

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	July 11, 2017	====== [X]	Consent	======================================
Department:		Ĺĵ	Ordinance	[] Public Hearing
Submitted By:	Department of Airports			
Submitted For:	Department of Airports			
	l. EX	ECUTIVE	BRIEF	
Motion and Tit Concession Agr 2052), providing Airport (PBIA).	tle: Staff recommends reement (Amendment) was for replacement of the	motion vith Para Tech fo	to approve: dies-Palm Be or Takeoff at	a Ninth Amendment to Ret ach, LLC (Paradies) (R-200 the Palm Beach Internation
headphones, cuthe Concourse. food options, su gourmet and spackaged snack beverages from items, such as n products. The packaged. The current improvements was ackground an 2017 and has be	The Flagler Gourmet Exact as fresh sandwiches, pecialty food products; and food and beverage the location will be 15.1 newspapers and magazina privilege fee for all general privilege fee for the location by Paradies.	Takeoff xpress we salads and an items. I'w. Pares, as an all news cation is County	will remain av vill offer fresh, and baked go assortment The privilege f radies may all incidental pa and gift items 22% of all sal wide (AH)	of the Tech for Takeoff locate tems, such as chargers are railable in other retail units of locally-prepared grab and goods; fresh fruit; pre-package of high quality, healthy prefee for the sale of all food are so sell general news and goart of the overall assortment a sold from the location will be seen. All costs of the leasehout Gourmet Market in Januar mployees. In order to provide
a greater variety Department is re Express, which w Gourmet Market. bakery items. T privilege fee app	of food and beverage of ecommending the replace vill provide the same item. The unit will provide grant The lower privilege fee for licable to similar consents	choices cement as currer ab and cor food	on Concourse of Tech for T atly available of the items, inclused and beverage	inployees. In order to provide C of the PBIA terminal, the akeoff with Flagler Gourme on Concourse B at the Flagle iding sandwiches, salads and items is consistent with the akeoff is an underperforming se based on sales from the
Attachments:				
1. Ninth Ame	endment (3)			
	=======================================	I DOWN THE PART THE THE PART WHEN THE	e Diese Sense James Albert Sense Street Street Street Sense Street Street Sense Sense Street	
Recommended By		Jell,	7	5/4/17
(P)	Department D	irector		Date
approved By: _	Char	ter		6/30/17
	County Admin	istrator		Date

II. FISCAL IMPACT ANALYSIS

Α.	Five Year Summary of	Fiscal Impact				
	Fiscal Years	2017	2018	2019	<u>20</u> 20	<u>2021</u>
Ope Ext Pro	oital Expenditures erating Costs ernal Revenues gram Income (County) Kind Match (County)					
NET	FISCAL IMPACT ¥	0				
POS	ADDITIONAL FTE SITIONS (Cumulative)					
ls Ite Bud	em Included In Current Buget Account No: Fund <u>4</u>	ıdget? Ye <u>100</u> Depart	es <u>X</u> ment <u>120</u>	No _ Unit <u>8430</u>	_ RSource	4462/4461
	Reporting	g Category	_			
В.	Recommended Source	es of Funds/	Summary (of Fiscal Imp	act:	
	⊀ It is anticipated that sal Takeoff based on rever	es from the Ele	ada O			e sales at the Tech fo
C.	Departmental Fiscal I	Review:	m Su	m		
		III. <u>REV</u>	/IEW COM	MENTS		
A.	OFMB Fiscal and/or C				e •	
	G/19 OFMB	6/19/17	Contra	ct Dev and	Jawlow	6127117
B.	Legal Sufficiency:		1	1 Me the		
	Assistant County Atte	1 6/30/17	1			
C.	Other Department Rev	iew:				
	Department Director					
REVISEI ADM FO (THIS SU	D 9/03 RM 01 JMMARY IS NOT TO BE USED AS A	A BASIS FOR PAYMI	ENT.)			

Summary of Certificates

This report displays detailed Certificate of Insurance information for a selected Insured. Any items shown in red are deficient.

Tuesday, June 06, 2017

Simple View Certificate Images Documents

Insured:

Paradies-Palm Beach, LLC

Insured ID: PBI-PS-09-01

Status:

Compliant (with overrides)

ITS Account Number:

PLC811

Project(s):

Palm Beach County - Airport Properties

Insurance Policy	Required	Provided	Override
General Liability			Override
Expiration: 7/1/2017			
General Aggregate:	\$5,000,000	\$5,000,000	
Products - Completed Operations Aggregate:	\$5,000,000	\$2,000,000	X
Personal And Advertising Injury:	\$5,000,000	\$2,000,000	X
Each Occurrence:	\$5,000,000	\$1,000,000	X
Fire Damage:	\$0	\$0	A
Medical Expense:	\$0	\$0	
Excess/Umbrella Liability Expiration: 7/1/2017		Ψ0	
Each Occurrence:	\$0	\$10,000,000	
Aggregate Limit:	\$0	\$10,000,000	
Workers Compensation/Employers Liability	WC Stat. Limits	WC Stat. Limits	X
Expiration: 7/1/2017			
Each Accident:	\$100,000	\$1,000,000	
Disease - Policy Limit:	\$0	\$0	
Disease - Each Employee:	\$500,000	\$1,000,000	
Property Insurance Expiration: 7/1/2017	Replacement Cost Loss Payee	Replacement Cost Loss Payee	
Business Interruption Insurance Expiration: 7/1/2017	Loss of Rents Not Less Than 6 Months Extra Expense Coverage	Loss of Rents Not Less Than 6 Months Extra Expense Coverage	

Notifications (Show All)

There were no deficiency letters issued.

Do you have an updated Certificate? Click the button below to submit a Certificate.

Certificate Submittal

AFFIDAVIT OF LIMITED LIABILITY COMPANY

STATE OF GEORGIA

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 the President, Chief Executive Officer and a Manager of Paradies Palm Beach LLC, a limited liability company organized and existing under the laws of the State of Florida ("Company").
- 2. Articles of Organization of the Company have been filed, and are on-file with, the Florida Department of State and such articles are incorporated herein by reference.
- 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 requisite action of the Company's Board of Managers and its Members 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 NINTH AMENDMENT TO RETAIL CONCESSION AGREEMENT between 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, including amendment(s) and termination of such Agreement.
- 7. Upon 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 transactions contemplated herein will not violate any of the terms and conditions of the Company's member agreement, operating agreement certificate of organization or of any other agreement and amendments thereto of whatever kind between the Company and any third person.

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 AFFIANT SAYETH NAUGHT,

Gregg Paradies, Individually and as Manager of Paradies-Palm Beach LLC

SWORN TO AND SUBSCRIBED before me on this 6th day of June, 2017, by Gregg Paradies, Manager of Paradies – Palm Beach LLC on behalf of the Company who is personally known to me OR who produced Grego faracles identification and who did take an oath.

Print Notary Name

NOTARY PUBLIC

State of Georgia at large

My Commission Expires:

Christine M Thomas Notary Public

Douglas County, GA

My Commission Expires 8/24/2018

NINTH AMENDMENT TO RETAIL CONCESSION AGREEMENT

THIS NINTH AMENDMENT TO R	RETAIL CONCESSION AGREEMENT (this
"Amendment") is made and entered into	, 2017, by and between Palm Beach
County, a political subdivision of the State of Flo	orida ("County"), and Paradies-Palm Beach, LLC
("Company"), a Florida limited liability company	y, having its office and principal place of business
at 2849 Paces Ferry Road, Overlook I, Fourth Floo	or, 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 desire to introduce a new concept to be called the "<u>Flagler Gourmet Express</u>" to replace the Tech for Takeoff located on Concourse C of the Airport terminal; 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. <u>Recitals.</u> 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. <u>Replacement of Exhibit "A".</u> Exhibit "A" to the Agreement shall be deleted in its entirety and replaced with Exhibit "A" to this Amendment.

3. Flagler Gourmet Express - Unit C-2.

- A. Company shall cause the design and construction of the Flagler Gourmet Express to be completed on or before December 31, 2017, unless otherwise approved in writing by the County, which approval shall not be unreasonably withheld for delays beyond the reasonable control of Company. The Flagler Gourmet Express shall be located in Unit C-2 and shall replace the Tech for Takeoff concept. The Flagler Gourmet Express shall be open for business within no more than thirty (30) days of completion of construction. Within sixty (60) days of completion of construction, Company shall provide a Statement of Costs for Unit C-2 and provide an updated depreciation schedule in accordance with the requirements of Section 7.02 of the Agreement. The parties acknowledge and agree that Company may elect to count the Allowable Costs of leasehold improvements for the Flagler Gourmet Express toward Company's Minimum Mid-Term Investment in accordance with Section 7.03 of the Agreement.
- B. The parties acknowledge and agree the Flagler Gourmet Express shall be a market style concept primarily offering fresh, locally prepared pre-packaged grab and go food options, such as fresh sandwiches, salads and baked goods; fresh fruit; pre-packaged gourmet and specialty food products; and an assortment of high quality, healthy pre-packaged snack and food and beverage items.

- C. Company may also sell an assortment of news and gift items and other sundries; provided that such items shall be incidental to the overall assortment of products sold from Unit C-2, unless otherwise agreed to in writing by County.
- 4. The fourth sentence of paragraph 3(A) of the Eight Amendment to the Agreement (R-2016-1226) is hereby deleted in its entirety and replaced with the following:

Within sixty (60) days of completion of construction of Unit C-2, Company shall provide a Statement of Costs for Unit B-1 in addition to Unit C-2 and provide an updated depreciation schedule in accordance with the requirements of Section 7.02 of the Agreement.

5. Article 1, <u>Definitions</u>, of the Agreement is hereby amended to delete the definition of "<u>Monthly Privilege Fee</u>" in its entirety and replace it with the following:

Monthly Privilege Fee means the percentage of monthly Gross Receipts paid by Company for the privilege of operating a retail concession at the Airport and shall be equal to the sum of the following:

- A. twelve percent (12%) of monthly Gross Receipts for all sales from Units MT-1 (PGA Tour Shop) and MT-2A (Brighton/Brooks Brothers), excluding sales of Personal Services and Traveler Services from such concession units. The concession units identified in this Paragraph A shall be Locally or Nationally Branded Specialty Retail Stores;
- B. twelve percent (12%) of monthly Gross Receipts for all sales from Unit MT-3 (Comfort Zone) and Unit C-4 (Comfort Zone) and from the sale of Personal Services from any other concession unit, if any;
- C. twenty percent (20%) of monthly Gross Receipts for all sales from Units MT-2B (Palm Beach Expressions) and MT-4 (Kids Zoo), excluding sales of Personal Services and Traveler Services from such concession units;
- D. twenty two percent (22%) of monthly Gross Receipts for all sales from Units MT-2C (Worth Avenue News), MT-5 (Oceanfront News), B-2 (Coral Cove News), B-3 (Tropical News kiosk), C-1 (Coral Cove News), C-3 (CNBC News), and temporary concession units, excluding sales of Personal Services and Traveler Services from such concession units;
- E. ten percent (10%) of monthly Gross Receipts for all sales from Unit A-1 (Coastal News) and Unit MT-3A (Business Center) and from the sale of Traveler Services from any other concession unit, if any; and
- F. For Unit B-1 (Flagler Gourmet Market) and Unit C-2 (Flagler Gourmet Express), the Monthly Privilege Fee shall be the following:
 - i. fifteen point one percent (15.1%) of monthly Gross Receipts for all sales of food and beverage items; and
 - ii. twenty two percent (22%) of monthly Gross Receipts for all sales of news and gifts and other sundries.

In the event the concession units identified in Paragraph A above cease operating as Locally or Nationally Branded Specialty Retail Store(s), the percentage of monthly Gross Receipts for all sales from such concession unit(s) shall be increased in accordance with the percentages established in this Agreement for similar concepts. For example, a general news and gift concept would be twenty-two percent (22%) of monthly Gross Receipts and a bookstore concept would be twenty percent (20%) of monthly Gross Receipts. Company acknowledges and agrees that any change in concepts shall be subject to prior written approval of the County.

6. Article 1, <u>Definitions</u>, of the Agreement is hereby amended to delete the definition of "<u>Privilege Fee</u>" in its entirety and replace it with the following:

<u>Privilege Fee</u> means the percentage of annual Gross Receipts paid by Company for the privilege of operating a retail concession at the Airport and shall be equal to the sum of the following:

- A. twelve percent (12%) of annual Gross Receipts for all sales from Units MT-1 (PGA Tour Shop) and MT-2A (Brighton/Brooks Brothers), excluding sales of Personal Services and Traveler Services from such concession units. The concession units identified in this Paragraph A shall be Locally or Nationally Branded Specialty Retail Stores;
- B. twelve percent (12%) of annual Gross Receipts for all sales from Unit MT-3 (Comfort Zone) and Unit C-4 (Comfort Zone) and from the sale of Personal Services from any other concession unit, if any;
- C. twenty percent (20%) of annual Gross Receipts for all sales from Units MT-2B (Palm Beach Expressions) and MT-4 (Kids Zoo), excluding sales of Personal Services and Traveler Services from such concession units;
- D. twenty two percent (22%) of annual Gross Receipts for all sales from Units MT-2C (Worth Avenue News), MT-5 (Oceanfront News), B-2 (Coral Cove News), B-3 (Tropical News kiosk), C-1 (Coral Cove News), C-3 (CNBC News), and temporary concession units, excluding sales of Personal Services and Traveler Services from such concession units; and
- E. ten percent (10%) of annual Gross Receipts for all sales from Unit A-1 (Coastal News) and Unit MT-3A (Business Center) and from the sale of Traveler Services from any other concession unit, if any; and
- F. For all sales from Unit B-1 (Flagler Gourmet Market) and Unit C-2 (Flagler Gourmet Express), the Privilege Fee shall be the following:
 - i. fifteen point one percent (15.1%) of annual Gross Receipts for all sales of food and beverage items; and
 - ii. twenty two percent (22%) of annual Gross Receipts for all sales of news and gifts and other sundries.

In the event the concession units identified in Paragraph A above cease operating as Locally or Nationally Branded Specialty Retail Store(s), the percentage of annual Gross Receipts for all sales from such concession unit(s) shall be increased in accordance with the percentages established in this Agreement for similar concepts. For example, a general news and gift concept would be twenty-two percent (22%) of annual Gross Receipts and a bookstore concept would be twenty percent (20%) of annual Gross Receipts. Company acknowledges and agrees that any change in concepts shall be subject to prior written approval of the County.

- 7. <u>Paragraph Headings.</u> 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. <u>Ratification of Agreement.</u> 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. <u>Effective Date.</u> This Amendment shall be considered effective when signed by all parties and approved by the Palm Beach County Board of County Commissioners. Notwithstanding the foregoing, the parties acknowledge and agree the modification of the Privilege Fees applicable to Unit C-2 shall not become effective and shall remain twenty two percent (22%) of Gross Receipts for all sales from Unit C-2 until the opening of the Flagler Gourmet Express for business at the Airport.

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:Paulette Burdick, Mayor
APPROVED AS TO FORM AND LEGAL SUFFICIENCY	APPROVED AS TO TERMS AND CONDITIONS
By:County Attorney	By: Dura Bube for Fluce Pelly Director, Department of Airports
ATTEST: Signed, sealed and delivered in the presence of two witnesses for Company:	Paradies-Palm Beach, LLC, a Florida limited liability company
Signature Karen Suttle	By: Negg fle
Name (type or print)	Gregg Paradies Name (type or print)
Signature Christine Thomas Name (type or print)	President & Chief Executive Officer Title
(Seal)	

PALM BEACH INTERNATIONAL AIRPORT

MAIN TERMINAL, PRE-SECURITY			
Unit No.	Approximate Size (Sq. Ft.)		
MT – 1 (PGA Tour Shop)	1,082		
MT – 2A (Brighton/Brooks Brothers)	1,090		
MT – 2B (Palm Beach Expressions)	1,198		
MT – 2C (Worth Avenue News)	1,808		
MT – 3 (Comfort Zone)	1,063		
MT – 3A (Business Center)	1,199		
MT – 4 (Kids Zoo)	1,343		
MT – 5 (Oceanfront News)	2,572		

CONCOURSE A,	POST-SECURITY
Unit No.	Approximate Size (Sq. Ft.)
A-1 (Coastal News)	285

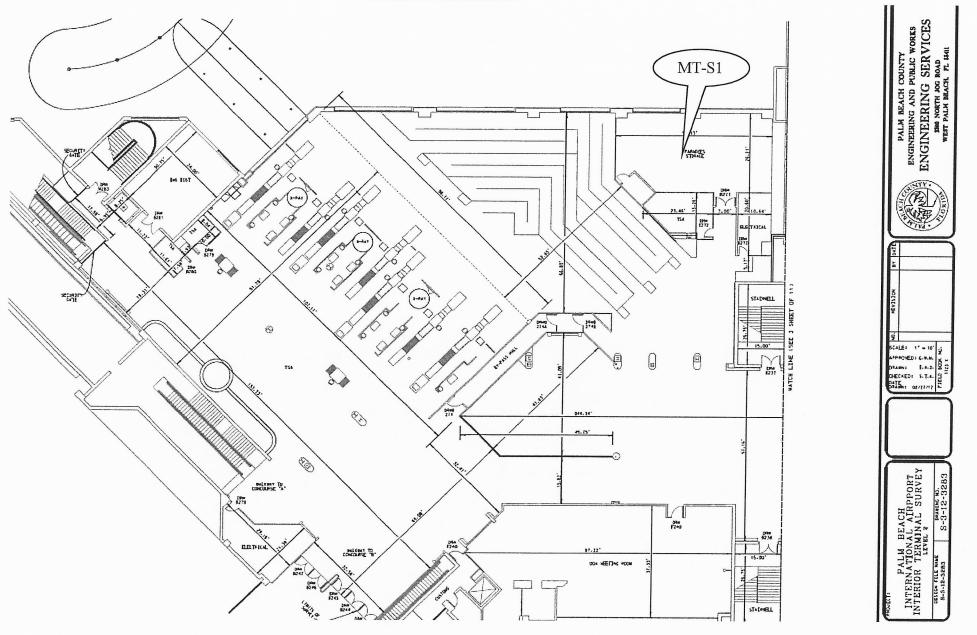
CONCOURSE B, P	OST-SECURITY
Unit No.	Approximate Size (Sq. Ft.)
B – 1 (Flagler Gourmet Market)	605
B – 2 (Coral Cove News)	1,358
B – 3 (Tropical News Kiosk)	616

CONCOURSE C, P	OST-SECURITY
Unit No.	Approximate Size (Sq. Ft.)
C – 1 (Coral Cove News)	1,315
C – 2 (Flagler Gourmet Express)	312
C – 3 (CNBC News)	2,272
C – 4 (Comfort Zone)	800

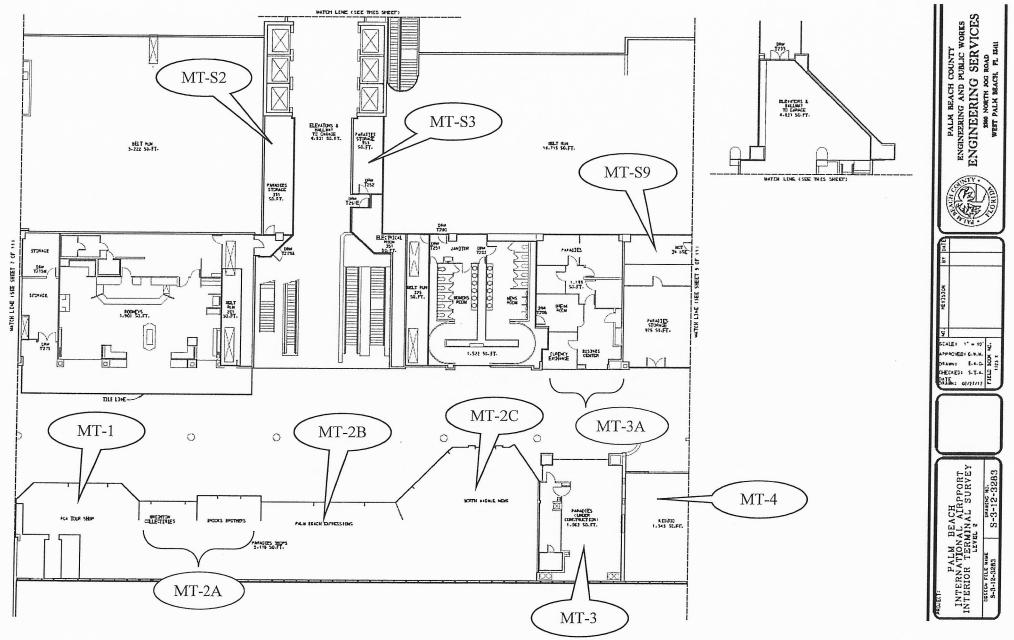
OFFICE & STORAGE AREAS		
Unit No.	Approximate Size (Sq. Ft.)	
MT - S1	1,371	
MT - S2	391	
MT - S3	353	
MT - S4	985	
MT - S5	550	
MT - S6	1,252	
MT - S7	337	
MT - S8	141	
MT – S9	291	
C-S1	498	

Square footage listed on this Exhibit "A" is subject to re-measurement by County pursuant to Section 2.01 of the Agreement.

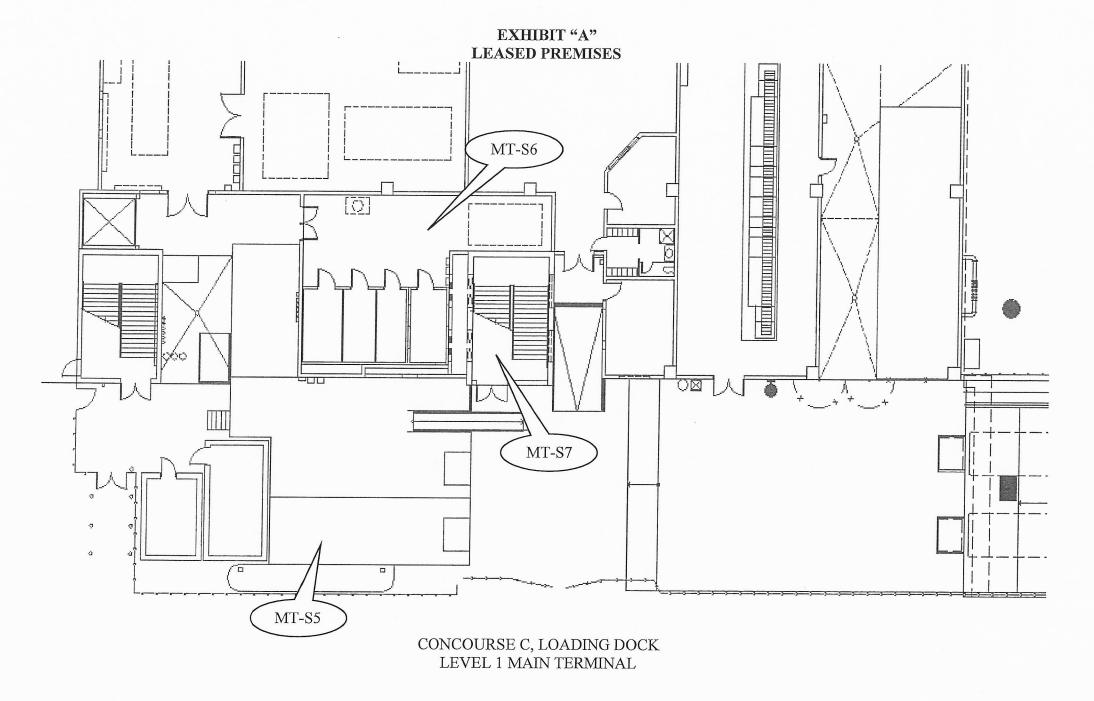
EXHIBIT "A" LEASED PREMISES



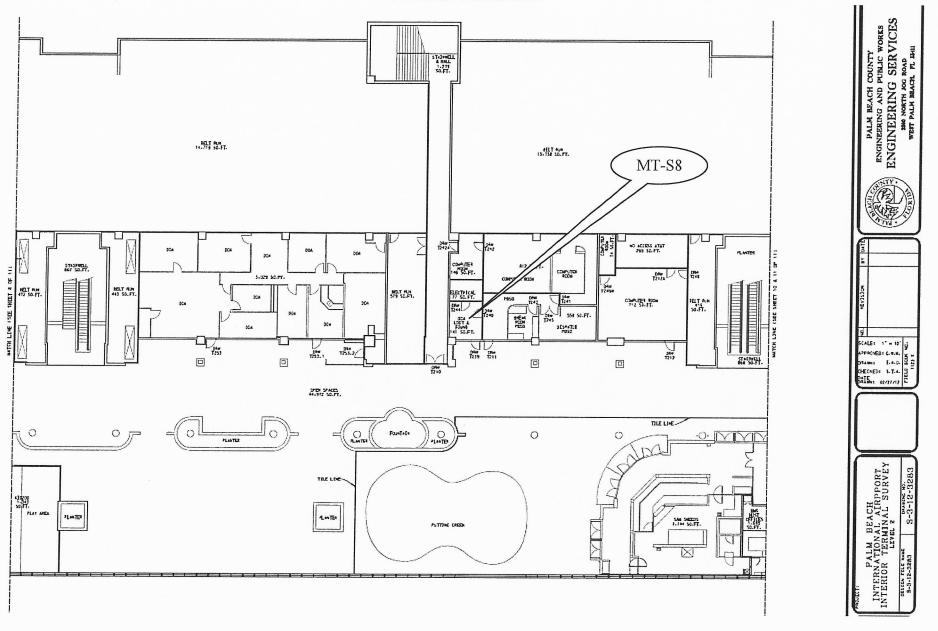
Paradies-Palm Beach, LLC 9th Amendment - PBI Retail Concession Agreement Page 2 of 10



Paradies-Palm Beach, LLC 9th Amendment - PBI Retail Concession Agreement Page 3 of 10

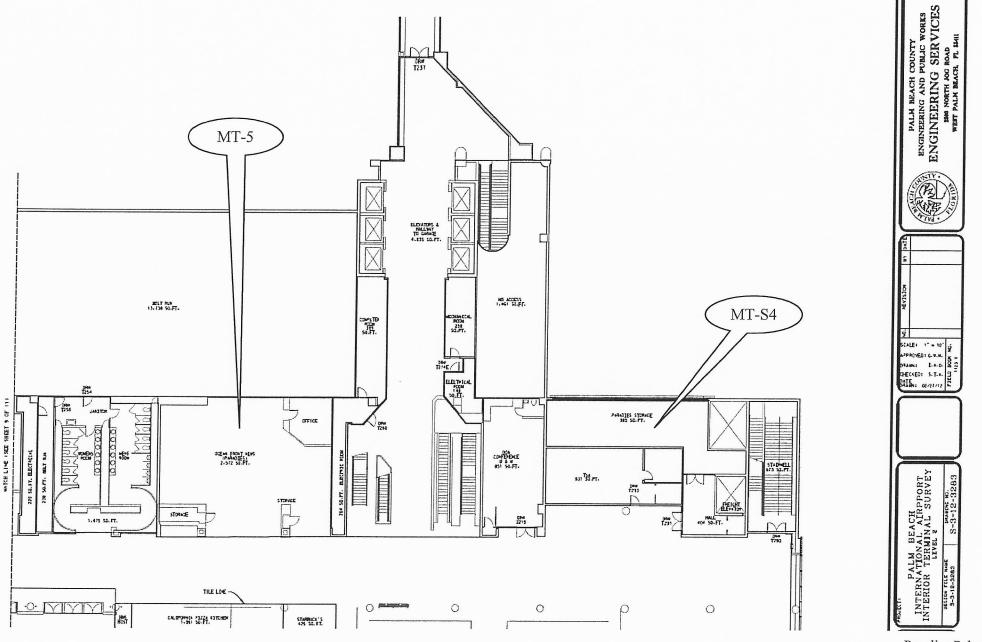


Paradies-Palm Beach, LLC 9th Amendment - PBI Retail Concession Agreement Page 4 of 10



Paradies-Palm Beach, LLC 9th Amendment - PBI Retail Concession Agreement Page 5 of 10

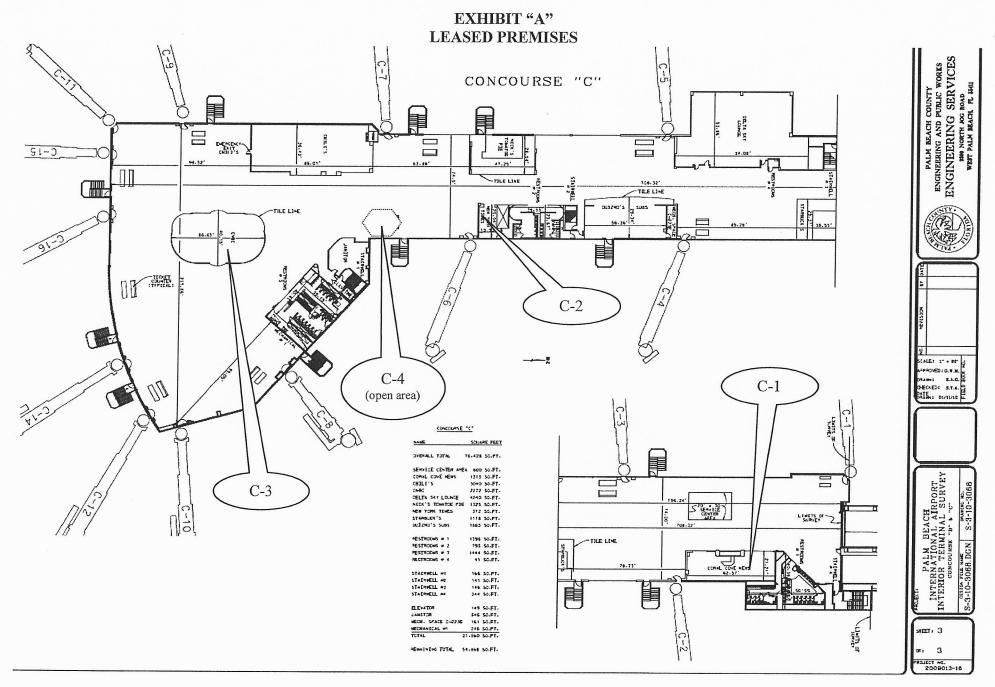
EXHIBIT "A" LEASED PREMISES



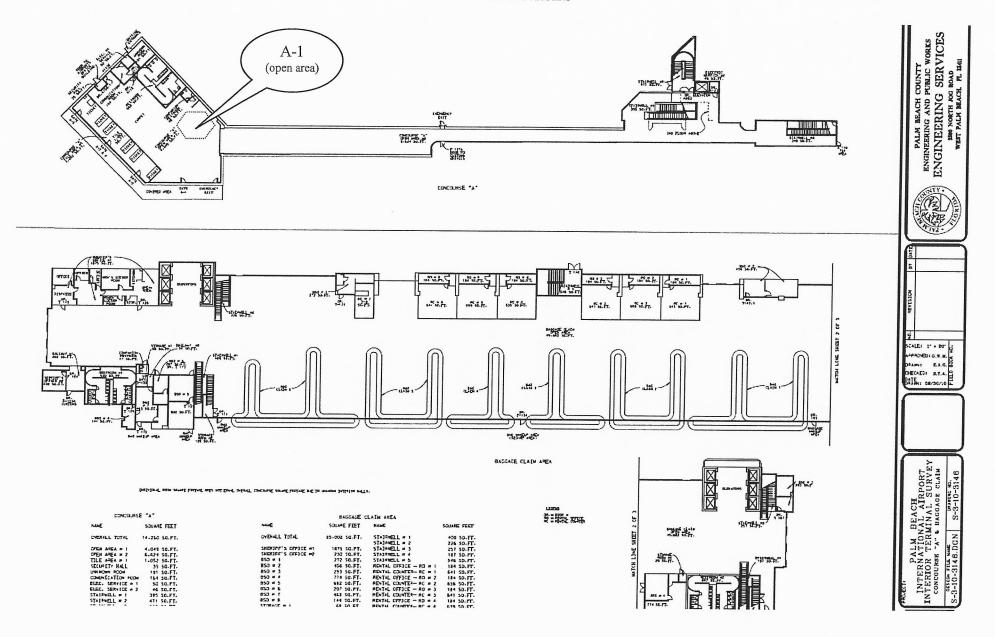
Paradies-Palm Beach, LLC 9th Amendment - PBI Retail Concession Agreement Page 6 of 10

EXHIBIT "A" LEASED PREMISES PALM BEACH COUNTY ENGINEERING AND PUBLIC WORES ENGINEERING SERVICES BM NORTH AG BAAD WEST PALM BEACH, PL 1841 CONCOURSE "B" -0004 8-216 FOOT ACCESS SCALE: 1" = 89" (APPROMEDIC.W.M. & DPARMY E.A.G. & CHECKED! S.T.A. & DATE DATE DIVISION B-2 B-1 B-3 ים' בנאנטנאנס OVERALL TOTAL S1.657 SO.FT. NEW YORK FIRST 600 SOLFT TRETHEAL NEWS 616 SOLFT. CDMAL EDWE NEWS 1350 SOLFT. STANDACK'S PARTE PE 2420 SOLFT. 4 SHADED ARMS 500 SOLFT. 5 SHA ADMAS 506 SOLFT PALM BEACH INTERNATIONAL AIRPORT INTERIOR TERMINAL SURVEY CONCOUNSE "E" F "C" RESTREME # 1 914 50.FT. 894 50.FT. 141 SG.FT. 141 SQ.FT. 275 SQ.FT. STATEMELL # 1 \$2 \$0.FT. 221 50.FT. 144 50.FT. MECHANICAL # 1 MECHANICAL # 3 MECHANICAL # 4 NEMA | N | NC TOTAL 42.334 SC.FT. os₁ 3 .DA TJALDRY 10-00005

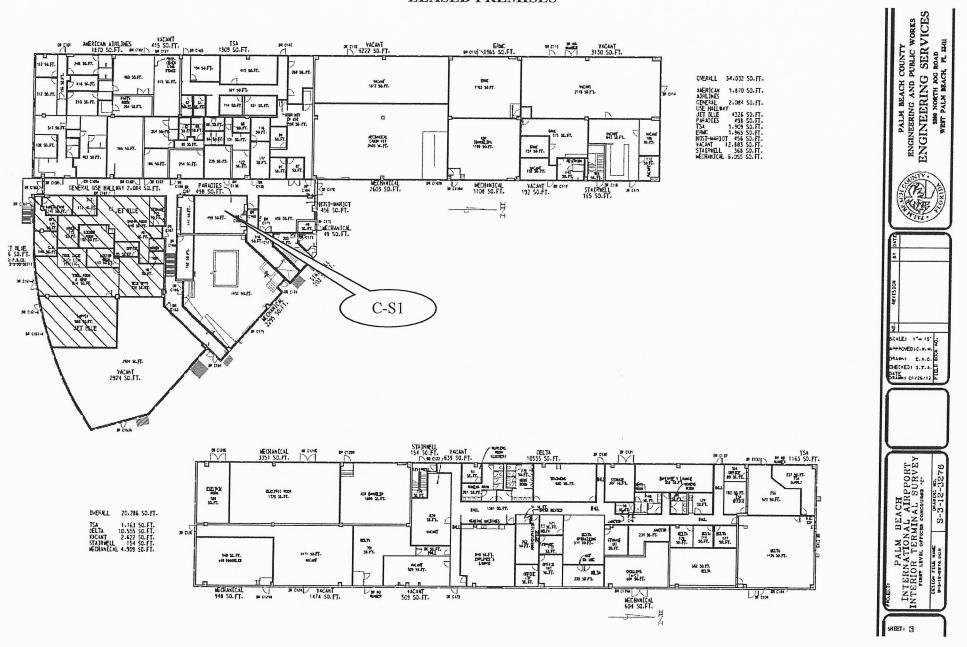
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Paradies-Palm Beach, LLC 9th Amendment - PBI Retail Concession Agreement Page 8 of 10



Paradies-Palm Beach, LLC 9th Amendment - PBI Retail Concession Agreement Page 9 of 10



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