

AGENDA ITEM SUMMARY

Submitted For:

1. Resolution

Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2015</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	<u>26,000</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>26,000</u>	=====	=====	=====	=====
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No x
Budget Account No: Fund _____ Department _____ Unit _____ RSource _____
Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Approval of this item will result in the reduction of Type 4 terminal rental rates by fifty percent (50%) for general aeronautical services providers eligible to participate in the program. Type 4 space is currently assessed at \$64.86 per square foot per year. Based on estimated rentals by this tenant class, the discount will not likely exceed \$26,000 per year assuming 800 square feet of rental occupancy for 12 months. Reduced fees to the service providers may stimulate activity for smaller carriers and offset the discounted revenue.

C. Departmental Fiscal Review: C. M. Smith

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Net fiscal impact is based on estimated revenues.

[Signature] 10/5/11
OFMB VA
10/3/11
[Signature] 10/3/11

[Signature] 10/11/11
Contract Dev. and Control
10-7-11 *[Signature]*

B. Legal Sufficiency:

Anne Delgent 10/12/11
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 9/03

ADM FORM 01

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

RESOLUTION NO. R-2011-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA; ESTABLISHING A PREFERRED GENERAL AERONAUTICAL SERVICES PROVIDER PROGRAM; ADOPTING THE NEW STANDARD FORM PREFERRED GENERAL AERONAUTICAL SERVICES PROVIDER PROGRAM AGREEMENT; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO EXECUTE THE STANDARD FORM PREFERRED GENERAL AERONAUTICAL SERVICES PROVIDER PROGRAM AGREEMENT; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO ENTER INTO CERTAIN AMENDMENTS TO THE PREFERRED GENERAL AERONAUTICAL SERVICES PROVIDER PROGRAM AGREEMENT; PROVIDING FOR SEVERABILITY AND; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County, through its Department of Airports, owns and operates the Palm Beach International Airport ("PBIA"); and

WHEREAS, The Board adopted a standard form General Aeronautical Services Permit ("GASP") pursuant to Resolution No. 2010-0708 authorizing permittees to provide aeronautical services to airlines at PBIA ("Service Provider"); and

WHEREAS, the Board of County Commissioners desires to market and promote air transportation service at the Airport by adopting a Preferred General Aeronautical Services Provider Program; and

WHEREAS, the Preferred General Aeronautical Services Provider Program will provide for a reduction in the rental rate for Type 4 Space (as defined in Attachment "A") in accordance with the terms and conditions of the standard form Preferred General Aeronautical Services Provider Program Agreement, which is attached hereto and incorporated herein as Attachment "A" ("Preferred Services Provider Agreement"); and

WHEREAS, the Board of County Commissioners desires to authorize the County Administrator or his designee to execute the standard form Preferred Services Provider Agreements on behalf of the Board of County Commissioners with any Service Provider eligible to participate in the Preferred General Aeronautical Services Provider Program.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are true and correct and are expressly incorporated herein by reference. Terms not defined in this Resolution shall have the meanings ascribed to them in the GASP.
2. The Board of County Commissioners hereby adopts the attached standard form Preferred Services Provider Agreement. The County Administrator or his designee is hereby authorized to execute the Preferred Services Provider Agreement, on behalf of the Board of County Commissioners, with any Service Provider eligible to participate in the Preferred General Aeronautical Services Provider Program.
3. In order to be eligible to participate in the Preferred General Aeronautical Services Provider Program, a Service Provider must: (1) have a current agreement with an airline (Signatory or Non-Signatory) to provide Aircraft Ramp Services at PBIA; (2) be approved to handle regulated international garbage by the U.S. Department of Agriculture; (3) have an agreement with the County for the use of

at least 200 square feet of Type 4 Space; (4) have a verifiable ability to provide Aircraft Ramp Services, Airline Ticketing and Boarding Services, Aircraft Interior Cleaning and Waste Disposal Services, and Porter Assistance Services; (5) have a current Customs Bond; and (6) have a current GASP with Palm Beach County.

- 4. The County Administrator or his designee is hereby authorized to execute, on behalf of the Board of County Commissioners, Preferred Services Provider Agreements that include non-material changes. For purposes of this Resolution, "non-material changes" mean changes that do not modify the substantive obligations of the County under the Preferred Services Provider Agreements. The County Administrator's designee under this Resolution includes the Director of Palm Beach County Department of Airports.
- 5. Should any section, paragraph, sentence, clause, or word of this Resolution be held unconstitutional, inoperative, or void, such holding should not affect the validity of the remainder of this Resolution.
- 6. The provisions of this Resolution shall be effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Commissioner Karen T. Marcus, Chair	-
Commissioner Shelley Vana, Vice Chair	-
Commissioner Steven L. Abrams	-
Commissioner Paulette Burdick	-
Commissioner Burt Aaronson	-
Commissioner Jess R. Santamaria	-
Commissioner Priscilla A. Taylor	-

The Chairperson thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2011.

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK &
COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

**PREFERRED GENERAL AERONAUTICAL SERVICES PROVIDER
PROGRAM AGREEMENT**

THIS PREFERRED GENERAL AERONAUTICAL SERVICES PROVIDER AGREEMENT (this "Agreement") is made and entered into _____ by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and _____, a _____ corporation, having its office and principal place of business at _____ ("Service Provider").

WITNESSETH:

WHEREAS, County, by and through its Department of Airports (the "Department"), owns and operates Palm Beach International Airport, located in Palm Beach County, Florida (the "Airport"); and

WHEREAS, Service Provider is engaged in the business of general aeronautical services in support of scheduled air transportation of passengers; and

WHEREAS, County desires to market and promote air transportation service at the Airport; and

WHEREAS, County and Service Provider entered into that certain General Aeronautical Services Permit dated _____ (R-____ - ____) to provide certain general aeronautical support services to air carriers operating at the Airport, on a non-exclusive basis, in common with others authorized to do so ("GASP"); and

WHEREAS, County and Service Provider entered into that certain _____ dated _____ (R-____ - ____) ("Lease") providing for the lease or license of Type 4 Space.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions.

1. RECITALS

The foregoing recitals are true and correct and are hereby incorporated herein by reference. Terms not defined herein shall have the meaning ascribed to them in the GASP.

2. DEFINITIONS

- A. "Airline-Airport Use and Lease Agreement" means the then current Airline-Airport Use and Lease Agreement, as approved by the Board pursuant to Resolution. As of the Effective Date of this Agreement, the current Airline-Airport Use and Lease Agreement was approved by the Board pursuant to Resolution No. R-____ - ____.
- B. "Type 4 Space" has the meaning set forth in Exhibit "E" of the Airline-Airport Use and Lease Agreement.
- C. "Preferred General Aeronautical Services Provider Program" means the program detailed in this Agreement and the Resolution.
- D. "Board" means the Palm Beach County Board of County Commissioners.
- E. "Service Provider" means general aeronautical service providers that meet the following criteria:
 - 1) Have a current agreement with an Airline (Signatory or Non-Signatory) to provide Aircraft Ramp Services at PBIA.
 - 2) Be approved to handle regulated international garbage by the U.S. Department of Agriculture.

- 3) Have an agreement with the County for use of at least 200 square feet of Type 4 Space.
- 4) Have a verifiable ability to provide Aircraft Ramp Services, Airline Ticketing and Boarding Services, Aircraft Interior Cleaning and Waste Disposal Services, and Porter Assistance Services.
- 5) Have a current Customs Bond.
- 6) Have a current GASP with Palm Beach County.

F. "Resolution" means Resolution No. R-_____ - _____ adopted by the Board on _____, as may be amended from time to time, which is incorporated herein by this reference.

3. DISCOUNT ON LEASED SPACE RENTAL RATE FOR PREFERRED SERVICE PROVIDERS

Subject to the terms and conditions of this Agreement and the Resolution, County agrees to reduce the rate on all Type 4 Space leased by or under license to the Service Provider by fifty percent (50%), which would otherwise be payable by Service Provider to County under the Lease.

4. DEFAULT

A default under the terms of this Agreement shall occur if either party hereto breaches any term, condition or covenant contained in this Agreement to be performed or observed by such party, and such party fails to remedy the breach within fifteen (15) days after written notice thereof from the non-defaulting party.

5. TERMINATION

- A. In the event Service Provider is in default of this Agreement, the GASP or any other agreement between Service Provider and County, County shall have the right to terminate this Agreement upon written notice to Service Provider, whereupon County shall be released from all further obligations under this Agreement.
- B. Upon termination of this Agreement, Service Provider acknowledges and agrees that Service Provider shall not be eligible to receive discounts of lease rates under this Agreement and shall forgo any claim against County for such waivers or discounts.
- C. County shall have the right to terminate this Agreement for convenience at any time upon ninety (90) days prior written notice to Service Provider.
- D. If for any reason the Service Provider ceases to meet the Preferred Service Provider criteria, this Agreement shall automatically terminate.

6. FEDERAL REQUIREMENTS

This Agreement is intended to satisfy the standards for airport incentive programs for promotion of air carrier service set forth in the Federal Aviation Administration's ("FAA") Statement of Policy and Procedures Concerning the Use of Airport Revenue, 64 FR 7696, February 16, 1999, as now or hereafter amended. If at any time the FAA determines that the Preferred General Aeronautical Services Provider Program or this Agreement does not comply with any federal laws, rules or regulations or the County's grant agreement obligations, County shall have the right to terminate this Agreement upon written notice to Service Provider.

7. AIRPORT FUNDING REQUIREMENTS

County's obligation to perform under this Agreement shall be contingent upon satisfaction of the funding and rate requirements of the Palm Beach County Airport System Bond Resolution No. R-84-427 dated April 3, 1984, as amended and

supplemented ("Bond Resolution"). County may terminate this Agreement upon written notice to Service Provider in the event County determines, at its sole discretion, that insufficient funds are available to support the Preferred General Aeronautical Services Provider Program or that continuation of the Preferred General Aeronautical Services Provider Services Program will or may result in a violation of the funding or rate requirements of the Bond Resolution, whereupon the parties shall be released from all further obligations under this Agreement.

8. NOTICES

All notices and elections (collectively, "notices") to be given or delivered by or to either party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or overnight delivery service, telecopied or faxed (provided in each case a receipt is obtained), or alternatively shall be sent by United States Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services or overnight delivery service, or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date on which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

To: County:

With copy to:

Department of Airports
Palm Beach County
846 Palm Beach International
Airport
West Palm Beach, FL 33406-1470
FAX: (561) 471-7427

Palm Beach County Attorney's Office
Attn: Airport Attorney
301 North Olive Avenue
Suite 601
West Palm Beach, FL 33401
FAX: (561) 355-4398

To Service Provider:

Either party may from time to time change the address to which notice under this Agreement shall be given such party, upon three (3) days prior written notice to the other party.

9. GOVERNING LAW AND VENUE

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Agreement shall be in Palm Beach County, Florida.

10. ENFORCEMENT COSTS

Each party shall bear its own costs or expenses, including attorney's fees, associated with the enforcement of the terms or conditions of this Agreement.

11. ANNUAL BUDGETARY FUNDING

This Agreement and all obligations of County hereunder are subject to and contingent upon annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners.

12. SEVERABILITY

In the event that any section, paragraph, sentence, clause, or provision of this Agreement is held to be invalid by a court of competent jurisdiction, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

13. HEADINGS

The paragraph headings or captions appearing in this Agreement are for convenience only, are not part of this Agreement and are not to be considered in interpreting this Agreement.

14. ENTIRE UNDERSTANDING

This Agreement represents the entire understanding between the parties and supersedes all other negotiations, representations, or agreement, either written or oral, relating to this Agreement.

15. WAIVER

No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party waiving the provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

16. NON-EXCLUSIVITY OF REMEDIES

No remedy herein conferred upon either party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by either party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

17. AMENDMENT

This Agreement may be modified and amended only by written instrument executed by the parties hereto.

18. ATTACHMENTS

Exhibits attached hereto shall be incorporated herein by this reference.

19. EFFECTIVE DATE AND TERM

This Agreement shall take effect upon execution of this Agreement by the parties hereto ("Effective Date") and shall expire one (1) year from the Effective Date of this Agreement, unless sooner terminated pursuant to the terms of this Agreement. This Agreement shall automatically renew on a year-to-year basis unless either party provides the other party at least ninety (90) days written notice prior to the end of the then current term of its intent not to renew this Agreement.

20. INSPECTOR GENERAL PROVISION

Service Provider acknowledges that the Palm Beach County's Office of Inspector General is authorized to review past, present and proposed County contracts, transactions, accounts, and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud.

IN WITNESS WHEREOF, County has caused this Preferred General Aeronautical Services Provider Program Agreement to be signed by the Director of the Department of Airports pursuant to the authority granted by the Board, and Service Provider has caused these presents to be signed in its corporate name by its duly authorized officer, and the seal of said Service Provider to be affixed hereto, the day and year first written above.

WITNESSES:

Witness Signature

(typed or printed)

Witness Signature

(typed or printed)

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

By: _____
County Attorney

ATTEST:

By: _____
Secretary

(Corporate Seal)

**Signed, sealed and delivered in the presence
of two witnesses for Service Provider:**

Witness Signature

(typed or printed name)

Witness Signature

(typed or printed name)

**PALM BEACH COUNTY, a political
subdivision of the State of Florida**

By: _____
Director, Department of Airports

Service Provider:

By: _____

Typed Name of Corporate Officer-

Title: _____