

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2011

COUNCIL BILL NO. _____

COMMITTEE OF REFERENCE:

4 BUSINESS, WORKFORCE & SUSTAINABILITY

5 A BILL

6 For an ordinance approving a proposed Fifth Amendment to Agreement between the
7 City and County of Denver and Trugoy Inc., concerning a concession at Denver
8 International Airport.

9
10 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

11 **Section 1.** The proposed Supplemental Agreement between the City and County of
12 Denver and Trugoy Inc., (Terminal) in the words and figures contained and set forth in that form of
13 the Fifth Amendment to Agreement filed in the office of the Clerk and Recorder, Ex-Officio Clerk of
14 the City and County of Denver, on the 7th day of April, 2011, City Clerk's Filing No. 93-417-E is
15 hereby approved.

16
17 COMMITTEE APPROVAL DATE: April 1, 2011

18 MAYOR-COUNCIL DATE: April 5, 2011


19 PASSED BY THE COUNCIL _____ 2011

20 _____ - PRESIDENT

21 APPROVED: _____ - MAYOR _____ 2011

22 ATTEST: _____ - CLERK AND RECORDER,
23 EX-OFFICIO CLERK OF THE
24 CITY AND COUNTY OF DENVER
25

26 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2011 _____ 2011

27 PREPARED BY: George "Skip" Gray, III,  DATE: April 7, 2011

28 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
29 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
30 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6
31 of the Charter.
32

33 David R. Fine, City Attorney

34 BY: _____, _____ City Attorney

35 DATE: April 7, 2011

FIFTH AMENDMENT TO AGREEMENT

THIS FIFTH AMENDMENT TO AGREEMENT is made and entered into this ____ day of _____, 2011 by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado acting for and on behalf of the Department of Aviation ("City"), Party of the First Part, and **TRUGOY, INC.**, a Colorado corporation ("Concessionaire"), dba **TCBY**, Party of the Second Part.

WITNESSETH:

WHEREAS, the Parties hereto entered into an Agreement (AC36003) dated May 19, 1993; a First Amendment dated September 21, 1994; a Second Amendment dated April 13, 1995; a Third Amendment dated January 28, 2003 and a Fourth Amendment dated July 15, 2003 (collectively the "Original Agreement") for the operation of a concession at Denver International Airport ("Airport"); and

WHEREAS, The City is considering changing the design and function of the Jeppesen Terminal at the Airport; and

WHEREAS, it is in the best interest of the City and the traveling public to continue to provide services without interruption while the Jeppesen Terminal redesign is being determined; and

WHEREAS, Concessionaire acknowledges that the use of brand, branded items or branded concepts is of critical importance to meeting the City's purpose for the concessions program at Denver International Airport and therefore any Brand that Concessionaire is authorized to operate at Denver International Airport is a material part of the consideration to the City for this Agreement and may not be unilaterally discontinued or changed by Concessionaire; and

WHEREAS, the Parties have agreed to change the compensation structure, set a date certain for payment into the Joint Marketing Fund, reconfirm the ACDBE participation for this Agreement, extend the term, reduce the hours of operation and set a date and amount for refurbishment of the Concession Space;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the Parties hereto agree to amend the Original Agreement as follows:

1. Section 2, Definitions, of the Original Agreement hereby is amended by adding the following new subsection:

2.12 BRAND

"Brand" shall mean the local, regional or national brand or brands, described on the Summary Page that was proposed by Concessionaire and accepted by the City as a material part of the consideration to the City for this Agreement. "Brand" shall include the plural where the context requires.

2. Effective as of the date this Fifth Amendment is executed, the term shall be and hereby is enlarged to expire December 31, 2013. Accordingly, Section 4.01 of the Original Agreement hereby is amended by deleting said section entirely and replacing it with the following:

03-417-E

4.01 TERM

"Term" shall mean the period commencing at noon on the day and date first above written, which is specified on the Summary Page as the "Effective Date" and expiring at noon on the date specified on the Summary Page as the "Expiration Date," unless sooner terminated pursuant to the provisions of this Agreement or by law. Any provision to the contrary notwithstanding either Party may terminate this Agreement without cause and without further obligation upon six months written notice to the other Party.

3. Effective as of September 1, 2010, the compensation structure shall be and hereby is revised to (i) reduce the minimum monthly guarantee ("MMG") to \$4,166.66, (ii) reduce the Percentage Compensation Fee to 10% of Gross Revenue up to a Million Dollars, 12% of a Million Dollars Gross Revenue up to Two Million Dollars and 14% of Gross Revenue over Two Million Dollars, and (iii) provide for a yearly adjustment of the MMG. Accordingly, Section 5.01 of the Original Agreement (Compensation) hereby is amended by deleting said section entirely and replacing it with the following:

5.01 COMPENSATION.

Covenant to Pay Compensation. Concessionaire covenants and agrees, in advance, without setoff, deduction, prior notice or abatement, to pay City as compensation for the rights and privileges herein granted by City the greater of (a) a sum equal to Concessionaire's annual Gross Revenues, as herein defined times the percentage shown on the Summary Page for the volume and type of sales, ("Percentage Compensation Fee"), derived by the Concessionaire from its operations under this Agreement, or (b) the MMG, in an amount shown on the Summary Page.

Adjustment to Minimum Monthly Guarantee. Starting on the first day of the month after the first full year of this Fifth Amendment to Agreement and for each subsequent year, the MMG will be recalculated to equal 1/12 of 85% of the compensation owed the City for the prior year as computed under this Section 5. Notwithstanding the foregoing, however, the MMG will never be less than the MMG stated on the Summary Page attached to this Fifth Amendment. The City reserves the right to establish a common annual MMG adjustment date for all Concessionaires.

4. Concessionaire acknowledges that the Daily Revenue Program as governed by Subsection C (Daily Revenue Program Participation) of Section 5.03 of the Original Agreement was terminated by the Manager in her letter dated October 27, 2008, (the "Manager's Letter") which is attached to this Fifth Amendment and incorporated herein by this reference. Concessionaire further acknowledges that acting pursuant to the power reserved to the Manager under Section 5.07 of the Original Agreement (Books of Account and Auditing) the Manager's Letter permits Concessionaire to continue to have its officers certify each annual revenue statement so long as Concessionaire satisfies the conditions in this Agreement and as enumerated by the Manager's Letter.

5. Effective as of September 1, 2010, Concessionaire's hours of operation are hereby reduced from 16 to 12 hours per day. Accordingly, Section 6.03 of the Original Agreement (Hours of Operation) hereby is amended by deleting said section entirely and replacing it with the following:

HOURS OF OPERATION

Hours of Service/Continuous Operation. Concessionaire agrees to schedule its daily hours of operation in accord with the hours stated on the Summary Page and to keep the Concession Space open for business to the public at least twelve hours a day, seven days a week, 365 days a year, unless otherwise agreed to by the City in writing.

Unusual Circumstances. Concessionaire shall use its best efforts to respond to any and all weather emergency and/or flight diversion situations that might require certain locations to open or remain open before or beyond these minimum hours. However, due to unusual circumstances (e.g., diversions, delayed flights, weather), the City reserves the right to require Concessionaire to open its Concession Spaces before or remain open beyond the designated operating hours.

6. Effective as of the date this Fifth Amendment is executed, the Parties hereby re-confirm that Concessionaire's ACDBE requirement is and shall be 100%. Accordingly, Section 6.06 of the Original Agreement (Compliance with All Laws and Regulations) hereby is amended by adding the following provisions:

ACDBE Obligation. This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire 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, or other agreement covered by 49 CFR Part 23. Concessionaire agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters into and causes those businesses to similarly include the statements in further agreements. Concessionaire further agrees that it shall comply with all Disadvantaged Business Enterprise (DBE) and/or Airport Concession Disadvantaged Business Enterprise (ACDBE) regulations of the U.S. Department of Transportation as they may be adopted or amended from time to time prior to or during the Term.

ACDBE Program. As a condition of eligibility for FAA financial assistance, the City, through its Division of Small Business Opportunity (DSBO) has developed and implemented an ACDBE Program for Denver International Airport in accordance with DOT's Final Rule 49 CFR Part 23. The Director of DSBO has been delegated as the ACDBE Liaison Officer and in that capacity; the Director of DSBO is responsible for implementing all aspects of the ACDBE program. The DSBO may also establish ACDBE concession specific goals as a percent of annual gross receipts to be undertaken by the Concessionaire under this Agreement. The applicable ACDBE goal on this concession Agreement is stated on the Summary Page as a percentage of the total gross dollar value of this concession.

Good Faith Efforts. Concessionaire has previously represented that it is qualified as an ACDBE under 49 CFR Part 23 of the regulations of the U.S. Department of Transportation and covenants to remain so throughout the term of this Agreement. (Concessionaire's representation shall be referred to hereafter as "Concessionaire's ACDBE Compliance Plan." Concessionaire's status as a

certified ACDBE constitutes 100% ACDBE participation and satisfies all ACDBE obligation of this Agreement. Should Concessionaire fail to maintain the specific ACDBE goal initially approved throughout the life of this Agreement, Concessionaire will be required to submit documentation demonstrating that it has made a good faith effort, as defined in the City and County of Denver's required and approved ACDBE Concession Program (available upon request), to maintain its commitment to meet the applicable ACDBE goal. Any such change to Concessionaire's ACDBE Compliance Plan shall be submitted to the DSBO for review and approval (with a copy submitted to the Manager's authorized representative). Concessionaire agrees to notify the DSBO Director immediately, in writing, providing documentation of the necessity for the change.

ACDBE Requirements are Material. Concessionaire acknowledges that any action or failure to act by it that violates the ACDBE requirements of this Agreement constitutes a material breach of this Agreement, which shall entitle the City to exercise all of its rights at law or equity for such material breach.

7. To comply with Concessionaire's Term Extension Renovation obligations (hereafter referred to as Concessionaire's "Mid-Term Refurbishment" of the Concession Space), the Original Agreement is further amended to reflect that Concessionaire has agreed to the following: Effective as of the date this Fifth Amendment is executed, Concessionaire's Mid-Term Refurbishment requirement shall be no less than \$11,686 and shall be completed no later than six months after the execution of this Fifth Amendment. Accordingly, Section 6.15 of the Original Agreement (Renovation of Concession Space) hereby is amended by adding the following provisions, which shall be used to govern refurbishment of the Concession Space after the date this Fifth Amendment is executed.

MID-TERM REFURBISHMENT OF CONCESSION SPACE

Aesthetic Refurbishment. Concessionaire agrees to refurbish the space in an amount not less than the mid-term refurbishment amount stated on the Summary Page. Of this, an amount consisting of no less than 15% shall be allocated to aesthetic refurbishment, defined as replacement of all parts of the premises visible to, used by, and/or provision for enhanced service to the public including but not limited to new store design, new signage, replacement furniture, flooring, painting, new color schemes, finishes, fixtures, furnishings, lighting, ceiling, repairing, replacing, millwork as necessary, replacing baseboard as necessary, professionally deep cleaning the Concession Space, refurbish and condition. Life safety and health code upgrades are not considered aesthetic refurbishment.

Refurbishment Deadline and Investment. At a time commencing no earlier than 180 days before and no later than the Refurbishment Completion Date specified on the Summary Page, Concessionaire, at its sole cost and expense, shall have completed all design and aesthetic refurbishments approved by the Manager, shall have updated and completed all repairs/refurbishments necessary to comply with current applicable life safety and health code requirements and shall have completed renovating and refurbishing the Concession Improvements in the Concession Space required by the Manager at a minimum investment specified in the Summary Page, in February 2011 dollars, subject to reasonable escalation according to the Engineering News Record Building Cost Index for the Denver, Colorado area ("Refurbishment Minimum Investment"). The Refurbishment Minimum Investment shall not include financial

costs, interest, inventory, pre-opening expenses, loss of revenue related to construction or intra-company charges related to construction, but may include architectural and engineering charges not exceeding 15% of the total Refurbishment Minimum Investment.

Refurbishment Investment Documentation. Within 90 days of completion of the renovations, Concessionaire shall file with the Manager documentation certifying the total renovation costs, with appropriate detail itemizing the elements of decorations, furnishings, fixtures, and equipment. At City's request, Concessionaire shall also submit copies of invoices supporting such costs. If the total cost of the Concessionaire's renovation investment is less than the Minimum Refurbishment Investment, the difference between such total cost and the Minimum Refurbishment Investment for renovating the Concession Space, shall be paid to City within 30 days after written notice from City to Concessionaire.

Design Plans due in Advance. Concessionaire shall provide design plans and specifications of the proposed renovations of the Concession Improvements for the approval of the Manager's authorized representative prior to starting the Refurbishment, or such lesser time as is agreed to in writing by the Manager's authorized representative. The renovations shall be constructed in accordance with the requirements of this Section 6.15.

8. Effective as of January 1, 2011 Concessionaire agrees that it shall commence to make monthly payments of 1% of the Concessionaire's Gross Revenue into the Joint Marketing Fund. Accordingly, Section 11.01 of the Original Agreement (Advertising and Public Displays) hereby is amended by adding the following paragraph:

Joint Marketing Fund. The City shall provide or cause to be provided a central marketing and promotional fund which, in the City's sole judgment, will serve to promote overall service, retail and food and beverage concessions at the Airport. The fund shall be known as the "Joint Marketing Fund." Beginning January 1, 2011, Concessionaire shall contribute during each month, as Concessionaire's share of the Joint Marketing Fund, an amount equal to the percentage of monthly Gross Revenues of Concessionaire stated on the Summary Page. This amount is payable to the City by the 10th day following the end of each calendar month. If Concessionaire is unable to calculate actual Gross Revenues in time to make the required payment to the Joint Marketing Fund, the payment may be made based on an estimate of Gross Revenues. Any and all such estimated payments shall be adjusted as of the end of each six (6) month period of each year. Within 30 days of the end of each six (6) month period, Concessionaire shall send a report to the City reconciling estimated and actual Gross Revenues and showing any over or underpayments to the Joint Marketing Fund. A check for any underpayments must accompany the reconciliation. All overpayments will be credited to the next payment(s) due to Concessionaire within 30 days of the Agreement termination date. The City shall not be obligated to expend more for promotions and advertising than is actually collected from Concessionaires. Any promotional services and personnel so provided shall be under the exclusive control and supervision of the City. The City reserves the right at any time to terminate the Joint Marketing Fund and thereafter to provide central marketing and promotional services until the remaining funds are exhausted.

9. The Summary Page appended to the Original Agreement is hereby amended by deleting the said Summary Page in its entirety and substituting in its place the attached Summary Page, which has been revised to conform the Term, MMG, Percentage Compensation Fee, the Mid Term Refurbishment deadline and the Joint Marketing requirement to the foregoing Paragraphs.

10. Except as provided herein, all of the provisions, terms and conditions of the Original Agreement shall remain in full force and effect as if fully set forth herein.

11. This Fifth Amendment to Agreement is expressly subject to and shall not be or become effective or binding on the City until it is approved by the City Council and fully executed by all signatories of the City and County of Denver.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused this Fifth Amendment to Agreement to be executed as of the day and year first above written.

ATTEST:

CITY AND COUNTY OF DENVER

STEPHANIE Y. O'MALLEY, Clerk and Recorder, Ex-officio Clerk of the City and County of Denver

By _____
Mayor

RECOMMENDED AND APPROVED:

APPROVED AS TO FORM:

DAVID R. FINE, Attorney for the City and County of Denver

By  _____
Manager of Aviation

REGISTERED AND COUNTERSIGNED:

By _____
Assistant City Attorney

By _____
Manager of Finance

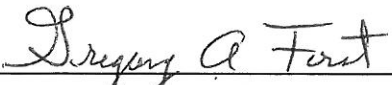
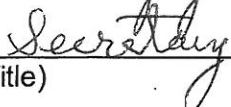
By _____
Auditor



Contract Control Number AC36003(5)

PARTY OF THE FIRST PART

ATTEST:

TRUGOY, INC.

By:  _____
 _____
(Title)

By:  _____
Title:  _____

PARTY OF THE SECOND PART

**STANDARD RETAIL CONCESSION AGREEMENT
DENVER INTERNATIONAL AIRPORT
SUMMARY PAGE
TRUGOY, INC.**

This Summary Page, consisting of three pages, is this _____ day of _____, 2010 attached to and made a part of that certain Agreement dated May 19, 1993, as amended between the City and County of Denver and the Concessionaire listed below.

CONCESSIONAIRE: Name

Address for Notice

City, State and Zip

Contact

Trade Name

State of Incorporation

Trugoy, Inc.

15234 Willowbrook Lane

Morrison, CO 80467

Collen A. Forest

TCBY

Colorado

CONCESSION LOCATION and RENT (Initial)

Loca. Num.	Concourse /Terminal	Address	Square Feet	MAG	MMG Effective Sept 1, 2010	Gates Related to Hours of Operation
N/A	Jeppesen Terminal, Level 5	R16-1-5-W3-N4-1	1777.8	N/A	\$4,166.66	N/A

PERCENTAGE RENT

(Effective September 1, 2010)

10%= up to \$1 Million

12%= \$1 Million to \$2 Million

14%= over \$2 Million

PERFORMANCE SURETY AMOUNT:

(Effective September 1, 2010)

\$25,000.00 or as provided in Section 9.03.

MARKETING ASSESMENT

(Effective January 1, 2011)

1% of Gross Revenues as provided in Section 11.01

STORAGE SPACE LEASE:

No

PERMITTED USE:

Operation of a high-quality concession at DIA, offering for sale the following Products:

Yogurt cups, cones, sundaes, shakes, malts, waffle cones, banana splits, Belgian waffles, parfait, floats, yogwich, yog-a-bar, pie, cake, cold drinks, bottled water and juice, milk, coffee/tea, hot chocolate, Dannon fruit yogurt and hand-dipped ice cream. Muffins and cookies

Concession Category

Food and Beverage


Concept type(s)

Ice Cream

Brand	TCBY
Express Restrictions:	Cappuccino and Espresso
HOURS OF OPERATION:	Not less than 12 hours each day, (10AM to 10PM) seven days per week
REQUIRED OPENING DATE:	N/A
TERM:	
Effective Date:	5/19/1993
Expiration Date:	12/31/2013
REQUIRED MINIMUM INVESTMENT:	\$168,891.00
TERM EXTENSION RENOVATION OBLIGATIONS:	
Midterm Refurbishment Investment	\$11,686.00
Midterm Refurbishment Deadline	Six months after execution of this Fifth Amendment
ACDBE GOALS:	100%
INSURANCE POLICY AMOUNTS:	
Comprehensive General Liability:	\$1,000,000 each occurrence, \$2,000,000 each occurrence if alcohol is sold
General Aggregate Limit	\$2,000,000
Operations Aggregate Limit	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Fire Damage Legal – Any one Fire	\$300,000
Business Auto Liability	\$1,000,000 non-airside; \$10,000,000 airside Combined Single Limit
Workers Compensation:	Statutory requirements
Umbrella Liability – Area Access	\$1,000,000 (non-airside), \$10,000,000 (airside)
Alcohol Liability:	N/A

DESCRIPTION OF EXHIBITS AND ADDENDA:

Exhibit A	Concession Space Plan and Terminal Market Place Area
Exhibit B	Disadvantaged Business Enterprise Participation
Exhibit C	Insurance Certificate
Exhibit X	Provisions for Design and Construction of Improvements
Appendix 1	Standard Federal Assurances
Appendix 2	Standard Federal Assurances, Nondiscrimination
Appendix 3	Nondiscrimination in Airport Employment Opportunities


 Initialed by Concessionaire



DENVER
THE MILE HIGH CITY

October 27, 2008

TO: DIA Daily Sales Participants

RE: Discontinuation of the Airport's Daily Sales Reporting Program

Dear Participant:

Airport management recently conducted an analysis to determine whether or not to continue the daily sales portion of the concessionaires' current revenue reporting requirements. We have decided to discontinue the requirement of daily sales reporting. Concessionaires will be required to satisfy all other reporting requirements, i.e. monthly and annual revenue reporting in accordance with the terms of the concessions agreement. The term "airport" as used below shall mean the City and County of Denver acting for and on behalf of its Department of Aviation.

Historically, the airport has had a longstanding policy of requiring independent verification of concession revenue. The policy contains two components: (1) monthly revenue statements and (2) an annual review and verification of the accuracy of the monthly revenue statements requiring an independent CPA to supply a professional opinion that the revenue statement is free from material error after an audit. Implementing this policy are provisions in each airport concession agreement that require each concessionaire to submit monthly and annual revenue statements - the latter to be certified by independent CPAs and furnished not later than February 28 of each and every year the agreement is in effect.

In 2001, the airport implemented the daily sales reporting program. This program allowed concessionaires to phone in reports of their daily sales. Anticipating that daily sales reporting would provide sufficient reliability to meet the second of the twin components of the airport's policy, those concessionaires who elected to participate in the daily sales reporting program ("Participant(s)") were then permitted to have an officer of their company certify their annual revenue statements in lieu of the required CPA certification and a provision to that effect was added to each airport concession agreement.

Now, having concluded that the daily sales reporting program should be discontinued effective November 1, 2008, in exercise of the reserved authority to modify requirements for annual statements, the Manager of Aviation hereby gives each daily sales reporting Participant permission to continue to have its officer, in lieu of an independent CPA certify each annual revenue statement so long as the Participant satisfies the conditions in its concessions agreement and as enumerated below:

- Annual revenue statements signed by an officer of the Participant shall be submitted to the Airport Concession Management Section and Airport Finance Section not later than February 28 of each and every year and

DENVER
INTERNATIONAL
AIRPORT

Department of Aviation
Airport Office Building
8500 Peña Boulevard
Denver, Colorado 80249

303.342.2200
www.FlyDenver.com

any annual revenue statement submitted after this deadline, shall be certified by an independent CPA, in accord with and as required by each Participant's concession agreement.

- No later than the 10th day of each month, each Participant shall provide Airport Concession Management Section with a copy of the monthly revenue statement the Participant submits to the Airport Finance Section for the previous month's gross revenues. If the Participant operates on a fiscal year, the Participant shall supply the Airport Concession Management Section with a copy of Participant's fiscal year. The airport will continue to assess special handling fees for late monthly (and late annual) revenue statements as provided in each concession agreement.
- If the airport determines after performing an audit that the gross revenues reported by a concessionaire during an audited period were understated by more than 1% in two of any six months of the audited period, then, using the sample Independent Auditor's Report attached to this letter, the Participant shall submit an annual revenue statement certified by an independent CPA for the most current year in which gross revenues were understated and perform all other obligations concerning understated revenue required by the audit provisions of the Participant's concession agreement. "Audited period" shall mean a period of no more than twelve months prior to the date of the audit.

The airport's right to audit concessionaire accounting records as it relates to sales remains in full force and effect. In the event the airport experiences compliance issues with concessionaires concerning accurate reporting of revenue, the airport may implement further reporting requirements of concessionaires either individually or as a group.

If you have any questions, please contact Melody Ortega at (303) 342-2501, Tea Schook at (303) 342-2214, or Rudean Richardson at (303) 342-2539.

Sincerely,


Kim Day
Manager of Aviation

Independent Auditor's Report

We have audited the accompanying schedule of revenues (as defined in the concessions agreement agreement dated _____, between ABC Inc., as lessee, and Denver International Airport, as lessor) of ABC Inc. at its Denver International Airport store, for the year ended December 31, 20___. This schedule is the responsibility of ABC Inc.'s management. Our responsibility is to express an opinion on this schedule based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the schedule of gross sales is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule of gross sales. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the schedule of revenues referred to above presents fairly, in all material respects, the gross revenue of ABC Inc. at its Denver International Airport store, for the year ended December 31, 20___, as defined in the concessions agreement agreement referred to in the first paragraph.

This report is intended solely for the information and use of the boards of directors and managements of ABC Inc. and Denver International Airport and is not intended to be and should not be used by anyone other than these specified parties.

[Signature]

[Date]