

**FIRST AMENDMENT TO ADDENDUM TO
SIGNATORY TERMINAL BUILDING LEASE AGREEMENT
BETWEEN**

BROWARD COUNTY

AND

DELTA AIR LINES, INC.

This is the FIRST Amendment to Addendum to Signatory Terminal Building Lease Agreement between: BROWARD COUNTY, a political subdivision of the State of Florida, its successors and assigns, hereinafter referred to as "County",

AND

DELTA AIR LINES, INC., a Delaware corporation authorized to do business in the State of Florida, its successors and assigns, hereinafter referred to as "Delta".

WITNESSETH

WHEREAS, the County and Delta entered into an Addendum to Signatory Terminal Building Lease Agreement ("Agreement") on June 12, 2012 to allow Delta to manage the design, construction and installation of an In-line Baggage System and enabling projects in Terminal 2 at Fort Lauderdale – Hollywood International Airport; and

WHEREAS the County and Delta desire to amend said Agreement a first time to add additional monies to Section 6.1. and 12.1 of the Agreement to provide additional funding for design and construction of Lobby Phase concessions and Phase 2 Work involving modification of the Delta and Air Canada's Ticket Counters and ATO spaces to coordinate with the Terminal Modernization work that will be completed in the future.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, County and Delta agree as follows:

1. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties.

2. Section 6.1. PROJECT COST is hereby amended as follows:

Within fifteen (15) calendar days after receipt by Delta of all proposals from shortlisted design-build contractors, Delta shall notify BCAD in writing whether, based on its reasonable estimation, all costs and expenses to be incurred by Delta in connection with performing the Services, including all hard and soft costs related thereto, can be completed by Delta for the Forty-two Million Dollar (\$42,000,000.00)~~Thirty Three Million Dollar (\$33,000,000.00)~~ Contract Price or less, and that the Work can be Substantially Completed by Delta within the Contract Time, subject to Force Majeure ("Condition").

3. Section 12.1. **Compensation** is hereby amended as follows:

12.1 Compensation. The County shall pay to Delta the Contract Price approved for the Project not to exceed Forty-two Million Dollar (\$42,000,000.00)~~Thirty Three Million Dollar (\$33,000,000.00)~~ or such greater amount as approved by the Board.

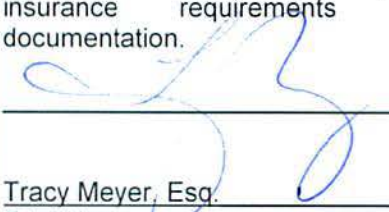
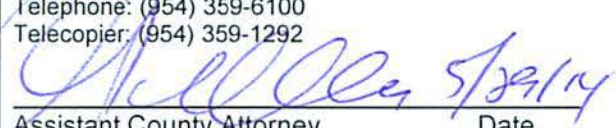

4. EXHIBIT A, Scope of Services/Project Description, is hereby deleted and replaced with EXHIBIT A-1, Scope of Services/Project Description, attached to this Amendment. Every reference in the Agreement to EXHIBIT A shall be deemed to refer to EXHIBIT A-1.
5. Except as modified herein, all remaining terms and conditions of the Agreement, as modified by this Amendment, shall remain in full force and effect.
6. In the event of any conflict or ambiguity between this Amendment and the Agreement, the parties hereto agree that this document shall prevail.
7. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.
8. This document 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 of this document that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
9. The effective date of this First Amendment shall be on the date it is fully executed by both parties.

10. Except as modified herein, all remaining terms and conditions of the Agreement, as modified by this Amendment, shall remain in full force and effect.
11. Multiple copies of this Addendum may be fully executed by all parties, each of which shall be deemed to be an original.

(Remainder of this page intentionally left blank)

FIRST AMENDMENT TO ADDENDUM TO TERMINAL BUILDING LEASE AGREEMENT BETWEEN BROWARD COUNTY AND DELTA AIR LINES, INC.

IN WITNESS WHEREOF, the parties have made and executed this FIRST AMENDMENT TO ADDENDUM TO SIGNATORY TERMINAL BUILDING LEASE AGREEMENT on the respective dates under each signature: 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 _____, 2014, and DELTA AIR LINES, INC., signing by and through its duly authorized representatives.

<p>COUNTY ADMINISTRATOR ATTEST: County Administrator and Ex-Officio Clerk of the Board of County Commissioners</p> <p>_____ Date</p> <p>Bertha Henry Print Name</p>	<p>COUNTY MAYOR or VICE-MAYOR:</p> <p>_____ Mayor or Vice-Mayor Date</p> <p><input type="checkbox"/> Barbara Sharief <input type="checkbox"/> Tim Ryan Print Name</p>
<p>COUNTY RISK MANAGER:</p> <p>Approved as to surety company qualifications, insurance requirements and insurance documentation.</p> <p> _____ Date 5-30-14</p> <p>Tracy Meyer, Esq. Print Name</p>	<p>COUNTY ATTORNEY:</p> <p>Approved as to form by Joni Armstrong Coffey Broward County Attorney Aviation Office 2200 SW 45th Street, Suite 101 Dania Beach, Florida 33312 Telephone: (954) 359-6100 Telecopier: (954) 359-1292</p> <p> _____ Assistant County Attorney Date 5/29/14</p> <p>Alexander J. Williams, Jr., Esq. Print Name</p> <p> _____ Chief Trial Counsel Date 5/30/14</p> <p>Michael J. Kerr Print Name</p>

FIRST AMENDMENT TO ADDENDUM TO TERMINAL BUILDING LEASE
AGREEMENT BETWEEN BROWARD COUNTY AND DELTA AIR LINES, INC.

ATTEST:


Assistant Secretary

Jan M. Davidson
Assistant Secretary

(CORPORATE SEAL)

DELTA AIR LINES, INC.

By:



David Hamm

Title: Managing Director- Corporate Real Estate

28 day of MAY, 2014

WITNESS:




EXHIBIT A-1
Scope of Services/Project Description

1. **Generally.** The Project will be performed in ~~two~~ four phases: the Enabling Phase, ~~the and the~~ CBIS Phase, the Lobby Enabling Phase and Lobby Ticket Counter Phase. The Enabling Phase includes the procurement and installation of PC Air & 400 HZ power at seven of the nine gates in Terminal 2; and the demolition of the central chiller plant (including without limitation demolition of the supply and return cooling lines, air handlers, and electrical feeds and the demolition of the cooling tower). The CBIS Phase of the Project involves the design, procurement and construction to modify or construct building infrastructure in Terminal 2 at the Airport to incorporate the TSA in-line Checked Baggage Inspection System (CBIS). Terminal modifications include required changes to baggage conveyor components, mechanical, plumbing, electrical, structural, and telecommunications infrastructure to provide for the installation of explosive detection systems (EDS) within the baggage screening area, Explosive Trace Detection (ETD) equipment in the Checked Baggage Resolution areas, and the installation of applicable CBIS hardware and software for use with a checked baggage in-line baggage screening system. Notwithstanding anything to the contrary contained in this Addendum or in this Exhibit A, procurement and installation of the EDS and ETD machines will be performed by the TSA and is outside the Scope of Services for this Addendum. County shall facilitate coordination of such installation between TSA and Delta. The CBIS will be designed and constructed in accordance with the TSA's Planning Guidelines and Design Standards in effect at the time the Project design reaches 30%. In addition, the CBIS Phase includes building out new concessions storage area (which is currently located in the footprint of the future CBIS) in the space formerly occupied by the demolished central chiller plant. The CBIS Phase includes outbound baggage from the induction points; ticket counter belts and curbside belts, through the CBIS and on to the make-up devices. Phasing of the CBIS Phase will require installation of temporary make up piers or flat plates outside the drip line of the building and a temporary canopy over these devices. Other components of the CBIS Phase will include construction of the central On-Screen-Resolution (OSR) and BHS central control room and related conveyance and connectivity from all four terminals on a fiber loop to provide redundancy. The CBIS Phase includes, but is not limited to, all of the Project components undertaken by the County pursuant to the TSA Agreement. The Lobby Enabling Phase involves the design, procurement, relocation and construction to modify and construct building infrastructure in Terminal 2 for airline ticketing offices for both Delta and Air Canada, new communications room, new electrical closet, reconfiguration of Delta Baggage service office, TSA human resources offices and concessions spaces. Terminal modifications include required changes to, mechanical, plumbing, electrical, structural, and telecommunications infrastructure. The Ticket Counter phase involves the design, procurement and construction of a new ticket counter space to incorporate the final location of the

BHS ticket counter conveyor belt. The Lobby enabling and ticket counter phase will be designed in coordination with BCAD's master airport planning team.

2. **Contract Time.** BCAD will issue the first Notice to Proceed to commence the Enabling Phase, the second Notice to Proceed to commence development of 30% design documents for the CBIS Phase, and the third Notice to Proceed to commence the construction services associated with the CBIS Phase. The time for Substantial Completion of the Enabling Phase is 300 calendar days; the time for completion of 30% design documents for the CBIS Phase is 90 calendar days (and this phase is expected to overlap with the Enabling Phase); and the time for Substantial Completion of the CBIS Phase is 540 calendar days and 30 calendar days thereafter to Final Completion of the CBIS Phase. The time for substantial completion of the Lobby Enabling and Ticketing phases is 273 days from end of the CBIS phase.

3. **Contract Price.** The budget for the Project is Forty-two Million Dollars (\$42,000,000.00) ~~Thirty Three Million Dollars (\$33,000,000.00)~~, subject to adjustment as provided in the Addendum.

4. **Services of Delta.** Delta, through its Design-Build Contractor, shall undertake the Project in the following manner:

- a. Prior to the parties' execution of this Addendum, Delta may commence Services for the competitive solicitation of the Design-Build Contract, as identified in the table below ("Pre-Addendum Services"):

Item #	Description	Hourly Rate	No. of Hours	Amount
1.	Preparation, Advertisement, and Issuance of Design-Build RLI Solicitation			\$68,000
2.	RLI Shortlisting			\$13,600
3.	Preparation of RFP Package			\$190,400
	Total Maximum Not To Exceed for Pre-Addendum Services			\$272,000

After the parties' execution of this Addendum, Delta may request payment for such Pre-Addendum Services, and the County shall process and pay such request, in accordance with Article 12 of this Addendum. Delta understand and agrees that if, for any reason, the County does not execute this Addendum, Delta shall bear the full costs of any and all Pre-Addendum Services performed, and the County shall have no responsibility for the payment of any such costs.

- b. Prior to the commencement of any Services under this Addendum, except for the Pre-Addendum Services identified in Article 4.a. of this Exhibit, Delta must receive a written Notice to Proceed from BCAD in accordance with the provisions of Section 2 of this Exhibit A. Delta will submit to BCAD 30%, 70% and 100% construction plans for the CBIS Phase along with specifications for review and comment. Delta will submit to BCAD 100% construction documents with specifications for BCAD review and approval by the BCAD Project Review Committee (PRC). Delta shall obtain all necessary permits from the Building Department and approvals from Authorities having jurisdiction over the Project. Delta shall obtain bids for the construction components of the Work through a competitive means and in compliance with the provisions of this Addendum. After all approvals and buyouts have been achieved, Delta shall not proceed with the construction phase of the CBIS Phase until the Notice to Proceed for construction has been issued by BCAD. Upon notice from Delta that all requirements have been achieved, BCAD shall issue the construction Notice to Proceed after it confirms to its satisfaction that the criteria of such Notice to Proceed have been fulfilled by Delta. BCAD shall not be obligated to pay Delta for any Services that have not been previously authorized by a Notice to Proceed from BCAD. Delta shall be responsible for processing all Field Orders. All Change Order requests shall be submitted to Contract Administrator for review. Change Order Requests shall detail the costs, back-up materials, such as all applicable quotes for supplies and services, and justification or cause for the requested change. Prior to submission to Contract Administrator, all Change Orders shall be signed and certified as accurate, true and correct by Delta and the Contractor(s).
- c. No less than one week prior to Substantial Completion, Delta will provide to BCAD sufficient spare/replacement parts for the Project to reasonably operate the CBIS for one year, according to a spare parts inventory agreed to in advance between Delta and BCAD.
- d. Delta will use commercially reasonable efforts to ensure that the Design-Build Contractor warrants to Delta and to County that all materials and equipment furnished under the Design-Build Contract will be new unless otherwise specified and that all of the Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. Such warranty for materials and equipment will be for a period of two years beginning at the issuance of the certificate of Substantial Completion.
- e. Progress payments shall be submitted once each month for approval and payment by BCAD to Delta. Each Application and Certificate for Payment shall be signed and certified as accurate, true and correct by Delta and the

Design-Build Contractor and shall detail all the information as shown on **Exhibit F**. Delta shall provide partial release of claims from its Design-Build Contractor and its sub-contractors for services performed and paid for by the County to Delta in the immediately preceding Application and Certificate for Payment.

- f. Prior to Substantial Completion of the CBIS Phase, the BHS shall undergo acceptance testing and said system shall pass integrated systems acceptance testing (ISAT) and will need to be accepted by TSA (as set forth in "BHS Specifications" attached hereto and made a part of this Addendum as **Exhibit H**) in accordance with the TSA Agreement.
 - g. When Substantial Completion is reached, Delta shall have the Design-Build Contractor submit a request for a certificate of Substantial Completion to Contract Administrator which shall state that Substantial Completion has been reached. BCAD shall then review the Project status for concurrence and approval.
 - h. When Final Completion is reached, Delta shall have its Design-Build Contractor submit a request for a certificate of Final Completion to BCAD's Contract Administrator which shall state that Final Completion has been reached. BCAD shall then review the Project status for concurrence and approval.
5. **Liquidated Damages.** Time is of the essence throughout this Addendum, subject to Force Majeure. Delta agrees to use commercially reasonable efforts to include in the Design-Build Contract a liquidated damages provision substantially similar to the following (the "Liquidated Damages Clause"):

If the Design-Build Contractor does not achieve Substantial Completion by the calendar day following the expiration of the Contract Time (subject to extension for Force Majeure), then it shall pay Delta \$2,500 per day for each and every day the Work is not substantially complete beyond the Substantial Completion Date. The payments set forth in this paragraph are agreed upon liquidated damages and are the sole and only remedy of Delta for the failure of the Design-Build Contractor to timely complete the Work as provided. These amounts are not penalties but are liquidated damages to and the sole and only remedy of Delta for its inability to obtain full use of the Project. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by Delta as a consequence of such delay, and both parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of the Design-Build Contractor to complete the Work on or before the required date.

Delta will pay to County any amounts received from the Design-Build Contractor pursuant to the Liquidated Damages clause in the Design-Build Contract.