



COUNTY OF SAN MATEO

44

Inter-Departmental Correspondence

Date: March 7, 2001

Board Meeting Date: March 27, 2001

TO: Honorable Board of Supervisors
FROM: Neil R. Cullen, Director of Public Works
SUBJECT: San Carlos Airport Concession Agreement – Bel-Air International

RECOMMENDATION

Adopt a Resolution authorizing the execution of a Concession Agreement with ATP Pacific dba Bel-Air International (Bel-Air) to provide flight training, aircraft sales and aircraft rentals at San Carlos Airport (4/5ths vote required).

Previous Board Actions

1. Adopted Concession Agreement and Airport Business Operating Standards for San Mateo County Airports.
2. Adopted a resolution authorizing a previous four-year Concession Agreement for Bel-Air to operate at San Carlos Airport.
3. Adopted a resolution on March 6, 2001, adjusting the minimum fee paid by Concessionaires at San Carlos and Half Moon Bay Airports each year based on the change in the Consumer Price Index beginning in January 1, 2002.

Key Facts

1. The current Concession Agreement with Bel-Air ends in August of 2001. Bel-Air has requested that their Concession Agreement be extended to May 31, 2004, to coincide with the expiration of a land lease that Fairmont Industries has with the County for the facility occupied by Bel-Air.
2. Operators of airport businesses are required to enter into concession agreements with the County.
3. We believe that it is appropriate to have both the Concession Agreement and land lease agreement expire on the same date.
4. Bel-Air will be notified, along with all other concessionaires, that their minimum fee will be adjusting annually based on the change in the Consumer Price Index beginning in January 1, 2002.

Discussion

Bel-Air began business in 1997 after entering into a four-year Concession Agreement with the County and into a lease agreement with Fairmont Industries for the use of a flight school facility built on airport property by Fairmont Industries

Honorable Board of Supervisors

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The owner of Bel-Air has requested that his Concession Agreement be extended to coincide with the expiration of the property lease with the County that is held by Fairmont Industries, as the building will revert to the County in 2004 and the term of a new Concession Agreement will have to be negotiated at that time.

Since 1997, Bel-Air has developed a successful flight school operation and has complied with airport business practices. Bel-Air has been a willing and active participant in the San Carlos Airport Noise Abatement Program and has contributed resources to numerous airport community relation efforts. Language in the Concession Agreement with Bel-Air requires that they follow Noise Abatement Procedures.

Fiscal Impact

Under the terms of the agreement, Bel-Air will make payments in accordance with the attached fee schedule, with minimum fees being paid each month for business activities.

Since 1997, Bel-Air has paid the Airport Enterprise Fund approximately \$90,000. Staff estimates that the next twelve months Bel-Air will pay to the County approximately \$9,000 in concession fees, \$19,000 in tiedown fees and \$5,000 in fuel flowage fees. Fees are projected to increase two percent (2%) annually over the five-year term of the agreement.

There is no impact to the General Fund.

A form of resolution and agreement has been approved by County Counsel and Bel-Air has executed the agreement.



Neil R. Cullen
Director of Public Works

NRC:MCL:

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Enclosure: Fee Schedule

cc: Milt Mares, County Counsel
Bel-Air International
Brian C. Lee, P.E., Division Manager, Programs and Engineering Services
Mark Larson, Acting Airport Manager

Attachment "A"

"SAN CARLOS AIRPORT CONCESSION FEES"
TO AIRPORT CONCESSION AGREEMENT
WITH ATP-PACIFIC INC. dba ATP PACIFIC dba BEL-AIR INTERNATIONAL

<u>CONCESSION ACTIVITY</u>	<u>MINIMUM MONTHLY FEE</u>
Aircraft Flight Training School and Aircraft Rental	\$500 per month

Total combined minimum monthly fee shall not exceed \$500 unless 1% of the monthly gross receipts from specified concession activities exceed the minimum monthly fee. If *1% of monthly gross receipts exceeds minimum monthly fees, *1% of the gross receipts will be the concession fees owed for that month.

*including flight instruction revenues generated by all flight instruction activities conducted at San Carlos Airport in association with ATP-Pacific, Inc. dba Bel-Air International.

At no time will the total monthly minimum fee be less than \$500.

Additionally, ATP-Pacific, Inc. dba Bel-Air International agrees to assume the responsibility for the monthly payment of Aircraft Tiedown spaces located in the adjacent Aircraft Parking Area. Current Tiedown rates are \$107 per month for each tiedown. All airport storage areas (hangars and tiedowns) are subject to periodic rate increases.

All business enterprises conducted at County Airports are subject to concession fees. Those activities not previously specified in this agreement will be negotiated individually with operators and specified in Appendix "A" Operational activities. Fees negotiated will be specified in Appendix B. (this section).

Beginning in January 1, 2002, the minimum monthly fee will be adjusting annually based on the change in the Consumer Price Index.

Resolution No. _____

Board of Supervisors, County of San Mateo, State of California

* * * * *

**Resolution Authorizing the Execution of an Agreement for
Concession with ATP Pacific dba Bel-Air International**

RESOLVED by the Board of Supervisors of the County of San Mateo, State of California, that
WHEREAS, there has been presented to this Board of Supervisors for its consideration and
acceptance a request to authorize a Concession Agreement with ATP Pacific dba Bel-Air International at
San Carlos Airport whereby the COUNTY OF SAN MATEO agrees to permit ATP Pacific dba Bel-Air
International as Operator, the right to engage in certain aviation activities at the San Carlos Airport,
which activities will require the use by the Operator of said Airport's runway, taxiway, fueling facilities
and other public facilities, services and conveniences at said Airport; and

WHEREAS, California Government Code Section 25536 allows a County, by a four-fifths
(4/5ths) vote of its Board of Supervisors, to enter into such agreements to permit such activities on land
held by counties for airport purposes; and

WHEREAS, this Board of Supervisors has been presented with a form of such an agreement and
said Board has examined and approved same as to both form and content and desires to enter into same:

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Board of Supervisors be, and is hereby, authorized and directed to execute said Concession Agreement for and on behalf of the County of San Mateo, and the signature of the Clerk of this Board shall attest thereto.

AIRPORT

CONCESSION AGREEMENT

COUNTY OF SAN MATEO SAN CARLOS AIRPORT

AND

ATP-PACIFIC INC. DBA BEL-AIR INTERNATIONAL

THIS AGREEMENT, made and entered into this _____ day of _____
_____, 2001, by and between the COUNTY OF SAN MATEO, a political
subdivision of the State of California, hereinafter called "County", and ATP-PACIFIC
INC. DBA BEL-AIR INTERNATIONAL, hereinafter called "Operator",

W I T N E S S E T H:

WHEREAS, County is owner of the airport in the County of San Mateo known
as the San Carlos Airport, hereinafter called "Airport", a general purpose airport owned
and maintained by County for the use and benefit of the public and for servicing the
needs of aviation; and

WHEREAS, County is willing to permit operators located on the Airport to
engage in aviation activities which will use the runway, taxiways, fueling facilities,
public facilities and other services and conveniences on the Airport; and

WHEREAS, Operator desires to engage in aviation activities and use facilities on
the Airport; and

WHEREAS, Government Code Section 25536 allows a county to enter in a

concession agreement for such services by a four-fifths (4/5) vote of its Board of Supervisors

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO as follows

1 TERM. The County of San Mateo grants to ATP-Pacific Inc. dba Bel-Air International, for a term of Three (3) years commencing June 1, 2001 and ending May 31, 2004, permission to use portions of the San Carlos Airport of the County of San Mateo under the terms and conditions hereinafter set forth including Appendices "A" through "D" attached hereto.

2 CONCESSION

a The concession shall be limited to those operational activities shown on Appendix "A" "Operational Activities"

b. Operator shall not make any changes in its operation, or engage in any aeronautical or non-aeronautical activity, without County's prior written permission. Should the changes contemplated or consummated require additional payment to County, Operator shall make such payment in accordance with established fees set forth herein or subsequently determined by County and make payment monthly in accordance with the terms of this Agreement.

c. All concessions are granted on a non-exclusive basis.

3. USE OF AIRPORT FACILITIES. County shall allow Operator full use of all facilities on the Airport which are normally open to and usable by the public, subject to Airport rules and regulations. The right to use Airport facilities shall be non-exclusive and shall allow Operator to use the runway, taxiways, loading and transient aprons, fueling facilities, and any other facilities as required, if they are normally furnished to the public and if County receives payment for all services in accordance with fees charged users of these

services and facilities

4. PAYMENTS.

- a. Operator shall pay to County for the rights and privileges received from this concession agreement the fees set forth in Appendix B , Concession Fees .
- b. Operator shall also pay County for tiedowns at standard rates charged by County for similar tiedowns, for any County office or storage space used, for automobile parking space, and for any and all other facilities or privileges used for which County makes a charge at standard rates
- c. Monthly payments shall be due and payable by the tenth day of each month and shall consist of minimum concession payments and tiedown fees for the following month
- d. Operator shall, by the tenth day of each month, furnish to County (1) a written report of its concession activities during the previous preceding month on a form provided by County or approved by the Airport Manager, (2) payment of those fees that exceed minimum monthly concession fees set forth in Appendix ' B , Concession Fees . (3) a Monthly Report of Aircraft on a form provided by County, reporting each aircraft based on the Airport and owned, operated or under auspices of Operator, including leaseback aircraft.
- e. Operator agrees to make all monthly payments described under Special Payment Provisions Section 6. of this agreement
- f. Operator acknowledges that the late payment of fees or any other charges required hereunder will cause County to incur costs not contemplated by this agreement, the exact amount of which will be impossible to ascertain. Such costs include, but are not limited to, administrative processing of delinquent notices, additional accounting, etc Therefore, if any

payment specified in this agreement is not received by County or postmarked when due, a late charge of 1.5 percent per month or fraction thereof shall be added to the payment. Operator and County agree that such late charge represents a fair and reasonable estimate of the costs that County would incur by reason of Operator's late payment. Acceptance of the late charge (and/or any portion of the overdue rental, fees or other charges) by County shall in no event constitute a waiver of Operator's default with respect to such overdue payment, nor prevent County from exercising any of the other rights and remedies granted by this Agreement.

g. The minimum payments, percent of gross receipts, and any and all other fees specified in this Agreement, including the late charge, may be revised by increase or decrease at any time throughout the term of the Agreement by the County Board of Supervisors by resolution applicable to all like concession agreements at County Airports. Any changes shall become effective after reasonable advance notice. County shall give Operators reasonable notice of its intent to make changes in the fee structure and shall inform them as to the time the matter will be considered by the Board of Supervisors. Operator may terminate this Agreement in accordance with Section 23 below if the Board of Supervisors raises fees to a level unacceptable to Operator. Under these conditions, Operator shall be liable only for the fees due up to date of termination.

5. GROSS RECEIPTS.

a. Gross receipts shall be defined to mean those receipts charges, sales, rentals, fees and commissions made or earned as described under Appendix B of this agreement

b. The following are excluded from computation of gross receipts:

(1) Gratuities paid to service personnel in the form of tips.

(2) Sales taxes, income taxes of all kinds and excise taxes applicable thereto, required to be collected by Operator, its assignees, sub-lessees, licensees or permittees,

in connection with the rendition or supplying of services or the sales of goods, wares or merchandise

(3) Refunds of flight club dues or refunds for other goods or services

(4) Receipts from wholesale sales of parts and accessories wherein the resale permit number issued by the Board of Equalization of the State of California, is necessarily used for such sale. Records for out of state wholesale and resale parts and accessory sales are exempt and must be supported by accurate and detailed documentation records and/or receipts.

(5) Any and all commissions paid for financing or discounts to be paid by Tenant to secure financing for any of the business conducted or sales of any kind or nature by Tenant.

(6) Proceeds from the sale of capital equipment.

(7) Late charges and finance fees

6. ACCOUNTS AND RECORDS. Operator shall maintain locally a system of accounts and records satisfactory to County covering the transactions and operations under this Agreement which shall be preserved during the life of this Agreement and for twelve

(12) months thereafter. County shall have the right to inspect the books and records of Tenant from which the statement of gross receipts is prepared at any reasonable time upon request.

Expenses of such audit shall be borne by County unless such examination shall disclose an additional amount owing to the Airport of greater than One Thousand and No/100 Dollars (\$1,000 00) for any one year, in which event all costs of audit shall be paid by Tenant.

The County shall have the right to accept and apply on account any amount tendered by Tenant, as in full of all or any portion of additional rental without prejudicing County's right to recover the full correct amount after reduction by the amount so accepted and applied on

account. Tenant hereby waives the right to insist upon any condition of any such tender that it be accepted in full, if at all.

If County's audit or examination shall reveal that Tenant has not paid the proper amount of additional fees, any increase of additional fees resulting from such audit shall be paid by Tenant within fifteen (15) days after Tenant has received a copy of such audit or examination.

If Tenant fails to prepare and deliver within the time specified any reports, statements or payments required by this paragraph, County may elect to treat Tenant's said failure as a substantial breach of this agreement entitling County to terminate this agreement, but only after County has given Tenant ten (10) days written notice to submit said statement or payment. If Tenant fails to prepare and deliver said statement or payment after receiving said ten (10) day notice, County may also elect to make an audit of all books and records of Tenant including Tenant's bank accounts which in any way pertain to or show gross receipts as herein defined and to prepare the statement or statements which Tenant has failed to prepare and deliver. Such audit shall be made and such statement and statements shall be prepared by an auditor selected by County. The statement or statements so prepared shall be conclusive on Tenant and Tenant shall pay all expenses of such audit provided. However, if Tenant's failure to deliver any such statement is due to the partial or total destruction of Tenant's books or records of account by fire or other cause beyond its control, Tenant shall have a reasonable time after such destruction to assemble the information necessary to prepare such statement and deliver the same to County. County may, at all reasonable times, verify reports of compensation due it under this Agreement and inspect or audit Operator's accounts and records

7. LICENSES, FEES, TAXES. Operator shall be liable for any and all licenses, excise fees, and occupation and possessory interest taxes covering the business or businesses conducted

on Operator s premises and all taxes on Operator s property. County shall not be responsible for any payment of licenses, fees, or taxes of any kind that might arise from the operation of Operator s business or businesses.

8. INSURANCE.

a Operator shall maintain insurance coverage satisfactory to County as listed on Appendix C Insurance Requirements and shall furnish County evidence of such insurance coverage before operating or permitting an aircraft to operate from the Airport This requirement can be met through separate or combined policies, provided each policy is in the minimum amount indicated on Appendix C Insurance Requirements .

b. Each policy shall name County as an ' additional insured and shall provide for written notice by the insurer to County and to the insured thirty days prior to any cancellation. Where the owners of leaseback aircraft provide insurance, the policy must also be endorsed to include Operator as an additional insured.

9 RIGHT OF INSPECTION To the extent necessary to protect its rights and interests, County may inspect all premises and operations of the Operator to determine if Operator is performing in accordance with the terms of this Agreement.

10. WAIVERS. No waiver by County of any of the terms, conditions, or covenants of this Agreement shall be deemed or taken as a waiver at any time thereafter, nor of any other terms, conditions, or covenants, nor of the strict and prompt performance thereof of Operator. Any waiver by County must be in writing

11. INDEMNITY. Operator shall indemnify, defend, and hold harmless the County, its officers, agents, employees, and servants, from any and all claims, suits or actions of every name, kind and description brought for or on account of injuries to or death of any person, including

Operator, or damage to property of any kind whatsoever and to whomsoever belonging (including any such claims, suits, or actions arising out of the concurrent active or passive negligence of County, its officers, agents, employees, and servants) which in any way arise from or are caused

by:

- a. Operator's performance of any work under this Agreement.
- b. Use or occupation of the Airport by Operator under the provisions of this Agreement.

- c. Acts, omissions, or negligence, whether active or passive, of Operator, its agents, officers, employees or permittees.

- d. Failure of Operator to observe or abide by any of the terms and conditions of this Agreement or any applicable Federal, State or Municipal law, rule or regulation.

This section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Operator to indemnify and hold harmless as set forth herein shall include the duty to defend as set forth in California Civil Code Section 2778.

12. COMPLIANCE WITH LAWS AND REGULATIONS. Operator shall comply with:

- a. All applicable Federal, State, County and city laws, rules, regulations, certifications and licenses before supplying services to the public.

- b. Standard provisions for all lease, use, and other agreements and permits promulgated by the Federal Aviation Administration, as set forth in Appendix D Standard Provisions for all lease, use, and other agreements and permits to this Agreement and as these provisions may be amended from time to time.

- c. Standards for Fixed Base Operators adopted from time to time by the Board of

Supervisors affecting all operators on County Airports holding like concessions. The standards currently in effect are, dated May 7, 1994. Operator recognizes that it has full responsibility for meeting these Standards.

d. County of San Mateo Airport Regulations adopted from time to time by the Board of Supervisors. The regulations currently in effect are set forth in Section 2660 et seq. of the County Ordinance Code.

Operator shall notify all users of its facilities and pilots of aircraft as to all applicable rules and regulations and require users and pilots to comply with them.

13. NON-ABROGATION OF UNITED STATES GOVERNMENT RIGHTS. The provisions of this Agreement in no way abrogate any rights vested in the United States of America relative to the Airport as such rights exist between the United States of America and the County of San Mateo.

14. AGREEMENT BINDING ON SUCCESSORS The terms and conditions of this Agreement shall apply to and bind the heirs, successors, executors, administrators, and assignees of all the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder; provided, however, that Operator may not assign this Agreement without County's prior written consent

15. HOLDING OVER. The holding over after the expiration of the term of this Agreement with County's consent shall be construed to be a tenancy from month to month, with fees prorated accordingly, on the terms and conditions herein specified so far as applicable. This tenancy shall continue until terminated by County.

16. MOTOR VEHICLES. Vehicles owned or operated by Operator or customers or employees of Operator shall be parked within areas specifically designated for vehicle parking by

County County Airport Manager may from time to time grant permission to Operator to park in areas outside this area but permission shall be revocable at will without reason and no rights shall accrue to Operator on account of such revocation.

17. OPERATION OF RADIO EQUIPMENT. Operator shall not operate any radio equipment transmitting electronic signals on the Airport which might interfere with operations of the Airport Control Tower, UNICOM, County radios or other electronic transmissions essential to the operation of the airports.

18. CLOSING OF AIRPORT FOR MAINTENANCE AND CONSTRUCTION. County may from time to time be required to close the runway and taxiways for purposes of necessary maintenance, repair, or new construction. County shall conduct these operations at a time and in a manner consistent with cost considerations so as to minimize the impact on Operator s activities and shall furnish Operator advance notice of any such work.

19. NOTICE OF CORPORATE OFFICIALS. Operator, if incorporated, shall furnish County at the beginning of the terms of this Agreement the names and positions of the officers and directors of the corporation. It shall promptly advise County in writing of any changes which occur in its officers or Board. Operator shall furnish County a copy of any annual report made by the corporation.

20. TERMINATION BY COUNTY. Upon the expiration of the term of this Agreement, or upon sooner termination, Operator shall immediately stop operations under this Agreement. County may also terminate this Agreement in its entirety immediately upon the happening of any of the following events:

- a. Making by Operator of any general assignment for the benefit of creditors.
- b. Occurrence of any act by Operator which might deprive Operator permanently

of the ability to perform its obligations under this Agreement.

c Abandonment and discontinuance by Operator of activities at the Airport.

d Failure of Operator to pay fees and/or rentals within thirty (30) days of due date.

e. Assignment, subleasing or other transfer of Operator s rights under this Agreement, or any part thereof, or entering into other agreements or arrangements contrary to the terms of this Agreement, without County s prior written approval.

f. Failure of Operator to cure breach or default of a covenant or condition hereunder within thirty (30) days after written notice of breach or default has been given by County.

g. Failure of Operator to make payments described in Section 6. Special payment provisions within thirty (30) days of due date.

In the event of any such termination of this Agreement, the County shall take whatever action deemed necessary for the protection and enforcement of County s rights.

21. TERMINATION BY OPERATOR.

a. Operator may terminate this Agreement upon thirty (30) days written notice if the Board of Supervisors by resolution applicable to all like concession agreements at County Airports raises fees to a level unacceptable to Operator Under these conditions, Operator shall be liable only for the fees due up to the date of termination.

b Operator may cancel this Agreement upon assumption by the United States or the State of California or any authorized agent of the operation, control, or use of the Airport or its facilities or any substantial part in a manner substantially restricting Operator s activities.

22 SPECIAL REQUIREMENTS/CONDITIONS

a Acceptance by County of any statement made or information furnished by Operator with respect to fees or operations shall not preclude County from thereafter questioning its accuracy or completeness. If any statement is found to be inaccurate or incomplete, adjustments shall be made forthwith in accordance with the terms of this Agreement. Operator shall pay forthwith any additional fees which may be due.

b. Operator agrees to provide to the Airport Office a Hazardous Materials Business Program approved by the County of San Mateo Department of Environmental Health. Failure to comply shall result in the termination of this agreement.

c. Operator agrees to comply and cooperate with the Airport Storm Water Pollution Prevention Plan. Failure to comply shall result in the termination of this agreement.

d. Operator agrees to operate and encourage the operation of all aircraft covered under with this agreement in compliance with Noise Abatement Programs at San Mateo County Airports. Failure to comply shall result in the termination of this agreement.

e. Operator agrees to abide by any special requirements/conditions contained in Appendix E , Special Requirements/Conditions.

23. NOTICES. Any notices shall be by certified mail, return receipt requested, prepaid and addressed as follows:

County: DIRECTOR OF PUBLIC WORKS
County of San Mateo
555 County Center 5th Floor
Redwood City, CA 94063-1665

Operator:

Notices shall be effective when so mailed, properly addressed, postage prepaid. Either party may change its address by giving written notice to the other. Nothing herein contained shall preclude or render inoperative service of notices on either party in the manner prescribed by law.

25. ARBITRATION OF DISPUTES. Any disputes between the County and concessionaire relating to this agreement will be resolved by an arbitration committee. The Arbitration Committee shall consist of one (1) member selected by the County and one (1) member selected by the concessionaire, with a third member being selected by the two selected by the County and the concessionaire. Section 9 Insurance and Section 21. Termination by County, are exempt from this process.

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

"County "

COUNTY OF SAN MATEO

BY

Michael D. Nevin, President
Board of Supervisors, County of San M

ATTEST:

Clerk of said Board

"Operator"

BY ALEX AIASES
BE-AIR INTL

APPENDIX A
OPERATIONAL ACTIVITIES
TO AIRPORT CONCESSION AGREEMENT
WITH ATP-PACIFIC INC. DBA BEL-AIR INTERNATIONAL

a. The concession shall be limited to

(1) Aircraft Flight Training School and Aircraft Rental, which authorizes Operator to conduct on a non-exclusive basis fixed-wing aircraft flying and ground training instruction under which is designed to prepare students to qualify for FAA pilot s ratings, pilot s refresher training and aircraft solo training, and to provide on a non-exclusive basis aircraft for rental to the public, including aircraft rented for flying training or aircraft flight instruction. The operation of a flying club as a part of or adjunct to a flight school shall be considered as a contract aircraft rental activity and shall be subject to payments as prescribed in Appendix B Concession Fees of this Agreement.

(2) Product Sales, which authorizes Operator to conduct on a non-exclusive basis sales of pilots supplies including but not limited to books, manuals, charts, Hats, T-shirts and GPS products

(3) Airframe and Power Plant Repair and Maintenance, which authorizes operator to engage in operations to repair, recondition, maintain or replace component parts of engines and aircraft, including avionics and radio components and to conduct aircraft inspections. It is understood that all operations under this agreement are to be conducted on a non-commercial not for profit basis. This agreement specifically limits Bel-air to performing the above described activities only on those aircraft which are leased back to ATP-Pacific Inc dba Bel-Air International for the purpose of conducting flight training operations Under the terms of this agreement no fee will be charged to ATP-Pacific Inc. dba Bel-Air International for Airframe and Power Plant Repair and Maintenance.

Initial 

APPENDIX B
SAN CARLOS AIRPORT CONCESSION FEES'
TO AIRPORT CONCESSION AGREEMENT
WITH ATP-PACIFIC INC. DBA BEL-AIR INTERNATIONAL

<u>CONCESSION ACTIVITY</u>	<u>MINIMUM MONTHLY FEE</u>
Aircraft Flight Training School and Aircraft Rental	\$500 per month

Total combined minimum monthly fee shall not exceed \$500 unless 1% of the monthly gross receipts for specified concession activities exceeds the minimum monthly fee. If *1% of monthly gross receipts exceeds minimum monthly fees, *1% of the gross receipts will be the concession fees owed for that month

*including flight instruction revenues generated by all flight instruction activities conducted at San Carlos Airport in association with ATP-Pacific, Inc. dba Bel-Air International.

At no time will the total monthly minimum fee be less than \$500.

Additionally ATP-Pacific, Inc. dba Bel-Air International. agrees to assume the responsibility for the monthly payment of Aircraft Tiedown spaces located in the adjacent Aircraft Parking Area. Current Tiedown rates are \$107 00 per month for each tiedown. All airport storage areas (hangars and tiedowns) are subject to periodic rate increases

All business enterprises conducted at County Airports are subject to concession fees. Those activities not previously specified in this agreement will be negotiated individually with operators and specified in section A Operational activities. Fees negotiated will be specified in Appendix B (this section).

Initial 

APPENDIX C

INSURANCE REQUIREMENTS

TO AIRPORT CONCESSION AGREEMENT

WITH ATP-PACIFIC INC. DBA BEL-AIR INTERNATIONAL

- a. Comprehensive Airport and aircraft liability insurance in the minimum amount of ONE MILLION DOLLARS (\$1,000,000) combined single-limit personal liability/property damage exclusive of passenger liability.
- b. Passenger liability insurance as required by the California Public Utilities Commission.
- c. Hangarkeeper s insurance in the minimum of \$250,000 each occurrence
- d. Worker s Compensation and Employer Liability Insurance Operator shall be in effect during the entire life of this agreement Workers providing full statutory coverage.
- e. Auto liability to include bodily injury and property damage in the minimum amount of ONE MILLION DOLLARS (\$1,000,000.00) combined single-limit if operator utilizes vehicles which operate on aircraft operational area.

Initial



APPENDIX D

STANDARD PROVISIONS FOR ALL LEASE,

USE, AND OTHER AGREEMENTS AND PERMITS

SAN MATEO COUNTY AIRPORTS '

1. Operator/Lessee for itself, its heirs, 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 said property described in this lease, agreement or permit for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Operator/Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

2 Operator/Lessee for itself, its 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: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the lands and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Operator/Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, CFR, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

3. In the event of breach of any of the above nondiscrimination covenants, County may terminate the lease agreement or permit and re-enter and repossess the land and the facilities thereon and hold them as if the lease, agreement or permit had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed, including expiration of appeal rights.

4 Operator/Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided that Operator/Lessee may make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

5 Non-compliance with Provision 4 above shall constitute a material breach of the lease, agreement or permit. In the event of such non-compliance, County may terminate this

lease, agreement or permit and the estate hereby created without liability thereof; or, at the election of County or the United States either or both of these governments may judicially enforce the Provision.

6. Operator/Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152. Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Operator/Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by Subpart E. Operator/Lessee will require its covered suborganizations to provide assurances to Operator/Lessee that they similarly will undertake affirmative action programs and will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

7. County may further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of Operator/Lessee and without interference or hindrance.

8. County may, but shall not be obligated to Operator/Lessee to, maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport. County also may direct and control the activities of Operator/Lessee in this regard.

9. The lease, agreement or permit shall be subordinate to the provisions and requirements of any existing or future agreement between the County and the United States relative to the development, operation or maintenance of the airport.

10. There is hereby reserved to County, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises covered by the lease, agreement or permit. This public right of flight shall include the right to cause in this airspace any noise inherent in the operation of any aircraft used for navigation or flight through the airspace or to land at, take off from or operate on the San Carlos or Half Moon Bay airport, as the case may be.

11. Operator/Lessee shall comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations if future construction of a building is planned for the premises covered by the lease, agreement or permit or in the event of any planned modification or alteration of any present or future building or structure on the premises.

12. Operator/Lessee, by accepting this lease, agreement or permit, 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 any land leased that would be in conflict with the provisions of Part 77 of the Federal Aviation Regulations. If these covenants are breached, County may enter upon the land and remove the offending structure or object and cut the offending tree, all of which shall be at Operator/Lessee's expense.

13. Operator/Lessee, by accepting this lease, agreement or permit, agrees for itself, its successors and assigns that it will not make use of the premises covered by the lease, agreement or permit in any manner which might interfere with the landing and taking off of aircraft from the airport or otherwise constitute a hazard. If this covenant is breached, County may enter upon the premises and cause the abatement of such interference at Operator/Lessee's expense.

14. Nothing contained in the lease, agreement or permit shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 (49 U.S.C. 1349A).

15. The lease, agreement or permit and all its provisions 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 the airport or the exclusive or non-exclusive use of the airport by the United States during the time of war or national emergency.

16. Operator/Lessee will conduct its programs and operate its facilities in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and will assure that no qualified handicapped person shall, solely by reason of his or her handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment. Operator/Lessee will conduct its programs and operate its facilities in compliance with all the requirements imposed by or pursuant to 49 CFR Part 27.

17. Operator/Lessee hereby assures that no person shall be excluded from participation, denied the benefits of or otherwise discriminated against in connection with the award and performance of any contract(s), including leases, covered by 49 CFR Part 23 on the grounds of race, color, national origin or sex. It is the policy of the Department of Transportation that minority business enterprises - as defined in 49 CFR Part 23.5 to mean a small business concern (pursuant to Section 3 of the Small Business Act) which is at least 51% owned, privately or through shares of public stock, by one or more minorities or women and whose management and daily business operations are controlled by one or more such individuals - shall have the maximum opportunity to participate in the performance of leases and, consequently, this lease/agreement/permit is subject to the applicable sections of 49 CFR Part 23, and those Regulations as may be amended.

18. Operator/Lessee shall insert the above Provisions in any lease, agreement, contract, permit, etc., by which it grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises covered by the lease, agreement or permit, including any subleases, and hereby assures that the above Provisions will be included in any agreement, contract, permit or further sub-lease granted or entered into by any sub-lessee of the Operator/Lessee.

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25. ARBITRATION OF DISPUTES Any disputes between the County and concessionaire relating to this agreement will be resolved by an arbitration committee. The Arbitration Committee shall consist of one (1) member selected by the County and one (1) member selected by the concessionaire, with a third member being selected by the two selected by the County and the concessionaire Section 9. Insurance and Section 21. Termination by County, are exempt from this process

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

"County"

COUNTY OF SAN MATEO

BY:

Michael D. Nevin, President
Board of Supervisors
County of San Mateo

ATTEST:

Clerk of said Board

Operator

BY: MEY AIABEJ
BEL-AIR INTL