

**ITEM #7**

**ADDITIONAL  
AGENDA  
MATERIAL**

**SUBMITTED BY  
THE OFFICE OF THE COUNTY ATTORNEY**

**FOR MEETING OF**

**JUNE 24, 2014,  
2:00 P.M. PUBLIC HEARING**

**BROWARD COUNTY COMMISSION**  
**PROPOSED AMENDMENT TO RESOLUTION**

Proposed By Office of the County Attorney Date 06/24/14

Subject of Resolution Airport Worker Standards Resolution #  
if existing \_\_\_\_\_

On Page 1, Line 6½,

insert, after 'SERVICE;':

PROVIDING FOR A HEARING AND REVIEW OF A DENIAL OR REVOCATION OF A  
TERMINAL SERVICES PERMIT; PROVIDING FOR APPLICABILITY OF THE  
RESOLUTION;

Proposed Amendment \_\_\_\_\_

Adopted \_\_\_\_\_

Not Adopted By  
Board \_\_\_\_\_

**BROWARD COUNTY COMMISSION**  
**PROPOSED AMENDMENT TO RESOLUTION**

Proposed By Office of the County Attorney Date 06/24/14

Subject of Resolution Airport Worker Standards Resolution #  
if existing \_\_\_\_\_

On Page 2, Line 9,

insert: ,

(f) *Ensure Uninterrupted Services* means a Contractor or Subcontractor will be able to provide the quality and quantity of services it has contractually agreed to provide at the Airport during all hours it has committed to provide such services.

~~(f)~~(g) *Effective Date* means the effective date of this Part.

~~(g)~~(h) *Subcontractor* means any individual, corporation, association, partnership, limited liability company, joint venture, sole proprietorship, trust, or any other entity that provides services at the Airport under a Contract with a Contractor. Subcontractor shall not include ground transportation providers, construction contractors, utility companies, the United States, including the Federal Aviation Administration (FAA), the Transportation Security Administration (TSA), or any other federal, state, or local government agency.

Proposed Amendment \_\_\_\_\_

Adopted \_\_\_\_\_

Not Adopted By  
Board \_\_\_\_\_

**BROWARD COUNTY COMMISSION**  
**PROPOSED AMENDMENT TO RESOLUTION**

Proposed By Office of the County Attorney Date 06/24/14

Subject of Resolution Airport Worker Standards Resolution #  
if existing \_\_\_\_\_

On Page 2, Lines 14 - 19, strike, after the word 'to':

provide uninterrupted services at the Airport during the term of its Terminal Services Permit. In the event of cessation or interruption in services because of a work stoppage or other protest by a Contractor's or Subcontractor's employees, the County shall have the right, to the full extent permissible under applicable law, to revoke the Terminal Services Permit.

and insert:

ensure uninterrupted services at the Airport during the term of its Terminal Services Permit. In the event there is a cessation or interruption of the Contractor's or Subcontractor's services, the County shall have the right, to the full extent permissible under applicable law, to revoke the Terminal Services Permit.

Proposed Amendment \_\_\_\_\_

Adopted \_\_\_\_\_

Not Adopted By  
Board \_\_\_\_\_

**BROWARD COUNTY COMMISSION**  
**PROPOSED AMENDMENT TO RESOLUTION**

Proposed By Office of the County Attorney Date 06/24/14  
Subject of Resolution Airport Worker Standards Resolution #                       
if existing                     

On Page 2, Lines 20 - 24 and Page 3, Lines 1 - 7, strike:

**26.42 26.43. Applicability.**

(a) The requirements of this Part shall not apply where and to the extent state or federal law or regulations preclude their applicability.

(b) ~~All of t~~The provisions of this Part may, by a collective bargaining agreement, provide that the collective bargaining agreement supersedes the requirements of this Part Section 26.41 shall not apply to the extent they are superseded by a collective bargaining agreement.

(c) The provisions of this ~~Part~~ Section 26.41 shall apply to Contracts ~~effective, amended, renewed, or extended after the Effective Date of this Part entered into or amended after the Effective Date of Section 26.41.~~ The provisions of Section 26.42 shall apply to Terminal Services Permits entered into or amended after the Effective Date of Section 26.42.

and insert:

**26.43 Denial or Revocation of Terminal Services Permit.**

(a) In the event a Terminal Services Permit is denied or revoked because of the failure to demonstrate in writing the measures to ensure uninterrupted services, or because of the failure to maintain uninterrupted services, written notice of such denial or revocation shall be provided to the applicant or Terminal Services Permit holder, which notice shall set forth the reasons why the Terminal Services Permit has been denied or revoked. If a timely request for a hearing is made pursuant to paragraph (b) below, then the revocation of a Terminal Services Permit for the above reasons shall not be effective until after the final order is issued pursuant to paragraph (d) below or, if subsequent judicial review is sought pursuant to paragraph (e) below, upon resolution of court proceedings. If there is not a timely request for a hearing, then the revocation of a Terminal Services Permit shall be final.

(b) Upon receipt of the notice specified in paragraph (a) above, the applicant or Terminal

Services Permit holder may request a hearing before a hearing officer, appointed by the Board, who shall be an attorney in good standing with The Florida Bar. To request a hearing, the applicant or Permit holder shall provide written notice of such request to the Office of the County Attorney by certified mail, return receipt requested, within fifteen (15) days after the applicant's or Permit holder's receipt of the notice of denial or revocation. Within fifteen (15) days after receipt of the request for a hearing, the Office of the County Attorney shall submit to the hearing officer a copy of the applicable Terminal Services Permit and the notice of denial or revocation.

(c) The hearing officer shall conduct a hearing within thirty (30) days after the receipt by the hearing officer of the material submitted by the Office of the County Attorney pursuant to paragraph (b) above. The parties to the proceeding shall be the applicant or Terminal Services Permit holder and the Aviation Department. The procedure for the hearing is as follows:

- (1) The hearing officer shall issue a notice of hearing date to the applicant or Terminal Services Permit holder and such notice shall contain the date, time, and place of the hearing;
- (2) The parties may subpoena and examine witnesses; introduce exhibits; cross examine opposing witnesses on any relevant matter; impeach witnesses; and rebut evidence.
- (3) The hearing officer shall submit a recommended order to the Broward County Aviation Director and the applicant or Terminal Service Permit holder within fifteen (15) days after the conclusion of the hearing. The recommended order shall contain the time and place of the hearing; appearances entered at the hearing; issues involved in the case and presented by the parties; proposed findings of fact; conclusions of law; and the recommended disposition.
- (4) Additional procedures regarding the hearing shall be specified in the Terminal Services Permit.

(d) After the issuance of the recommended order, the Aviation Director, or his or her designee, shall consider the record and issue a written decision resolving the issues before it. The Aviation Director, or his or her designee, may:

- (1) Adopt the recommended order as its final order;
- (2) Reject or modify the conclusions of law, but may not reject or modify the proposed findings of

fact unless he or she first determines from review of the complete record that the proposed findings of fact were not based on competent substantial evidence or that the proceedings on which the findings were based did not comply with the essential requirements of law. If the proposed findings of fact are rejected or modified, the basis for such rejections or modifications shall be stated with particularity in the final order; or

- (3) Accept the recommended relief in a recommended order; or modify the recommended relief in the recommended order after reviewing the complete record and stating with particularity its reasons for such modifications in the final order.

- (e) The final order shall be sent to the applicant or Terminal Services Permit holder by U.S. mail.

- (f) The final order may be reviewed by filing a petition for writ of certiorari to the circuit court of the Seventeenth Judicial Circuit in and for Broward County, Florida. The time frame for filing the petition for judicial review shall be governed by the applicable Florida Rules of Appellate Procedure.

**26.42 26.44. Applicability.**

- (a) The requirements of this Part shall not apply where and to the extent state or federal law or regulations preclude their applicability.

- (b) ~~All of t~~The provisions of this Part may, by a collective bargaining agreement, provide that the collective bargaining agreement supersedes the requirements of this Part Section 26.41 shall not apply to the extent they are superseded by a collective bargaining agreement.

- (c) ~~The provisions of this Part~~ Section 26.41 shall apply to Contracts effective, amended, renewed, or extended after the Effective Date of this Part entered into or amended after the Effective Date of Section 26.41. The provisions of Section 26.42 shall apply to Terminal Services Permits entered into or amended after the Effective Date of Section 26.42.

- (d) The provisions of this Part shall not be interpreted in a manner that conflicts or interferes in any way with the rights of a Contractor, Subcontractor, or employee to engage in protected activity, collective bargaining, or any protected speech.

## RESOLUTION NO. 2014-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO WORKING STANDARDS AT FORT LAUDERDALE-HOLLYWOOD INTERNATIONAL AIRPORT ("AIRPORT"); AMENDING CHAPTER 26 OF THE BROWARD COUNTY ADMINISTRATIVE CODE TO AMEND PART V PERTAINING TO AIRPORT WORKER STANDARDS; PROVIDING FOR DEFINITIONS AND ENSURING UNINTERRUPTED SERVICE; PROVIDING FOR A HEARING AND REVIEW OF A DENIAL OR REVOCATION OF A TERMINAL SERVICES PERMIT; PROVIDING FOR APPLICABILITY OF THE RESOLUTION; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE BROWARD COUNTY ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

WHEREAS, the Broward County Board of County Commissioners (the "Board") finds that the Fort Lauderdale-Hollywood International Airport (the "Airport") generates significant revenue to Broward County, and that the smooth and continuous operation of airport services is crucial to the viability and growth of the Airport; and

WHEREAS, Broward County has a proprietary interest in ensuring that airport services are not disrupted because such disruption would disserve the public and would be expected to result in a substantial loss of Airport revenue; and

WHEREAS, this amendment to the Administrative Code serves to protect the public health, safety, and welfare, NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Part V, Chapter 26 of the Broward County Administrative Code, is hereby amended to read:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1  
2 **26.40. Definitions.**

3 As used in this Part, the term:

4 . . .

5 (c) *Contract* means any airline-airport lease and use agreement, signatory  
6 building lease agreement, license, service agreement, operating agreement, Terminal  
7 Services Permit, or other written instrument pursuant to which a Contractor or  
8 Subcontractor engages in commercial activity at the Airport.

9 . . .

10 (f) *Ensure Uninterrupted Services* means a Contractor or Subcontractor will be  
11 able to provide the quality and quantity of services it has contractually agreed to provide  
12 at the Airport during all hours it has committed to provide such services.

13 (f)(g) *Effective Date* means the effective date of this Part.

14 (g)(h) *Subcontractor* means any individual, corporation, association, partnership,  
15 limited liability company, joint venture, sole proprietorship, trust, or any other entity that  
16 provides services at the Airport under a Contract with a Contractor. Subcontractor shall  
17 not include ground transportation providers, construction contractors, utility companies,  
18 the United States, including the Federal Aviation Administration (FAA), the  
19 Transportation Security Administration (TSA), or any other federal, state, or local  
20 government agency.  
21

22 **26.42. Ensuring Uninterrupted Service.**

23 (a) This section shall apply only to those Contractors and Subcontractors  
24 covered by Section 26.41.

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1 (b) To ensure uninterrupted services, every Terminal Services Permit issued  
2 pursuant to Section 26.37 shall include a requirement that each permitted Contractor  
3 and Subcontractor shall demonstrate in writing what measures it will take to provide  
4 uninterrupted services at the Airport during the term of its Terminal Services Permit. In  
5 the event of cessation or interruption in services because of a work stoppage or other  
6 protest by a Contractor's or Subcontractor's employees, the County shall have the right  
7 to the full extent permissible under applicable law, to revoke the Terminal Services  
8 Permit.

9 ~~26.42-26.43. Applicability.~~

10 (a) ~~The requirements of this Part shall not apply where and to the extent state~~  
11 ~~or federal law or regulations preclude their applicability.~~

12 (b) ~~All of the provisions of this Part may, by a collective bargaining~~  
13 ~~agreement, provide that the collective bargaining agreement supersedes the~~  
14 ~~requirements of this Part. Section 26.41 shall not apply to the extent they are~~  
15 ~~superseded by a collective bargaining agreement.~~

16 (c) ~~The provisions of this Part Section 26.41 shall apply to Contracts effective,~~  
17 ~~amended, renewed, or extended after the Effective Date of this Part entered into or~~  
18 ~~amended after the Effective Date of Section 26.41. The provisions of Section 26.42~~  
19 ~~shall apply to Terminal Services Permits entered into or amended after the Effective~~  
20 ~~Date of Section 26.42.~~

21 26.43 Denial or Revocation of Terminal Services Permit.

22 (a) In the event a Terminal Services Permit is denied or revoked because of  
23 the failure to demonstrate in writing the measures to ensure uninterrupted services, or  
24 because of the failure to maintain uninterrupted services, written notice of such denial or

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1 revocation shall be provided to the applicant or Terminal Services Permit holder, which  
2 notice shall set forth the reasons why the Terminal Services Permit has been denied or  
3 revoked. If a timely request for a hearing is made pursuant to paragraph (b) below, then  
4 the revocation of a Terminal Services Permit for the above reasons shall not be  
5 effective until after the final order is issued pursuant to paragraph (d) below or, if  
6 subsequent judicial review is sought pursuant to paragraph (e) below, upon resolution of  
7 court proceedings. If there is not a timely request for a hearing, then the revocation of a  
8 Terminal Services Permit shall be final.

10 (b) Upon receipt of the notice specified in paragraph (a) above, the applicant  
11 or Terminal Services Permit holder may request a hearing before a hearing officer,  
12 appointed by the Board, who shall be an attorney in good standing with The Florida Bar.  
13 To request a hearing, the applicant or Permit holder shall provide written notice of such  
14 request to the Office of the County Attorney by certified mail, return receipt requested,  
15 within fifteen (15) days after the applicant's or Permit holder's receipt of the notice of  
16 denial or revocation. Within fifteen (15) days after receipt of the request for a hearing,  
17 the Office of the County Attorney shall submit to the hearing officer a copy of the  
18 applicable Terminal Services Permit and the notice of denial or revocation.

21 (c) The hearing officer shall conduct a hearing within thirty (30) days after the  
22 receipt by the hearing officer of the material submitted by the Office of the County  
23 Attorney pursuant to paragraph (b) above. The parties to the proceeding shall be the  
24

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1 applicant or Terminal Services Permit holder and the Aviation Department. The  
2 procedure for the hearing is as follows:

3 (1) The hearing officer shall issue a notice of hearing date to the applicant or  
4 Terminal Services Permit holder and such notice shall contain the date,  
5 time, and place of the hearing;

6 (2) The parties may subpoena and examine witnesses; introduce exhibits;  
7 cross examine opposing witnesses on any relevant matter; impeach  
8 witnesses; and rebut evidence.

9 (3) The hearing officer shall submit a recommended order to the Broward  
10 County Aviation Director and the applicant or Terminal Service Permit  
11 holder within fifteen (15) days after the conclusion of the hearing. The  
12 recommended order shall contain the time and place of the hearing;  
13 appearances entered at the hearing; issues involved in the case and  
14 presented by the parties; proposed findings of fact; conclusions of law;  
15 and the recommended disposition.

16 (4) Additional procedures regarding the hearing shall be specified in the  
17 Terminal Services Permit.

18 (d) After the issuance of the recommended order, the Aviation Director, or his  
19 or her designee, shall consider the record and issue a written decision resolving the  
20 issues before it. The Aviation Director, or his or her designee, may:

21 (1) Adopt the recommended order as its final order;

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24

1 (2) Reject or modify the conclusions of law, but may not reject or modify the  
2 proposed findings of fact unless he or she first determines from review of  
3 the complete record that the proposed findings of fact were not based on  
4 competent substantial evidence or that the proceedings on which the  
5 findings were based did not comply with the essential requirements of law.  
6 If the proposed findings of fact are rejected or modified, the basis for such  
7 rejections or modifications shall be stated with particularity in the final  
8 order; or

9  
10 (3) Accept the recommended relief in a recommended order; or modify the  
11 recommended relief in the recommended order after reviewing the  
12 complete record and stating with particularity its reasons for such  
13 modifications in the final order.

14  
15 (e) The final order shall be sent to the applicant or Terminal Services Permit  
16 holder by U.S. mail.

17 (f) The final order may be reviewed by filing a petition for writ of certiorari to the  
18 circuit court of the Seventeenth Judicial Circuit in and for Broward County, Florida. The  
19 time frame for filing the petition for judicial review shall be governed by the applicable  
20 Florida Rules of Appellate Procedure.

21  
22 **26.42 26.44. Applicability.**

23 (a) The requirements of this Part shall not apply where and to the extent state  
24 or federal law or regulations preclude their applicability.

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underscored type are additions.

1 (b) All of the provisions of this Part may, by a collective bargaining  
2 agreement, provide that the collective bargaining agreement supersedes the  
3 requirements of this Part. Section 26.41 shall not apply to the extent they are  
4 superseded by a collective bargaining agreement.

5 (c) The provisions of this Part Section 26.41 shall apply to Contracts effective,  
6 amended, renewed, or extended after the Effective Date of this Part entered into or  
7 amended after the Effective Date of Section 26.41. The provisions of Section 26.42  
8 shall apply to Terminal Services Permits entered into or amended after the Effective  
9 Date of Section 26.42.

10  
11  
12 (d) The provisions of this Part shall not be interpreted in a manner that conflicts or  
13 interferes in any way with the rights of a Contractor, Subcontractor, or employee to  
14 engage in protected activity, collective bargaining, or any protected speech.

15 Section 2. SEVERABILITY.

16 If any portion of this Resolution is determined by any Court to be invalid, the  
17 invalid portion shall be stricken, and such striking shall not affect the validity of the  
18 remainder of this Resolution. If any Court determines that this Resolution, or any  
19 portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies),  
20 property(ies), or circumstance(s), such determination shall not affect the applicability  
21 hereof to any other individual, group, entity, property, or circumstance.

22  
23 Section 3. INCLUSION IN THE ADMINISTRATIVE CODE.  
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1 It is the intention of the Board of County Commissioners that the provisions of  
2 this Resolution shall become and be made a part of the Broward County Administrative  
3 Code; and that the sections of this Resolution be renumbered or relettered and the word  
4 "resolution" may be changed to "section," "article," or such other appropriate word or  
5 phrase in order to accomplish such intentions.

6  
7  
8 Section 4. EFFECTIVE DATE.

9 This Resolution shall become effective upon adoption.

10  
11  
12 ADOPTED this            day of            , 2014.

13  
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15  
16 Approved as to form and legal sufficiency:  
Joni Armstrong Coffey, County Attorney

17  
18 By /s/Adam M. Katzman            06/05/2014  
Adam M. Katzman            (date)  
19 Assistant County Attorney  
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