

**FIFTH AMENDMENT TO SECOND AMENDED AND RESTATED FOOD AND BEVERAGE  
CONCESSION AGREEMENT FOR THE FORT LAUDERDALE-HOLLYWOOD INTERNATIONAL  
AIRPORT**

This Fifth Amendment ("Fifth Amendment") to the Agreement (hereinafter defined) between Broward County, a political subdivision of the State of Florida ("County"), and Lauderdale F&B Partners, a Florida general partnership ("Concessionaire") (collectively, the "Parties"), is entered into effective as of the date of this Fifth Amendment is fully executed by the Parties ("Effective Date").

RECITALS:

A. County and Concessionaire entered into a Second Amended and Restated Food and Beverage Concession Agreement with an effective date of June 26, 2012, which was amended by a First Amendment and an Addendum to the First Amendment dated December 19, 2013, a Second Amendment dated May 19, 2014, a Third Amendment dated January 28, 2015, and a Fourth Amendment dated December 22, 2015 (collectively, as amended, the "Agreement").

B. By letter addressed to County dated November 22, 2013, Concessionaire committed to pay the living wage required by the Living Wage Ordinance (hereinafter defined) to its employees throughout the Term of the Agreement.

C. On December 11, 2018, the Board of County Commissioners amended the Living Wage Ordinance to increase the living wage rate to at least \$13.27 per hour with a health care benefit amounts of at least \$1.63 per hour, or at least \$14.90 per hour without health care benefits, adjusted annually as provided in the Living Wage Ordinance, and on February 26, 2019, the Board of County Commissioners amended the Living Wage Ordinance to increase the health care benefit amount to \$3.44 per hour beginning on January 1, 2021, adjusted annually as provided in the Living Wage Ordinance (collectively as amended, "Increased Living Wage").

D. The Living Wage Ordinance, as amended, provides that for covered contracts entered into prior to January 1, 2019, the covered employer and County may enter into a written amendment to reasonably mitigate the increased living wage costs.

E. Concessionaire has been paying the Increased Living Wage to its covered employees since April 1, 2019.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Amendments made to the Agreement by this Fifth Amendment are indicated by use of strikethroughs to indicate deletions and underlining to indicate additions.
2. Article I of the Agreement is amended by adding a definition of Living Wage Ordinance:

1.49 Living Wage Ordinance. The Broward County Living Wage Ordinance, Sections 26-100 et. seq. of the Broward County Code of Ordinances, as may be amended from time to time.

3. Article XXII of the Agreement is amended by creating a new Section 22.50 to read as follows:

22.50 Living Wage Requirement. Concessionaire is a "covered employer" within the meaning of the Living Wage Ordinance and agrees to and shall pay all of its "covered employees" as defined therein, a living wage as required by such ordinance, and to fully comply with the requirements of such ordinance. Concessionaire shall be responsible for and shall require all of its subconcessionaires to fully comply with the requirements of the Living Wage Ordinance, whether or not the subconcessionaires meet the definition of a "covered employer" in such ordinance. In the event that Concessionaire has existing agreements with subconcessionaires that do not currently require payment of the living wage as defined by such ordinance, a requirement to comply with the Living Wage Ordinance consistent with this section 22.50 shall be included in any amendment or renewal of any such subconcessionaire agreement.

4. Article III, Sections 3.7.2 and 3.7.3 are amended to read as follows:

3.7.2 If Concessionaire is operating under a brand name with street (non-Airport) locations within Broward, Miami-Dade, or Palm Beach Counties ("street locations"), prices charged for comparable products shall be no more than ~~ten~~ eleven percent (~~10~~ 11%) higher than those charged at agreed-upon comparable locations. The comparable price shall be developed by taking the average of no more than three (3) locations, including food and beverage locations that serve travelers (e.g. travel plazas, hotels, resorts, and entertainment venues).

3.7.3 In the event Concessionaire is not operating under a brand name, the location prices charged by Concessionaire for comparable products shall be no more than ~~ten~~ eleven percent (~~10~~ 11%) higher than the average price of no more than three (3) similar comparable sites (e.g. comparable in concept, size, ambiance, and quality, of the food and beverage service concessions proposed for the Airport) identified by Concessionaire, which sites are approved by the Aviation Department. Fewer than three comparable sites may be used, so long as Concessionaire obtains the prior written consent of the Aviation Department.

5. Article III, Section 3.7.4 is deleted in its entirety:

~~3.7.4 In the event County enters into an agreement with a food and beverage concessionaire to operate in Terminals 1 and 2 and said agreement allows the concessionaire to charge more than five eleven percent (5%) above street pricing, this Agreement shall be revised to reflect the same fee structure, as set forth in the new concessionaire's agreement for Terminals 1 and 2, as approved by the Board.~~

~~Concessionaire and County shall execute an amendment, which that reflects the change in the fee structure, pursuant to this subsection 3.7.4., which shall be presented to the Board. The Director of Aviation shall be authorized to execute any amendment pursuant to this subsection 3.7.4, on behalf of the Board.~~

6. The Parties stipulate that the increase from ten percent (10%) to eleven percent (11%) in Article III, Sections 3.7.2 and 3.7.3 ("Street Pricing") is to reasonably mitigate the increased costs to Concessionaire resulting from the amendments to the Living Wage Ordinance, including increasing the wages for covered employees. Concessionaire certifies the truth and accuracy of the documentation submitted by Concessionaire to demonstrate increased costs. Concessionaire certifies that the stated increase is equal to or less than the amount of the increased costs to Concessionaire resulting from the Increased Living Wage.

7. In the event the Increased Living Wage is not actually paid to Concessionaire's covered employees for any reason, upon written notice by County, the Street Pricing shall revert from eleven percent (11%) back to ten (10%) percent.

8. In the event of any conflict or ambiguity between this Fifth Amendment and the Agreement, the Parties agree that this Fifth Amendment shall control.

9. Concessionaire acknowledges that through the Effective Date hereof, Concessionaire has no claims against County with respect to any of the matters covered by the Agreement and Concessionaire has no right of set-off or counterclaims against any of the amounts payable under the Agreement.

10. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.

11. The Agreement, as amended herein, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement or this Fifth Amendment. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

12. Preparation of this Fifth Amendment has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

13. The Recital clauses stated above are true and correct and are incorporated in this Agreement by reference.

14. Except as modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

15. This Fifth Amendment may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Fifth Amendment: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, and Lauderdale F&B Partners, signing by and through its \_\_\_\_\_ duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through  
its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as  
ex officio Clerk of the Broward County  
Board of County Commissioners

By: \_\_\_\_\_  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
2200 SW 45<sup>th</sup> Street, Suite 101  
Dania Beach, Florida 33312  
Telephone: (954) 359-6100  
Telecopier: (954) 359-1292

By:  \_\_\_\_\_ 11/1/19  
Sharon V. Thorsen (Date)  
Senior Assistant County Attorney

SVT/  
Delaware North Fifth Amendment(2)  
09/20/19

**FIFTH AMENDMENT TO SECOND AMENDED AND RESTATED FOOD AND BEVERAGE  
CONCESSION AGREEMENT FOR THE FORT LAUDERDALE-HOLLYWOOD INTERNATIONAL  
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CONCESSIONAIRE

Lauderdale F&B Partners, a Florida  
general partnership

Delaware North Companies  
Travel Hospitality Services, Inc., a Florida  
corporation (f/k/a CA One Services, Inc.), a  
general partner

Witness:

Ari G. Caballen  
Signature

Lori G. Caballen  
Print Name of Witness above

Stefanie Dickinson  
Signature

Stefanie Dickinson  
Print Name of Witness above

By: [Signature]  
Authorized Signor

Scott Socha  
Print Name and Title President

18 day of October, 2019

FLL F&B Group LLC, a Florida limited liability  
company, a general partner

Adriene J. Nabbie  
Signature

Adriene J. Nabbie  
Print Name of Witness above

Elizabeth Thomas  
Signature

Elizabeth Thomas  
Print Name of Witness above

By: [Signature]  
Authorized Signor

TYRONE NABBIE  
Print Name and Title

18 day of October, 2019