommelier.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

B1 LL National Brand Coffee 445 SF

Permitted Use

The offered location is intended for the operation of a branded coffee selling premium quality custom-made hot and cold coffee and tea-based beverages, as well as juices, and soft drinks. The

ATTACHMENT 1 – PACKAGES AND LOCATIONS

menu should also include related food items, either made-to-order or pre-packaged. The sale of alcoholic beverages is not permitted. The Airport prefers a nationally recognized coffee brand concept.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

B7 National Brand Coffee Café/Bakery 1,345 SF

Permitted Use

The offered location is intended for the operation of a branded coffee café and/or bakery selling premium quality fresh-made pastries, breads, bagels, salads, and sandwiches as well as custom-made hot and cold coffee and tea-based beverages, juices, and soft drinks. The menu should include healthy options and cover all three dayparts: breakfast, lunch, and dinner. The sale of alcoholic beverages is not permitted. The Airport prefers a nationally recognized café and/or bakery brand concept.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

C8 Snack/Candy 750 SF

Permitted Use

The offered location is intended for the operation of a snack or candy concept. Snacks are defined as food items such as pretzels, pastries, ice cream, or smoothies. The snack concepts may also sell water and soft drinks. The candy concept shall carry branded pre-packaged and bulk candies for sale by the pound, branded individual candy bars, and other miscellaneous pre-packaged confectionary items. The sale of water and soft drinks shall be limited to one cooler, no more than six feet by three feet (6' x 3').

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS

C2 B Sandwich or Open to Proposer 1,430 SF

Permitted Use

The offered location is intended for the sale of fast food/quick service food and non-alcoholic beverages in a counter-service setting. The Airport prefers the QSR to be a recognized national brand. The preferred use for the QSR is sandwiches. Touchless transactions, remote ordering, at-your-gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing must be contained within the premises. The menu should cover all three dayparts: breakfast, lunch, and dinner. In addition, the menu should include healthy items in response to the growing needs and preferences of the health-conscious traveler. The concept should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging. The sale of alcoholic beverages is not permitted.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

C2 C Asian 1,430 SF

Permitted Use

The offered location is intended for the sale of Asian-style fast food/quick service food and non-alcoholic beverages in a counter-service setting. A nationally recognized QSR brand specializing in menu items such as sushi, ramen, pho, Korean, Thai, bao are envisioned but not mandatory. The menu should cover all dayparts and include sides, beverages, and desserts. Touchless transactions, remote ordering, at-your-gate delivery, and self-service ordering kiosks should be included to the extent possible. Queueing must be contained within the premises. The concept should offer only premium products, served quickly and efficiently in high-quality, sustainable packaging. Additionally, the concept should include healthy menu items in response to the growing needs and preferences of the health-conscious traveler.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Coffee/Quick Service/ Snack/Walk-Away	\$0	\$1,000,000	10.0%
	\$1,000,001	\$2,000,000	12.0%
	\$2,000,001 and greater		14.0%

C4 Local Casual Dining Restaurant w/ Full Bar 3,000 SF

Permitted Use

The offered location is intended for the operation of a locally branded casual dining restaurant. The menu should service three dayparts: breakfast, lunch, and dinner, contain healthy options, and to the extent possible, not be duplicative of other dining options within the terminal. This location will be required to have a full bar including beer, wine, and spirits. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The Airport expects the overall space to accommodate seating within the casual dining location. Touchless transactions, remote ordering, at-your-gate delivery (for food items & soft drinks), and self-service table ordering should be included to the extent possible. The concept will offer only premium quality products, served quickly and efficiently.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

C1 Bar With Snacks 1,135 SF

Permitted Use

The offered location is intended for the operation of a full-service bar selling beer, wine, and spirits. A menu consisting of draft and bottled/canned beer, wine by the glass, and a full spirits menu. The beverage menu should contain offerings at various price points, from “well” liquor to “top-shelf” premium liquor. The menu should also include food items such as appetizers, “bar snacks,” and charcuterie plates.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Bar/Casual Dining	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

A10, A13 LL, C7 Automated Food (Open to Proposer) 450 SF (3 x 150 SF)

Permitted Use

These three offered locations are intended for the operation of automated vending machines. These machines are intended for non-alcoholic beverages, food products such as pre-made sandwiches, salads, fresh pre-packaged fruits, yogurt parfaits, or other meal-type items conducive to being carried in a vending format, or snacks such as cookies, chips, candy bars, cupcakes, or other such “snack” items. Proposers are to determine what product line, and/or brands they wish to carry. Machines shall accept, at all times, cash, all major credit cards, Apple Pay, Google Pay, and other NFC based payments. Machines should be cellular capable and not reliant on ground-based communication services. Proposers should include in their description of the machine and its menu, the frequency of and types of maintenance services required. Packaging, to the extent possible, shall be eco-friendly and made from sustainable sources. Packaging shall comply with all Federal, State, and local laws and regulations.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Automated Food	All Gross Receipts		25.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Package RTL1

LOCATION CONCEPT TYPE	ID #	TERMINAL	NEAR GATE	SIZE (SF)
Travel Essentials	A2	A	4 & 5	750
Specialty Retail - Cosmetics	A6	A	7	930
Specialty Retail - Electronics	A7	A	7	930
Specialty Retail - Electronics or Open to Proposer	B3	B	10	920
Travel Essentials	B4	B	11 & 12	1,145
TOTAL	5			4,675

BUSINESS TERMS FOR PACKAGE RTL1

Term	15 years from Term Commencement Date
Base Rent	\$75 per SF
Percentage Rent	See location descriptions below
ACDBE Participation Goal	Race-neutral goal of 27.7%

It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvement and utility conditions, size and configuration to confirm the feasibility of the Proposer's proposed project.

Name and Title of Signer: (Print or Type) _____

Signature: _____

Date: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

A2 Travel Essentials 750 SF

Permitted Use

The offered location is intended for the operation of a Travel Essentials Store. The offer should include:

- A wide variety of reading material – including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:
 - o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
 - o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.
 - o Pre-packaged snacks and candy. A representative sample of the overall snack and candy selection must be offered in single-serving and other sizes, as appropriate.
 - o A selection of fresh, pre-packaged, single serving “grab-n-go” food items such as sandwiches, salads, produce, cereal, and yogurt will be considered.
 - o Chilled bottled beverages such as water, juices, and soft drinks.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

A6 Specialty Retail Cosmetics 930 SF

Permitted Use

The offered location is intended for the operation of a specialty retail cosmetics store. This store shall offer cosmetics and related accessories from multiple internationally known premium brands, including but not limited to, MAC, Clinique, and Estee Lauder.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Specialty Retail	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

A7 Electronics 930 SF

Permitted Use

The offered location is intended for the operation of a specialty retail electronics store. This store shall offer branded personal electronic devices such as tablets, computers, and smart watches. Additionally, the store shall carry a wide assortment of electronics-related accessories including, but not limited to, headphones, charging cables, device protective cases, storage devices, A/V connection cables, Bluetooth keyboards and mice.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Electronics/Jewelry	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

B3 Specialty Retail Electronics or Open to Proposers 920 SF

Permitted Use

The offered location is intended for the operation of a specialty retail electronics store or open to Proposer. This store shall offer branded personal electronic devices such as tablets, computers, and smart watches. Additionally, the store shall carry a wide assortment of electronics-related accessories including, but not limited to, headphones, charging cables, device protective cases, storage devices, A/V connection cables, Bluetooth keyboards and mice.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
Electronics/Jewelry	\$0	\$1,000,000	11.0%
	\$1,000,001	\$2,000,000	13.0%
	\$2,000,001 and greater		15.0%

B4 Travel Essentials 1,145 SF

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Permitted Use

The offered location is intended for the operation of a travel essentials store. The store should offer:

- A wide variety of reading material including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:
 - o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
 - o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.
 - o Pre-packaged snacks and candy. A representative sample of the overall snack and candy selection must be offered in single-serving and other sizes, as appropriate.
 - o A selection of fresh, pre-packaged, single serving “grab-n-go” food items including, but not limited to, sandwiches, salads, produce, cereal, and yogurt will be considered.
 - o Chilled bottled beverages such as water, juices, and soft drinks.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Package RTL2

LOCATION CONCEPT TYPE	ID #	TERMINAL	NEAR GATE	SIZE (SF)
Travel Essentials	A8	A/B	7 & 8	1,420
Travel Essentials & Gourmet Market	B10	B/C	13 & 14	1,694
Travel Essentials	C2-A	C	15 & 16	1,370
Travel Essentials	C5	C	19 & 20	200
TOTAL	4			4,684

BUSINESS TERMS FOR PACKAGE RTL2

Term	15 years from Term Commencement Date
Base Rent	\$75 per SF
Percentage Rent	See location descriptions below
ACDBE Participation Goal	Race-neutral goal of 27.7%

It is each Proposer's sole responsibility to verify all existing uses, permits, entitlements, improvement and utility conditions, size and configuration to confirm the feasibility of the Proposer's proposed project.

Name and Title of Signer: (Print or Type) _____

Signature: _____

Date: _____

ATTACHMENT 1 – PACKAGES AND LOCATIONS

A8 Travel Essentials 1,420 SF

Permitted Use

The offered location is intended for the operation of a travel essentials store. The store should offer:

- A wide variety of reading material including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:
 - o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
 - o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.
 - o Pre-packaged snacks and candy. A representative sample of the overall snack and candy selection must be offered in single-serving and other sizes, as appropriate.
 - o A selection of fresh, pre-packaged, single serving “grab-n-go” food items including, but not limited to, sandwiches, salads, produce, cereal, and yogurt will be considered.
 - o Chilled bottled beverages such as water, juices, and soft drinks.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

B10 Travel Essentials & Gourmet Market 1,694 SF

Permitted Use

The offered location is intended for the operation of a travel essentials store and gourmet market. The store should offer:

- A wide variety of reading material including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:

ATTACHMENT 1 – PACKAGES AND LOCATIONS

- o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
- o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.

The gourmet market should include high-quality, pre-packaged, “to-go” single serve meals such as sandwiches, salads, fresh produce, and breakfast items. The use of experiential marketing techniques, including sampling stations and product demonstrations, is highly recommended. Additionally, the market should include a retail selection of better-quality snacks, candy, confections, and other gourmet food items packaged for off-site consumption. The sale of non-alcoholic chilled bottled beverages such as water, fresh pressed juices, and soft drinks will also be permitted. **Packaged alcohol for off-premises consumption may be included but not required. Proposer must review Alcohol Beverage Control (ABC) requirements for this store.**

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

C2 A Travel Essentials 1,370 SF

Permitted Use

The offered location is intended for the operation of a travel essentials store. The store should offer:

- A wide variety of reading material including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:
 - o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
 - o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.
 - o Pre-packaged snacks and candy. A representative sample of the overall snack and candy selection must be offered in single-serving and other sizes, as appropriate.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

- o A selection of fresh, pre-packaged, single serving “grab-n-go” food items including, but not limited to, sandwiches, salads, produce, cereal, and yogurt will be considered.
- o Chilled bottled beverages such as water, juices, and soft drinks.

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

C5 Travel Essentials 200 SF

Permitted Use

The offered location is intended for the operation of a travel essentials store. The store should offer:

- A wide variety of reading material including newspapers, periodicals, and books that will cater to the varied interests of a diverse passenger base.
- Additional traditional newsstand items, food products, travel accessories, sundries, and locally themed gifts and souvenirs should be offered including, but not limited to:
 - o Personal electronics accessories including rechargeable batteries, battery chargers, headphones and ear buds, wall and car chargers, cell phone cases, and cables.
 - o Travel accessories such as travel pillows, wheeled luggage carts, luggage accessories, small personal care products, and health/PPE products including, but not limited to, disinfecting wipes and disposable masks.
 - o Pre-packaged snacks and candy. A representative sample of the overall snack and candy selection must be offered in single-serving and other sizes, as appropriate.
 - o A selection of fresh, pre-packaged, single serving “grab-n-go” food items including, but not limited to, sandwiches, salads, produce, cereal, and yogurt will be considered.
 - o Chilled bottled beverages such as water, juices, and soft drinks.

ATTACHMENT 1 – PACKAGES AND LOCATIONS

Category	Total Annual Cumulative Gross Receipts		Percentage Applied to Month's Gross Receipts to Calculate Percentage Rent
	From	To	
News & Gift Travel Essentials	\$0	\$1,000,000	14.0%
	\$1,000,001	\$2,000,000	16.0%
	\$2,000,001 and greater		18.0%

ATTACHMENT 1 – PACKAGES AND LOCATIONS

CONCESSION LEASE

"[ENTER AGREEMENT NUMBER]"

JOHN WAYNE AIRPORT
ORANGE COUNTY



Dated _____

Between

County of Orange

and

<Insert Tenant Name>

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**JOHN WAYNE AIRPORT RETAIL/FOOD & BEVERAGE
CONCESSION LEASE**

CONCESSION LEASE

[TYPE AGREEMENT NUMBER HERE]

THIS <INSERT CATEGORY OR TYPE> CONCESSIONS LEASE ("Lease") is made and entered into this ___ day of _____, 20__, by and between the County of Orange, a political subdivision of the State of California ("County"), and _____ ("Tenant"). County and Tenant may sometimes hereinafter individually be referred to as "Party" or jointly as "Parties."

RECITALS

WHEREAS, County, through its Board of Supervisors, is the owner and proprietor of John Wayne Airport ("JWA" or "the Airport"), located in the County of Orange, California, and operates and maintains the Airport as a governmental function for the primary purpose of providing air transportation to the public; and

WHEREAS, County issued a Request for Proposals for Food and Beverage and/or Retail Concessions, and as a result of the proposal process, Tenant was selected to provide [Food and Beverage or Retail] Concessions at the Airport; and

WHEREAS, County and Tenant mutually desire to enter into this Lease in order to provide [Food and Beverage or Retail] Concessions to the passengers at the Airport; and

WHEREAS, County has the right to grant the use of the Airport to Tenant for the operation of [Food and Beverage or Retail] Concessions Tenant as provided by this Lease; and

WHEREAS, Tenant acknowledges that this Lease is being entered into under the provisions of California Public Utilities Code § 21690.5, *et seq.*, and in particular, § 21690.9.

NOW, THEREFORE, in consideration of the promises and the mutual covenants hereinafter contained to be observed and performed by the respective Parties hereto,

THE PARTIES HERETO COVENANT, AGREE, AND BIND THEMSELVES AS FOLLOWS:

**JOHN WAYNE AIRPORT RETAIL/FOOD & BEVERAGE
CONCESSION LEASE**

ARTICLE I. DEFINITIONS

SECTION 1.01 DEFINITIONS

The following terms shall have the meanings set forth below:

Accounting Year: Shall mean (a) With respect to the first Accounting Year during the Term, the period commencing on Term Commencement Date continuing twelve full calendar months, and (b) with respect to each Accounting Year thereafter during the Term, each twelve-month period commencing on the first day of the month following the first full Accounting Year. Provided that if the Term expires or is terminated on a day other than the last day of an Accounting Year, the last Accounting Year will then end as of the date of such expiration or termination. Example: If the Term Commencement Date is on March 15, the first accounting year will include March 15 through March 30 of the following year. Thereafter, the accounting year would start on April 1 and end on March 30.

Agreement: Shall mean and refer to this Lease, including all exhibits, appendices, schedules, attachments, and subsequent amendments thereto, as the same may be amended from time-to-time.

Airport: Shall mean John Wayne Airport, Orange County, California located at 18601 Airport Way, Santa Ana, CA 92707.

Airport Concession Disadvantaged Business Enterprise (“ACDBE”): Shall mean a concession that is a for-profit small business concern (1) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation in which 51 percent of the stock is owned by one or more such individuals; and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. In order to become ACDBE certified, a firm must meet the eligibility criteria stated in 49 CFR Part 23. ACDBEs must be certified by a certifying agency under the California Unified Certification Program (“CUCP”) with the appropriate North American Industry Classification System (“NAICS”) code for their type of business.

Airport Director: Shall mean the Director of John Wayne Airport, County of Orange, as appointed by the Board of Supervisors, or his or her duly authorized designee.

Approved Project: Shall mean, as it applies to any portion of the Leased Premises, Tenant’s construction, furnishing, fixturing, and remodeling of such portion of the Leased Premises as reviewed and approved by County in accordance with the Tenant Design Guidelines.

As-Built Documents: Shall mean record documents of the construction, additions, and other modifications constructed by Tenant on the Leased Premises including but not limited to Tenant’s as built models and drawings in the format as required by County.

**JOHN WAYNE AIRPORT RETAIL/FOOD & BEVERAGE
CONCESSION LEASE**

Audited Statement of Gross Receipts (“Financial Statement”): Shall mean an audit report prepared annually by an Independent Certified Public Accountant (“CPA”), in accordance with Generally Accepted Auditing Standards expressing an opinion from the Independent CPA on whether the Schedule of Gross Receipts, Rent and all other fees and charges payable under this Lease have been completely and accurately presented, calculated, reported and paid according to the terms of this Lease.

Auditor-Controller: Shall mean the Auditor-Controller, County of Orange, or designee.

Base Rent: Shall mean the rent paid to County by Tenant in accordance with Section 4.03.

Board of Supervisors: Shall mean the governing body of the County of Orange.

Capital Investment: Shall mean those dollars spent by Tenant in the actual construction, remodeling, furnishing, fixturing, and equipping of any portion of the Leased Premises, in connection with an Approved Project for such portion of the Leased Premises. Capital Investment includes:

1. Architectural and Engineering Fees: All soft costs associated with designing the Approved Project.
2. Leasehold Improvements: All improvements and equipment that are structural in nature or are affixed to the Leased Premises and cannot be removed without material damage to the Leased Premises including, but not limited to, mechanical, electrical, and plumbing work, floors, ceilings, demising walls, store fronts, lighting fixtures, and built-in shelving.
3. Furniture, Trade Fixtures, and Equipment (“FF&E”): All furniture, fixtures and major equipment installed by Tenant within the Leased Premises for use in its performance of the Concession which may be removed from the Leased Premises without causing material damage to the Leased Premises.

Claim: Shall mean any demand, action, cause of action, suit, proceeding, arbitration, claim, judgment or settlement or compromise relating thereto which may give rise to a right to indemnification and defense pursuant to the terms of this Lease

Codes: Shall mean all current applicable federal, state, and local laws and regulations, including but not limited to, or ordinances, and building codes, and all Airport Rules and Regulations.

Concession: Shall mean the rights granted to Tenant by County to develop and operate a business to sell food & beverage, retail or passenger services products to the public, and related operations thereto, within the Leased Premises and in accordance with the terms and conditions of this Lease.

**JOHN WAYNE AIRPORT RETAIL/FOOD & BEVERAGE
CONCESSION LEASE**

Concession Space Rent: Shall mean the amount payable by Tenant to County for the use and occupancy of the Leased Premises, as further described in Section 4.02.

Construction Costs: Shall mean those dollars spent by Tenant in the actual construction, remodeling, furnishing, fixturing, and equipping of any portion of the Leased Premises, as further defined in Section 11.12. Construction Costs include but are not limited to:

1. Architectural and Engineering Fees: All soft costs associated with designing the Approved Project.
2. Leasehold Improvements: All improvements and equipment that are structural in nature or are affixed to the Leased Premises and cannot be removed without material damage to the Leased Premises including, but not limited to, mechanical, electrical, and plumbing work, floors, ceilings, demising walls, store fronts, lighting fixtures, and built-in shelving.
3. Furniture, Trade Fixtures, and Equipment ("FF&E"): All furniture, fixtures and major equipment installed by Tenant within the Leased Premises for use in its performance of the concession which may be removed from the Leased Premises without causing material damage to the Leased Premises.

County: Shall mean the County of Orange, a political subdivision of the State of California.

Date of Beneficial Occupancy ("DBO"): Shall mean the date upon which Tenant completes any Approved Project and opens a Concession for business in any portion of the Leased Premises.

DOT: Shall mean the Department of Transportation.

Effective Date: Shall mean the date this Lease is fully executed by the Parties.

Enplanements or Enplaned Passengers: Shall mean all those passengers boarding flights at the Airport from scheduled or chartered flights, whether domestic or international, including non-revenue passengers (but excluding airline crew for the flight), and including those passengers connecting from arriving flights of same or another airline.

Environmental Laws: Shall mean any federal, State, or local laws, statutes, ordinances, codes, judgments, orders, rules, or regulations pertaining to the environment and/or human health, Hazardous Materials, Substances, Pollutants, occupational safety and health, industrial hygiene or the environmental conditions on, at, under or about the Airport, and includes, without limitation, the following: (i) the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; (ii) Clean Water Act, 33 U.S.C. § 1251 *et seq.*; (iii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act Of 1986 ("CERCLA"), 42 U.S.C. § 9601 *et seq.*; (iv) 49 C.F.R. Parts 173 and 175 Subchapter C (Transportation of Hazardous Materials); (v) the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1986 and Hazardous and Solid Waste Amendments

**JOHN WAYNE AIRPORT RETAIL/FOOD & BEVERAGE
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of 1984 ("RCRA"), 42 U.S.C. § 6901 *et seq.*; (vi) the Oil Pollution Act of 1990, 33 U.S.C. § 2701 *et seq.*; (vii) the Federal Water Pollution Control Act, 33 U.S.C. § 1317 *et seq.*; (viii) the Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"); (ix) California Health and Safety Code §§25100, 25395.7, 25915 *et seq.*; (x) the Porter-Cologne Water Quality Control Act (California Water Code); (xi) California Civil Code § 3479 *et seq.*; (xii) Storm Water Discharge Rules, 40 C.F.R. §§ 122.26, 122.30-37; (xiii) the Carpenter-Presley-Tanner Hazardous Substances Account Act; (xiv) the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; (xv) the Safe Drinking Water Act, 24 U.S.C. § 300f, *et seq.*; (xvi) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ (or most current); (xvii) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ amended by 2010-0014-DWQ & 2012-0006-DWQ; (xviii) The County of Orange, Orange County Flood Control District and The Incorporated Cities of Orange County within the Santa Ana Region Areawide Urban Storm Water Runoff Orange County Municipal Separate Storm Sewer System (MS4) Permit Order No. R8-2009-0030 (National Pollutant Discharge Elimination System No. CAS618030) as amended by Order No. R8-2010-0062; (xix) South Coast Air Quality Management District Regulations and Rules; and (xx) all other federal, State, and local laws, rules, orders, directives, and codes, regulations, judgments, and orders relating to (a) emissions, discharges, releases, and/or threatened releases of Hazardous Materials, Substances into the environment (including, but not limited to, ambient air, surface water, groundwater, land surface, or subsurface strata); and (b) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of Hazardous Materials, Substances, as such laws are amended, and the regulations and administrative codes applicable thereto.

Existing Concession Locations: Shall mean Concessions currently located in the Terminal pursuant to an existing agreement.

Expiration Date: Shall mean the date fifteen (15) years from the Term Commencement Date

FAA: The Federal Aviation Administration or any successor thereto.

Gross Receipts: Shall mean all monies paid or payable to Tenant for sales made, services rendered, and customer orders fulfilled at or from the Leased Premise, as more fully described in Section 4.01.

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Hazardous Materials or Hazardous Substances: Shall mean any Pollutant, contaminant, chemical, compound, substance, hazardous or toxic substance, material, waste, and/or any other matter, which is or shall become regulated by any governmental entity, including, but not limited to County acting in its governmental capacity, the State of California, and/or the United States Government. The term “Hazardous Materials, Substances” includes, without limitation, any material or substance which is: (i) defined or listed as a “hazardous waste,” “extremely hazardous waste,” “restrictive hazardous waste” or “hazardous substance” or considered a waste, condition of pollution, nuisance, and/or is controlled or governed under any Environmental Law; (ii) petroleum or a petroleum product or fraction thereof; (iii) asbestos or asbestos-containing materials; (iv) flammable or explosive substances; (v) mold-containing materials; polychlorinated biphenyl compounds; mold spores or fractions thereof; and/or (vi) substances designated by any governmental entity to cause cancer and/or reproductive toxicity.

Initial Capital Investment: All costs related to the initial redevelopment of the Leased Premises are collectively referred to as “Initial Capital Investment.” Initial Capital Investment excludes the cost of any and all refurbishments as described in 11.03.

Interim Concession Locations: Shall mean temporary locations Tenant may use during the build-out of permanent Concessions, as more fully described in Section 2.03.

Interim Phase: Shall mean the time period from the Effective Date to the Term Commencement Date.

John Wayne Airport Construction Standards: Shall mean the construction standards for Airport tenants, their consultants, and contractors for completing tenant improvements at the Airport and may contain requirements applicable to Tenant beyond those provided by this Lease, as may be amended from time to time.

Leased Premises: Shall mean the areas of the Terminal which County has granted Tenant the right to use on an exclusive-use basis as described in Exhibit A.

Marketing Fund Fee: Shall mean 0.5% of total monthly gross receipts to be used for promotional purposes. All monies received by the Airport for the marketing fund shall be used solely for the purpose of Airport tenants' promotions and directly related expenses.

Non-Storm Water Discharge: Shall mean any discharge to storm sewer systems that is not entirely composed of storm water. “Non-Storm Water Discharge” includes “Unauthorized Non-Storm Water Discharges” and “Authorized Non-Storm Water Discharges” as defined by the California Environmental Protection Agency State Water Resources Control Board National

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Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activities and Construction Activities.

Notice to Proceed: Shall mean, As it applies to any portion of the Leased Premises, the written notice from County to Tenant delivering possession of such portion of the Leased Premises to Tenant to commence the Approved Project for any portion of the Leased Premises, and which establishes the Space Turnover Date and Required Completion Date for such portion of the Leased Premises.

NPDES Permit: Shall mean the currently applicable discharge permit(s) issued by the Regional Water Quality Control Board, Santa Ana Region, which establish waste discharge requirements applicable to storm runoff within the County and Airport.

Percentage Rent: Shall mean the monthly rent paid by Tenant to County, in accordance with Section 4.04.

Pollutant: Shall mean any chemical, compound, substance, liquid, solid or semi-solid substances, or combination thereof, including but not limited to:

- a. Artificial materials (such as floatable plastics, wood products or metal shavings);
- b. Household waste (such as trash, paper, and plastics; cleaning chemicals, yard wastes, animal fecal materials, used oil and fluids from vehicles, lawn mowers and other common household equipment);
- c. Metals and nonmetals, including compounds of metals and nonmetals (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus and arsenic) with characteristics which cause an adverse effect on living organisms;
- d. Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease.);
- e. Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity or odor;
- f. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;
- g. Materials which contain base/neutral or acid extractable organic compounds;
- h. Those pollutants defined in Section 1362(6) of the Federal Clean Water Act; and
- i. Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus, or enterococcus, or eroded soils, sediment and particulate materials, in quantities that will interfere with or adversely affect the beneficial use of the receiving waters, flora or fauna of the State; and
- j. Any substance listed under Health and Safety Code, §25316.

Predecessor Tenant: The tenant immediately prior to Tenant that provided the same or essentially the same Concession services as awarded by this Lease.

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Required Completion Date: Shall mean the date set forth in a Notice to Proceed by which Tenant must complete Approved Project, except as such date may be extended in accordance with the provisions herein.

Space Turnover Date: Shall mean the date provided in a Notice to Proceed which makes a portion of the Leased Premises available to Tenant to commence the Approved Project in such portion of the Leased Premises.

Store Hours: Shall mean a Concession's hours of operation as described in Section 7.04.

Storm Water: shall mean storm water runoff, snowmelt runoff, and storm water surface runoff and drainage.

Storm Water Drainage System: Shall mean a street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility, which is a part of a tributary to the County-wide storm water runoff system and owned, operated, maintained or controlled by the County of Orange, the Orange County Flood Control District or any co-permittee city, and used for the purpose of collecting, storing, transporting, or disposing of storm water. The Airport storm drain system shall mean any gutter, channel, storm drain, constructed drain, wash area, inlet or outlet or other facility that flows into, onto, through or out of the Airport property.

Substantial Completion Date: Shall mean the date upon which Tenant completes Tenant improvements based upon the submitted and approved development plans and opens for business all Concessions within the Leased Premises.

Successor Tenant: A tenant immediately succeeding Tenant that will provide the same or essentially the same Concession services as are awarded by this Lease.

Support Space(s): Shall mean the non-selling locations which are intended for the support of Tenant's operation of the Concession including, but not limited to, offices, commissary, and storage spaces.

Tenant: Shall mean the legal entity that is Party and bound to the terms and conditions of this Lease. Notwithstanding Section 4.01, Tenant shall include all approved subtenants who are operating within the Leased Premises pursuant to subleases with Tenant. Any person representing Tenant, as required by the terms and conditions of this Lease, shall be an authorized official of Tenant.

Tenant Design Guidelines: Shall mean the criteria established for design and construction of Tenant projects at the Airport and may contain requirements applicable to Tenant beyond those provided by this Lease, as may be amended from time to time.

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Tenant's Response: Shall mean Tenant's proposal in response to RFP No. PM 1121-0345-0034, and any subsequent information submitted by Tenant during the evaluation process, as modified and accepted by County.

Term: The term of this Lease shall be fifteen (15) years from the Term Commencement Date.

Term Commencement Date: Shall mean the earlier of a) Substantial Completion Date; or b) twelve (12) months from the Airport issued Notice to Proceed for any portion of the Leased Premises.

Terminal: Shall mean the Thomas F. Riley commercial passenger terminal at John Wayne Airport.

TSA: Shall mean the U.S. Department of Homeland Security Transportation Security Administration or any successor thereto.

SECTION 1.02 LEASE EXHIBITS

The following Exhibits are attached hereto and are hereby incorporated and made a part of this Lease:

Exhibit A – Leased Premises Description and Lease Outline Drawings (“LODs”)

Exhibit B – Permitted Uses

Exhibit C – Monthly Concession Reports

Exhibit D – Development Schedule

Exhibit E – Merchandise/Menu and Pricing

Exhibit F – Requirements for Digital Record Files

Exhibit G – Percentage Rent Rates

Exhibit H – Schedule of Assets and Amortization Including Date of Beneficial Occupancy (“DBO”)

Exhibit I – Worker Retention

The documents referenced in this Lease and listed below may be found at the following web address:

<https://www.ocair.com/business/tenant-information/tenant-projects/>

You may copy and paste the link into your web browser, or type the URL in its entirety to reach the website.

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1. Tenant Design Guidelines.
2. John Wayne Airport Construction Standards
3. Computer Aided Design Data Standard
4. Building Information Modeling (BIM) Standards
5. Geographic Information System Data Standard

The Parties acknowledge and agree that certain content required to complete the above Exhibits and Appendices are, as of the Effective Date, unknown. The Parties further acknowledge and agree that other provisions stated in the above Exhibits are subject to change throughout the Term in accordance with the provisions of this Lease. The Parties therefore agree to minor modifications, as necessary, which may require an amendment to this Lease.

SECTION 1.03 TENANT'S RESPONSE

Tenant and County acknowledge that Tenant's Response was valuable consideration in the award of this Lease to Tenant and is an authoritative reference for understanding the intention of the Parties. Accordingly, Tenant shall be obligated to meet all specifications described in Tenant's Response; provided, however, that where an express provision of this Lease conflicts with any provision of Tenant's Response, this Lease shall control. Tenant's Response is incorporated herein by reference.

SECTION 1.04 INTERPRETATIONS

As used herein mean as follows:

- Day(s) shall mean calendar day(s).
- Month(s) shall mean calendar month(s).
- The use of any number(s) shall be construed as the singular or the plural, all as the context may require.
- Section heading(s) are for the convenience and reference of the Parties, and do not define or limit the scope of any section or provision.
- The language of this Lease shall be construed according to its fair meaning, and not strictly for or against either Party.

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If any provision in this Lease is capable of two (2) constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

ARTICLE II. LEASED PREMISES

SECTION 2.01 LEASED PREMISES DESCRIPTION

County hereby leases to Tenant and Tenant hereby agrees to lease from County the right to use that certain property hereinafter referred to as "Leased Premises," within the Airport as listed and depicted in Exhibit A (Leased Premises Description and Lease Outline Drawings), including any improvements to be made or modifications to be made thereto. No other part of the Airport shall be part of the Leased Premises.

If the Leased Premises are not fully constructed at the time of Lease execution, then the actual square footage determined after completion of construction shall be adjusted and acknowledged by the Parties. No later than 30 days after the Substantial Completion Date, Tenant shall certify in writing the actual as-built areas of the Leased Premises. The Parties agree to modify Exhibit A to incorporate such as-built areas into the Lease.

SECTION 2.02 ADDITIONS TO AND DELETIONS FROM THE LEASED PREMISES

County and Tenant may, during the Term and by mutual agreement, add additional space(s) or delete space(s) from the Leased Premises. All space(s) added to the Leased Premises pursuant to this Section shall be subject to all the terms, conditions, and other provisions of this Lease and Tenant shall pay to County all rents, fees, and charges applicable to the additional space(s) in accordance with this Lease. In the case of deletions of space(s) from the Leased Premises, rents, fees, and charges paid to County by Tenant shall be appropriately adjusted. The Parties may modify Exhibit A (Leased Premises Description), and Exhibit B (Permitted Uses) as necessary, to incorporate space additions to the Leased Premises and space deletions from the Leased Premises by amendment executed by the Airport Director and Tenant. In the event an adjustment of Tenant's Leased Premises modifies the Concession Space Rent, the Airport Director may approve the adjustment, not to exceed twenty (20) percent of Concession Space Rent.

SECTION 2.03 ASSIGNING OF INTERIM CONCESSION LOCATIONS

County may grant to Tenant the right to temporarily use various individual locations, to be mutually agreed upon, as might become available from time to time as Interim Concession Locations. Assigned Interim Concession Locations shall become part of the Leased Premises and be subject to the same rent as defined in Section 4.04. All provisions of this Lease shall apply to the operation of the Interim Concession Locations. Tenant shall be permitted to operate such Interim Concession Locations only for the specified permitted use and the specific time period

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granted by the County. The intent of allowing Tenant the use of the Interim Concession Locations is to allow Tenant the opportunity to operate permitted business activities, provide increased customer service levels and to generate revenue to the County. Tenant shall relinquish the Interim Concession Locations to the County upon request.

SECTION 2.04 RECLAIMING OF LEASED PREMISES FOR AIRPORT PURPOSES

County reserves the right to reclaim the Leased Premises when, in the sole discretion of County, such reclaiming is necessary for the development or operations of the Airport or is in the best interest of County.

In the event County should require the Leased Premises, or any portion thereof, for any Airport purpose and removes any portion of Tenant's Leased Premises or terminates the Lease under the provisions of this Section, County shall reimburse Tenant for improvements completed during the term of this Lease to the Leased Premises as follows:

Compensation for improvements located on the Leased Premises shall be calculated by means of the following formula:

$$\text{COMPENSATION} = A \times (B/C)$$

A = Tenant's actual Leased Premises improvement construction costs submitted in accordance with the Section in this Lease entitled, "Completion of Construction."

B = Number of full months remaining in the Agreement term.

C = Number of full months between the date Tenant completed construction of Leased Premises improvements and the date the Agreement would expire by its terms if County did not exercise its right to early termination.

Tenant shall submit to County within sixty (60) days of completion of construction of any Leased Premises improvement, notifications of completion of construction, and submit detailed supporting documentation of construction costs together with "as-built" plans and "Record Documents" as required elsewhere in this Lease. Tenant acknowledges and agrees if Tenant fails to submit notifications and supporting documentation for any such Leased Premises improvements in a timely manner, Tenant waives its right to Compensation, as defined above, for such improvements.

Tenant agrees that exercise by County of its termination rights hereunder shall not be construed as a taking by County of any part of the Leased Premises, nor of Tenant's rights under this Lease, nor shall Tenant, except as provided herein, be entitled to payment for any loss of goodwill, income, or other amount because of partial or full termination of this Lease.

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SECTION 2.05 EXCLUSIVE REMEDY

The Compensation provided pursuant to Section 2.04 shall be the Tenant's sole and exclusive remedy and form of compensation, costs, or damages, including but not limited to the eminent domain law and inverse condemnation (California Code Of Civil Procedure §§1230.010, et seq.), and Relocation Assistance benefits (California Government Code §§7260, et seq.), due to termination, re-entry or acquisition of the Leased Premises by County.

SECTION 2.06 MINOR MODIFICATIONS TO LEASED PREMISES

County shall have the right to make minor modifications to any portion of the Leased Premises at the sole discretion of the Airport Director or designee to accommodate Airport operations, security renovations, maintenance, or other work to be completed in the Airport. Minor modifications are subject to all provisions in Section 2.02.

SECTION 2.07 INGRESS AND EGRESS

Subject to all applicable rules, regulations, or County policies governing the use of the Airport, the County grants to Tenant the non-exclusive right to use, in common with others, certain areas of the Terminal designated by the County to be public or to be used in common, including, but not limited to, the walkways, streets, roadways, waiting rooms, hallways, restrooms and other passenger conveniences for Tenant's employees, customers, contractors, agents, invitees and suppliers for the uses for which those areas were designed ("Public Areas"). Tenant's rights under this section shall include the right of ingress and egress to and from the Leased Premises. The County reserves the right to modify the Public Areas at any time and in any way, it deems appropriate, including, but not limited to, reconfiguration of the Public Areas, expansion or contraction of the Public Areas, or changing access points to and from the Public Areas. Access to some Public Areas may be restricted to Tenant's employees who display valid security access badges issued by County.

SECTION 2.08 LEASED PREMISES ACCEPTANCE IN AS-IS CONDITION

Tenant understands, acknowledges, and accepts the Leased Premises in its present "as-is" and "where-is" condition, with all faults and with absolutely no warranties as to condition or suitability for use being given by County. County shall have no obligation, liability, or responsibility to construct additional improvements or to modify existing conditions, nor to provide services of any type, character, or nature (including any obligation to maintain, repair, or replace utilities or telephone/data service) on or to the Leased Premises during the Term other than as explicitly stated in this Lease. Said Leased Premises include the Existing Concession Locations, which are to be demolished, remodeled, or relocated as provided herein.

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SECTION 2.09 NO WARRANTY OF ECONOMIC VIABILITY

County makes no warranty, promises, or representations as to the economic viability of the Leased Premises or Tenant’s business concept(s) or any other matter pertinent to the potential or likelihood for success or failure of Tenant business operations. Tenant acknowledges that airline gate usage and other aspects of Airport operations are subject to change during the Term without notice and that the County makes no warranty regarding the location of airline gate usage. Except as is specifically set forth herein, County shall not, by virtue of the existence of this Lease, be constrained in connection with its operation of the Airport.

ARTICLE III. TERM

SECTION 3.01 TERM

This Lease shall be effective and binding upon the Parties as of the Effective Date. The Term of this Lease shall begin on the Term Commencement Date and continue 15 years through the Expiration Date.

SECTION 3.02 TERMINATION FOR CONVENIENCE

This Lease, or portions thereof, may be terminated for convenience by County for any reason, and without cause, upon sixty days (60) written notice.

SECTION 3.03 CRITICAL DATES

The Effective Date, DBO, Substantial Completion Date, Term Commencement Date, and Expiration Date shall be considered critical dates (“Critical Dates”). The Parties agree to confirm Critical Dates no later than 30 days after the Term Commencement Date.

SECTION 3.04 HOLDOVER

In the event Tenant shall continue in possession of the Leased Premises after the term of this Lease, such possession shall not be considered an extension or renewal of this Lease but a tenancy from month to month and shall be governed by the conditions and covenants contained in this Lease until such time that County terminates the Lease. Notice of Lease Termination shall be provided no less than thirty (30) days prior to Tenant’s anticipated surrender date of the Leased Premises.

SECTION 3.05 RIGHTS AND OBLIGATIONS UPON EXPIRATION OR TERMINATION

Tenant shall, upon termination of this Lease, with or without cause, surrender the Leased Premises to County peaceably, quietly, and in substantially the same order and condition as was delivered or may be hereafter improved by Tenant as approved by County. Reasonable use and

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wear thereof and damage by casualty, which damage Tenant did not cause and is not required to repair or restore, is excepted. Tenant shall remove all signage and provide temporary walls to seal all openings of Leased Premises that meet the guidelines outlined in the Tenant Design Guidelines and John Wayne Airport Construction Standards. Tenant shall also provide to County all keys to doors, window displays, or any area of controlled access within the footprint of the Leased Premises.

Tenant shall, upon expiration or termination of this Lease, remove all furniture, fixtures, and equipment installed by Tenant, as may be directed by Airport Director. Airport Director reserves the right to determine what furniture, fixtures, and equipment shall remain in the Leased Premises and become property of the Airport. Tenant shall remove any brand proprietary property, inventory, and other personal property and leave the Leased Premises in broom-clean condition. Any damage to the Leased Premises caused by Tenant's removal of such furniture, fixtures, equipment, or property shall be immediately repaired by Tenant at Tenant's expense and to the satisfaction of Airport Director. Notwithstanding the foregoing, if Tenant fails to remove such furniture, fixtures, equipment, or property within ten (10) days from the date of termination of this Lease, then Tenant shall be deemed to have abandoned same, and County shall have the right, at its option, and in its sole discretion, to take title to said furniture, fixtures, equipment and/or property and sell, salvage, or dispose of the same in any manner permitted by law. Tenant shall have no right, interest, or claim in or to any proceeds of the sale or other disposition of such items. Any net expense County incurs in disposing of such items shall be immediately reimbursed by Tenant. No act by County shall be deemed an acceptance of a surrender of the Leased Premises. No acceptance of a surrender of the Leased Premises shall be valid unless it is in writing and signed by County. In the event Tenant is unable to complete any necessary repairs, Airport Director may cause to be made or make any necessary repairs or replacements, and the cost thereof shall be paid by Tenant. Said cost shall include all labor, materials, equipment, and an administrative fee equal to fifteen percent (15%) of the sum of those items.

ARTICLE IV. RENTALS, FEES, OTHER CHARGES, REPORTING, AND ACCOUNTING RECORDS

SECTION 4.01 DEFINITION OF GROSS RECEIPTS

As used in this section, the term "Tenant" shall include Tenant, its agents, subtenants, Tenants, licensees, or any person acting under contract with Tenant. The term "Gross Receipts" shall include all monies paid or payable to Tenant for sales made, services rendered, and customer orders fulfilled at or from the Leased Premises, regardless of when or where the customer order is placed (including outside the Leased Premises), and any other receipts, credits, rebates, allowances, internet sales, mobile app sales (owned or third-party), or revenues of any type arising out of or in connection with Tenant's operations at the Leased Premises, including, but not limited to, branding fees, marketing fees, merchandising fees, promotional allowances,

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performance allowances, retail display allowances (“RDAs”), and any other type of ancillary advertising or product placement fees, and other allowances and fees.

Under Section 5.01 in this Lease entitled, “PERMITTED USE,” Tenant may be granted the option to provide certain additional services and uses subject to further approval. The term “Gross Receipts” as it applies to these business operations shall be determined by Airport Director, as well as the appropriate rent and percentage, at the time approval is granted.

Gross Receipts shall not include:

- A. Any taxes imposed by law that are separately stated to and paid by a customer and directly payable to the taxing authority by Tenant.
- B. Amounts and credits received from suppliers for products and merchandise returned by Tenant.
- C. Cash and credit card refunds to customers for merchandise returned.
- D. Amounts and credits received in settlement of claims for loss of, or damage to, merchandise.
- E. Insurance proceeds received from the settlement of claims for the loss of or damages to Tenant’s property at or on the Leased Premises other than the proceeds from business interruption insurance.
- F. Inter-company store transfers.
- G. United States Postal Service stamp sales.
- H. Uniforms or clothing purchased by employees where such uniforms or clothing are required to be worn by employees.
- I. Reimbursements from Tenant’s subtenants for any taxes, fees, franchise or license fees, utilities, or other services paid or provided by Tenant for or on behalf of its subtenants; provided, however, that any reimbursement more than the actual cost of such taxes, fees, franchise or license fees, utilities or other services shall be included in Gross Receipts.
- J. Rental, fees, and charges paid to Tenant by its subtenants pursuant to the provisions of this Lease; provided, however, that any such payment more than the amounts required hereunder shall be included in Gross Receipts.
- K. Gift cards sold at the Leased Premises. When a gift card is redeemed or accepted as payment for a purchase at the Leased Premises, the transaction must be reported as part of Gross Receipts.

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- L. Gratuities for services performed by employees paid by Tenant or by its customers except to the extent Tenant may be entitled to receive a portion of the gratuities.
- M. Amounts for coupons and other forms of discounts (including Airport but not limited to employee meals, complimentary customer meals, and the Airport employee discount described further below and in Section 7.03), such that only the amounts received are ultimately included in Gross Receipts.

Employee discounts from the public sales price may be allowed to Airport-issued badged employees and/or Tenant's employees provided Airport Director is first provided with the Tenant's discount policy, and Airport Director approves the discount policy and that the discount is reflected on sales records. The sales records shall clearly state the public sales price, the amount of discount, and the discounted sales price.

SECTION 4.02 CONCESSION SPACE RENT

Tenant agrees to pay the greater of a) Base Rent or b) Percentage Rent, as Concession Space Rent payable monthly in arrears, on or before the fifteenth (15) day of each calendar month without prior demand or notice. Should the Term Commencement Date occur on a day other than the first (1st) day of a calendar month, or should this Lease expire or terminate on a day other than the last day of a calendar month, then Concession Space Rent due for such partial month shall be prorated on the basis of a thirty (30) day month. Should any Accounting Year contain less than twelve (12) calendar months, said Concession Space Rent shall be prorated based on a three hundred sixty (360) day year.

Interim Concession Locations: Tenant shall pay Percentage Rent for each Concession within the Leased Premises, including Interim Concession Locations, pursuant to Exhibit G. Upon the Term Commencement Date, Percentage Rent for Interim Concession Locations shall be adjusted based upon Total Annual Cumulative Gross Receipts pursuant to Exhibit G.

SECTION 4.03 BASE RENT

Base Rent shall commence upon the Term Commencement Date. The Base Rent shall be Seventy-Five (\$75.00) dollars per square foot annually. Upon the Term Commencement Date, Tenant shall pay either Base Rent or Percentage Rent, whichever is greater. Base Rent shall be payable monthly in arrears, on or before the fifteenth (15) day of each Calendar Month without prior demand or notice.

On _____, _____, and annually thereafter, the Base Rent shall be automatically adjusted to the following:

The Base Rent adjusted in proportion to changes in the Consumer Price Index for Los Angeles - Anaheim - Riverside (All Urban Consumers - All Items) promulgated by the Bureau of Labor

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Statistics of the U.S. Department of Labor. This adjustment shall be calculated by means of the following formula:

$$X = \$ \text{_____} \times \frac{A}{B} \quad \text{Base Rent as determined above.}$$

X = Adjusted minimum Base Rent

A = Monthly index for the fourth month prior to the month in which the rent adjustment is to become effective.

B = Monthly index for the month in which this Lease is signed by County

Effective on the first day of each Accounting Year after the initial Accounting Year or initial partial Accounting Year, Base Rent shall adjust based on the annual percentage change in the Consumer Price Index All Urban Consumers ("CPI-U") Index. However, in no event will the annual adjustment result in Base Rent being less than, or more than, five percent (5%) above, the amount charged during the prior Accounting Year.

SECTION 4.04 PERCENTAGE RENT

Percentage Rent shall commence upon the DBO for each Concession within the Leased Premises. At all times while Gross Receipts are being generated from the Leased Premises, Tenant shall calculate Percentage Rent each calendar month, in accordance with the applicable Percentage Rent Rate(s) as set forth in the Exhibit G, in a form acceptable to the County. On or before the 15th day of each month, Tenant shall pay Percentage Rent in arrears to County without prior notice or demand after the expiration of each calendar month. All Percentage Rent payments shall be computed based on all Gross Receipts made during the previous Calendar Month, as all such Gross Receipts are indicated on Tenant's Monthly Concession Report.

Percentage Rent shall be adjusted at the beginning of each Accounting Year based upon Total Annual Cumulative Gross Receipts pursuant to Exhibit G.

SECTION 4.05 SECURITY DEPOSIT

Tenant shall deposit with County a security deposit in the sum equal to four (4) times the monthly Base Rent as determined by Airport Director prior to execution of the Lease.

Concurrently with each revision of Base Rent pursuant to the Section 4.03, the security deposit to be provided by Tenant shall be adjusted to approximately four (4) times the average monthly Base Rent or Percentage Rent, whichever is greater for the prior year, or as determined by Airport Director to guarantee the faithful performance by Tenant of its obligations under this Lease and the payment of all rents due hereunder.

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The security deposit shall take one of the forms set out below and shall guarantee Tenant's full and faithful performance of all the terms, covenants, and conditions of this Lease:

- A. A letter of credit from one or more financial institutions, subject to regulation by the State of California or Federal government, pledging that funds necessary to secure performance of the Lease terms, covenants, and conditions are on deposit and guaranteed for payment and agreeing that said funds shall be trust funds securing Tenant's performance and that all or any part shall be paid to County, or order upon demand by Airport Director. Both the financial institution(s) and the form of the letter(s) must be approved by Airport Director.

- B. A "Faithful Performance Bond" executed by a surety company or financial institution qualified and admitted to do business in the State of California and issued in a form, approved by the County. Under the bond, the surety company shall guarantee to County full and complete performance of all the terms, conditions and covenants herein to be performed on the part of the Tenant, including the payment of use fees as well as any and all other payments. Said bond shall be maintained at the cost of the Tenant throughout the existence of this Lease. Said Surety shall give Airport Director a minimum (30) days' prior written notice of cancellation or material change in said bond. Such cancellation or material change without Airport Director's prior written consent shall constitute a default under this Lease.

Regardless of the form in which Tenant elects to make said security deposit, all or any portion of the principal sum shall be available unconditionally to the County for correcting any default or breach of this Lease by Tenant, its successors or assigns, or for payment of expenses incurred by County as a result of the failure of Tenant, its successors or assigns, to faithfully perform all terms, covenants, and conditions of this Lease.

Should Tenant elect to provide either a letter of credit or a Faithful Performance Bond to fulfill the security deposit requirements of this Lease, said instrument or bond shall have the effect of releasing depository or creditor therein from liability on account of the payment of any or all of the principal sum to County, or order upon demand by Airport Director.

In the event Airport Director withdraws all or any portion of the security deposit as provided herein, Tenant shall, within ten (10) days of any withdrawal by Airport Director, replenish the security deposit to maintain it at amounts herein required throughout the Agreement term. Failure to do so shall be deemed a default and shall be grounds for immediate termination of this Lease.

Tenant shall be obligated to maintain the security deposit in effect until the Expiration Date of the Lease.

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The security deposit, after deduction of all amounts due County, shall be rebated, reassigned, released or endorsed by the County to Tenant or order, as applicable, after one hundred fifty (150) days have elapsed following the expiration date of the Lease term, provided Tenant has fully and faithfully performed each and every term, covenant, and condition of this Lease.

SECTION 4.06 MARKETING FUND FEE

County has established a marketing fund for the Airport to conduct sales promotions, Airport-wide advertising, and related activities intended to promote the Airport and its tenants. Commencing upon the Term Commencement Date, Tenant shall pay to County an amount equal to 0.5% of the previous month's Gross Receipts, which amount Tenant agrees to pay County concurrently with the Concessions Space Rent. All monies received by the Airport for the marketing fund shall be used solely for the purpose of Airport tenant promotions and directly related expenses. Tenant agrees to pay the Marketing Fund Fee payable monthly in arrears, on or before the fifteenth (15) day of each calendar month without prior notice or demand.

SECTION 4.07 SCREENING

If applicable as may be required by local, state or federal Law, including, but not limited to, the Federal Aviation Administration's ("FAA"), the Transportation Security Administration's ("TSA"), the County's or any other applicable rules and regulations now in effect or hereinafter enacted, costs incurred for the screening of Tenant's goods, merchandise, products, equipment, materials and supplies, shall be paid by Tenant directly to County.

SECTION 4.08 ADDITIONAL RENT, FEES, AND MISCELLANEOUS CHARGES

In addition to Concession Space Rent, Tenant shall pay, as Additional Rent, all sums of money required to be paid by Tenant to County hereunder, including, but not limited to: Miscellaneous Charges, Violation Fines, Tenant's share of Taxes assessed against County, Operating Costs and Expenses, Marketing Fund Fee and any other sums or charges which may be due from Tenant hereunder. If such amounts or charges are not paid at the time and in the manner as provided herein, they shall nevertheless be collectible as Additional Rent with the next payment of Concession Space Rent thereafter falling due, but nothing herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of County. All amounts of Rentals payable in each month shall be deemed to comprise a single rental obligation of Tenant.

SECTION 4.09 RECORD KEEPING, REPORTS, ANNUAL AUDIT, AND END OF YEAR ADJUSTMENT

A. Records Defined

"Tenant's Records" as referred to in this Lease shall include any and all information, materials, and data of every kind and character in any format, including, but not limited to records,

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accounts, financial transactions, books, papers, documents, recordings, notes, receipts, vouchers, memoranda, sales invoices, accounts receivable records, commission payment records, tax remittance records, expenditures for improvements or refurbishments, any and all other agreements, sources of information and matters that may, at County's sole discretion, have any bearing on or pertain to any matters, rights, duties, or obligations under or covered by the Lease, and any other Tenant records which may have a bearing on matters of interest to County in connection with Tenant's dealings with County to the extent necessary to adequately permit evaluation and verification of any or all of the following:

- 1) Accuracy of amounts owed to County resulting from Tenant's operation of the Leased Premises.
- 2) Compliance with any requirement in the Agreement.

Tenant shall, at all times during the term of this Lease, keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities, of whatever nature, conducted in pursuance of the rights granted herein. Tenant's Records must be supported by source documents such as sales slips, cash register tapes, purchase invoices, or other pertinent documents.

B. The Accounting Year

The accounting year shall be twelve full calendar months beginning with the Term Commencement Date. The accounting year may be established by Tenant provided Tenant notifies Auditor-Controller in writing of the accounting year to be used. Said accounting year shall be deemed to be approved by Auditor-Controller unless Auditor-Controller has objected to Tenant's selection in writing within sixty (60) days of Tenant's writing notification.

Once an accounting year is established, it shall be continued through the term of the Agreement unless Auditor-Controller specifically approves in writing a different accounting year. Auditor-Controller shall only approve a change in accounting years in the event of undue hardship being placed on either the Tenant or County and not because of mere convenience or inconvenience.

C. Financial Reports

Daily Gross Receipts: Upon request of the County, Tenant agrees to report Gross Receipts for periods of less than one month in a format and frequency as requested by County.

Monthly Concession Report: No later than fifteen (15) days after the end of each month during operations, including any interim operations. Tenant shall deliver to County a Monthly Concession Report, in a form as set forth in Exhibit C attached hereto, as may be amended, stating Gross Receipts for said month for each Concession within the Leased Premises and the calculation of Percentage Rent payable for said month.

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Financial Statement: Within ninety (90) days after the end of each Accounting Year, Tenant at its own expense shall submit to Auditor-Controller an audited statement of Gross Receipts as defined in Section 4.01 for all Airport operations (“Financial Statement”). This Financial Statement shall include a breakdown schedule of total Gross Receipts for the Accounting Year by month and sales as classified according to the categories of business established for Percentage Rent and listed in Article IV (RENTALS, FEES, OTHER CHARGES, REPORTING, AND ACCOUNTING RECORDS) and for any other business conducted on or from the Leased Premises. This statement shall be prepared by a Certified Public Accountant (“CPA”) or CPA firm holding a current and valid license with their local state Board of Accountancy. The audit and audit report must be performed and presented, respectively, in the applicable standards promulgated by the AICPA.

The first Financial Statement must include all Gross Receipts from the Interim Concession Locations and the Gross Receipts of the first Accounting Year. All subsequent Financial Statements will be for the Accounting Year.

A reviewed statement of Gross Receipts performed in accordance with applicable AICPA standards may be requested by Tenant instead of a Financial Statement if there is undue hardship to obtain a Financial Statement. Tenant must request and obtain written approval for a reviewed statement from the Airport Director prior to the Financial Statement due date for the year to be audited. If the request is not made by the Tenant prior to the due date, the request will be denied. If a reviewed statement of Gross Receipts is approved by the Airport Director, the reviewed statement of Gross Receipts is only approved for the year requested. The Tenant is required to submit an audited statement of Gross Receipts for future years.

Tenant shall provide County with copies of any Certified Public Accountant management letters and audited financial statements prepared in conjunction with their audit of Tenant’s operations from the Leased Premises. Copies of management letters and/or financial statements shall be provided directly to County by the CPA at the same time Tenant’s copy is provided to Tenant.

Tenant acknowledges that all the “Financial Statements” submitted to County pursuant to this Lease become Public Records and are subject to public inspection pursuant to California Government Code Sections 6250 et seq.

In addition to any other remedies available to County at law or in equity or under this Lease, in the event that Tenant fails to submit any financial statements by the due date listed in Section “Annual Audit.” Airport Director, or designee may require Tenant to submit the following:

- \$5,000 fine and/or
- Any and all costs incurred by County for the Certified Public Accountant hired by the County to prepare the required financial statements, including an administrative fee equal to fifteen percent (15%) of those costs.

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The assessed fine does not relieve Tenant from the responsibility to submit an Financial Statement or provide sufficient financial records for the Certified Public Accountant hired by the County to complete the required audit.

D. Findings

County reserves the right to challenge any findings or conclusions of the Financial Statement if it believes an error may have occurred. In such event, County may conduct its own audit under the provisions in this section or may require production of the supporting documentation used to reach the finding(s) or conclusion(s) in question. The resolution by County of any dispute will be final. Delivery of a Financial Statement containing a qualified opinion, or an adverse opinion, or a disclaimer of opinion as defined in the authoritative AICPA standards, as may from time to time be amended or superseded, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, or any successor board or agency thereto, will be deemed a material breach of this Lease and, in addition to all other remedies available to County, County may, in its sole discretion, terminate this Lease.

E. End of Year Adjustment

After reconciling the Financial Statement, if Tenant has paid to County an amount greater than Tenant is required to pay as Concession Space Rent or Additional Rent for an Accounting Year under the terms hereof, Tenant shall be entitled to a credit against Tenant's Concession Space Rent or Additional Rent for the amount of the overpayment. If Tenant has paid less than the amount required to be paid as Concession Space Rent or Additional Rent for such Accounting Year, County will invoice the difference and will be due 30 days from the invoice date. Airport Director or designee may require a late fee may be charged if received after the due date.

F. Form, Frequency, and Method of Reporting

Acceptance of monthly reports and payments by County does not constitute agreement by County with the amounts reported and paid. County reserves the right to change the form and frequency of reports and statements, including, but not limited to, the Monthly Concession Report, and to require the submission by Tenant of other statistics and information pertaining to the Gross Receipts hereunder. Tenant agrees to change the form of the required reports and statements as requested by County and to provide any additional statistics and information County may request.

County shall have the right at any time to require that reports be delivered electronically using technology and procedures designated by County. If County instructs Tenant to deliver any reports and statements required hereunder by computer, e-mail, internet website, or transmission, County shall not be obligated to furnish Tenant with the equipment or systems necessary to do so.

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SECTION 4.10 PAYMENT PROCEDURE, PLACE OF PAYMENT, AND STATEMENT FILING

On or before the fifteenth day of each month (the “Due Date”) Tenant shall deliver to Auditor-Controller a correct statement of all applicable Gross Receipts for that portion of the annual period which ends with and includes the last day of the preceding calendar month. The statement shall be signed by Tenant or Tenant’s responsible agent in a form prescribed by Auditor-Controller with the attestation “I declare under penalty of perjury under the laws of the State of California that the preceding is true and correct.” Each statement shall indicate:

- 1) One twelfth of the Annual Concession Space Rent payment;
- 2) The total gross receipts for said portion of the annual period, itemized as to each of the business categories for which a separate percentage rent is established. A breakdown of the gross receipts of each business conducted on the Leased Premises must be attached to each statement where a reported business category is comprised of more than one business operation;
- 3) The related itemized amounts of percentage rent computed as herein provided and the total thereof;
- 4) The total rent previously paid by Tenant for the annual period within which the preceding month falls; and
- 5) The rent due for the preceding month.

Concurrently with the rendering of each monthly statement, Tenant shall pay to County:

- a) Marketing Fund Fee which will be 0.5% of the preceding monthly gross receipts.
- b) The greater of: 1) the total Percentage Rent computed for that portion of the annual period ending with and including the last day of the preceding month [Item 3, above] less total rents previously paid for the annual period [Item 4, above], or 2) One twelfth of the annual Base Rent, multiplied by the number of months from the beginning of the accounting year to and including the preceding month, less total rents previously paid for the accounting year [Item 4, above].

Payments and statements required by Article IV in this Lease entitled, “RENTALS, FEES, OTHER CHARGES, REPORTING, AND ACCOUNTING RECORDS,” shall be sent electronically or delivered to the County of Orange, Office of the Auditor-Controller, John Wayne Airport Accounting Services, 3160 Airway Avenue, Costa Mesa, California 92626. The designated place of payment and filing may be changed at any time by County upon ten (10) days’ written notice to Tenant. Payments may be made by check payable to the County of Orange. Tenant assumes all risk of loss if payments are made by mail.

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SECTION 4.11 FORM OF PAYMENT

All sums due under this Lease shall be paid in lawful money of the United States of America without offset or deduction or prior notice or demand. No payment by Tenant or receipt by County of a lesser amount than the payment due shall be deemed to be other than on account of the payment due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and County shall accept such check or payment without prejudice to County's right to recover the balance of the amount due or pursue any other remedy in this Lease. All payments must be remitted by Automated Clearing House ("ACH") / direct deposit to the Airport's designated bank account, or any future mode prescribed by the County. Any fees assessed to the County's bank account due to the use of other form of payment (e.g., wire transfer) not prescribed or approved by the County, shall be passed through to the Tenant plus \$25 processing fee.

In the event a check submitted by Tenant is returned for non-sufficient funds ("NSF"), Tenant agrees to pay County a service charge in the amount of twenty-five dollars (\$25) for the first check, and thirty-five dollars (\$35) for each subsequent check. Tenant shall be liable for treble damages pursuant to California Civil Code Section 1719.

SECTION 4.12 FAILURE TO MAKE TIMELY PAYMENTS

Tenant hereby acknowledges that the late payment of Percentage Rent during the Interim Phase, Concession Space Rent and Marketing Fund Fee or any other sums due hereunder will cause County to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, administrative processing of delinquent notices, increased accounting costs, lost interest income and other professional services.

Accordingly, if any payment of Percentage Rent during Interim Phase, Concession Space Rent, and Marketing Fund Fee as specified in Section 4.06 in this Lease, or of any other sum due County is not received by County by the due date, a late charge of one and one-half percent (1.5%) of the payment due and unpaid shall be added to the payment, and the total sum shall become immediately due and payable to County. An additional charge of one and one-half percent (1.5%) of said payment, excluding late charges, shall be added for each additional month that said payment remains unpaid.

Tenant and County hereby agree that such late charges represent a fair and reasonable estimate of the costs that County will incur by reason of Tenant's late payment. Acceptance of such late charges (and/or any portion of the overdue payment) by County shall in no event constitute a waiver of Tenant's default with respect to such overdue payment or prevent County from exercising any of the other rights and remedies granted hereunder.

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The failure of County to act in the event of a delinquent payment or series of payments shall in no way waive the right of County to act at a subsequent time. County expects all rents, fees, and charges to be paid on time and Tenant agrees to pay on time.

Notwithstanding other provisions of this Lease, and without limiting the other provisions of this Lease concerning, among other things, events deemed to constitute default of Tenant, County may, in County's reasonably exercised discretion, terminate this Lease upon written notice to Tenant if there are recurring instances in which Tenant's payments required hereunder are not timely or are insufficient to cover sums actually due and payable.

SECTION 4.13 PROVISION AGAINST SET-OFFS

It is the obligation of Tenant to pay all rents free of any set-offs or claims, in the amount and at the times specified in this Lease. In the event that Tenant desires to contest the validity or amount of any such rents and charges, Tenant shall first pay the same to County and may then seek a refund in any appropriate forum.

SECTION 4.14 COUNTY'S RIGHT TO PERFORM AUDITS, INSPECTIONS, OR ATTESTATION
ENGAGEMENTS

Notwithstanding Tenant's requirement to submit the Annual Report set forth herein, County, or its representative, will have the right through the expiration of the third year after the expiration or termination of this Lease, through its representatives, and at all reasonable times, to review all books, records, and agreements of Tenant and where applicable, all individuals or other business entities who are party to this Lease, requested by County's representatives to substantiate the accuracy of reported Gross Receipts and Tenant's compliance with other provisions of this Lease. This includes, but is not limited to, Annual Reports, general ledgers, sales journals, daily or periodic summary reports, inventory and purchasing records, cash register or computer terminal tapes or reports, bank deposit slips, bank statements, cancelled checks, tax reports/returns filed with state or federal entities, discount or rebate/allowance agreements, records of refunds or voids, and joint venture or partnership agreements. Such right of examination shall include cooperation by Tenant personnel (including, but not limited to, cooperation in sending confirmations to Tenant's suppliers or others, assisting County in obtaining from governmental entities official copies of tax reports/returns, and disclosing all bank or other accounts into which Gross Receipts are deposited) as reasonably considered necessary by County, or its representative, to complete the engagement. There may be no limitation in the scope of the engagement that would hinder County in testing the accuracy and completeness of the reported Gross Receipts. All such books, records, and agreements shall be kept for a minimum period of five (5) years after the close of each Accounting Year.

Engagements will be conducted at the Airport. However, if agreed to by County, the engagement can be conducted at another location, in which event Tenant shall reimburse County for reasonable transportation, food and lodging costs associated with the engagement, accrued in

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accordance with County's Policy and Standard Procedure relating to Travel Expenses. Tenant shall allow County's representatives to photocopy any records the representatives determine to be necessary to conduct and support the engagement. Tenant shall provide County's representatives with retrievals of computer-based record or transactions the representatives determine to be necessary to conduct the engagement. Tenant shall not charge County for reasonable use of Tenant's photocopy machine while conducting the engagement, nor for any cost of retrieving, downloading to storage media and/or printing any records or transactions stored in magnetic, optical microform or other media. Tenant shall provide all records and retrievals requested within seven (7) days of the request. The Parties recognize that County will incur additional costs if records requested are not provided in a timely manner and that the amount of those costs is difficult to determine with certainty. Consequently, the Parties agree that County may assess violation fines in the amount of \$100 per day for each record requested that is not received. Such damages may be assessed beginning on the eighth (8th) day following the date the request was made. Accrual of such damages will continue until specific performance is accomplished.

If, because of any engagement, it is established that Tenant owes additional rents, fees, or charges to County, Tenant will pay such additional rents, fees and charges and County may assess interest in accordance with Section 4.08. If it is established that Tenant underreported Gross Receipts or underpaid fees related to Gross Receipts by three percent (3%) or more for the period under consideration, the entire expense of the engagement may be billed to Tenant. Any additional payments due shall be paid, no later than Tenant's next payment of the Base Rent, by Tenant to County. If it is established that Tenant underreported Gross Receipts or underpaid fees related to Gross Receipts by five percent (5%) or more for the period under consideration, County shall be entitled to terminate this Lease for cause upon thirty (30) days' written notice, regardless of whether the deficiency is paid. If because of any engagement, it is established that Tenant has correctly reported or over reported Gross Receipts or has paid fees related to Gross Receipts equivalent to or greater than the sum due, County shall refund Tenant and the entire expense of the engagement shall be paid by County.

Tenant will include a provision providing County the same rights to initiate and perform audits, inspections, or attestation engagements in any Subtenant agreement that it enters and cause its Subtenants to similarly include the statements in further Subtenants agreements.

Section 4.15 Severe Decline in Enplanements

If at any time during the Term there is a severe decline in enplanements for three consecutive months, as compared to same time period in the previous year, then Tenant shall provide notice to the Airport Director, and at the Airport Director's discretion and upon approval of the Board of Supervisors, Concession Space Rent may be temporarily suspended or reduced. The Airport Director shall have the sole discretion as to whether there exists a severe decline in enplanements.

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ARTICLE V. PERMITTED USES

SECTION 5.01 PERMITTED USE

A. Uses

Tenant shall have an exclusive right to develop, operate and manage the Leased Premises in accordance with the Permitted Uses set forth in Exhibit B. The concession rights granted herein shall be exclusive within the Leased Premises but non-exclusive at the Airport. Tenant agrees not to use the Leased Premises for any other purpose nor to engage in or permit any other activity by Tenant's employees, agents, or contractors, within or from the Leased Premises. Tenant agrees not to conduct or permit its employees, agents, or contractors to conduct any public or private nuisance in, on or from the Airport, or to commit or permit its employees, agents or contractors to commit any waste in, on or from the Airport. The Use is attached hereto and entitled, "Exhibit B."

B. Optional Services and Uses

Subject to the prior written approval of the Airport Director, Tenant may be granted the option to provide those additional services and uses which are ancillary to and compatible with the required services and uses herein; subject to negotiation and approval of Airport Director.

The above listed services and uses, are required and shall be the only services and uses permitted. Tenant agrees not to use the Leased Premises for any other purpose nor to engage in or permit any other activity within or from the Leased Premises. This prohibition includes, but is not limited to, sale or use of tobacco products, CBD products, cannabis products and any products prohibited by federal, state, or local agencies, insurance policies, or as decided by the Airport Director.

County has established with the local Alcohol and Beverage Control ("ABC"), a Terminal-wide alcohol to-go program, which Airport Director reserves the right to revoke or modify at any time. Tenant is required to ensure proper policies and procedures are in place with staff to inform guest that open alcoholic beverages are prohibited on aircraft. Open alcohol containers must be properly branded and identified by Tenant.

Airport Director has the right to use Tenant's inventory of goods in an emergency situation to assist in maintaining the welfare of persons at or near the Airport. Tenant shall be reimbursed by County for the cost of goods as soon as practicable at a rate not to exceed prices immediately prior to the emergency.

Exhibit B, Permitted Uses, which is attached hereto and made a part hereof, sets forth the trade name for each Concession within the Leased Premises and a listing, by general category, of goods and services that Tenant is allowed to sell from the Leased Premises. Such list of the Permitted

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Uses shall constitute a limitation of the goods and services which may be sold from the Leased Premises.

C. Permitted Products, Services, and Prices

No later than thirty (30) days prior to the opening of a Concession within the Leased Premises Tenant must submit to County, for its written approval, a listing, substantially consistent with Exhibit B and as requested by County, of the goods and services to be sold from the Leased Premises. Such listing (hereinafter referred to as the "Product Price List") must include the prices to be charged to the public for the goods and services.

Once approved by County, the Product Price List for each Concession within the Leased Premises shall remain in effect through the remainder of the Term. Tenant shall not add, delete, or sell any goods or services not included on the Product Price List, nor change the price of any good or service, without first receiving written approval from County, which approval shall not be unreasonably withheld or delayed.

County may, at its discretion, require Tenant to add goods or services that are in public demand to the Product Price List for any Concession within the Leased Premises.

Within ten (10) business days of a written request by County, Tenant shall provide a current Product Price List.

SECTION 5.02 NON-EXCLUSIVE RIGHTS

Tenant shall have a nonexclusive right to develop, operate and manage Concessions within designated locations at the Airport. The Concession rights granted herein shall be exclusive within the Leased Premises but non-exclusive at the Airport.

SECTION 5.03 RESTRICTIONS

Nothing in this Section will be construed as authorizing Tenant to conduct any business separate and apart from this Lease or in areas at the Airport other than the Leased Premises.

All rights and privileges not specifically granted to Tenant for its use of and operations at the Airport pursuant to this Lease are hereby reserved for and to County.

In the event Tenant breaches this Lease by using or permitting the Leased Premises to be used in any manner other than as expressly permitted under this Lease, Tenant shall be subject to penalties as described in Section 8.01 for any service, goods, or use that is not permitted by any part of this Lease, or otherwise authorized in this Lease entitled. Said payment is subject to the "Due Date" provided in Section 4.10 (Payment Procedure, Place of Payment and Statement Filing) and Section 4.12 (Failure to Make Timely Payments). Payment or receipt of money under this section, does not constitute an authorization for a particular service or use and does not

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constitute a waiver of County's right to require Tenant to terminate such service or use. The Parties agree that County's actual damages, in the event of such a breach by Tenant would be extremely difficult or impossible to determine; therefore, the amount prescribed in Section 8.01 is the best estimate of County's reasonable damages.

County reserves the right to prohibit the sale of those items which, in the opinion of County, are not in the public interest; or which might compete unfairly with other Terminal concessions. Tenant also agrees not to conduct or permit to be conducted any public or private nuisance (as defined in California Civil Code Section 3479) in, on or from the Leased Premises, or to commit or permit to be committed any waste in, on or from the Leased Premises.

SECTION 5.04 PERMITS AND LICENSES

Tenant will obtain and maintain throughout the Term all permits, certificates, licenses, or other authorizations required in connection with the operation of the Concessions. Copies of all required permits, certificates, licenses, or other authorizations will be appropriately displayed within the Leased Premises and forwarded to County upon issuance and each renewal. No permit approval or consent given hereunder by County in its governmental capacity shall affect or limit Tenant's obligations hereunder, nor shall any approvals or consents given by County as a party to this Lease, be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.

In the event the County is required or has obtained any of the necessary permits, Tenant will reimburse the County for any permit fees and associated costs in obtaining said permits.

ARTICLE VI. ENVIRONMENTAL, SAFETY AND INDEMNIFICATION

SECTION 6.01 ENVIRONMENTAL STEWARDSHIP

Tenant shall support the County's Environmental Compliance and Stewardship program through participation in various efforts or implementation of Airport plans listed below as applicable, and through complying with Airport Tenant Guidelines. County shall provide Tenant advance notice of any proposed changes to the following plans that may affect Tenant operations:

- A. Air Quality Improvement Plan (AQIP) and Memorandum of Understanding (MOU) with the South Coast Air Quality Management District (SCAQMD).
- B. Climate Action Plan.
- C. Waste Management Plan.
- D. Storm Water Pollution Prevention Plan.

All Tenant facilities and improvements shall meet the Airport's Tenant Design Guide and John Wayne Airport Construction Standards as well as Architectural Guidelines, as may be amended from time to time. All improvements shall meet the California Green Building Code (Title 24) CALGreen Tier 1. In particular, the Tenant shall implement the following conservation measures

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and policies as applicable:

- A. Use equipment and appliances that are ENERGY STAR rated or equivalent and EPA Water Sense or equivalent, as applicable when replacing existing equipment and appliances.
- B. Use high-efficiency light fixtures and bulbs (including compact fluorescents) when replacing or installing new fixtures and bulbs.
- C. Install sensors in office areas to turn off lights when unoccupied when these areas are being renovated or updated.
- D. Install energy-efficient heating and cooling equipment when replacing or upgrading.
- E. Use energy-efficient computers and servers when replacing this equipment.
- F. Select equipment with variable speed motors and fan drives, when possible.
- G. Use paperless receipt technology, when possible.

Tenant shall implement and support the following environmental policies:

- A. The Tenant has been provided a copy of the County's Environmentally Preferable Purchasing Policy (2012) and shall consider developing a similar policy that addresses the Tenant's procurement of goods and services as applicable.
- B. The Tenant shall affirm its commitment to Environmental Sustainability at the Airport. The Policy commitment shall be submitted to the JWA within 30 days of Lease execution.
- C. Upon request, the Tenant shall provide reports necessary for environmental compliance, regulatory requirements and airport mitigation measure obligations.

Tenant shall implement applicable elements of the County's Green Concession Program as described in the Tenant Design Guidelines. Elements include:

- A. Environmental Building Standards as described in Article 7 and detailed in the Tenant Design Guidelines
- B. Comply with Federal and State laws including SB1383, AB341, and SB32 for Waste management and diversion.
 - 1. Sort organic waste (food scraps), recyclables, cardboard, grease, and landfill waste and dispose or divert as directed by the County
 - 2. Minimize packaging and creation of waste
 - 3. Participate in a food recovery program
- C. Implementation of the County's Environmentally Preferable Materials Use upon Agreement initiation, or if a continuing tenant, implement within six (6) months of lease execution.
 - 1. Only use recycling or compostable "to go" materials
 - 2. Prohibit The use of polystyrene foam materials
 - 3. Reduce or eliminate the use of single-use plastic products such as water bottles and straws
 - 4. Prohibit the sale of beverages in non-returnable can, metal or glass containers

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Tenant agrees that when alternate forms of packaging are available, only items packaged in a manner most compatible with the Airport's goals of recycling, reducing litter waste and preserving the environment shall be sold. Receipts evidencing compliance with said programs shall be kept and made available for Airport review.

SECTION 6.02 HAZARDOUS MATERIALS, HAZARDOUS SUBSTANCES, AND ENVIRONMENTAL COMPLIANCE

Tenant shall comply with all Environmental Laws, including laws regulating Hazardous Materials, and shall not engage in any activity on or about the Airport that violates any Environmental Law. In conducting its operations and maintenance on the Airport under this Lease, Tenant shall comply with such regulations regarding the storage, distribution, processing, handling, release, removal, and/or disposal, including the storm water discharge requirements, of Hazardous Materials including, but not limited to, gasoline, aviation fuel, jet fuel, diesel fuel, lubricants and/or solvents, whether the obligation for such compliance is placed on the owner of the land, owner of the improvements or user of the improvements. Violation by Tenant or any of its agents, assigns, successors, sublessees, subcontractors, or employees of any Environmental Law are grounds for immediate termination of this Lease and for immediate termination of all operations by Tenant at or on the Airport.

Notwithstanding the liability of prior tenants of the Leased Premises, Tenant shall at its sole cost and expense investigate, evaluate, assess, remove, and/or remediate any and all Hazardous Materials that may be required or ordered by any governmental agency or Environmental Law. In conducting a clean-up of a Hazardous Material release under this Lease, Tenant shall comply with all applicable Environmental Laws. Tenant shall not use the County hazardous waste generator ID for waste disposal.

SECTION 6.03 GENERAL HEALTH AND SAFETY CONDITIONS

Precaution shall be exercised at all times by Tenant for the health, safety, and welfare of persons, including employees and property. The safety provisions of applicable laws and building and construction codes shall be observed. Work, materials, and equipment used shall comply with the Occupational Safety & Health Administration ("OSHA") requirements including but not limited to OSHA Hazard Communication Standard 29 CFR 1910.1200, and federal and state safety orders.

Tenant shall comply with all material usage limitation, permit record keeping, and reporting requirements imposed by federal, state and local laws and regulations. Tenant shall properly post Manufacturer's Safety Data Sheets as required by law and shall use and dispose of all materials in conformance with all applicable codes, rules, regulations and manufacturer's recommendations, and train employees in proper handling of all materials.

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Tenant shall submit to the County's Airport Environmental Resources Manager, annually on or before January 31, a report on compliance with and the status of all required permits including, but not limited to, Fire, OSHA, Air Quality Management, and Health Care Agency. The report must summarize all spills, leaks or permit violations for the previous year.

Tenant shall provide all notices required pursuant to the Environmental Laws. Tenant shall provide prompt written notice to County within five (5) days of receipt of all written notices of violation of any Environmental Law received by Tenant.

SECTION 6.04 ENVIRONMENTAL INDEMNIFICATION

To the fullest extent authorized by law, the Tenant shall indemnify, defend, and hold harmless the County, its officers, directors, agents, and employees, for compliance with all Environmental Laws, from and against any and all Environmental Law claims, judgments, damages, penalties, actions, fines, costs, liabilities, losses, orders, expenses, and lawsuits (including fees and costs for attorneys, experts, and expert consultants) arising from the Leased Premises, and/or out of or related to any actions or omissions of Tenant, the Tenant's operations at the Airport or any action arising from and which involve the Tenant's officers, agents, successors, assigns, sublessees, subcontractors, and employees (whether or not they are negligent, intentional, willful or unlawful), including defense expenses arising therefrom, including, but not limited to the following:

- A. The Tenant's placement, disposal, allowing, or releasing of Hazardous Materials upon or within the Airport including any such claims, demands, liabilities, cost, expenses, and/or obligations related to Tenant's release or threatened release of Hazardous Materials on, at, and/or under the Airport.
- B. The Tenant's release or threatened release of Hazardous Materials at, on, under, and/or remaining from the Airport.
- C. The Tenant's compliance with any Environmental Law, except that Tenant's obligations under this paragraph shall not extend to remediation conditions that arise from operations of third parties that are not affiliated with Tenant that take place off of the Airport. A party shall be deemed to be affiliated with Tenant if it is an employee, officer, director, agent, sublessee, assignee, contractor or subcontractor of Tenant or if it is controlled by or under common control with Tenant.
- D. The Tenant's causing or allowing any prohibited discharge into the Airport Drainage System.

This indemnification includes, without limitation, reasonable fees/costs/expenses for attorneys, experts, expert consultants, and all other costs incurred by County in connection with any investigation, evaluation, assessment, and/or monitoring of the environmental conditions at the

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Leased Premises or any cleanup, remedial, removal, and/or restoration work required by any federal, state or local governmental entity because of any Hazardous Materials being present in the soil, surface water at, on, under, or about the Airport. However, Tenant's indemnity obligation shall not apply in the event of any claims for any loss, damage or expense arising from the sole or active negligence or willful misconduct of County or agents, servants or independent contractors who are directly responsible to County.

In the event the indemnitees as described herein are parties in any proceeding (legal, administrative, or otherwise), the Tenant shall, at the request of the County, defend the indemnitees with qualified counsel that the County determines, in its sole and absolute discretion, is acceptable to the County, unless the County, in its sole and absolute discretion, undertakes legal representation, in which event the Tenant shall reimburse the County for the expenses incurred by it in defending such proceeding, including reasonable attorneys' fees, expert and consultant's fees, and investigative and court costs.

In the event that any monetary sum is awarded against the County and the Tenant because of the concurrent negligence of the County and the Tenant or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the County and the Tenant agree that neither party shall request a jury apportionment. Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorney's fees in any action to enforce the terms of this Lease.

The rights and obligations set forth in this indemnification shall survive the termination and/or expiration of this Lease.

SECTION 6.05 **CONFLICT WITH ENVIRONMENTAL LAW PROVISIONS**

In the event that any of the terms of the environmental requirements codified in this Article conflict with any other terms of this Lease, the environmental requirements contained in this Article shall apply.

SECTION 6.06 **ANTI-IDLING POLICY**

Within six months of Lease execution, Tenant must develop, implement and submit to the Airport Director or designee for approval a fleet-wide anti-idling policy. At a minimum, the anti-idling policy shall include the requirement that vehicle engines shall be turned off when vehicles are not occupied, and that occupied vehicles be turned off after no more than a five-minute idling

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period. Tenant's policy shall also include all subtenant and third-party vehicles that enter Airport property at the direction of the Tenant.

ARTICLE VII. OPERATIONS AND PERFORMANCE STANDARDS

SECTION 7.01 COUNTY'S RIGHT TO MONITOR PERFORMANCE

A. Performance Audits

Tenant shall conduct its business in a manner that meets the needs of Airport patrons and employees and in a manner that will reflect positively upon the Tenant and County. The Tenant shall equip, organize, and efficiently manage the Concessions to provide first-class service and products in a clean, safe, attractive, and pleasant atmosphere.

County in its sole discretion shall have the right to raise reasonable objections to the condition of the Leased Premises, the quality and quantity of merchandise, the character of the service, the hours of operation, and to require any such conditions or practices objectionable to County to be promptly remedied by Tenant.

County reserves the right to conduct periodic performance audits of the Leased Premises to assure that all of the operational, safety and compliance standards of this Lease are consistently performed by Tenant. Tenant acknowledges that performance audits will be conducted by County, or its representative, and hereby agrees to cooperate with all performance audits.

1. Performance audits may include minimum objective standards in any or all the areas of (i) product quality; (ii) customer service; and (iii) cleanliness and maintenance. If Tenant fails to meet minimum standards in any of these areas, County may, at its discretion, assess fines as set forth in Section 8.01. County representatives may also take photographs as deemed necessary during inspection of Leased Premises. County representatives will make best efforts not to interfere with Tenant's business operation.
2. To assure consistent adherence to performance standards throughout the Term, the County will use a rolling 12-month cycle in the recording of incidents of failure to meet standards. County reserves the right to assess fines for violations of performance standards as set forth in Section 8.01.
3. Repeated violations and deficiencies in performance by Tenant may be cause, at County's sole discretion, to terminate this Contract.

B. Annual Review

No later than 90 days after the end of the first full Accounting Year after the Term Commencement Date, and the end of each Accounting Year thereafter, County reserves the right

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to request a meeting with Tenant to review and evaluate the financial, customer service, and operational performance of each Concession within the Leased Premises During the review, County may determine, in its sole discretion, that the performance of one or more of the Concessions is unsatisfactory if one or more of the following occurred during the prior Accounting Year:

1. Sales per Enplaned Passenger were less than 80 percent (80%) of the Projected Sales per Enplaned Passenger for the Leased Premises, as set forth in Tenant's Response to Concession Request for Proposal PM **1121-0345-0034** (notwithstanding any incidence of Severe Decline in Enplanements within the Accounting Year).
2. Sales per Enplaned Passenger were less than 80 percent (80%) of Sales per Enplaned Passenger for the same Concession during each of the two (2) preceding Accounting Years (notwithstanding any incidence of Severe Decline in Enplanements within the Accounting Year).
3. Scores on any mystery shopper survey(s) conducted by County or its representative were less than 80 percent (80%) of the maximum achievable scores for the survey(s).
4. Scores on any operational survey(s) conducted by County or its representative were less than 80 percent (80%) of the maximum achievable scores for the survey(s).

C. Remediation Plan

If County determines, based on the performance criteria specified in this section, that a Concession performed unsatisfactorily during the prior Accounting Year, County will provide written notice to Tenant. Within 30 days of receipt of such written notice, Tenant shall prepare and submit to County, for its approval, a Remediation Plan, as described below, to improve the performance of the Concession.

The Remediation Plan shall include, but not be limited to, proposed remedial activities such as employee training, staffing changes, merchandise and service modifications, facility refurbishment and repair, and/or replacement of concept or brand. Upon approval by County, Tenant agrees to diligently implement the approved Remediation Plan and further agrees to submit to County monthly reports on the progress of such implementation. If the approved Remediation Plan includes the replacement of a concept or brand, then County and Tenant will enter good faith negotiations concerning a concept or replacement brand.

In the event County determines, after six (6) months of implementation of a Remediation Plan, the subject Concession is still performing in an unsatisfactory manner, County reserves the right to require Tenant to replace the underperforming concept or brand, if not already replaced by the Remediation Plan. Within 90 days of receipt of written notice from County requiring a replacement, Tenant shall submit to County a proposal for a brand or concept replacement plan.

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Such replacement plan shall include, but not be limited to, a detailed description of the brand or concept, capital expense required to re-brand, sales projections, and the specific timetable to replace the brand or concept. County, in its sole discretion, reserves the right to approve or deny the replacement plan and require Tenant to submit another replacement plan.

SECTION 7.02 QUALITY OF PRODUCTS AND SERVICES

Tenant shall ensure that all customers are provided the optimum quality of food, products and services, and Tenant shall keep in stock and have ready for sale at all times of operation, a sufficient supply and variety of food, beverage, articles, and goods offered for sale at each Concession Location, consistent with the Product Price List, to meet the demand of customers at the Airport.

If County identifies any deficiencies with respect to the operations, including, without limitation, quality, variety, and quantity of goods or services offered, Tenant shall be notified in writing by County and shall correct, or cause to be corrected, such problem or problems within seven (7) days, unless County authorizes in writing a longer period. If Tenant fails to correct within seven (7) days after written notice is given by County, County may assess fines as described in Section 8.01.

Tenant shall develop and implement creative merchandising techniques and displays to optimize customer satisfaction and Gross Receipts, including without limitation, food and beverage displays; retail merchandise displays; display cases; promotional displays; attractive and durable packaging; menu boards or table-top menus; and pictures of food and beverages or retail merchandise.

Prices for each item sold in each store shall be conspicuously displayed or printed to a menu to the satisfaction of Airport Director. Tenant's printed or digital menus and/or price lists shall include the appropriate use of descriptive terminology that accurately and truthfully describes the food, beverages, services, or products being offered. Prices displayed shall not exceed the approved prices for said items. Upon request by the County, Tenant shall produce menus in specified languages to assist persons who may have limited English proficiency.

All food, beverages, retail merchandise and other items sold or kept for sale shall be of high quality, wholesome, and conform to the fullest extent with all applicable food and drug laws, ordinances and regulations, as well as Airport Operating Directives. County reserves the right to approve all merchandising displays. Tenant hereby affirms that County, in its sole discretion, has the absolute right to require that Tenant discontinue the sale of any product County deems unsatisfactory, distasteful, or inappropriate for any reason and to require Tenant to modify merchandising displays for any reason. If Tenant fails to comply with any such County request within one (1) day after written notice from County, County may assess fines as described in Section 8.01.

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All franchise and/or license standards applicable to a Concession shall be met or exceeded. Copies of the franchise/license standards and performance audit forms shall be sent to County prior to the first day of business of such Concession. Tenant shall submit to County copies of all inspections conducted by the franchisor, licensor or mystery shopper service hired by the franchisor or licensor within ten (10) days of receipt by Tenant.

All food and non-alcoholic beverages available for sale should be made available for customers to carry out if they so request. The containers and plasticware for carryout should be recyclable, made of sustainable materials, high quality, and substantial enough for the customer to take on an airplane.

SECTION 7.03 PRICING

Tenant acknowledges County's objective to provide Airport customers and employees high quality goods and services at reasonable prices. Accordingly, Tenant covenants that all goods and services sold by Tenant shall meet the County's Pricing standards as follows:

1. For merchandise with a pre-printed price affixed by the manufacturer or distributor, the selling price shall not exceed the pre-printed price.
2. For nationally and locally branded Concessions that are also represented off-Airport in the County of Orange, the selling price for goods and services at the Airport shall not exceed the selling price for the same goods and services at the closest off-Airport establishment in the County of Orange of the same brand name by more than fifteen percent (15%).
3. For all non-branded, proprietary, or branded Concessions not represented off-Airport in the County of Orange, the selling price for goods and services at the Airport shall not exceed the average selling price for similar or equivalent goods (of like size and quality) and services at three Price Benchmark Establishments, as described below, by more than fifteen percent (15%).
 - A. Price Benchmark Establishment(s)

No less than forty-five (45) days prior to the opening of a Concession, Tenant must submit to County for its approval the names and addresses of at least three businesses for each of the goods or services, or substantially similar items within the County of Orange that Tenant proposes to use as a Price Benchmark Establishment. The businesses must be comparable in concept, size, ambiance, service style and quality to the Concession and, to the extent practical, be the same businesses as identified in Tenant's Response. Venues specifically excluded from consideration as comparable businesses include entertainment or sports venues, other transportation terminals, amusement parks, zoos, resorts, and hotels.

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Once approved by County, the Price Benchmark Establishment(s) will be used as the basis for price comparisons during the remainder of the Term. In the event any of the Price Benchmark Establishment(s) ceases operations or, in the sole discretion of County, alters its concept, branding, service style, merchandise selection or menu to no longer be a valid comparison, Tenant must propose a substitute Price Benchmark Establishment(s) for approval by County.

If Price Benchmark Establishment(s) cannot be determined by Tenant as described above, then County, in its sole discretion, will identify local area businesses like Tenant's business at the Airport to be deemed as Price Benchmark Establishment(s).

B. Price Surveys

No later than thirty (30) days prior to the opening of a Concession and prior to the beginning of each Lease Year, Tenant shall, at its own expense, prepare and submit to the Airport a goods and services price survey of the Price Benchmark Establishments that demonstrates, to the satisfaction of County, Tenant's compliance with the County's Pricing Standards.

C. Price Changes

Throughout the Term, Tenant may request changes to pricing once every six (6) months, when the comparable national or regional brand changes pricing or more frequently as agreed to by County. Requested price changes must be submitted in writing and include such information and data as reasonably requested by County including, but not limited to, the results of price surveys or other economic justification supporting the requested price changes(s). County shall, in its sole discretion, determine which, if any, price changes are consistent with the County's Pricing Standards and shall notify Tenant in writing of its approval or rejection of each requested price change. No later than ten (10) days after any adjustment to prices, the Parties agree to modify the Price List to incorporate said price adjustments. Modification will be confirmed by letter executed by the Airport Director, without need for formal amendment to this Lease.

D. Airport Employee Discount

Tenant may offer an employee discount on all food & beverage, retail, passenger services, and non-alcoholic beverages purchased by employees working at the Airport and employees of airlines operating at Airport who have been issued (and show at the time the discount is requested) appropriate identification badges. The discount shall be based on Tenant's normal non-sale or non-promotional prices. No discount shall be given on food and non-alcoholic beverages with a manufacturer pre-printed price. Tenant must provide the Airport Director, or designee with the Tenant's discount policy and that the discount is reflected on sales records. The sales records shall clearly state the public sales price, the amount of discount, and the discounted sales price.

E. Price Conformance

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At any time during the Term, County may survey or cause to be surveyed, prices being charged for goods or services offered by Tenant. County shall have the right to monitor and test all of Tenant's goods and services prices by a shopping service or County personnel. If County concludes, based on the results of the survey, that any prices being charged by Tenant do not comply with the County's Pricing Standards, County will require Tenant to adjust prices to the amounts permitted herein.

Tenant will, within three (3) business days of written notice from County, adjust any prices that County determines, in its sole discretion, to be inconsistent with the County's Pricing Standards. Failure to rectify any pricing discrepancies within the aforementioned three (3) days shall constitute a material breach by Tenant of this Lease and, in addition to the collection of violation fines, as set forth in Section 8.01, and all other remedies available to County, County may, in its sole discretion, terminate this Lease.

SECTION 7.04 HOURS OF OPERATION

A. Store Hours

Tenant shall ensure that each Concession is open for business without interruption as determined by the Airport Director. Unless otherwise approved in writing by County, the Parties agree to the approved Store Hours.

County may, in its sole discretion, require Store Hours to change during the Term. Tenant hereby acknowledges and agrees to operate the Concessions as required which, if requested by County, may be twenty- four (24) hours per day seven (7) days per week, including all holidays. Tenant may request changes to Store Hours after six (6) full months of operations under this Lease. County may, in its sole discretion, approve or deny such requested changes.

B. Extension of Store Hours

Tenant agrees to remain open beyond Store Hours for certain events including, but not limited to, the following:

1. In the event of a delayed flight in the Terminal in which any Concession is located, Tenant shall remain continuously open and provide all goods and services as required by this Lease beyond the then current Store Hours for the Concession in the affected Terminal and until the delayed flight departs the gate or County otherwise instructs.
2. In the event of an emergency, as determined by County, Tenant shall remain continuously open and provide all goods and services as required by this Lease for the Concession beyond the then current Store Hours as instructed by County.

C. Failure to Open

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Failing to open for business within thirty (30) minutes of the required opening time or closing more than thirty (30) minutes early, shall constitute a violation of this Section for which County may collect violation fine as set forth in Section 8.01.

D. Posted Hours

The Tenant will prominently post Store Hours in a professional manner for each Concession and in a format approved by County.

SECTION 7.05 DELIVERY OF GOODS

Tenant shall make all deliveries of money, coin, supplies, goods, products, and food and beverage through routes and entrances items and in such manner, and at such times and locations as designated by the Airport Director. Emergency deliveries may be made at other times subject to prior arrangements with the County. Tenant shall not leave products, carts and inventory unattended in the concourses, hallways and other locations. Tenant shall only utilize carts, shippers, hand trucks and dollies that were outfitted with pneumatic (air) or gel tires to move products or merchandise from storage to concession areas. Metal or hard rubber wheels or tires are prohibited. Tenant shall ensure staff transporting items in the Public Areas have clear visibility in all directions. Items must not be over stacked. Tenant shall ensure pallets used for delivery will be returned to the supplier or legally reused/recycled/disposed off of Airport property.

A. Central Receiving and Distribution

County may implement a Central Receiving and Distribution Center (hereinafter referred to as "CRDC") and may contract, at its discretion, with a third party to operate the CRDC and provide distribution and delivery services to Airport (hereinafter referred to as "Logistics Manager"). When established, Tenant agrees to use, at its own cost and expense, the CRDC and have all deliveries made to the CRDC, except where delivery to a third party is prohibited by law or as otherwise approved in writing by County. Tenant agrees to pay Tenant's share of the costs of the operation of the CRDC and said distribution and delivery services, as determined by County.

Tenant acknowledges that County will not be responsible for and will have no liability related to the operation of (or the failure to operate) the CRDC nor related distribution and delivery services. Tenant waives any and all claims against County for operation (or failure to operate) the CRDC, including but not limited to lost profits, consequential damages or any other losses or damages whatsoever.

Tenant acknowledges that the Logistics Manager may establish rules and procedures regarding the operations of the CRDC and the distribution and delivery services to Airport including, but not limited to, operating hours of CRDC, scheduling and acceptance of Tenant's deliveries to the CRDC, scheduling and place of deliveries to Airport, and transportation of goods and related

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equipment such as pallets, storage bins, and racks among the Airside Terminals, terminals, and CRDC. CRDC rules and procedures may be modified from time to time in accordance with this Lease. Tenant agrees to conform to said CRDC rules and procedures.

SECTION 7.06 PERSONNEL

A. Staffing

Tenant shall hire, train, supervise, and deploy a sufficient number of personnel to service customers in a timely and efficient manner and to properly meet Tenant's obligations herein. If replacing an Existing Concession Location, the Tenant shall make every effort to hire and train the previous concession employees subject to the Tenant hiring policies and procedures.

Tenant shall closely monitor personnel to ensure first class service to customers in compliance with this Lease. The satisfactory performance of the obligation hereunder shall be determined in the sole discretion of County. Tenant shall take all proper steps to discipline personnel who participate in acts of misconduct on or about the Leased Premises.

Tenant warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Lease meet the citizenship or alien status requirement set forth in federal statutes and regulations. Tenant shall obtain from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Tenant shall retain all such documentation for all covered employees for the period prescribed by the law. Tenant shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Tenant or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment or any persons performing work under this Lease.

B. General Manager

Tenant shall appoint a General Manager to oversee and manage the performance of the Concession and represent and act on behalf of Tenant. The General Manager shall have full authority to make day-to-day business decisions on behalf of Tenant with respect to the Concession including, but not limited to, authority to control the conduct and demeanor of Tenant's Personnel. The General Manager shall represent the Tenant in dealings with County and shall coordinate all concession activities with County. The General Manager shall be assigned to an office at or near the Airport and shall be available during County's regular business hours. The General Manager shall designate a qualified, competent, and experienced subordinate to be in charge and available during his/her absence during Tenant's regular operating hours.

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C. County's Right to Object

County shall have the right to object to the demeanor, conduct, and appearance of any personnel of Tenant or any of its invitees or those doing business with it. Immediately upon notice of objection by County, Tenant shall take all steps necessary to remedy the cause of the objection. If requested by Tenant, County shall present its objections in writing and provide Tenant the opportunity to reply to the objections and such reply will be given consideration by County.

D. Worker Retention

Tenant shall comply with the Worker Retention Policy as set forth in Exhibit I and attached hereto.

SECTION 7.07 EMPLOYEE PARKING

Tenant shall pay the monthly employee parking fee, subject to change, for employee vehicles parked in the employee parking lot.

Nothing in this Lease shall be deemed to require County to provide parking to Tenant's personnel. County may provide parking accommodations to Tenant's personnel in common with employees of other Tenants and users of the Airport subject to the payment of reasonable charges therefor as may be established from time to time by County. In such event, Tenant's Personnel shall be required to park within the designated areas. Tenants are encouraged to incentivize employees to utilize alternative, more environmentally friendly modes of transportation including mass transit, ride sharing, etc.

SECTION 7.08 POINT OF SALE TERMINALS

Tenant must install a POS Terminal(s) to accurately record all business transactions occurring in each Concession Location for accounting, reporting, and auditing purposes as set forth herein.

All POS Terminals used at the Airport must have at a minimum, the following features:

- Multiple segregated category addresses to allow for accurate and complete reporting of Gross Receipts/Revenues by various goods and services categories.
- The capability of recording transactions by sequential control number to an audit tape or computer file.
- Ability to produce continuous and consecutive transactions in sequential order. Gaps in transaction numbers may be subject to a violation fine as described in 8.01.
- Mobile POS payment capabilities or other similar electronic devices.
- The capability of recording any discounts that are applied to a transaction.
- The capability of printing a transaction history to tape or computer file by category of goods or services, time of day, day, month, and year by category.

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- The capability of printing customer receipts showing the transaction amount, the amount tendered, the amount of change due to the customer, and the time and date of the transaction. Additionally, the customer receipt must show Tenant's contact information including name, phone number and email address for any customer concerns, complaints, or questions.
- A fee display of sufficient size and legibility that is placed in a location visible to the customer during a transaction.
- A secure transaction audit tape or ASCII transaction file on a removable storage device.
- POS terminal will be non-re-settable.
- The capability to capture passenger data and flight scanning boarding card on every transaction. This passenger/flight data should be associated/added to a transaction record.
- The capability to capture basic survey information from passengers (i.e., measuring customer satisfaction from 1 to 5). This information should be associated/added to a transaction record.
- The capability to generate log file for audit purposes including transaction creation, delete or modification. This log entry should be controlled by a sequential control number.
- Tenant will ensure that POS terminals comply at all times with the requirements set forth within the Agreement and, if necessary to allow for a customer experience that meets or exceeds Good Industry Practices and the customer service standards set forth in the CDMP. POS systems shall be refreshed and modernized whenever refurbishments are required under this Lease.
- Tenant has confirmed in the Tenant's Response that it will meet the criteria specified herein. Failure to comply will become apparent through the County not receiving all the required data and through the financial audits.

County shall have the right to: (a) examine during business hours the totals of any POS used on the Leased Premises and to inspect such POS for compliance with this Section; (b) implement an hourly or daily reporting system with which Tenant shall comply; and (c) implement a common-use POS, in which event, Tenant must, at its cost, purchase and install the necessary equipment, train its employees, and thereafter use, such equipment to take part in such system. Additionally, Tenant shall ensure a capability within its mobile POS for the installation of Airport and Airport partner applications that can be integrated with Tenant's POS to exchange data and make possible future opportunities to support passengers and airlines with vouchers, coupons, and other mutually beneficial marketing programs.

Notwithstanding the above, at County's request Tenant shall be required to submit daily Gross Receipts for each Concession. Daily reporting will be submitted no later than (24) hours after the end of each day, in a form acceptable to the County.

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SECTION 7.09 CASH HANDLING AND CREDIT CARD REQUIREMENTS

Tenant shall always observe cash-handling and record-handling procedures in accordance with sound accounting and financial control practices and as necessary to provide timely and accurate reports to County. County may at any time during the Term request a copy of these procedures. County shall have the right to monitor and test all of Tenant's procedures and controls and require Tenant to make changes to its procedures.

Tenant must accept, but is not limited to, the following cash and non-cash payment options: US currency and at least four (4) major accepted credit cards: Visa, MasterCard, Discover and American Express. Tenant must also accept mobile wallet payment systems such as Apple Pay and/or Google Wallet.

Tenant shall always comply with the most recent Payment Card Industry Data Security Standard requirements. No minimum credit card or debit card purchase amount or charge for credit card purchases shall be allowed. Tenant's Independent CPA must yearly certify Tenant's operations are compliant with Payment Card Industry Data Security Standards. County reserves the right to receive reports required by the Payment Card Industry Security Standards Council. Tenant must report any breach of its Payment Card Industry Data to the County within 24 hours of its finding of the breach.

SECTION 7.10 ADVERTISED SALES OR PROMOTIONS

Tenant is required to participate and submit to the Airport for prior approval all advertised sales or promotions applicable to Airport locations by whatever media outlet, conducted by its parent corporation, its franchisor, or its selected operating brands Tenant is not permitted to (a) use or permit the use of the Leased Premises for the conduct of an outlet store or a second-hand store; or (b) advertise any distress, fire, bankruptcy, liquidation, relocation, closing, closeouts of goods or services or going-out-of-business sales.

Tenant must make every reasonable effort to ensure that all corporate advertisements that list multiple locations will list the Airport as a participating location of the promotion or sales. If participation in a sale or promotion harms Tenant, Tenant may request, in advance of the sale or promotion, in writing to County to be exempted from participation.

SECTION 7.11 COMPLAINTS

All customer complaints, written or oral, received directly or referred to Tenant by County must be responded to by Tenant within 24 hours of notice. Tenant shall make a good faith attempt to explain, resolve or rectify the cause of the complaint. A written copy of Tenant's Response shall be delivered to County within the 24-hour period.

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Tenant shall be required to respond to complaints immediately. All other issues regarding the quality of service and/or prices raised on County's own initiative may be submitted to Tenant for response, which response shall be provided by Tenant to the Airport Director within 24 hours.

SECTION 7.12 CONCESSION MARKETING PROGRAM

County shall provide or cause to be provided a Marketing Fund to underwrite the Airport's Concession Marketing Program. Tenant shall pay, or cause to be paid, the Marketing Fee per Article IV. Rentals, Fees, Other Charges, Reporting, and Accounting Records for the Marketing Fund for every month during the Term. County shall not be obligated to expend more for promotions and advertising than is collected from Tenants. Any promotional services and personnel so provided shall be under the exclusive control and supervision of County. County reserves the right at any time to terminate the Joint Marketing Fund and thereafter, continue to provide marketing and promotional services until the balances remaining in the fund are exhausted.

The Marketing Program may include, but is not limited to, activities with direct application to promoting and monitoring the concessions at the Airport such as food, services, and retail merchandise advertising, marketing, public relations, media production and placements, special events, brochures, videos, directories, catalogues, customer service training, mystery shopper programs, and concession surveys relating to consumer satisfaction and market research, as well as the costs of administration of the Marketing Program.

SECTION 7.13 OPERATING PROCEDURES AND STANDARDS

A. County Requirements

The occupancy and use by Tenant of the Leased Premises and the rights herein conferred upon Tenant shall be conditioned upon and subject to the Airport's Operational Directives as are now or may hereafter be prescribed by County through the lawful exercise of its powers. Tenant must operate the Concession in accordance with the Airport's Rules and Regulations.

B. Health and Safety Standards

Tenant shall comply with all health and sanitary regulations adopted by County, State of California, and any other governmental authority with jurisdiction. Tenant shall give access for inspection purposes to any duly authorized representatives of all such governing bodies. Tenant shall provide County with copies of all inspection reports by other health and sanitary governing bodies within 48 hours of receipt. This paragraph does not require Tenant to waive any applicable attorney-client or attorney work product privileges.

Tenant shall immediately notify the Airport Director of all citations received by Tenant from the County's Health Care Agency/Environmental Health Services regarding food safety violations.

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Failure by Tenant to comply with any cure requirements from said agency within 24 hours shall result in Violation Fine due the County per Section 8.01.

C. Additional Compliance

Tenant shall comply with all applicable governmental laws, ordinances, regulations, codes and permits in the conduct of its operations under this Lease including, but not limited to, TSA regulations regarding products or procedures.

D. Tenant's Standards

Tenant shall establish and submit a Standards of Quality Operating Manual to County for review and approval. Tenant must maintain the approved standards offering quality service and food.

SECTION 7.14 CLEANING AND ROUTINE MAINTENANCE

A. General Obligations

Tenant shall ensure that the Concession is maintained and operated in an optimal manner and that the Leased Premises are kept in a safe, clean, orderly, and inviting condition always in a manner satisfactory to County. To comply with these requirements, Tenant must regularly review or cause to be reviewed the Leased Premises and its operations at the Airport.

B. Preventive and Routine Cleaning and Maintenance Program

Tenant shall be responsible for preventive and routine cleaning and maintenance of all assets within the Leased Premises, whether built by Tenant or County through the expiration of the Term. No less than thirty (30) days prior to the opening of any portion of the Leased Premises, Tenant shall establish a preventive and routine cleaning and maintenance program for the Leased Premises, including but not limited to the list of items below. This maintenance program must meet or exceed the cleaning and maintenance requirements of the manufacturer's equipment manuals, a copy of which shall be provided at the request of the airport within ten (10) business days of the request. The provisions of the program shall be subject to the initial written approval of and periodic review by County. Upon request by County, Tenant shall provide County a written schedule of Tenant's cleaning and maintenance program.

C. Janitorial Service.

Tenant, at its own cost and expense, shall provide all janitorial services for the Leased Premises. Tenant shall ensure that the Leased Premises and the Public Areas adjacent to the Leased Premises are kept clean and free from all rubbish and refuse.

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D. Pest Control.

Tenant shall be solely responsible for a pest free environment within the Leased Premises area by maintaining its own pest control services, in accordance with the most modern and effective control procedures. All materials used in pest control shall conform to Federal, State and local laws and ordinances. All control substances utilized shall be used with all precautions to obviate the possibility of accidents to humans, domestic animals and pets. Pests referenced above include, but are not limited to, cockroaches, ants, rodents, silverfish, earwigs, spiders, weevils, and crickets. Whenever County deems that pest control services must be provided to a building or area that includes the Leased Premises under this Lease, Tenant shall pay for the costs of said services.

County, in its sole discretion, may elect to provide or contract for pest control services on Tenant's behalf. If County elects to provide or contract for pest control services on Tenant's behalf, Tenant covenants to pay its share of the cost of such services, in an amount determined by County. In such cases, Tenant must cooperate with County's chosen pest control Contractor.

E. Plumbing.

Tenant, at its own cost and expense, shall provide routine plumbing services for the Leased Premises. Tenant shall ensure that activities within the Leased Premises do not damage or harm the central water, plumbing, and sewer infrastructure at the Airport. Tenant shall properly maintain all water hook-ups within the Leased Premises. Tenant must furnish County a copy of its plumbing contract, monthly service schedule, and monthly service reports, as directed by County. Tenant agrees to coordinate with County and other Tenants to provide the most effective plumbing services for the Airport. Tenant shall coordinate and comply with the cleaning and routine maintenance recommendations of County.

County, in its sole discretion, may elect to provide or contract for plumbing services on Tenant's behalf. If County elects to provide or contract for plumbing services on Tenant's behalf, Tenant covenants to pay its share of the cost of such services, in an amount determined by County. In such cases, Tenant must cooperate with County's chosen plumbing Contractor.

The plumbing facilities within the Leased Premises and elsewhere in the Airport shall not be used for any purpose other than for the purposes for which they were constructed, and no foreign substance of any kind shall be thrown therein. The expense to repair any breakage, stoppage, or damage resulting from a violation of this paragraph, wherever the breakage, stoppage or damage occurs, shall be charged by County to Tenant, regardless of the cause.

F. Electricity.

Tenant, at its own cost and expense, shall install and maintain an electric meter and a gas meter for each Concession in accordance with the Tenant Design Guidelines and John Wayne Airport

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Construction Standards. Tenant, at its own cost and expense, shall install and maintain all power circuits and connections required for equipment and mechanical systems used within the Leased Premises. Tenant shall ensure that activities within the Leased Premises do not damage or harm the central Electricity or Natural Gas infrastructure at the Airport. Tenant shall coordinate and comply with the cleaning and routine maintenance recommendations of County.

G. HVAC.

Tenant, at its own cost and expense, shall install and maintain any ductwork and other HVAC connections for the Leased Premises in accordance with the Tenant Design Guidelines and John Wayne Airport Construction Standards. Tenant agrees to properly maintain the ductwork and other connections within the Leased Premises. Tenant shall ensure that activities within the Leased Premises do not damage or harm the central HVAC infrastructure at the Airport. Subject to conditions beyond its control, the County shall maintain under normal conditions a temperature adequate for comfortable occupancy according to the season; provided, that Tenant properly maintains the ductwork and other connections within or leading into the Leased Premises and complies with the recommendations of the County regarding reasonable occupancy and use of the Leased Premises. Tenant shall coordinate and comply with the cleaning and routine maintenance recommendations of County.

H. Grease Removal Systems.

Tenant shall comply with Orange County Sanitation District Ordinance No. OCSD-25 (OCSD-25 for management of Fats, Oil, and Grease (FOG)). All restaurants shall install grease trap in kitchens, as applicable. If Tenant is required to install a grease removal system per OCSD-25, they shall not rely solely on the County's grease interceptor but shall install a grease trap in their facility. Tenant shall, at its own expense, regularly, as required by OCSD-25, check and clean its grease removal systems, whether located within the Leased Premises or elsewhere in the Airport. Tenant agrees to properly maintain all installed grease removal systems within the Leased Premises. Tenant must maintain the grease traps in accordance with the manufacturer's specifications to allow for the optimal efficiency in removing fats, oils, and grease from the waste stream before it enters the systems provided by the County. Tenant must also maintain its used cooking oil/liquefied grease collection systems in accordance with the manufacturer's specifications to allow for optimum efficiency in the recovery, transfer, containment, and collection of used cooking oil/liquefied grease suitable for reclaim. Tenant shall maintain cleanliness around the cooking oil/liquid grease containers. Tenant shall contract for regular and efficient removal of cooking oil/liquid grease or coordinate with other Tenants or County if a cooking oil program is developed. Tenant shall ensure that activities within the Leased Premises do not damage or harm the central grease removal infrastructure at the Airport. Tenant shall coordinate and comply with the cleaning and routine maintenance recommendations of County.

I. Trash, Waste, and Refuse.

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Cleaning by Tenant shall include collection of any concession-generated trash and cleanup of spills in the area immediately adjacent to the Leased Premises' entrances and exits. Tenant shall comply with any green waste or recycling programs implemented by the Airport including separating liquid waste, food waste, recyclables, and trash and depositing those items in the appropriate drains or bins located in the loading dock area. Tenant shall not dispose of any concession-generated trash in trash receptacles provided for the traveling public's convenience in the Terminal and shall only use trash dumpster locations designated by the Airport. County shall have the right to enter upon and inspect the Leased Premises at any time for cleanliness, safety and maintenance inspections. Tenant, whether within the Leased Premises or while moving through the terminal, shall use leak-proof containers. Any containers with wheels shall have wheels with pneumatic (air) or gel tires. Metal or hard rubber wheels or tires are prohibited.

J. Lighting.

Tenant, at its own costs and expense, shall install and maintain all lighting fixtures and wiring for general illumination of the Leased Premises in accordance with Tenant Design Guidelines and John Wayne Airport Construction Standards. Tenant agrees to properly maintain the lighting fixtures wiring used for general illumination within the Leased Premises. Tenant shall ensure that activities within the Leased Premises do not damage or harm the central Electricity infrastructure at the Airport. Tenant shall coordinate and comply with the cleaning and routine maintenance recommendations of County.

K. Routine Refurbishment

On or about the commencement of each Accounting Year, representatives of County and Tenant shall tour the Leased Premises and jointly agree upon what, if any, routine refurbishment is required to maintain the Leased Premises in optimal condition. Tenant shall promptly undertake such refurbishment at its sole cost and expense. If Tenant and County cannot jointly agree upon the type and extent of routine refurbishment, County may determine, in its sole discretion, the routine refurbishment required for that Accounting Year. For purposes of this Section only, "routine refurbishment" shall mean the routine repainting or redecoration within the Leased Premises, including, but not limited to, the replacement or repair of worn carpet, tile, furniture, furnishings, fixtures, or finishes. All Trade Fixtures, Leasehold Improvements, and furnishings that become worn, chipped, dented, or gouged, shall be repaired, or replaced by Tenant at Tenant's sole expense. The failure to timely undertake required refurbishment shall be grounds for the imposition of violation fines as provided in Section 8.01.

L. Maintenance Personnel and Program

Tenant covenants to employ or contract with sufficient personnel and provide necessary equipment to keep the Leased Premises and all furniture, furnishings, fixtures, and equipment

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clean, neat, safe, sanitary, and in good working order and condition always pursuant to the maintenance requirements of this Lease.

M. County Sole Judge of Maintenance

County shall be the sole and absolute judge of the quality of Tenant's maintenance of the Leased Premises. County or its representative may at any time, without notice, enter the Leased Premises to determine if maintenance satisfactory to County is being performed. Performance by Tenant of maintenance pursuant to a written maintenance plan previously approved by County shall be conclusive evidence of satisfactory maintenance unless County determines that there is a present danger or safety hazard within the Leased Premises. If County determines that maintenance is not satisfactory, County shall notify Tenant in writing. Tenant will perform the required maintenance, to County's satisfaction, within fifteen (15) days after receipt of written notice or County or its representative shall have the right to enter upon the Leased Premises and perform the maintenance. However, where unsatisfactory maintenance threatens the safety, health, or welfare of the traveling public and/or Airport's facilities, Tenant shall immediately perform the maintenance. Where County or its representative performs maintenance, Tenant agrees to promptly reimburse County for the cost thereof, plus an administrative fee of fifteen percent (15%) of the maintenance costs without prior quote.

N. Emergency Repairs

In the event an emergency repair is required, Tenant shall notify County of the repair situation as soon as possible. Following such notice, County may inspect the repair work and require alterations if the repair is not satisfactory to County. In the event of an after-hours emergency repair, Tenant agrees County shall have the right to enter any affected portion of the Leased Premises and preform the emergency repair. Tenant covenants to promptly pay to County the costs associated with any after-hours emergency repair. All emergency repairs requiring shutdown of any Airport system or utility require prior written approval of County. If any emergency repair affects other tenants at Airport, County may, at in its sole discretion, fix the problem immediately and invoice Tenant. Tenant covenants to promptly pay to County any proportional costs of emergency repairs completed by County, plus 15% administrative fee, which Tenant may have contributed to the cause of the incident.

SECTION 7.15 COUNTY MAINTENANCE RESPONSIBILITIES

County shall be responsible for maintenance of the following central systems located throughout Airport, except for assets, connections, or systems located within the Leased Premises. Tenant waives all claims against County for performance of maintenance at Airport.

A. Electricity Systems

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County will furnish normal and reasonable quantities of electricity and gas, if applicable, to the Leased Premises. Tenant covenants to pay to County Tenant's share of the costs of such cleaning, maintenance, and repair, in an amount determined by County. County will clean, maintain, and repair, for the benefit of Tenant, central Electricity and Natural Gas systems at Airport.

B. Grease Interceptors

County will clean, maintain, and repair, for the benefit of Tenant, all grease interceptors located along common sewer lines. Tenant covenants to pay to County Tenant's share of the costs of such cleaning, maintenance, and repair, in an amount determined by County. Tenant shall maintain its own grease traps and comply with manufacturer's guidelines and with Orange County Sanitation District Ordinance No. OCSD-25 (OCSD-25) for management of Fats, Oil, and Grease (FOG). Tenant shall comply with all sanitary sewer discharge requirements including those for pH and water temperature in addition to reduction of grease.

C. HVAC Systems

Maintenance of Heating, Ventilation and Air Conditioning (HVAC) Systems. Tenant shall be responsible for maintaining Tenant-installed HVAC system from the Leased Premises to the point that the system connects to the Terminal's supply air duct. Tenant shall be responsible for providing its own space temperature controls within inline store locations within the Leased Premises.

D. Sanitary Sewer System

County will furnish water from the central water source to the Leased Premises in reasonable quantities; provided that Tenant must comply with all water conservation programs in effect or as adopted. County will clean, maintain, and repair, for the benefit of Tenant, central water, plumbing, and sewer infrastructure and systems at Airport. Tenant covenants to pay to County Tenant's share of the costs of such cleaning, maintenance, and repair, in an amount determined by County.

E. Trash, Waste and Refuse

County reserves the right, if deemed to be in its best interests, to provide trash, waste and other refuse removal, disposal, and recycling services. Tenant covenants and agrees to participate in any Airport-wide trash, waste, and other refuse removal, disposal, or recycling program for any type of trash, waste, and refuse at its own cost. In the event County elects to provide these services on behalf of Tenant, Tenant covenants to pay its share of the cost of such trash, waste and other refuse removal, disposal, and recycling services, in an amount determined by County.

F. Exterior Windows and Structures

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County will clean, maintain, and repair, for the benefit of Tenant, exterior windows, and all structural parts of the Airport. County's maintenance shall include exterior glass, walls, and roof but specifically excludes Leased Premises Improvements and Trade Fixtures. Tenant covenants to pay to Tenant's share of the costs of such cleaning, maintenance, and repair, in an amount determined by County.

SECTION 7.16 PAGING, AUDIO, VIDEO SYSTEMS AND FREQUENCY PROTECTION

Tenant shall not install any technology that may interfere, circumvent, or impede Airport systems or operations. County reserves the right to request from Tenant a detailed inventory and diagrams of all information technology systems that Tenant might employ within the leased space. If Tenant installs, in accordance with the Tenant Design Guidelines and John Wayne Airport Construction Standards and with County's approval, any type of radio transceiver or other wireless communications equipment, Tenant will provide frequency protection within the aviation air/ground VHF frequency band and the UHF frequency band in accordance with restrictions promulgated by the FAA for the vicinity of FAA Transmitter or Receiver facilities. Frequency protection will also be provided for all other frequency bands operating in the vicinity of Tenant's equipment. If frequency interference occurs because of Tenant's installation, County reserves the right to shut down Tenant's installation until appropriate remedies to the frequency interference are made by Tenant. Remedies may include relocation of Tenant's equipment to another site. The cost to remedy the frequency interference will be solely at Tenant's expense.

In the interests of public safety and the efficient operation of the Airport, County reserves the sole right to resolve any conflicts between or among any wireless communication devices or systems of the Airport Tenant, and any third-party users at the Airport, and to require Tenant to change over to any future Airport-wide network once installed.

SECTION 7.17 PROHIBITED ACTS

Tenant will not place excessive loads on the walls, ceilings, and floor or pavement areas of Airport and will repair any area damaged by excessive loading to the satisfaction of County.

Unless approved in writing in advance by County, in its sole discretion, Tenant will not permit the active display or operation on the Leased Premises of any display that flies, flashes, or emits a noise or odor.

Unless approved in writing in advance by County, in its sole discretion, Tenant will not keep or display any merchandise on or within, or otherwise obstruct, any part of the Airport outside of the Leased Premises. Tenant shall keep all service corridors, hallways, stairways, doorways, or loading docks leading to and from the Leased Premises free and clear of all obstructions.

Tenant will not interfere or permit interference with the use, operation, or maintenance of the Airport, including but not limited to, the effectiveness or accessibility of the drainage, sewerage,

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water, communications, fire protection, utility, electrical or other systems installed or located from time to time at the Airport. Tenant will not do or permit to be done anything that may interfere with free access and passage on the Leased Premises or the Public Areas adjacent thereto, or hinder police, firefighters, or other emergency personnel in the discharge of their duties. Further, Tenant shall not do or permit to be done anything that might interfere with the effectiveness or accessibility of elevators or escalators in or adjacent to the Leased Premises, including lines, pipes, wires, conduits, and equipment connected with or appurtenant thereto.

Tenant shall not place any additional lock of any kind upon any window or interior or exterior door in the Leased Premises, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefore is maintained on the Leased Premises, nor refuse, upon the expiration or sooner termination of this Lease, to surrender to Airport Director any and all keys or access codes to the interior or exterior doors on the Leased Premises, whether said keys were furnished to or otherwise procured by Tenant, and in the event of the loss of any keys furnished by Airport Director, Tenant shall pay County, on demand, the cost for replacement thereof, and the cost of re-keying County's locks. Tenant may be required to comply with Airport measures that consist of changing of key locks to Airport issued ID Badge controlled electronic locks and shall bear the cost associated with any change over.

Tenant will not engage in any activity prohibited by the Airport. In the event Tenant fails to adhere to the Airport's Rules and Regulations and Operating Directives or fails to prevent any other of the prohibited acts set forth in this section, County may collect violation fines as set forth in Section 8.01 until such prohibited act is ended. Payment of violation fines will be due within fifteen (15) days from the date of invoice. Moreover, if the prohibited act is not corrected as directed by County, County or its representative shall have the right to enter upon the Leased Premises and take corrective action, and Tenant agrees to promptly reimburse County for any related costs, plus an administrative fee equal to fifteen percent (15%) of the corrective action costs.

ARTICLE VIII. FAILURE TO COMPLY WITH PERFORMANCE/OPERATING STANDARDS

SECTION 8.01 VIOLATIONS

Tenant acknowledges County's objective to provide the public and air travelers with the level and quality of service as described herein. Accordingly, County has established a series of violation fines, as set forth in the table below, that it may assess, in its sole discretion, as violation fines for various violations of the provisions of this Lease, the Tenant Design Guidelines and John Wayne Airport Construction Standards and/or County's Rules and Regulations. Tenant and County agree that the damages set forth herein are reasonable estimates of the significant but difficult to predict harm, and Tenant further agrees to pay to County such violation fines in accordance with the rates or in the amounts specified herein upon each occurrence of the specified violation or

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written demand by County. County will, in its sole discretion, determine the classification of each violation as per day or per occurrence. Tenant further acknowledges that the violation fines are not exclusive remedies and County may pursue other additional remedies as allowed for in this Lease and/or at law, in County's sole discretion. County's waiver of any payment provided for in this Section shall not be construed as a waiver of the violation or Tenant's obligation to remedy the violation.

Violation	Section	Administrative Charge
Violation of Leased Premises Clause	Article II	\$250.00 per day/per location
Failure to submit CPA audited Annual Reports on time	4.09	\$5,000.00
Failure to submit Required Documents and Reports	4.09	\$250.00 per day
Check returned for non-sufficient funds ("NSF")	4.11	\$25.00
Second returned check for non-sufficient funds	4.11	\$35.00
Other form of payment not prescribed or approved by County	4.11	\$25.00 per occurrence
Failure to make complete and timely payment of Percentage Rent during Interim Phase, Concession Space Rent and Marketing Fund Fee	4.12	1.5% of payment due
Unpaid balance carried forward from prior month	4.12	1.5% of remaining unpaid balance
Failure to provide requested records for an audit within seven days	4.14	\$100.00 per day
Violation of Permitted Uses	5.01	\$250.00 per day/per location
Failure to comply with Alcohol and Beverage Control regulations.	5.01	\$250.00 per day
Failure to provide a product price list in proper form 30 days prior to opening the Leased Premises.	5.01	\$100.00 per day
Failure to obtain and maintain permits and licenses	5.04	\$500.00 per day
Failure to comply with Environmental Regulations such as OCSD-25.	6.01	\$250.00 per day
Violation of General Health and Safety Conditions	6.03, 7.14	\$250.00 per incident
Failure to keep less than 10 people per register per line	7.01	\$250.00 per incident
Failure to comply with Performance Audits	7.01	\$250.00 per incident
Failure to provide a remediation plan in proper form and on time	7.01	\$250.00 per day

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Failure to keep product/merchandise as indicated on menu	7.02	\$100.00 per day/per location
Failure to Maintain Pricing Policy and Surveys	7.03	\$250.00 per day
Unauthorized Item(s) for sale	7.03	50% of gross receipts from sales
Failure to maintain required Hours of Operation	7.04	\$200.00 per incident/per location
Failure to abide by Delivery of Goods	7.05	\$200.00 per incident
Failure to staff a General Manager or a qualified, competent, and experienced subordinate in-charge during regular business hours.	7.06	\$150.00 per day
Failure to produce continuous and consecutive transactions in sequential order	7.08	\$100.00 per each missing transaction number
Failure to cure Health Care Agency Violations within 24 hours	7.13	\$200.00 per day
Failure to Fulfill Maintenance Obligations	7.14, 7.15	\$100.00 per day/per location
Failure to adhere to Airport Rules and Regulations and Operating Directives	7.17	\$200.00 per day
Failure to comply with ACDBE Program compliance review findings or information requests	Article X	\$100.00 per day
Failure to submit Development Plan within six (6) months of lease effective date	Article XI	\$500.00/day
Failure to Submit and Seek Approval for Construction Plans and respond to Plan Review Comments on time	11.05	\$250.00 per day
Failure to open to public within 180 days from Notice to Proceed	11.06	\$150.00 per day
Failure to deliver required post-construction documentation	11.12	\$500.00 per day
Failure to submit midterm refurbishment plans	11.15	\$500.00 per day
Failure to Obtain or Maintain Insurance	16.01	\$300.00 per day
Failure to Obtain or Maintain Deposit	17.01	\$300.00 per day
Failure to abide by any other term in this Lease		\$100.00 per incident/per location
Failure to return Airport ID/Security Credential upon termination of employment	Article XXI	\$250.00
Failure to timely respond to or remediate an Americans with Disabilities Act related complaint,	Article XXII	\$250.00 per day

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code violation, or accommodation request as applicable		
Failure to complete employee training in accordance with FAA or other regulatory guidelines per County direction	Article XXII; 10.01	\$100.00 per day

SECTION 8.02 MULTIPLE VIOLATIONS

Except for violations of requirements regarding construction, health and safety, delivery and vendor access infractions, violation fines for which shall accrue and be assessed immediately and without notice upon violation, all other violation fines shall accrue immediately and assessed as follows:

- A. For the first and second violation of a requirement during any twelve (12) month rolling year, County will provide notice to Tenant to correct the violation within thirty (30) days or other the time specified in the notice. After the time specified by County for cure, violation fines shall be assessed until the violation is corrected by Tenant. In the event, the violation is not corrected within thirty (30) days of the time specified by County for cure, then such violation will be treated as a breach of this Lease entitling County the right to seek any other remedies available under this Lease including, but not limited to, termination.
- B. For the third and subsequent violations of the same requirement during any twelve (12) month rolling year commencing upon the first notice of violation, the liquidated damage shall be immediately assessed with no grace period.
- C. Further, after two (2) violations of the same requirement within any twelve (12) month rolling year, County reserves the right, in its sole discretion, to deem the repeated violations a material breach of this Lease and to seek any other remedies available to it under this Lease including, but not limited to, termination of this Lease.
- D. For those violations where a plan is required to correct the violation, then Tenant and County shall develop such plan, including a time schedule under which resolution can be achieved.

SECTION 8.03 PAYMENT OF VIOLATION FINES

Payment of violation fines will be due within thirty (30) days from the date of invoice.

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ARTICLE IX. NONDISCRIMINATION

SECTION 9.01 GENERAL CIVIL RIGHTS PROVISION

In all its activities within the scope of its airport program, Tenant agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

If the Tenant transfers its obligation to another, the transferee is obligated in the same manner as the Tenant.

The above provision obligates the Tenant for the period during which the property is owned, used or possessed by the Tenant and the airport remains obligated to the Federal Aviation Administration.

SECTION 9.02 COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this lease, Tenant, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as follows:

1. Compliance with Regulations

Tenant will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.

2. Nondiscrimination

Tenant, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability, in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Tenant will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment

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In all solicitations, either by competitive bidding or negotiation made by Tenant for work to be performed under a subcontract, including procurement of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Tenant of the Tenant's obligations under this Lease and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. Information and Reports

Tenant will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, Tenant will so certify to the County or the FAA, as appropriate, and will set forth what efforts it has made to obtain this information.

5. Sanctions for Noncompliance

In the event of the Tenant's noncompliance with the non-discrimination provisions of this Lease, the County will impose such sanctions as it or the FAA may determine to be appropriate, including, but not limited to: withholding payments under the contract until the Tenant complies, and/or cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions

The Tenant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Tenant will take action with respect to any sublease, subcontract or procurement as the County or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Tenant becomes involved in, or is threatened with litigation by a subtenant, subcontractor, or supplier because of such direction, the Tenant may request the County to enter into any litigation to protect the interests of the County. In addition, the Tenant may request the United States to enter into the litigation to protect the interests of the United States.

Tenant is required to insert the above paragraphs one through six in every sublease or subcontract at any tier. Upon request by the County, Tenant will provide a copy of each sublease or subcontract to demonstrate that the above language has been inserted.

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SECTION 9.03 TITLE VI CLAUSES FOR TRANSFER OF REAL PROPERTY AND FOR
CONSTRUCTION/USE/ACCESS TO REAL PROPERTY

Tenant, for itself, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

In the event facilities are constructed, maintained or otherwise operated on the Leased Premises for a purpose for which a FAA activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

In the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, national origin, age, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination.

Tenant will use the Leased Premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

Tenant shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service.

SECTION 9.04 TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

During the performance of this contract, Tenant, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- B. 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

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- C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- D. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- E. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- F. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- G. The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- H. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

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Tenant is required to insert the above Title VI List of Pertinent Nondiscrimination Acts and Authorities into every sublease or subcontract at any tier. Upon request by the County, Tenant will provide a copy of each sublease or subcontract to demonstrate that the above language has been inserted.

SECTION 9.05 CIVIL RIGHTS TRAINING

Upon request by the County, Tenant is required to disseminate and provide training materials and other information related to Title VI Civil Rights to its staff as specified by the County.

SECTION 9.06 BREACH OF NONDISCRIMINATION COVENANTS

In the event of breach of any of the above nondiscrimination covenants, the County shall have the right to terminate the Lease and to enter, re-enter, and repossess said lands and the facilities thereon, and hold the same as if said Agreement had never been made or issued.

**ARTICLE X. AIRPORT CONCESSIONS DISADVANTAGED BUSINESS
ENTERPRISE (“ACDBE”) PARTICIPATION**

SECTION 10.01 ACDBE PROGRAM ASSURANCES

This Lease is subject to the requirements of the U.S. Department of Transportation’s regulations at 49 CFR Part 23. Tenant agrees that it will not discriminate against any business owner because of the owner’s race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract or subcontract, purchase or lease agreement covered by 49 CFR Part 23.

Tenant agrees to include the above statements in any subsequent agreement or contract covered by 49 CFR part 23 that it enters and cause those businesses to similarly include such statements in further agreements.

SECTION 10.02 ACDBE TERMINATION OR SUBSTITUTION

If Tenant proposes to terminate, substitute, or modify the participation of an ACDBE Joint Venture partner, team member, subcontractor, or sub-concessionaire in the Lease before or after Lease award, prior to such change, the Tenant shall immediately submit for review to the Airport’s ACDBE Liaison Officer an explanation and reasonable documentation regarding the proposed change in ACDBE participation. Tenant shall include the specific reasons for the change in ACDBE participation and must produce any requested documents and information regarding the proposed change.

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SECTION 10.03 MONITORING AND REPORTING REQUIREMENTS

No later than fifteen (15) days after the end of each calendar month during the Term, when requested, Tenant will submit to Airport, in Airport's online system or on Airport's monthly ACDBE Utilization Report form, a report of Tenant's total Gross Receipts during the month and the total dollar value of Gross Receipts earned by an ACDBE under this Lease and the total dollar value of goods and services purchased or leased from each ACDBE during the month, in each case calculated in accordance with the requirements of 49 CFR Part 23.

Whenever a Joint Venture is used to meet ACDBE goals, Tenant shall submit to Airport an annual financial statement for the preceding year indicating compensation, profit sharing, capital contributions of ACDBE partners, or any other financial information as requested by Airport relevant to determining ACDBE compliance. Tenant shall also report annually the ACDBE partner's management involvement and its role in decision making. The annual financial statement, and all other information requested pursuant to this paragraph, shall be on a form satisfactory to Airport and delivered to Airport no later than sixty (60) days following the close of the federal fiscal year ending on September 30th.

Tenant further agrees to submit any other report(s) or information that County is required by law or regulation to obtain from Tenant, or which the Airport's ACDBE Liaison Officer or designee may request relating to Tenant's operations. In addition, Tenant shall provide all information and reports required by the Airport and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Airport to be pertinent to ascertain compliance with the regulations or directives.

Tenant shall timely submit reports and verifications requested by the County and shall provide such financial information or other information deemed necessary by it to support and document the ACDBE participation for this Lease. County shall have the right until six (6) years after the expiration or termination of this Lease, through its representatives, and at all reasonable times, to review books, records, and financial information of the Tenant (and where applicable, all individuals, Joint Venture partners or team members or other business entities that are a party or engaged in concession activity under this Lease) requested by representatives of the County to substantiate compliance with 49 CFR Parts 23 and 26 as amended, and any guidance issued by FAA regarding the interpretation of the federal regulations.

SECTION 10.04 OTHER REQUIREMENTS

Tenant shall comply with the requirements of 49 CFR Part 23 and 26, the Airport's ACDBE Program, and guidance issued by the FAA, regarding the interpretation of the regulations, including but not limited to the Joint Venture Guidance in the administration of this Lease. Tenant shall comply with any future amendments to the aforementioned authorities.

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If Tenant is a Joint Venture as defined in 49 CFR part 23, section 23.3, Tenant agrees that its Joint Venture operating agreement must be reviewed and approved by the Airport, in accordance with FAA guidance, prior to the execution of this Lease. Tenant further agrees that any amendments to its Joint Venture agreement must be reviewed and approved by the Airport, in accordance with FAA guidance, prior to the amendment's execution. A copy of any loan agreement from the non-ACDBE partner to the ACDBE partner that has or will be used in connection with this opportunity must also be provided.

SECTION 10.05 NON-COMPLIANCE

In the event of Tenant's non-compliance with the ACDBE Program, County may, in addition to pursuing any other available legal remedy, terminate, suspend or cancel this Lease in whole or in part; and/or suspend or debar Tenant from eligibility to contract with County in the future or to receive bid packages or request for proposal packages or other solicitations, unless Tenant demonstrates, within a reasonable time as determined by County, its compliance with the terms of the ACDBE Program or this Article.

ARTICLE XI. CONSTRUCTION AND CAPITAL INVESTMENT

SECTION 11.01 CONSTRUCTION BY TENANT

Tenant shall not make any improvements or modifications, do any construction work on the Leased Premises, or alter, modify, or make additions, improvements, replacements, or repairs, except emergency repairs, to any structure now existing or built without prior written approval of County. Tenant shall not install any fixtures, other than Trade Fixtures, without the prior written approval of County. In the event that any construction, improvement, alteration, modification, addition, repair, excluding emergency repairs, or replacement is made without County approval, or done in a manner other than as approved, County may, at its discretion, (i) terminate this Lease in accordance with the provisions herein; or (ii) require Tenant to remove the same; or (iii) require Tenant to change the same to the satisfaction of County. In case of any failure on the part of Tenant to comply, County may, in addition to any other remedies available to it at law or in equity, effect the removal or change referenced above in this Section and Tenant shall pay the cost thereof to County plus fifteen percent (15%) of the costs for administration.

SECTION 11.02 DESIGN AND CONSTRUCTION STANDARDS

All improvements constructed by Tenant within the Leased Premises shall be constructed in strict compliance with detailed plans and specifications approved by County. Tenant is responsible to review and comply with the Tenant Design Guidelines and John Wayne Airport Construction Standards. All construction shall conform to applicable building codes, rules, regulations and Airport's architectural standards as contained in reference document "Architect-Engineer Guide OC Public Works" and reference document "John Wayne Airport Construction Standards" which

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can be provided by Airport upon request. All work shall be done in conformity with Airport approved plans, valid building and other necessary permits and shall be acceptable to County and the appropriate governmental entity inspecting such work. Tenant shall have the responsibility to obtain all required permits and to investigate and pay for any and all fees, including but not limited to Transportation Corridor Agency fees, if applicable, necessary for such construction. Airport Director's or designee's approval shall not constitute a representation or warranty as to such conformity, which shall remain Tenant's responsibility. Tenant shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

SECTION 11.03 INITIAL CAPITAL INVESTMENT

As a valuable consideration for County entering into this Lease, but not as a payment of rent or a form of consideration for the right to occupy space at the Airport, but rather to relieve County from making expenditures for Leased Premises occupied by Tenant for the Term of this Lease, Tenant's Capital Investment expended in the initial construction, furnishing and equipping of the Leased Premises shall not be less than the Minimum Capital Investment set forth in the Proposal submitted by Tenant and approved by the Board of Supervisors. If the actual Capital Investment, as certified by the Tenant, is less than the Minimum Capital Investment, Tenant agrees to pay to County, within thirty (30) days of such determination, the difference between the actual Capital Investment and the Minimum Capital Investment. However, if the actual Capital Investment, as certified by Tenant, is less than the Minimum Capital Investment and Tenant delivers to County the initial construction, furnishings, and equipment of the Leased Premises, as reflected in the Approved Project, County agrees to waive its right to the difference between the actual Capital Investment and Minimum Capital Investment. Any amounts paid to County because of this provision shall not be deemed a Capital Investment for any purpose under this Lease nor shall it be deemed payment of any rent or other fees due under this Lease.

SECTION 11.04 DEVELOPMENT SCHEDULE

No later than seven (7) days after the Effective Date, or at such later date as County may designate, Tenant must submit to County, for its approval, a proposed Development Schedule that sets forth for the following for each of the Concessions within the Leased Premises:

- The anticipated date(s) of design submittals and reviews for each Concession.
- The anticipated Space Turnover Date(s) for each Concession.
- The anticipated Required Opening Date(s) for each Concession.
- The expected Substantial Completion Date for the entire Leased Premises.

Upon approval by County, the Development Schedule will be attached hereto as Exhibit D, Development Schedule, and will be confirmed by letter executed by the Airport Director, without need for formal amendment to this Lease.

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If for any reason County does not deliver possession of a Concession to Tenant on or after the approved Space Turnover Date, County shall not be subject to any liability therefor. Such failure to deliver possession of a Concession by the time provided in the Development Schedule will not give rise to any claim for damages by Tenant against County or against County's Contractor; nor shall such failure affect the validity of this Lease or Tenant's obligations hereunder. Additionally, the Required Opening Date(s) and expected Substantial Completion Date, as stated in the Development Schedule, shall be adjusted as appropriate, in County's sole discretion.

SECTION 11.05 SUBMITTAL AND APPROVAL OF PLANS

A. Submittal of Plans

Tenant shall cause to be designed, constructed, and installed within the Leased Premises, at no cost to County, appropriate improvements to adequately accommodate those services and uses, both required and any other optional services and uses approved pursuant to the section in this Lease entitled, "PERMITTED USE." Tenant must comply with the Tenant Design Guidelines and JWA Construction Standards as may be amended from time to time.

The improvement plans prepared by Tenant and approved by Airport Director prior to the execution of this Lease shall be a plan for development of the Leased Premises or portions thereof, and the working drawings prepared by Tenant and approved by Airport Director during the same period shall be the plan, specifications, and time schedule for Tenant's initial construction on the Leased Premises.

No construction work shall commence until County has approved the plans and specifications and has issued a Notice to Proceed.

County will review and respond to submittals of plans and specifications within thirty (30) days or provide notice to Tenant that the review time has been extended. In the event of disapproval by County of any portion of any submittal of plans and specifications, Tenant shall promptly make modifications and revisions and re-submit for approval by County.

Tenant must comply with the submission deadlines and review schedules developed by County for construction plans, designs and drawings as further outlined in the Tenant Design Guidelines and John Wayne Airport Construction Standards. Weekly scheduled meetings with Tenant representative, contractor, design team, and JWA staff must be held during any construction improvements or projects. Updated Microsoft Project (or equivalent software), schedule and safety meeting updates must be provided to JWA at each scheduled meeting or upon request of JWA staff. All design and construction shall conform with the plans approved by County and with County construction and architectural standards, as can be amended from time to time.

B. Disclaimer of Compliance with Laws or Codes

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The approval by County of any plans and specifications refers to the conformity of such plans and specifications to County standards. Approval of any plans and specifications by County does not constitute its representation or warranty as to their conformity with applicable laws, statutes, codes, or permits and responsibility therefore always remains with Tenant. Tenant has sole responsibility for and will ensure that construction plans and specifications are in full compliance with any and all applicable federal or state laws, statutes and codes.

C. Approvals Extend to Architectural and Aesthetic Matters

Required approval of County shall extend to and include architectural and aesthetic matters. County reserves the right to reject any designs submitted by Tenant and to require Tenant, at Tenant's expense, to make modifications and revisions and to resubmit designs until designs are deemed acceptable and subsequently approved in writing by County.

D. Design and Permitting

Tenant shall be responsible, at its sole cost and expense, for the costs of design and permitting of all improvements within the Leased Premises and shall not commence any work with respect to an Approved Project until all governmental permits and approvals with respect to the Approved Project have been obtained. At no cost or liability to County, County shall cooperate in all reasonable respects with Tenant's efforts to obtain such permits and approvals, which cooperation shall include, without limitation, the execution of such instruments as may be required by governmental authorities for Tenant to apply for and obtain such permits and approvals.

SECTION 11.06 CONSTRUCTION

Tenant shall, at its own cost and expense, commence construction of an Approved Project within ten (10) days of the later to occur of: (i) the Space Turnover Date stated in the Notice to Proceed for such Approved Project; or (ii) receipt of Building or Demolition Permit. Tenant agrees that all construction work to be performed, including all workmanship and materials, shall be of optimal quality and in accordance with the Approved Project and the Development Schedule. All construction shall be performed in accordance with the requirements of this Lease, the Tenant Design Guidelines, and all applicable laws, regulations, ordinances, codes and permits. County and its designees shall have the right from time to time to inspect each Approved Project.

Construction by Tenant, its contractors and subcontractors, shall be coordinated with and under the direct supervision of County and shall be completed within one hundred eighty (180) days from the Notice to Proceed for each Concession as described in Tenant's Development Schedule attached hereto as Exhibit D, unless such dated is extended in writing by Airport Director. In the event Tenant fails to complete installation of improvements in a timely manner, the Parties agree that County's actual damages would be extremely difficult or impossible to determine; therefore, the Parties agree that the best estimate of the County's actual damages assessed to the Tenant

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is listed in Section 8.01 and shall continue until installation has been completed to the satisfaction of County. This amount shall be in addition to all other sums due under this Lease.

If the Concession is not open for business within thirty (30) days after the Required Completion Date, the failure shall be an Event of Default and County shall have the right to exercise all remedies herein, at law or in equity, including but not limited to, the option to terminate this Lease or to remove the applicable Concession from the Leased Premises. Notwithstanding the foregoing, the Parties agree that any delay in construction of any improvements due to force majeure or acts solely attributable to County shall extend the Required Opening Date and/or Required Completion Date for an Approved Project. Additionally, the initial Substantial Completion Date, as stated in the Development Schedule, shall be extended if affected by such event, in County's sole discretion. County shall have no liability to Tenant for compensation or damages for any such delay.

SECTION 11.07 TENANT'S ASSURANCE OF CONSTRUCTION COMPLETION

Prior to commencement of construction of approved facilities Tenant shall furnish to County evidence that assures County that sufficient monies will be available to Tenant and County to complete the proposed construction. The amount of money available shall be at least the total estimated construction cost. Such evidence may take one of the following forms:

- Completion Bond issued to County/JWA as obligee
- Irrevocable letter of credit issued to County/JWA that will remain in effect until County acknowledges satisfactory completion of construction.

All bonds and letters of credit must be issued by a surety company, financial institution or advising bank qualified and admitted to do business in the State of California and issued in a form approved by the County. All bonds and letters of credit shall insure faithful and full observance and performance by Tenant of all terms, conditions, covenants and agreements relating to the construction of improvements within the Leased Premises. Tenant must comply with Section 11.12 entitled, "Completion of Construction," to be eligible for return or refund of Completion Bond and/or its letter of credit.

It is not the intent of the Parties herein to create a third-party beneficiary, and nothing in this Section shall be construed to do so.

SECTION 11.08 CONSTRUCTION INSURANCE REQUIREMENTS

Tenant shall obtain comprehensive public liability insurance during construction. If the construction is done by an independent contractor, insurance shall be procured by the contractor in the name of the Tenant and the County. All insurance shall be in the limits and coverages acceptable to County's Risk Management Services.

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SECTION 11.09 INDEMNIFICATION DURING CONSTRUCTION

To the fullest extent authorized by law, Tenant shall indemnify, defend, and hold harmless the County, its officers, and employees, from and against any and all claims, judgments, damages, penalties, fines, costs, orders, and lawsuits, arising out of the Tenant's construction or alteration of the Leased Premises at Airport, including the cost of defense arising therefrom. The Tenant's indemnity obligations stated hereinabove also apply to those actions arising from and which involve the Tenant's officers, agents, subcontractors, and employees.

SECTION 11.10 NONINTERFERENCE

Tenant warrants that it or its contractor shall in no way delay, cause delays to or interfere with any Airport operations or other contractors working in the terminal or on the Airport. Tenant agrees to hold County harmless from the cost of any time lost by County or any damages to County due to the actions or failure to act of Tenant or its contractor.

SECTION 11.11 TRAILERS AND MODULAR STRUCTURES

All improvements constructed by Tenant shall be of a permanent nature. Trailers and modular buildings are prohibited on the Leased Premises. This provision shall not apply to the use of County approved temporary modular or trailers during construction. Trailers and Modular Structures used during construction must be permitted and approved by County if desired to be utilized on County property. Upon completion of construction, all trailers or modular structures must be immediately removed from the Leased Premises.

SECTION 11.12 COMPLETION OF CONSTRUCTION

Within sixty (60) days following completion of any improvement within the Leased Premises, the Tenant shall furnish the Airport Director a complete package of "As-Built Documents" and "Record Documents", which include but are not limited to construction documents, specifications, cost estimates, engineering studies, signed OCPW Building Inspection Cards, and calculations. The aforementioned information shall be submitted on two (2) thumb drives containing digital copies of the "As-Built Documents" and "Record Documents", organized in a detailed, logical, and comprehensible folder structure, which is in a form that is usable and accepted by the County, to the County's satisfaction, as described below, unless otherwise allowed by the Airport Director. See Exhibit F for additional details.

Drawings and Models:

- All 2-D and 3-D architectural, engineering, design, and/or construction drawing and/or modeling files for the project shall be completed using AutoCAD 2019 and REVIT 2019 or a newer version of either software if approved by John Wayne Airport.

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- All geographic data, spatial analysis, geographic information system (GIS) mappings, drawings, exhibits, and/or figures for the project shall be completed using Environmental Systems Research Institute (ESRI) ArcGIS.
- All 2-D and 3-D drawing and/or modeling files created via computer aided design and drafting (CADD), building information modeling (BIM), and/or GIS for the project shall conform to the John Wayne Airport CADD/BIM/GIS standards and specifications.
- In addition to the 2-D and 3-D drawing and/or modeling files indicated above, a PDF format (scaled to ARCH E1 format where applicable) of those drawings, exhibits, figures, etc. shall be generated and submitted digitally.

Documents and Reports:

- All specifications, reports and/or studies (e.g. geotechnical report, etc.), calculations, and other project information (e.g. construction submittals, operations and maintenance (O&M) manuals, warranties, etc.) for the project shall be completed using MS Office suite applications and also generated and submitted digitally in a PDF format.

Note: "Record Documents", e.g. record drawings, specifications, calculations, etc., shall be prepared, stamped, signed by the Architect and/or Engineer of Record for the project and shall reflect all updates and/or modifications that were approved during design and construction, i.e. separate from the as-built documents, which include contractor redlines, contract changes, etc. Refer to the "John Wayne Airport Construction Standards" for additional information.

In addition, two (2) sets of hard prints of the stamped and signed record drawings for the project, as described above, must be furnished by the Tenant with the thumb drives containing the "As-Built Documents" and "Record Documents". Basic specifications, standards, and requirements for BIM, CAD, and/or GIS produced information at the Airport can be located on the www.ocair.com website or provided by the Airport upon request.

Furthermore, the Tenant shall furnish the Airport Director with an itemized statement of the actual, direct Construction Costs of such improvement. The Construction Costs may include actual, direct fees paid to contractors, architects, engineers, surveyors, laborers, and suppliers, or permit fees required by governmental agencies to allow construction. Construction Costs shall not include indirect costs such as financing costs, holding costs, legal fees, interest, administrative and overhead expenses, bond premiums, or developer fees. The statement of cost shall be sworn to and signed by the Tenant or its responsible agent under penalty of perjury. The Tenant must obtain County approval of acceptance of the "As-Built Documents" and "Record Documents" and the form and content of the itemized statement.

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SECTION 11.13 TITLE TO IMPROVEMENTS

All Improvements made to the Leased Premises by Tenant, and any additions and alterations thereto made by Tenant, including approved changes and renovations that are affixed to the Leased Premises, must upon completion, be free and clear of all liens, claims, or liability for labor or material and at County's option shall become the property of County at the expiration of this Lease or upon earlier termination hereof. Tenant shall not remove any improvements and/or furnishings, trade fixtures, and equipment without the prior written consent of the Airport Director. County retains the right to require Tenant, at Tenant's sole cost and expense, to remove any or all improvements located within the Leased Premises at the expiration or termination hereof. County shall notify Tenant of its intent to claim or have Tenant remove any or all improvements not less than 60 days prior to the expiration of this Lease.

For purposes of this Lease, satellite antenna dishes or antennae that may be installed by Tenant and properly identified on the roof of the Terminal or any location outside the Leased Premises shall be considered a Tenant improvement. County retains the right to require Tenant, at Tenant's cost, to remove any antenna installed by Tenant. County shall have the right to use Tenant's security deposit to cover the cost of removal of said antenna should Tenant fail to do so at the expiration or termination of this Lease.

SECTION 11.14 SIGNAGE

Tenant agrees not to construct, maintain or allow any sign upon the Leased Premises except as approved by Airport Director. Tenant will comply with the Tenant Design Guidelines and JWA Construction Standards. Unapproved signs, banners, flags, etc., may be removed by Airport Director without prior notice to Tenant.

The Tenant will not place any promotional signs or advertising materials in any location within the Leased Premises or within any common use area of the Terminal without the prior consent of the County. All requests for the approval of temporary promotional signs for the Tenant shall be accompanied by illustrative drawings and design dimensions along with information about the type of signs proposed, and proposed locations. All approved promotional signs shall be allowed to remain in the terminal for ninety (90) days. At the end of ninety (90) days, all temporary signage must be removed, or the Tenant may resubmit a request to County to extend past the ninety (90) days.

The County may without notice remove any unauthorized signs or advertising materials, and may store them at the Tenant's expense; the County may dispose of items if they are not promptly claimed by the Tenant after notice from the County.

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SECTION 11.15 MIDTERM REFURBISHMENT

In addition to the ongoing, routine maintenance described in Section 7.14, Tenant shall, at its sole cost and expense, commence Midterm Refurbishment. The Midterm Refurbishment shall include without limitation all modernizing, refinishing, repair, replacement, redecorating, repainting, and re-flooring necessary for the purpose of keeping concession and its technology contemporary and competitive with current concession trends and methods, and keeping the Leased Premises in optimal condition. The scope and extent of the Midterm Refurbishment for each Concession shall be jointly determined by County and Tenant, but shall not exceed the cost of \$100 per square foot. If Tenant and County cannot jointly agree upon the necessary scope and extent of the Midterm Refurbishment for any Concession, County may, at its sole discretion, determine the refurbishment required and Tenant agrees to be bound by County's determination.

Tenant's plans, specifications, and schedule for refurbishment must be in accordance with Airport John Wayne Airport Construction Standards and Tenant Design Guidelines. Tenant shall submit its plan specifications for refurbishment to County for review and approval no later than 80 months from the Term Commencement Date. Tenant shall complete the Midterm Refurbishment, as approved by the Airport Director within one-hundred eighty (180) days from the midterm of the Agreement. The midterm of the Agreement is ninety (90) months from the Term Commencement Date. Failure to complete the refurbishment by said date shall be cause for termination of the Agreement, and/or at the direction of the Airport Director the sum of five hundred dollars (\$500.00) per day until the Midterm Refurbishment has been completed to the satisfaction of the County. This amount shall be in addition to all other sums due under this Lease.

The plans and specifications shall be certified by an architect or engineer licensed by the State of California and shall consist of (a) working drawings, (b) technical specifications, and (c) proposed equipment upgrades or changes. When documenting each refurbishment minimum investment required by the Lease, architectural and engineering charges not exceeding 15% of the total investment may be included. Construction costs shall not include indirect costs such as financing costs, holding costs, legal fees, interest, administrative and overhead expenses, internal design, review, management and oversight of construction on leased premises, Tenant's licensing or franchising costs, bond premiums, or developer fees.

SECTION 11.16 HEALTH AND SAFETY

The Tenant shall comply with all applicable California Occupational Safety & Health Administration (Cal/OSHA) requirements, and all federal, state or local safety orders. The Tenant shall post on the Leased Premises and at all construction sites a copy of "Construction Safety Orders" and "General Industry Safety Orders" issued by the California State Division of Industrial Safety.

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The Tenant shall, within thirty (30) days after the execution of this Lease, submit to the County a comprehensive Safety Plan outlining the code of safe work practices and procedures. The plan must include emergency response procedures, notification procedures, and personnel training procedures. The Tenant shall convene safety meetings at regularly scheduled times as described in its Safety Plan and as required by Cal/OSHA. The Tenant and/or Tenant's contractor shall submit, prior to the start of any tenant improvements, the Tenant or Tenant's contractor required Cal/OSHA Safety Plan for approval by the Airport.

The Tenant shall submit to the County an annual report detailing the status of all permits required and issued to the Tenant by CAL OSHA or any other federal, state or local government agency. Said report shall be due on or before January 31 of each calendar year.

ARTICLE XII. DISCLAIMER OF LIENS

The interest of County in the Leased Premises will not be subject to liens for any work, labor, materials, or improvements made by or for Tenant to the Leased Premises, whether the same is made or done in accordance with an agreement between County and Tenant. It is specifically understood and agreed by Tenant that in no event will County or the interest of County in the Leased Premises be liable for or subject to any mechanic's, laborers or materialmen's liens for materials furnished, improvements, labor or work made by or for Tenant to the Leased Premises. Tenant is specifically prohibited from pledging, liening, or otherwise encumbering any assets located at the Airport or any interest in this Lease without prior, written approval by County. Tenant is specifically prohibited from subjecting County's interest in the Leased Premises to any mechanic's, materialmen's, or laborers' liens for improvements made by or for Tenant or for any materials, improvements or work for which Tenant is responsible for payment. Tenant will indemnify, defend, and hold County harmless for any expense or cost associated with any lien or claim of lien that may be filed against the Leased Premises or County, including attorney fees incurred by County. Tenant will provide notice of this disclaimer of liens to all Contractors or subcontractors providing any materials or making any improvements to the Leased Premises.

In the event a mechanics lien or stop-notice is imposed upon the Leased Premises, Tenant shall either:

- Record a valid Release of Lien, or
- Procure and record a bond in accordance with Section 3143 of the California Civil Code, which frees the Leased Premises from the claim of the lien or stop-notice and from any action brought to foreclose the lien.

Should Tenant fail to accomplish either of the two actions above within fifteen (15) days after the filing of such a lien or stop-notice, the Lease shall be in default and shall be subject to immediate termination.

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Tenant shall have the right to contest any and all liens filed against its existing or future exclusive use area. Tenant further agrees that County shall have the right to post notices of non-responsibility as provided by Sections 3094 and 3129 of the Civil Code of the State of California.

ARTICLE XIII. MAINTENANCE UTILITES AND REPAIRS

SECTION 13.01 TENANT'S MAINTENANCE OBLIGATIONS

Tenant, at its own cost and expense, shall maintain and repair, replace or refinish all installations of any kind. Tenant agrees to maintain the Leased Premises in a safe, clean, wholesome, sanitary condition and in compliance with all applicable laws. It shall be the Tenant's responsibility to make all necessary repairs required to maintain the Leased Premises in good condition. All repairs made by the Tenant to the Leased Premises shall be in compliance with all current federal, state, local ordinances and building codes and all airport regulations ("Codes"). Tenant shall be in compliance with all County standards, including but not limited to, the Tenant Design Guidelines and John Wayne Airport Construction Standards. The Codes encompass all fire, life and structural safety aspects and apply to the construction, alteration, moving, demolition, repair and use of the Leased Premises. Any additions, alterations, required upgrades, repairs and changes of use or occupancy in the Leased Premises shall comply with the provisions for new buildings and structures as set forth in the Codes. All devices or safeguards which are required by the Codes shall be maintained in conformance with the edition of the Codes under which it was installed.

Tenant shall maintain, repair, replace, paint, or otherwise finish all installations within the lease lines of the Leased Premises, including, without limitation, walls, partitions, floors, ceilings, windows, doors, glass and all furnishings, fixtures, and equipment therein, including wiring, and software and communications equipment, whether installed by Tenant or by County. All the maintenance, repairs, finishing and replacements shall be of quality equal to or better than the original in materials and workmanship. All work, including finishing colors, shall be subject to the prior written approval of County.

Tenant's compliance obligations shall include, without limitation, the obligation to make substantial or structural repairs and alterations to the Leased Premises (including any initial capital improvements), regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or County, the degree to which curative action may interfere with Tenant's use or enjoyment of the Leased Premises, the likelihood that the Parties contemplated the requirement involved, or the relationship between the requirement involved and Tenant's particular use of the Leased Premises.

If it is determined that the maintenance is not in compliance with this Lease, County shall so notify Tenant in writing. If the maintenance required to be performed as provided in County's notice to Tenant is not commenced by Tenant within five (5) days after receipt of notice, or is

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thereafter not diligently executed to completion, County or its representative shall have the right to enter upon the Leased Premises and perform the maintenance, and Tenant agrees to promptly reimburse County for the cost thereof, plus an administrative fee equal to fifteen percent (15%) of the maintenance costs.

Tenant covenants and agrees that nothing shall be done or kept in the Leased Premises that might impair the value of County's property or that would constitute waste. Any hazardous or potentially hazardous condition on the Leased Premises shall be corrected immediately upon receipt of a verbal or written notice from County. At the sole discretion of County, Tenant shall close the Leased Premises or affected portion thereof until the hazardous or potentially hazardous condition is corrected. Tenant shall immediately notify the Airport Operations Center ("AOC") Control Center of any fire, emergency, accident or spill or release of fuel or hazardous substances. The AOC can be reached by calling (949) 252-5000 or picking up any white telephone located in the terminal buildings.

Tenant covenants to comply with all present and future laws, orders, and regulations, including any rules, regulations and procedures promulgated by County regarding County provided maintenance within the Airport. When any system for County provided maintenance is put in place that can allocate to Tenant its proportional share of the cost, Tenant must pay its proportional share of the actual costs.

SECTION 13.02 COUNTY'S MAINTENANCE AND UTILITY OBLIGATIONS

County shall provide structural maintenance of the Airport and, except as provided below, maintain, and repair the exterior windows and walls of the Leased Premises in the Airport. However, maintenance of all interior and exterior walls constructed or remodeled by Tenant shall be Tenant's responsibility.

County provides utility mains and lines throughout the Airport. Tenant, at its sole cost, shall tie into the utility mains and lines at the locations as specified by County. Supplemental heated or cooled air, electrical or other utilities required by Tenant more than what is customarily available in the Airport will be, if approved by County, at the expense of Tenant. County may, at County's sole discretion, maintain the utilities within the Leased Premises and in doing so shall be permitted to enter upon the Leased Premises at all times to make any repairs, replacements and alterations when and as may, in the opinion of County, be deemed necessary. Furthermore, Tenant will permit County or its representatives' access to construct or install over, on, in, or under the Leased Premises, new systems, pipes, lines, mains, wires, conduits, ducts and equipment; provided, however, that County shall exercise such right in a manner that minimizes interference with Tenant's operations. Moreover, during an emergency, County, or its agents, may enter the Leased Premises forcibly, if necessary. No such reasonable entry by or on behalf of County shall constitute or cause a termination of this Lease by Tenant.

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County agrees that it will always maintain and keep utility mains and lines in good repair in the Airport and all appurtenances, facilities, and services now or hereafter connected therewith. Tenant understands, accepts, and agrees that County shall not be liable for Tenant's loss for failure to supply any utility services. County reserves the right to temporarily discontinue utility services at such time as may be necessary by reason of accident, unavailability of employees, repairs, alterations, or improvements or whenever by reason of strikes, lockouts, riots, acts of God, or any other happenings beyond the control of County and causes County to be unable to furnish such utility services. County shall not be liable for damages to persons or property for any such discontinuance due to causes beyond the control of County, nor shall such discontinuance in any way be construed as cause for abatement of Concession Space Rent or to release Tenant from any of its obligations hereunder.

ARTICLE XIV. DEFAULT, REMEDIES, AND TERMINATION RIGHTS

SECTION 14.01 EVENTS OF DEFAULT

Tenant will be deemed to be in default of this Lease upon the occurrence of any of the following:

- A. The failure or omission by Tenant to perform its obligations under this Lease or the breach of any terms, conditions and covenants required herein.
- B. The failure to pay, in full, to County within five (5) days of when due any fees, costs, expenses damages, or other charges applicable hereunder except where such failure is cured within (10) days after written notice by County of Tenant's failure to pay.
- C. Tenant's default under any other agreement with County at the Airport.
- D. The appointment of a Trustee, custodian, or receiver of all or a substantial portion of Tenant's assets.
- E. The divestiture of Tenant's estate herein by operation of law, by dissolution, or by liquidation, not including a merger or sale of assets.
- F. The insolvency of Tenant; or if Tenant will take the benefit of any present or future insolvency statute, will make a general assignment for the benefit of creditors, or will seek a reorganization or the readjustment of its indebtedness under any law or statute of the United States or of any state thereof including the filing by Tenant of a voluntary petition of bankruptcy or the institution of proceedings against Tenant for the adjudication of Tenant as bankrupt pursuant thereto.
- G. Tenant's cancellation of its Surety without County's prior written consent and does not reestablish it promptly after written notice by County.

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- H. An assignment, sublease, or transfers of Tenant's interest under this Lease by reason of death, operation of law, assignment, sublease, sale in bulk of any of its assets, or otherwise to any other person or business entity other than in compliance with the provisions of this Lease.
- I. If Tenant abandons, deserts, vacates, or ceases operations under this Lease for five (5) consecutive business days, unless undergoing repairs or renovations which have first been approved by County.
- J. Tenant's failure to maintain any type of insurance or level of insurance coverage required hereunder (and in the event Tenant has failed to remedy such failure within ten (10) days after notice thereof from County, County may affect such coverage and recover the cost thereof immediately from the Surety or from Tenant).
- K. Any lien or attachment to be filed against the Leased Premises, the Airport, or other County property because of any act or omission of Tenant, and such lien or attachment is not discharged or contested by Tenant in good faith by proper legal proceedings within fifteen (15) days after receipt of notice thereof by Tenant.
- L. Tenant use, permission to use, or failure to promptly prevent use of any portion of the Airport made available to Tenant for its use under this Lease for any illegal purpose.
- M. Tenant's license or franchise agreement related to the Concession it is authorized to operate at the Airport is terminated, expires, or is amended so that compliance with the amended provisions will cause Tenant to be in breach of its obligations under this Lease.
- N. Tenant's failure to timely pay any fees or charges required hereunder after the expiration of the (10) day cure period as described hereunder.
- O. The conduct of any business or performance of any acts at the Airport not specifically authorized in this Lease or by any other agreement between County and Tenant, and Tenant's failure to discontinue that business or those acts within thirty (30) days of receipt by Tenant of County's written notice to cease said business or acts (which thirty [30] day notice and remedy period shall also satisfy the notice requirement of Section 14.02 below). Nothing in this Section shall be construed to grant a right to Tenant to cure a default, which by its nature is not capable of being cured.
- P. If Tenant is found by the FAA, TSA, other government regulatory or successor agency to have violated specified safety standards in the conduct of Tenant's business;
- Q. Tenant fails to maintain adequate records and accounts reflecting its business operations at the Airport and calculation of Gross Receipts under this Lease;
- R. Tenant fails or refuses to submit the formal supporting paperwork as required herein.

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County reserves the right, in its sole discretion, to treat each Concession individually for the purpose of declaring defaults and exercising remedies under this Lease.

SECTION 14.02 COUNTY'S REMEDIES

In the event of any of the foregoing Events of Default of Tenant and following thirty (30) days' notice by County and Tenant's failure to remedy, County, at its election, may exercise any one or more of the following options or remedies, the exercise of any of which will not be deemed to preclude the exercise of any other remedy herein listed or otherwise provided by statute or general law. County's remedies are as follows:

1. Allow this Lease to continue in full force and effect and enforce County's right to collect Concession Space Rent and/or Additional Rent as it becomes due together with past due interest and draw upon the Surety in any amount necessary to satisfy the damages sustained or reasonably expected from Tenant's default.
2. Upon thirty (30) days' notice terminate Tenant's rights under this Lease. This notice shall be final and shall at the option of County terminate all the rights hereunder of Tenant, and County may upon the date in the notice take possession of the Leased Premises, and expel Tenant with or without process of law, without liability for trespass, and using such force as may be necessary, and without prejudice to any remedies for damages or breach. In doing so, County will not be deemed to have thereby accepted a surrender of the Leased Premises, and Tenant will remain liable for all payments or other sums due under this Lease up to and including the date of termination, and for all damages suffered by County because of Tenant's breach of any of the covenants of this Lease, including but not limited to, all cost of reletting, reasonable attorney's fees, repairs, and improvements.

No delay, failure, or omission of County to re-enter the Leased Premises or to exercise any right, power, privilege, or option arising from any default nor subsequent acceptance of fees or charges then or thereafter accrued will impair any such right, power, privilege, or option, or be construed to be a waiver of any such default or relinquishment, or acquiescence of the Leased Premises. No option, right, power, remedy, or privilege of County will be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options, or remedies given to County by this Lease are cumulative and that the exercise of one right, power, option, or remedy by County will not impair its rights to any other right, power, option, or remedy available under this Lease or provided by law. In the event County terminates this Lease or reclaims the Leased Premises under this section, County has no liability to Tenant for any Unamortized Investment.

SECTION 14.03 DISPOSITION OF ABANDONED PERSONAL PROPERTY

If Tenant abandons or quits the Leased Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to Tenant and left on the Leased Premises

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Areas thirty (30) days after such event shall be deemed to have been transferred to County. County shall have the right to remove and to dispose of such property without liability therefor to Tenant or to any person claiming under Tenant, and shall have no need to account therefor. Personal property left on the Leased Premises after termination, expiration, or abandonment of the Agreement shall not be construed as giving Tenant possession of the Leased Premises during the thirty (30) days after termination, expiration or abandonment of the Lease.

SECTION 14.04 QUITCLAIM OF TENANT'S INTEREST UPON TERMINATION OR DEFAULT

Upon termination of this Lease for any reason, including, but not limited to, termination because of default by Tenant, Tenant shall execute, acknowledge, and deliver to County within thirty (30) days after receipt of written demand therefor, a good and sufficient deed whereby all right, title and interest of Tenant in the Leased Premises are quitclaimed to County. Should Tenant fail or refuse to deliver the required deed to County, County may prepare and record a notice reciting the failure of Tenant to execute, acknowledge and deliver such deed and said notice shall be conclusive evidence of the termination of this Lease and of all right of Tenant or those claiming under Tenant in and to the Leased Premises.

SECTION 14.05 COUNTY'S RIGHT TO RE-ENTER

Tenant agrees to yield and peaceably deliver possession of the Leased Premises to County on the date of termination or default of this Lease, whatsoever the reason for such termination or default.

Upon giving written notice of termination or default to Tenant, County shall have the right to re-enter and take possession of the Leased Premises on the date such termination or default becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination or default of the Agreement and re-entry of the Leased Premises by County shall in no way alter or diminish any obligation of Tenant under the Agreement terms and shall not constitute an acceptance or surrender.

Tenant waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Leased Premises for any lawful reason or in the event County re-enters and takes possession of the Leased Premises in a lawful manner.

Upon the expiration or early termination of this Lease, Tenant shall cooperate fully with the County and any successor to Tenant to ensure an effective and efficient transition of Tenant's operations within the Leased Premises to Tenant's successor. Tenant acknowledges its responsibility to help ensure continued operations within the Leased Premises in a first-class manner during any transition to a successor. Tenant shall take no action that would impair the ability of any successor to commence and maintain such concession operations.

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ARTICLE XV. INDEMNIFICATION

To the fullest extent authorized by law, the Tenant shall indemnify, defend, and hold the County, its officers, and employees, harmless from and against any and all claims, judgments, damages, penalties, fines, costs, orders, and lawsuits, arising out of the Tenant's operations at John Wayne Airport, including the cost of defense arising therefrom. The Tenant's indemnity obligations stated herein also apply to those actions arising from and which involve the Tenant's officers, agents, subcontractors, and employees. The Tenant's indemnity obligations shall not apply in the event of any loss, damage, or expense arising from the sole or active negligence and/or willful misconduct of the County or of the County's officers, employees, agents, servants, or independent contractors.

In the event the indemnitees described herein are named as defendants or respondents in any lawsuit or administrative proceeding, the Tenant shall, at the request of the County, represent the indemnitee with qualified counsel that the County determines is acceptable. In the event that a monetary judgment is awarded against the County and the Tenant because of the concurrent negligence of the County and the Tenant or their respective officers, subcontractors, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Both the County and the Tenant agree that neither party shall request a jury apportionment.

Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorney's fees in any action to enforce the terms of this Lease. The rights and obligations set forth in this paragraph shall survive the termination of this Lease.

ARTICLE XVI. INSURANCE

SECTION 16.01 INSURANCE TERMS, CONDITIONS AND REQUIRED COVERAGES

Tenant agrees to carry all required insurance at Tenant's expense and provide to the County current Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Lease have been complied with. Tenant shall keep such insurance coverage current and provide Certificates of Insurance and endorsements to the County during the entire term of this Lease.

Tenant agrees that Tenant shall not operate on the Leased Premises at any time the required insurance is not in full force and effect as evidenced by a Certificate of Insurance and necessary endorsements or, in the interim, an official binder being in the possession of Airport Director. In no cases shall assurances by Tenant, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. Airport Director will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. Tenant also agrees that upon cancellation, termination, or expiration of Tenant's

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insurance, County may take whatever steps are necessary to interrupt any operation from or on the Leased Premises until such time as the Airport Director reinstates the Agreement.

If Tenant fails to provide Airport Director with a valid certificate of insurance and endorsements, or binder at any time during the term of the Agreement, County and Tenant agree that this shall constitute a material breach of the Agreement. Whether or not a notice of default has or has not been sent to Tenant, said material breach shall permit County to take whatever steps necessary to interrupt any operation from or on the Leased Premises, and to prevent any persons, including, but not limited to, members of the general public, and Tenant's employees and agents, from entering the Leased Premises until such time as Airport Director is provided with adequate evidence of insurance required herein. Tenant further agrees to hold County harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the County's action.

Tenant may occupy the Leased Premises only upon providing to County the required insurance stated herein and maintain such insurance for the entire term of this Lease. County reserves the right to terminate this Lease at any time Tenant's insurance is canceled or terminated and not reinstated within ten (10) days of said cancellation or termination. Tenant shall pay County a fee of \$300.00 for processing the reinstatement of the Agreement. Tenant shall provide to County immediate notice of said insurance cancellation or termination.

All contractors performing work on behalf of Tenant pursuant to this Lease shall obtain insurance subject to the same terms and conditions as set forth herein for Tenant. Tenant shall not allow contractors or subcontractors to work if contractors have less than the level of coverage required by the County from the Tenant under this Lease. It is the obligation of the Tenant to provide written notice of the insurance requirements to every contractor and to receive proof of insurance prior to allowing any contractor to begin work within the Leased Premises. Such proof of insurance must be maintained by Tenant through the entirety of this Lease and be available for inspection by a County representative at any reasonable time.

All self-insured retentions (SIR)'s shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee. The County reserves the right to require current audited financial reports from Tenant. If Tenant is self-insured, Tenant will indemnify and defend County for any and all claims resulting or arising from Tenant's use of the premises, services or other performance in accordance with the indemnity provision stated in this Lease.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**).

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If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Tenant shall provide the minimum limits and coverage as set forth below:

Coverages	Minimum Limits
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 combined single limit each accident
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per accident or disease
Commercial Property Insurance on an "All Risk" or "Special Causes of Loss" basis covering all contents and any Tenant improvements including Business Interruption/Loss of Rents with a 12-month limit.	100% of the Replacement Cost Value and no coinsurance provision.
Liquor Liability (Optional coverage required when liquor is sold and served)	\$1,000,000 per occurrence

Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies when required must provided Follow Form coverage.

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

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- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, and agents as Additional Insureds. Blanket coverage may also be provided which will state- As Required by Written Agreement.
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad, evidencing that the Tenant's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents. Blanket coverage may also be provided which it will state as Required by Written Agreement.

All insurance policies required by this Lease shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees, and agents when acting within the scope of their appointment or employment.

The Commercial Property policy shall contain a Loss Payee endorsement naming the County of Orange as respects the County's financial interest when applicable.

Tenant shall provide thirty (30) days prior written notice of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Lease, upon which the County may suspend or terminate this Lease.

The Commercial General Liability policy shall contain a severability of interests clause, also known as a "separation of insureds" clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the County address provided in the Clause (NOTICES) below or to an address provided by Airport Director Tenant has ten (10) business days to provide adequate evidence of insurance or this Lease may be cancelled.

County expressly retains the right to require Tenant to increase or decrease insurance of any of the above insurance types throughout the term of this Lease. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Tenant in writing of changes in the insurance requirements. If Tenant does not provide acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Lease may be in breach without further notice to Tenant, and County shall be entitled to all legal remedies.

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The procuring of such required policy or policies of insurance shall not be construed to limit Tenant's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease, nor in any way to reduce the policy coverage and limits available from the insurer.

ARTICLE XVII. PROPERTY DAMAGE

SECTION 17.01 COMPLETE DESTRUCTION

If Leased Premises, the Terminal in which the Leased Premises are located, or any portion thereof is destroyed or damaged to an extent that renders it unusable, County may rebuild or repair any portions of the building structure destroyed or damaged, and if the cause was beyond the control of Tenant, Tenant's obligation to pay the Concession Space Rent hereunder shall abate as to such damaged or destroyed portions during the time they are unusable. If County elects not to proceed with the rebuilding or repair of the building structure, it shall give notice of its intent within ninety (90) days after the destruction or damage. At its option, Tenant may then terminate this Lease effective as of the date of such event.

If County elects to rebuild, Tenant must replace all Leased Premises Improvements at its sole cost and in accordance with the Capital Investment, subject to increase for inflation. Such replacements must be in accordance with the performance standards set forth herein. County and Tenant shall cooperate with each other in the collection of any insurance proceeds that may be payable in the event of any loss or damage.

If during the last year of the Term the improvements on the Leased Premises are partially destroyed or damaged, County may at County's option terminate this Lease as of the date of occurrence of such damage by giving written notice to Tenant of County's election to do so within thirty (30) days after the date of occurrence of such damage. In the event County elects to terminate this Lease pursuant hereto, Tenant shall have the right within ten (10) days after receipt of the required notice to notify County in writing of Tenant's intention to repair such damage at Tenant's expense, without reimbursement from County, in which event this Lease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as reasonably possible.

SECTION 17.02 LIMITS OF COUNTY'S OBLIGATIONS DEFINED

County shall not be liable for the following: (i) any damage to property of Tenant or others located on the Leased Premises or in the Airport; (ii) the loss of or damage to any property of Tenant or of others by theft or otherwise; (iii) any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, or snow; (iv) leaks from any part of the Leased Premises or the Airport; from the pipes, appliances, or plumbing works; from the roof, street, subsurface, or from any other place; or from dampness or by any other cause of whatsoever nature; (v) any such damage caused by other Tenants, persons in the Leased

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Premises, occupants of adjacent property, of the Airport, or of the public; (vi) damages caused by operations in construction of any private, public, or quasi-public work; (vii) any latent defect in the Leased Premises or in the building of which they form a part; and (viii) all property of Tenant kept or stored on the Leased Premises are at the risk of Tenant only.

Further, Tenant shall defend and hold County harmless from and hereby waives any claims arising out of damage to the same or damage to Tenant's business, including subrogation claims by Tenant's insurance carrier. Tenant shall give immediate telephone notice to County in case of fire, casualty, or accidents in the Leased Premises or in the building of which the Leased Premises are a part, of defects therein, or in any fixtures or equipment. Tenant shall promptly thereafter confirm such notice in writing.

Redecoration, replacement, and refurbishment of furniture, fixtures, equipment, and supplies will be the responsibility of and paid for by Tenant and will be of equivalent quality to that originally installed hereunder. County will not be responsible to Tenant for any claims related to loss of use, loss of profits, or loss of business resulting from any partial, extensive, or complete destruction of the Leased Premises regardless of the cause of damage.

Repair, replacement, reconstruction, or construction of improvements within the Leased Premises shall be accomplished in a manner and according to plans approved by County. Except as otherwise provided herein, termination of this Lease shall not reduce or nullify Tenant's obligation under this Section. With respect to damage or destruction to be repaired by County or which County elects to repair, Tenant waives and releases its rights under California Civil Code Sections 1932(2) and 1933(4).

SECTION 17.03 WAIVER OF SUBROGATION

To the extent insurance permits, and then only to the extent collected or collectable by Tenant under its property insurance coverage, Tenant waives all claims against County and its directors, officers, agents, servants and employees for loss or damage to property.

ARTICLE XVIII. DAMAGING ACTIVITIES

No goods or materials will be kept, stored, or used in or on the Leased Premises that are flammable, explosive, hazardous (as defined below) or that may be offensive or cause harm to the public or cause damage to the Leased Premises. Tenant is responsible for compliance and shall require its Contractors to comply with all federal, state, and local environmental rules, regulations, and requirements. Tenant shall obtain all necessary federal, state, local, and Airport permits and comply with all permit requirements. Nothing will be done on the Leased Premises other than as provided in this Lease that will increase the rate of or suspend the insurance on the Leased Premises or on any structure of County. No machinery or apparatus will be used or operated on the Leased Premises that will damage the Leased Premises or adjacent areas; provided, however, that nothing in this Article will preclude Tenant from bringing or using on or

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about the Leased Premises, with approval by County, such materials, supplies, equipment, and machinery as are appropriate or customary in the operation of Tenant's business under this Lease. Tenant agrees that nothing shall be done or kept on the Leased Premises that might impair the value of County's property or that would constitute waste.

"Hazardous" shall mean:

- Any substance the presence of which requires or may later require notification, investigation, or remediation under any environmental law.
- Any substance that is or becomes defined as a "hazardous waste", "hazardous material", "hazardous substance", "pollutant" or "contaminant" under any federal, state, or local environmental law, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Resources Conservation and Recovery Act (42 U.S.C. §6901 et seq.) and the associated regulations.
- Any substance that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise harmful and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, any state of the United States, or any political subdivision within any state.
- Any substance that contains gasoline, diesel fuel or other petroleum hydrocarbons or volatile organic compounds.
- Any substance that contains polychlorinated biphenyls, asbestos, or urea formaldehyde foam insulation.
- Any substance that contains or emits radioactive particles, waves, or materials, including, without limitation, radon gas.

Tenant agrees that nothing shall be done or kept on the Leased Premises and no improvements, changes, alterations, additions, maintenance, or repairs made that might impair the structural soundness of the building; result in an overload of utility, plumbing, or HVAC systems serving the Terminal; or interfere with electric, electronic, or other equipment at the Airport. In the event of violations hereof, Tenant agrees immediately to remedy the violation at Tenant's own cost and expense.

Tenant shall be responsible for any damage caused by Tenant to the Leased Premises, Airport, any County property or operations, or the property of any other Tenant, person, or entity, either by act, omission, or because of the operations of Tenant. In the event of such damage, Tenant will give County immediate notice thereof, and Tenant will immediately make the necessary repairs at its own cost and expense. Tenant shall be required to comply with the obligations set

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forth in Article XI with respect to all work required to be performed in accordance with this Section. County reserves the right, if in the best interest of County, to perform the necessary repairs immediately itself. Tenant covenants to reimburse County, for the costs and expenses associated with necessary repairs plus an administrative fee of fifteen percent (15%). If the same type of damage is caused by Tenant more than once in a twelve (12) month period, such as a water leakage, electrical service interruption, or other damage, Tenant shall submit a Remediation Plan, as set forth in Section 7.01.

**ARTICLE XIX. COMPLIANCE WITH LAWS, REGULATIONS,
ORDINANCES, AND RULES**

Tenant, its officers, authorized officials, employees, agents, subcontractors, subtenants or those under its control, will at all times comply with applicable federal, state, and local laws and regulations, Airport Rules and Regulations, Policies, Procedures and Operating Directives as are now or may hereinafter be prescribed by County, all applicable health rules and regulations and other mandates whether existing or as promulgated from time to time by the federal, state, or local government, or County including, but not limited to, permitted and restricted activities, security matters, parking, ingress and egress, environmental and storm water regulations and any other operational matters related to the operation of the Airport. Tenant's failure to keep and observe said laws, regulations, ordinances, and rules shall constitute a material breach of the terms of this Lease in the manner as if the same were contained herein as covenants.

Tenant agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (as same may be amended from time to time or such other regulation replacing Part 77 as may be adopted by Federal authority) prior to the construction of the improvements described herein and prior to the construction of any future structure or building upon the Leased Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

ARTICLE XX. AIRPORT SECURITY

Tenant shall comply with all current and applicable Airport, FAA, TSA, CBP, security related rules, regulations, plans, and procedures. Tenant is responsible for fines imposed by any regulatory agency as a result of Tenant's failure to comply with applicable rules, regulations, orders, plans, and procedures regarding airport security.

Tenant employees, subtenants/contractors shall be required to obtain airport security clearance in order to perform work under this Lease. Tenant must maintain a current, updated list of Authorized Signatories responsible for the Airport-Issued Identification Credential ("Airport ID/Security Credential") process, a list of current Airport ID/Security Credentialed Tenant employees and subtenants/contractors, and respond to scheduled and unscheduled audits at the request of the Airport. Tenant employees and subtenants/contractors applying for an Airport

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ID/Security Credential must successfully complete a Criminal History Records Check (“CHRC”) and a Security Threat Assessment (“STA”) in accordance with current regulations. Tenant should anticipate up to thirty (30) days to receive an Airport-Issued ID badge from the date of their fingerprinting. All organizations must have two, trained Authorized Signatories at all times. Tenant employees and subtenants/contractors must also attend and successfully pass all related Security Identification Display Area (“SIDA”) classes and tests for access to secure areas and a driver’s permit with an appropriate and valid California Driver’s License to drive on the airfield. Tenant must attend all mandatory security related exercises, and monthly security consortium meetings hosted by the Airport.

A. Local Security

Tenant shall be responsible for the security of gates or doors that are located on the Leased Premises. Said gates and/or doors on the Leased Premises permitting entry to the restricted areas of the Airport shall be locked when not in use and/or under Tenant’s constant surveillance. Tenant shall install such security equipment, including, but not limited to, video monitoring equipment, as may be required by the Airport Director to ensure compliance with all regulations of the FAA, TSA or other governmental agencies having jurisdiction over Airport security. All archive video may be subject to request by County. Tenant shall exercise control over any person or vehicle escorted by Tenant onto restricted or secure areas of the Airport, or to whom an Airport ID/Security Credential was issued by or at the request of Tenant, and ensure that such person or vehicle shall comply with all Airport security regulations.

B. Federal Security

Tenant may be required to provide assistance to TSA in their efforts to carry out its federal mandates. At some point during the term of this Lease, the Airport or another entity may be authorized to provide these security services in lieu of the TSA.

C. Penalties and Fines

Tenant shall promptly pay any penalties for which Tenant is responsible. These penalties include but are not limited to, civil penalties or fines assessed against the Airport or Tenant, by the FAA, TSA or any other governmental agency for the violation of any security related laws, rules, policies or regulations at the Airport.

D. Airport ID/Security Credential Application and Lifecycle

Prior to issuance of an Airport ID/Security Credential(s), designated Authorized Signatories who will be working onsite, and engaged in the performance of work under this Lease, must pass the Airport’s background check requirements, which includes an F.B.I. Criminal History Records Check (“CHRC”) and a TSA Security Threat Assessment (“STA”), and Tenant shall pay the applicable fees. Upon successful completion of the background checks, Tenant’s designated

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personnel will be required to attend a SIDA class and pass a written test. Those personnel who may be permitted by the Airport to drive on the Airport Operations Area (“AOA”) perimeter road must also complete a Driver’s Training class and written test. Airport ID/Security Credentials are not issued until designated Tenant personnel have: 1) completed appropriate application forms and submitted proof of identity and employment eligibility, 2) passed both background checks, 3) completed and passed appropriate training and 4) paid an Airport ID/Security credential fee for each applicant. Tenant should anticipate a minimum of fourteen (14) business days to complete the Airport ID/Security Credential process if all requirements listed above are fulfilled by individual Airport ID/Security Credential applicants in a timely manner, but factors outside the Airport’s control can contribute to longer durations. Authorized Signatories must be in constant contact with the Airport’s ID/Access Control Office. Tenant’s designated personnel must successfully complete the Airport ID/Security Credential acquisition process, unless other arrangements have been approved by the Airport. Tenant shall be responsible for all applicable fees and costs associated with the background checks and badging process. The amount of such fees is subject to change without notice.

E. Airport ID/Security Credential Applicant Requirements and Responsibilities

The Airport Security Plan (ASP) requires that each person issued an Airport ID/Security Credential be made aware of his/her responsibilities regarding the privilege of access to restricted areas of the Airport.

Tenant personnel within an access controlled area (AOA, SIDA, secured area or sterile area) are required to display on their person an Airport ID/Security Credential, unless they are escorted by a properly Airport credentialed individual with escort privileges. When working in the SIDA, each Airport credentialed person is responsible for challenging any individual who is not properly displaying an Airport issued or approved and valid Airport ID/Security Credential. Tenant personnel and their subtenants/contractors must also validate Airport ID/Security Credential employees as described in security training. Any person who is not properly displaying or who cannot produce a valid Airport ID/Security Credential, unless they are being escorted, must immediately be referred to the Sheriff’s Department – Airport Police Services Office for proper handling.

The Airport ID/Security Credential is the property of the County of Orange and must be returned upon termination of Tenant personnel employment and/or termination of the Agreement. The loss of an Airport ID/Security Credential shall be reported within twenty-four (24) hours to the Sheriff’s Department–Airport Police Services by calling (949) 252-5000. Tenant personnel who lose their Airport ID/Security Credential shall be required to pay a fee before receiving a replacement Airport ID/Security Credential. The charge for lost Airport ID/Security Credential replacement will be posted in the Airport Administration Office and is subject to change without notice. A report shall be made before a replacement Airport ID/Security Credential will be issued.

F. The Airport ID/Security Credential is nontransferable.

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In the event that Tenant's employee's or contractor's Airport ID/Security Credential is not returned within three (3) business days to the Airport upon: 1) termination of Tenant personnel or contractor, 2) Airport ID badge expiration, or 3) upon termination of the Agreement, Tenant shall be liable to the County of Orange for a fine in the amount of \$250.00 per unreturned Airport ID/Security Credential. The amount of the fine is subject to change without notice. Tenant's security deposit may be applied to cover the cost of the fine.

ARTICLE XXI. AMERICANS WITH DISABILITIES ACT

Tenant shall be solely and fully responsible for complying with the Americans with Disabilities Act of 1990 ("ADA") in connection with: (a) the Leased Premises or any portion thereof and its operations thereon, Tenant's furnishings, trade fixtures and equipment and the concession improvements; (b) removing physical barriers from the Concession Area; (c) providing auxiliary aids and services for use of the Concession Improvements and Tenant's furnishings, trade fixtures and equipment, where necessary or required; and (d) modifying its policies, practices and procedures to comply with the ADA. Tenant shall develop a work plan to correct or avoid any violations or non-compliance with the ADA, and to address the processing of disability complaints. Tenant shall deliver to the County, upon County's request, a copy of each report and work plan. County's approval of or acceptance of any aspect of Tenant's activities under this Lease shall not be deemed or construed in any way as a representation that such item, activity of practice complies with the ADA. Tenant agrees to indemnify, defend, and hold the County harmless from and against any and all costs incurred by County with respect to Tenant's failure to comply with the ADA.

Upon request by the County, Tenant is required to disseminate and provide training materials and other information related to ADA compliance to its staff as specified by the County.

In the event of breach of any of the above ADA requirements, the County shall have the right to terminate the Lease and to enter, re-enter, and repossess said lands and the facilities thereon, and hold the same as if said Agreement had never been made or issued.

ARTICLE XXII. FAA APPROVAL

This Lease may be subject to approval of the FAA. If the FAA disapproves this Lease, it will become null and void, and both Parties will bear their own expenses relative to this Lease, up to the date of disapproval.

ARTICLE XXIII. RIGHT OF FLIGHT

Tenant's right to use the Leased Premises for the purposes set forth in this Lease shall be secondary and subordinate to the operation of Airport. Tenant acknowledges that because of the location of the Leased Premises at Airport, noise, vibrations, fumes, debris, and other

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interference with the Permitted Use(s) will be caused by Airport operations. Tenant hereby waives all rights or remedies against County arising out of any noise, vibration, fumes, debris, and/or interference that is caused by the operation of Airport. County specifically reserves for itself and for the public a right of flight for the passage of aircraft in the airspace above the surface of Airport. Additionally, County reserves for itself the right to cause in said airspace such noise, vibration, fumes, debris, and other interference as may be inherent in the present and future operation of aircraft. Tenant expressly agrees for itself, its successors and assigns, to prevent any use of the Leased Premises which would interfere with or adversely affect the operation or maintenance of Airport, or otherwise constitute an Airport hazard.

ARTICLE XXIV. FEDERAL RIGHT TO RECLAIM

In the event a United States governmental agency demands and takes over the entire facilities of the Airport or the portion thereof wherein the Leased Premises are located, for public purposes, for a period more than ninety (90) consecutive days, then this Lease will terminate and County will be released and fully discharged from all liability hereunder. In the event of such termination, Tenant's obligation to pay rent will cease; however, nothing herein will be construed as relieving either Party from any of its liabilities relating to events or claims of any kind whatsoever prior to this termination.

This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of Airport or the exclusive or nonexclusive use of Airport by the United States during the time of war or national emergency.

ARTICLE XXV. PROPERTY RIGHTS RESERVED

This Lease is subject and subordinate to the terms, reservations, restrictions, and conditions of any existing or future agreements between County and the United States, when the execution of such agreements has been or may be required as a condition precedent to the transfer of federal rights or property to County for Airport purposes and the expenditure of federal funds for the extension, expansion, or development of the Airport. Tenant understands, accepts, and agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Lease as may be reasonably required to satisfy the FAA requirements.

ARTICLE XXVI. HEIGHT LIMITATIONS OF STRUCTURES

Tenant by accepting this Lease expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the Leased Premises hereunder (if any) which would penetrate the imaginary surfaces as defined in Part 77 of the FEDERAL AVIATION REGULATIONS (as same may be amended from time to time

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or as such regulation replacing Part 77 may be adopted by Federal authority) or such other lesser altitude as may be required by County. In the event the aforesaid covenants are breached, County reserves the right to enter upon the Leased Premises hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Tenant. Tenant shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

ARTICLE XXVII. ASSIGNMENT AND SUBCONTRACT

The provisions of this Section are subject to, and subordinate to the limitations of Article V of this Lease entitled, "PERMITTED USES."

SECTION 27.01 TRANSFERS

Tenant shall not transfer, assign, or hypothecate (hereinafter referred to as "Transfer") any interest of the Tenant in the Leased Premises without the prior approval of the County Board of Supervisors. Tenant shall give County one hundred fifty (150) days prior written notice of all proposed Transfers. Tenant shall not make any such Transfers for a period longer than the remaining term of the Agreement.

Tenant shall not grant any license or concession hereunder, or permit any other person or persons, company, or corporation to occupy the Leased Premises without first obtaining written consent of County in County's sole and absolute discretion.

If County approves such Transfers, such approval does not constitute a waiver of any of the terms of the Agreement. All Transfer documents shall be consistent with the terms, covenants, and conditions of the Agreement, and in the event of any inconsistency, the provisions of this Lease shall govern. Tenant must submit all required County forms with backup documentation. Tenant may incur a \$3,000.00 administrative charge, for County to process request.

If Tenant is a corporation, an unincorporated association, limited partnership, limited liability partnership, limited liability company, or a partnership, Transfers include the acquisition by any person other than Tenant of any stock or interest in said corporation, an unincorporated association, limited partnership, limited liability partnership, limited liability company, or a partnership in the aggregate amount of fifty-one percent (51%) or more.

The failure by Tenant to obtain the prior written approval by County of any Transfer of the Agreement or any interest in the Leased Premises shall constitute a material breach of this Lease and shall not confer any rights upon the transferee. Such failure shall be grounds for termination of this Lease for default per this section.

Subject to the terms and conditions set forth in this Section, and only after it has received County's written approval and consent, Tenant shall be permitted to Transfer with respect to all

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or any portions of the Leased Premises. County's consent to one Transfer shall not be deemed a consent to subsequent Transfers.

SECTION 27.02 CONDITIONS OF COUNTY APPROVAL

County agrees that it will not arbitrarily withhold consent to any Transfer, but County may withhold consent at its sole discretion if any of the following conditions exist:

- A. Tenant, its successors or assigns are in default of any term, covenant or condition of this Lease, whether notice of default has or has not been given by County.
- B. The prospective tenant, assignee or transferee has not agreed in writing to keep, perform and be bound by all the terms, covenants, and conditions of this Lease.
- C. The prospective tenant, assignee or transferee is not financially capable or not experienced in performing the obligations of this Lease, as determined by the Airport Director.
- D. The Tenant's or assignee's use is in conflict with the terms of this Lease.
- E. All the terms, covenants and conditions of Transfer, including the consideration therefore, of any and every kind, have not been revealed in writing to Airport Director.
- F. Any construction required of Tenant as a condition of this Lease has not been completed to the satisfaction of County.
- G. Tenant has not provided Airport Director with a copy of all documents relating to the Transfer, including, but not limited to, appraisals, notes, trust deeds, title reports, escrow instructions, etc.
- H. Tenant attempts to hypothecate the rights granted by this Lease for an amount greater than the cost of new improvements to be constructed on the Leased Premises. Hypothecation shall not be permitted for any reason other than to obtain Loan Proceeds necessary to construct new improvements on the Leased Premises.

SECTION 27.03 BANKRUPTCY TRANSACTION

If Tenant assumes this Lease and proposes to assign the same pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §§101, *et seq.*, then notice of such proposed assignment shall be given to County.

- A. The name and address of proposed assignee,
- B. All of the terms and conditions of such offer, and

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- C. Adequate assurance to County of the proposed assignee's future performance under the Agreement, including, without limitation, the assurance referred to in the United States Bankruptcy Code, 11 U.S.C. §365(b)(3).

Any person or entity to which this Lease is assigned pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §§101, *et seq.*, shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to County an instrument confirming such assumption.

SECTION 27.04 SUCCESSORS IN INTEREST

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all parties hereto, all of whom shall be jointly and severally liable hereunder.

ARTICLE XXVIII. CORPORATE TENANCY

If Tenant is a corporation, unincorporated association, partnership, limited partnership, limited liability partnership, or limited liability business entity, the undersigned officer of Tenant hereby warrants and certifies to County that Tenant is a business entity in good standing, is authorized to do business in the State of California, and the undersigned officer is authorized and empowered to bind the corporation to the terms of this Lease by his or her signature thereto.

No director, officer, or employee of County shall be held personally liable under this Lease.

ARTICLE XXIX. NON-EXCLUSIVE RIGHTS

This Lease will not be construed to grant or authorize the granting of an exclusive right within the meaning of 49 USC 40103(e) or 49 USC 47107(a), as may be amended from time to time, and related regulations.

ARTICLE XXX. RIGHT TO DEVELOP AIRPORT

Tenant recognizes that from time to time during the Term, it may be necessary for County to commence or complete extensive programs of construction, expansion, relocation, maintenance, and repair for the Airport and its facilities to be maintained, improved, completed, and operated in accordance with any present or future master layout plan. Further, Tenant acknowledges that such construction, expansion, relocation, maintenance, and repair may inconvenience Tenant in its operation at the Airport. Tenant agrees that no liability shall attach to County, its officers, agents, employees, Contractors, subcontractors, and representatives by way of such inconveniences. Tenant agrees to waive any right to claim damages or other consideration therefrom.

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It is covenanted and agreed that County reserves the right to further develop or improve the Airport and all landing areas and taxiways as it may see fit, regardless of the desires or views of Tenant or its subcontractors and without interference or hindrance.

Such right shall include the right of the County to terminate this Lease early if Tenant's possession of the Leased Premises conflicts with, limits or interferes with proposed County development, renewal, replacement, or expansion of County properties or operation of the Airport, subject to the notice requirements contained in Section 3.02.

Further, Tenant agrees that no liability shall attach to County, its officers, agents, and employees by reason of any efforts or action toward implementation of any present or future master layout plan for the Airport. Tenant agrees that no liability shall attach to County, its officers, agents, and employees by reason of any efforts or action toward implementation of any present or future concessions master plan for the Airport. Tenant waives any right to claim damages or other consideration arising therefrom.

ARTICLE XXXI. ATTORNEY'S FEES AND COSTS

In any action or proceeding to enforce or interpret any provision of this Lease, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.

ARTICLE XXXII. RIGHT TO AMEND

If the FAA or its successors requires amendments, modifications, revisions, supplements, or deletions in this Lease as a condition precedent to the granting of funds for the improvement of the Airport, Tenant agrees to consent to such amendments, modifications, revisions, supplements, or deletions to this Lease as may be required to obtain such funds.

ARTICLE XXXIII. BOND ORDINANCES

This Lease is in all respects subject and subordinate to any County bond ordinances, including bond indenture and bond resolution, applicable to the Airport, and to any other bond ordinances, which should amend, supplement, or replace such bond ordinances. The Parties to this Lease acknowledge and agree that all property subject to this Lease that was or may be financed by the net proceeds of tax-exempt bonds is and will be owned by County. Tenant agrees not to take any action that would impair or omit to take any action required to confirm the treatment of such property as owned by County for purposes of §142(b) of the Internal Revenue Code of 1986, as amended. Tenant agrees to make and hereby makes an irrevocable election (binding on itself and all successors in interest under this Lease) not to claim depreciation or an investment credit with respect to any property subject to this Lease that was or may be financed by the net

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proceeds of tax-exempt bonds. Tenant shall execute such forms and take such other action as County may request to implement such election.

At County's sole discretion, through its Airport Director, County may from time to time reestablish the schedule of rentals, fees, and charges provided for herein at intervals of not more than five (5) years and be subject to the requirements of any outstanding bond ordinance pertaining to Airport. County agrees that such reestablished schedule of rentals, fees, and charges shall be reasonable in relation to the cost of providing, operating, and maintaining property, services, and facilities of Airport. If County proposes any changes in the schedule of rentals, fees, and charges, County will give notice thereof to Tenant no less than ninety (90) days before the same is to become effective. Tenant may decline to pay Concession Space Rent at the new rate(s) if such proposed schedule of rentals, fees, and charges result in an increase of more than five percent (5%) in the dollar amount of Concession Space Rent paid by Tenant under Article IV of this Lease for the previous calendar year. In such a case, Tenant shall promptly advise County of its intention to cancel and terminate this Lease at least sixty (60) days prior to the proposed effective date of such schedule of rentals, fees, and charges. Upon such notice of intent to cancel and terminate, Tenant shall surrender the Leased Premises upon a date specified by County within at least one hundred fifty (150) days after Tenant advised County. Should Tenant fail to give such notice of cancellation and termination, then Tenant shall be deemed to have accepted the new schedule of rentals, fees, and charges as promulgated by County. Failure by County to reestablish the rentals, fees, and charges at a five (5) year interval date shall not waive County's right to reestablish the schedule of rentals, fees, and charges at any time thereafter.

ARTICLE XXXIV. FORCE MAJEURE

If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, restrictive governmental laws or regulations or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. However, nothing in this Section shall excuse Tenant from the prompt payment of any rents or other charge required of Tenant except as may be expressly provided elsewhere in this Lease.

ARTICLE XXXV. RELATIONSHIP OF THE PARTIES

The relationship of the Parties hereto is that of landlord and Tenant, and it is expressly understood and agreed that County does not in any way or for any purpose become a partner of Tenant in the conduct of Tenant's business or otherwise, or a joint venture with Tenant; and the provisions of this Lease and the agreements relating to rents payable hereunder are included solely for the purpose of providing a method by which fee payments are to be measured and ascertained. This Lease is intended for the sole benefit of the Parties hereto and their successors,

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and, unless otherwise provided herein, or by law, no rights are created, or are intended to be created, for the benefit of, or enforceable by, any third parties.

ARTICLE XXXVI. COUNTY APPROVALS

Except as otherwise indicated elsewhere in this Lease, wherever in this Lease approvals are required to be given or received by County, it is understood that the Airport Director, or a designee, is hereby empowered to act on behalf of County. Further, except as otherwise indicated elsewhere in this Lease, wherever in this Lease approvals are required to be given by the Airport Director, it is understood that the Airport Director may further delegate such authority, as appropriate.

ARTICLE XXXVII. RESERVATIONS TO COUNTY

The Leased Premises are accepted in their “as-is” and “where-is” conditions by Tenant subject to any and all existing easements and encumbrances. County reserves the right to install, lay, construct, maintain, repair and operate sanitary sewers, drains, storm water sewers, pipelines, manholes and connections; water, oil and gas pipelines; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, under and along the Leased Premises or any part thereof; and to enter the Leased Premises for any and all such purposes. County also reserves the right to grant franchises, easements, rights of way and permits in, over, upon, through, across, under and along any and all portions of the Leased Premises. No right reserved by County in this Section shall be so exercised as to interfere unreasonably with Tenant's operations hereunder or to impair the security of any secured creditor of Tenant.

County agrees that rights granted to third parties by reason of this Section shall contain provisions that the surface of the land shall be restored as nearly as practicable to its original condition upon the completion of any construction. County further agrees that should the exercise of these rights temporarily interfere with the use of any or all of the Leased Premises by Tenant, Tenant shall only be entitled to a reduction in the rents payable to County during the period of interference, which shall be reduced in proportion to the interference with Tenant's use of the Leased Premises. Tenant shall not be entitled to any other form of compensation.

ARTICLE XXXVIII. INVALIDITY OF CLAUSES

The invalidity of any part, portion, article, paragraph, provision, or clause of this Lease will not have the effect of invalidating any other part, portion, article, paragraph, provision, or clause thereof, and the remainder of this Lease will be valid and enforced to the fullest extent permitted by law, provided that such invalidity does not materially prejudice either Tenant or the County in their respective rights and obligations contained in the valid terms, covenants, or conditions hereof.

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ARTICLE XXXIX. TIME IS OF THE ESSENCE

Time is of the essence of this Lease.

ARTICLE XL. TAXES

Tenant will bear, at its own expense, all costs of operating its business including all applicable sales, use, intangible and possessory interest taxes of any kind, against Tenant's Leased Premises, the real property and any improvements thereto, Trade Fixtures and other personal property used in the performance of the Concessions or estate which are created herein, or which result from Tenant's occupancy or use of the Leased Premises or assessed on any payments made by Tenant hereunder, whether levied against Tenant or County. Tenant will also pay any other taxes, fees, or assessments against the Leased Premises or estate created herein. Tenant will pay the taxes, fees, or assessments reflected in a notice Tenant receives from County within thirty (30) days after Tenant's receipt of that notice or within the time period prescribed in the tax bill. County will attempt to cause the taxing authority to send the applicable tax bills directly to Tenant and Tenant will remit payment directly to the taxing authority, in such instance. Tenant may reserve the right to contest such taxes, fees, or assessments and withhold payment upon written notice to County of its intent to do so, so long as the nonpayment does not result in a lien against the real property or any improvements thereon or a direct liability on the part of County. Tenant shall pay to County, with each payment of Concession Space Rent, Support Space Rent, and other fees to County, all sales or other taxes which may be due with respect to such payments, and upon receipt, County shall remit such taxes to the applicable taxing authorities.

ARTICLE XLI. PATENTS AND TRADEMARKS

Tenant covenants, warrants, and represents that it is the owner of or fully authorized to use any services, processes, machines, articles, marks, names, or slogans used by it in its operations under this Lease. Tenant will not utilize any protected patent, trademark, or copyright, including any patents, trademarks, or copyrights owned by County, in its operations under this Lease, unless it has obtained prior proper permission, all releases, and other necessary documents. Tenant agrees to indemnify, defend, and hold harmless County, its officers, employees, agents, and representatives from any loss, liability, expense, suit, or claim for damages in connection with any actual or alleged infringement of any patent, trademark, or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Tenant under this Lease.

ARTICLE XLII. AGENT FOR SERVICE OF PROCESS

It is expressly agreed and understood that if Tenant is not a resident of the State of California, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation, then in any such event Tenant does designate the Secretary of State, State of

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California, as its agent for the purpose of service of process in any court action between it and County arising out of or based upon this Lease, and the service will be made as provided by the laws of the State of California for service upon a non-resident. It is further expressly agreed, covenanted, and stipulated that if for any reason service of such process is not possible, and Tenant does not have a duly noted resident agent for service of process, as an alternative method of service of process, Tenant may be personally served with such process out of this State, by the registered mailing of such complaint and process to Tenant at the address set out in this Lease. Such service will constitute valid service upon Tenant as of the date of mailing. Tenant will have thirty (30) days from date of mailing to respond thereto. It is further expressly understood that Tenant hereby agrees to the process so served, submits to the jurisdiction of the court, and waives all obligation and protest thereto, any laws to the contrary notwithstanding.

ARTICLE XLIII. COMPLIANCE WITH PUBLIC RECORDS LAW

SECTION 43.01 AGREEMENT SUBJECT TO CALIFORNIA RECORDS ACT

Tenant understands that written information submitted to and/or obtained by County from Tenant related to this Lease and/or the Leased Premises, either pursuant to this Lease or otherwise, may be open to inspection by the public pursuant to the California Records Act (GOVERNMENT CODE §§6250, *et seq.*) as now in force or hereafter amended, or any Act in substitution thereof, or otherwise made available to the public.

SECTION 43.02 INDEMNIFICATION IN EVENT OF INTERVENTION

In the event of a request to County for disclosure of such information, time, and circumstances permitting, County will make a good faith effort to advise Tenant of such request to give Tenant the opportunity to object to the disclosure of any material Tenant **has conspicuously marked** confidential, proprietary, or otherwise exempt from disclosure. In the event of the filing of a lawsuit to compel disclosure, County will tender all such material to the court for judicial determination of the issue of disclosure. Tenant agrees it will either waive any claim of privilege or confidentiality or intervene in such lawsuit to protect materials Tenant does not wish disclosed. If Tenant chooses to intervene in such a lawsuit and oppose disclosure of any materials, Tenant agrees to defend, indemnify, and hold harmless County, its officers, agents, and employees from any claim, damages, expense, loss, or costs arising out of Tenant's intervention including prompt reimbursement to County of all reasonable attorney fees, costs, and damages that County may incur directly or may be ordered to pay by such court.

ARTICLE XLIV. GOVERNING LAW AND VENUE

This Lease has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Lease, the sole and exclusive venue shall be a court of competent jurisdiction

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located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

ARTICLE XLV. DATA SECURITY

Tenant will establish and maintain safeguards against the destruction, loss, or alteration of County data or third-party data that Tenant may gain access to or be in possession of in the performance of this Lease. Tenant will not attempt to access, and will not allow its personnel access to, County data or third-party data that is not require for the performance of the services of this Lease by such personnel.

Tenant will adhere to and abide by the security measures and procedures established by County. In the event Tenant or Tenant's subcontractor (if any) discovers or is notified of a breach or potential breach of security relating to County data or third party data, Tenant will promptly: (i) notify County of such breach or potential breach; and ii) if the applicable County data or third party data was in the possession of Tenant at the time of such breach or potential breach, Tenant will investigate and cure the breach or potential breach.

ARTICLE XLVI. USE, POSSESSION, OR SALE OF ALCOHOL OR DRUGS

Tenant, its officers, agents, and employees shall cooperate and comply with the provisions of the Federal Drug-Free Workplace Act of 1988 and California Drug-Free Workplace Act of 1990, or any successor thereto, concerning the use, possession, or sale of alcohol or drugs. Except as may be otherwise authorized by this Lease, Tenant shall also prohibit consumption of alcohol within the Leased Premises. Violation of these provisions or refusal to cooperate with implementing this alcohol and drug policy can result in County barring Tenant from County facilities or participating in County operations.

ARTICLE XLVII. HAZARDOUS SUBSTANCES AND OSHA COMPLIANCE

No goods, merchandise or material will be kept or stored by Tenant at Airport which are explosive or hazardous; and no offensive or dangerous trade, business or occupation will be carried on therein or thereon. Nothing will be done in the performance of this Lease which will increase the rate of or suspend any insurance policy or coverage of County.

Tenant covenants that all materials, equipment, and all other items used in the performance of this Lease are in compliance with Occupational Safety and Health Administration (OSHA).

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ARTICLE XLVIII. COUNTY'S SMOKING POLICY

Tenant agrees that it will prohibit smoking by its employees and the public in the Leased Premises. Tenant further agrees to not sell or advertise tobacco products. Tenant shall not do anything contrary to County's ordinance on prohibiting smoking. Said ordinance prohibits smoking in the terminal building, including all food and beverage areas.

ARTICLE XLIX. WAIVERS

No waiver by County at any time of any of the terms, conditions, covenants, or agreements of this Lease, or noncompliance therewith, will be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant, or agreement herein contained, nor of the strict and prompt performance thereof by Tenant. No delay, failure, or omission of County to exercise any right, power, privilege or option arising from any default nor subsequent payment of charges then or thereafter accrued, will impair any such right, power, privilege, or option, or be construed to be a waiver of any such default or relinquishment thereof or acquiescence therein. No notice by County will be required to restore or revive time as being of the essence hereof after waiver by County or default in one or more instances. No option, right, power, remedy, or privilege of County will be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all the rights, powers, options, or remedies given to County by this Lease are cumulative and no one of them will be exclusive of the other or exclusive of any remedies provided by law, and that the exercise of one right, power, option, or remedy by County will not impair its rights to any other right, power, option or remedy.

ARTICLE L. COMPLETE AGREEMENT

This Lease represents the complete understanding between the Parties, and any prior agreements or representations, whether written or verbal, are hereby superseded. This Lease may subsequently be amended only by written instrument signed by the Parties hereto, unless provided otherwise within the terms and conditions of this Lease.

ARTICLE LI. ORDER PRECEDENCE

The documents listed below are a part of this Lease and are hereby incorporated by reference. In the event of inconsistency between the documents, unless otherwise provided herein, the terms of the following documents will govern in the following order of precedence:

- Terms and Conditions as contained in this Lease.
- RFP No. PM 1121-0345-0034
- Tenant's Response to RFP No. PM 1121-0345-0034, and any subsequent information submitted by Tenant during the evaluation process, as modified and accepted by County.

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ARTICLE LII. BROKER'S COMMISSION

Tenant represents and warrants that it has not caused nor incurred any claims for brokerage commissions or finder's fees in connection with the execution of this Lease. Tenant shall defend, indemnify, and hold County harmless against all liabilities arising from any such claims caused or incurred by it (including the cost of attorney fees in connection therewith).

This Lease does not, and shall not be deemed or construed to, confer upon or grant to any third party or parties (except parties to whom the Tenant may assign this Lease in accordance with the terms hereof, and except any successor to County) any right to claim damages or to bring any suit, action or other proceeding against either County or the Tenant because of any breach hereof or because of any of the terms, covenants, agreements and conditions herein.

ARTICLE LIII. NO LIMIT ON COUNTY'S POWERS

Nothing in this Lease shall limit in any way the power and right of County to exercise its governmental rights and powers, including its powers of eminent domain.

ARTICLE LIV. NOTICES AND COMMUNICATIONS

All notices pursuant to this Lease shall be addressed to either party as set forth below and shall be sent through the United States Mail, in the State of California, duly registered or certified, return receipt requested with postage prepaid or by an overnight carrier service. If any notice is sent by an overnight carrier service, as aforesaid, the same shall be deemed to have been served or delivered twenty-four (24) hours after mailing thereof as above provided. Notwithstanding the above County may also provide notices to Tenant by personal delivery or by regular mail postage prepaid and any such notice so given shall be deemed to have been given upon the date of personal delivery or three (3) days after the date of deposit in the United States Mail, respectively.

TO: County
John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA 92626

TO: Tenant

Either party hereto may from time to time, by written notice to the other in the method described above, designate a different address which shall be substituted for the one above specified.

IN WITNESS WHEREOF, the Parties have executed this Lease the day and year first above written.

Tenant:

By: _____

By: _____

APPROVED AS TO FORM:

County Counsel

By: _____

APPROVED AS TO AUDIT AND ACCOUNTING:

Auditor-Controller

By: _____

RECOMMENDED FOR APPROVAL:

John Wayne Airport

By: _____

Charlene V. Reynolds
Airport Director

Signed and certified that a copy of this document has been delivered to the Chair Of the Board per G.C. Sec. 25103, Reso 79-1535

Attest:

County

COUNTY OF ORANGE

By: _____

Chairwoman, Board of Supervisors

Clerk of the Board of Supervisors
Orange County, California

EXHIBIT I**Worker Retention Policy**

- A. Tenant shall fill its non-managerial Concessions positions at JWA by first hiring from the workforce which has been or is being displaced by the departure or reduction in force of a Predecessor Tenant or its subtenants. For an initial 90-day period, Tenant shall retain, and shall not discharge without just cause, employees for whom it has received information demonstrating that they were employed by a Predecessor Tenant or its subtenants in their Concessions operations at JWA for the preceding two months or longer.
- B. Within ten days of receiving the contact information for the employees of the Predecessor Tenant or its subtenants, Tenant shall make written offers of employment for the 90-day period referred to above to eligible workers by the following means: (a) letters sent by certified mail; and either (b) e-mail or (c) text message sent to a worker's cellular phone. If Tenant is not able to make an employment offer by e-mail or text message, Tenant must call the worker to provide information regarding such offer.
- C. Tenant shall offer employment to any workers eligible for retention to whom it has not yet offered employment by seniority within each employment classification by the same means described above during the first year as Successor Tenant.
- D. Tenant may offer continued employment in its JWA Concessions operations to each retained worker who receives a satisfactory performance evaluation at the end of the initial ninety (90) day period of employment under the terms and conditions established by Tenant for comparable employees.
- E. Tenant shall provide to any Successor Tenant a list that includes the name, address, telephone number, cellular phone number if known, personal e-mail address if known, date of hire, and employment occupation classification of each current worker in the Tenant's JWA Concessions operations, including the employees of the Tenant's subtenants.
- F. Tenant shall cause the worker retention requirements under this Article to be posted at its place of business at JWA, to be conspicuous to the workers employed at such facilities. Additionally, Tenant is required to post in a public view during construction period.
- G. Tenant shall maintain records for two (2) years showing (a) the reasons for not hiring or for discharging eligible or retained workers during the initial ninety (90) day period and (b) documentation of the employment offers described above. Each eligible or retained worker and their designees, with signed affidavit, are authorized to review relevant records upon reasonable request to ascertain compliance with this Article, and Tenant shall provide such information within fourteen (14) days of a written request for such information.