

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<i>* See below</i>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

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

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

* No fiscal impact.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

[Signature] 9/3/13
 OFMB MU 8/30
 AM 9/3/13

[Signature] 9/5/13
 Contract Dev. and Control
 9-4-13 *[Signature]*

B. Legal Sufficiency:

Anne Deland 9-5-13
 Assistant County Attorney

C. Other Department Review:

 Department Director

**FIFTH AMENDMENT
TO RETAIL CONCESSION AGREEMENT**

THIS FIFTH AMENDMENT TO RETAIL CONCESSION AGREEMENT (this "Amendment") is made and entered into _____, 2013, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and Paradies-Palm Beach, LLC ("Company"), a Florida limited liability company, having its office and principal place of business at 2849 Paces Ferry Road, Overlook I, Fourth Floor, Atlanta, Georgia 30339.

WITNESSETH:

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

WHEREAS, the parties entered into that certain Retail Concession Agreement dated November 6, 2007 (R-2007-2052), as amended (the "Agreement"); and

WHEREAS, the parties hereto desire to amend the Agreement in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and 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 recitals set forth above are true and correct and incorporated herein by this reference. Terms not defined herein shall have the meaning ascribed to them in the Agreement.
2. Article 1, Definitions, of the Agreement is hereby amended to delete the following definitions: "First Mid-term Refurbishment" and "Second Mid-term Refurbishment".
3. Section 7.03, Mid-term Refurbishment, of the Agreement is hereby deleted in its entirety and replaced with the following:

7.03 Mid-term Refurbishment.

On or before January 1, 2017, Company shall submit plans and an implementation schedule for approval by the County for mid-term leasehold improvements made for the purpose of introducing new concepts, updating, reconditioning and/or improving the public concession areas within the Leased Premises, which improvements shall be completed no later than December 31, 2017, unless otherwise approved in writing by the Department. The cost of such improvements shall be a minimum of Seven Hundred Thousand Dollars (\$700,000) ("Minimum Mid-term Investment"). All improvements to the Leased Premises shall comply with the Tenant Design Guidelines. Company shall proceed with construction of the required mid-term leasehold improvements in accordance with the implementation schedule approved by the Department. Within sixty (60) days of completion of any leasehold improvements, including, but not limited to, the required mid-term leasehold improvements, Company shall deliver a Statement of Costs and updated depreciation schedule prepared in accordance with Section 7.02. Excluded Costs shall not be counted toward satisfaction of the Minimum Mid-term Investment expenditure requirement. Except as otherwise provided for herein, if the Allowable Costs incurred by Company are less than the required Minimum Mid-term Investment, Company shall pay the difference to the County within thirty (30) days of delivery of the Statement of Costs.

4. Article 22 of the Agreement is hereby amended to delete the address for notices to Company and replace it with the following:

If to Company:

Paradies-Palm Beach, LLC
ATTN: Bruce Feuer
2849 Paces Ferry Road
Overlook I, Fourth Floor
Atlanta, GA 30339

5. Section 26.26, Charity Golf Tournament, of the Agreement is hereby deleted in its entirety and replaced with the following:

26.26 Charitable Donations.

The parties agree that Company may satisfy its continuing annual obligations with respect to charity and/or community giving projects contemplated in the Proposal by: (i) sponsoring an annual charity golf tournament at a venue of Company's choosing where no less than seventy percent (70%) of the charitable proceeds available for distribution after payment of all event-related expenses are paid over to local charitable organization(s); or (ii) making a direct charitable contribution to local charitable organization(s) in an amount not less than Ten Thousand Dollars (\$10,000), which may be in the form of cash or an equivalent dollar value of merchandise; or (iii) any combination of the foregoing. Company shall notify County in writing of the local charitable organization(s) selected by Company to receive the contribution(s) and the amount contributed pursuant to this Section 26.26 on or before the end of each Lease Year.

6. Article 26 of the Agreement is hereby amended to add the following:

26.28 No Third Party Beneficiaries.

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including, but not limited to, any citizen or employees of County and/or Concessionaire.

7. Paragraph Headings. The heading of the various sections of this Amendment are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Amendment or any part or parts of this Amendment.

8. Ratification of Agreement. Except as specifically modified herein, all of the terms and conditions of the Agreement shall remain unmodified and in full force and effect and are hereby ratified and confirmed by the parties hereto.

9. Effective Date. This Amendment shall be considered effective when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

{Reminder of page intentionally left blank.}

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the day and year first above written.

ATTEST:

Sharon R. Bock, Clerk & Comptroller

PALM BEACH COUNTY, a political subdivision of the State of Florida, by its Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Steven L. Abrams, Mayor

APPROVED AS TO FORM & LEGAL SUFFICIENCY:

APPROVED AS TO TERMS & CONDITIONS:

BY: _____
County Attorney

BY: [Signature]
Director, Department of Airports
Paradies-Palm Beach LLC,
a Florida limited liability company

ATTEST:

Signed, sealed and delivered in the presence of two witnesses for Company:

By: [Signature]

[Signature]
Signature
Karen Leach
Name (type or print)

Gregg Paradies
Name (type or print)

[Signature]
Signature
Christine Thomas
Name (type or print)

President
Title

(Seal)

PS 0201



EVIDENCE OF PROPERTY INSURANCE

9E3Q9NYK

DATE (MM/DD/YYYY)
06/26/2013

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY MCGRIFF, SEIBELS & WILLIAMS OF GEORGIA, INC. 5605 Glenridge Drive - Suite 300 Atlanta, GA 30342		PHONE (A/C, No, Ext): 404 497-7500	COMPANY: Travelers Property Casualty Company of America	
FAX (A/C, No):	E-MAIL ADDRESS:			
CODE:	SUB CODE:			
AGENCY CUSTOMER ID #:		LOAN NUMBER		POLICY NUMBER Y6308252A082TIL13
INSURED Fulton Holding Corp. c/o The Paradies Shops, LLC 2849 Paces Ferry Road Overlook I, Suite 400 Atlanta, GA 30339		EFFECTIVE DATE 07/01/2013	EXPIRATION DATE 07/01/2014	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:				

PROPERTY INFORMATION

LOCATION/DESCRIPTION

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE / PERILS / FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
Blanket Business Personal Property (All-Risk) - Replacement Cost	\$222,347,720	\$15,000
Blanket Stock	\$38,744,573	\$15,000
Business Income - Included		48 Hours
Coinurance - Nil		
Earthquake, Volcanic Eruption, Landslide and Mine Subsidence (excludes AK, HI, Puerto Rico, and CA)	\$5,000,000	\$50,000
Earthquake - KY, OH, PA, TN Locations	\$2,500,000	\$50,000
Earthquake - CA Locations	\$1,000,000	\$50,000
Flood (excludes FL and NFIP Zones A & V)	\$5,000,000	\$50,000
Flood (Zones A & V)	\$2,500,000	\$100,000
Wind/Hail Included - Deductible 5% of Value subject to minimum of \$100,000 (FL only)		\$15,000

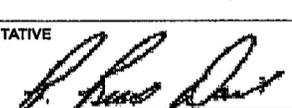
REMARKS (Including Special Conditions)

Re: Paradies-Palm Beach, LLC

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

NAME AND ADDRESS Palm Beach County Department of Airports Palm Beach International Airport 846 Palm Beach International Airport West Palm Beach, FL 33406-1470	<input type="checkbox"/> MORTGAGEE	ADDITIONAL INSURED
	<input checked="" type="checkbox"/> LOSS PAYEE	
LOAN #		
AUTHORIZED REPRESENTATIVE 		

AFFIDAVIT OF MANAGER
OF LIMITED LIABILITY COMPANY

STATE OF GEORGIA)
) SS:
COUNTY OF COBB)

BEFORE ME, the undersigned authority, personally appeared, the undersigned who by me being first duly sworn, depose(s) and say(s) that:

1. The undersigned is a duly appointed Manager of Paradies-Palm Beach, LLC, a limited liability company organized and existing under the laws of the State of Florida (“Company”).

2. The Articles of Organization of the Company were filed with the Florida Department of State on September 5, 2007.

3. The Company is in good standing and is authorized to transact business in the State of Florida as of the date hereof.

4. The Company is a manager managed limited liability company.

5. The undersigned has been authorized by majority vote of the managers to act on behalf of the Company and legally bind the Company and execute contracts and other instruments relating to the transaction of business of the Company.

6. The undersigned has the right and authority to enter into that certain Fifth Amendment to Lease and Concession Agreement between Company and Palm Beach County, a political subdivision of the State of Florida and the Company (the “Agreement”), which is incorporated herein by reference and made a part hereof, and such other instruments as may be necessary and appropriate for the Company to fulfill its obligations under such Agreement.

7. Upon the execution and delivery of such Agreement and documents by the undersigned, all of the aforesaid shall be valid agreements of and be binding upon the Company.

8. The transaction contemplated in the Agreement will not violate any of the terms and conditions of the Company’s written operating agreement or of any other agreement of whatever kind between the Company and any third person.

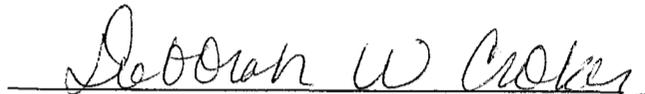
9. The undersigned acknowledges that Affiant is familiar with the nature of an oath and the penalties provided by the laws of the State of Florida and that this Affidavit is being given to induce Palm Beach County to enter into the Agreement.

FURTHER AFFLIANT(S) SAYETH NAUGHT,

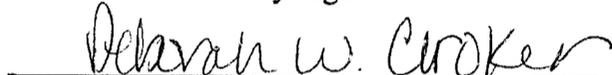


Gregg Paradies, Individually and as
A Manager

SWORN TO AND SUBSCRIBED before me this 5th day of August, 2013, by Gregg Paradies, who is personally known to me OR who produced _____ as identification and who did take an oath.



Notary Signature



Print Notary Name

NOTARY PUBLIC

State of Georgia at Large

My Commission Expires:

Deborah W. Croker
Notary Public
Coweta County, GA
My Commission Expires 8/8/2014