

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 12/06/2023

Contract/Lease Control #: L16-0442-AP

Procurement#: N/A

Contract/Lease Type: LEASE - AGREEMENT

Award To/Lessee: DELTA AIR LINES, INC.

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 10/01/2016

Expiration Date: 09/30/2026

Description of: SIGNATORY AIRLINE OPERATING AGREEMENT
AND TERMINAL BUILDING LEASE

Department: AP

Department Monitor: STAGE

Monitor's Telephone #: 850-651-7160

Monitor's FAX # or E-mail: TSTAGE@MYOKALOOSA.COM

Closed: _____

CC: BCC RECORDS

**PROCUREMENT/CONTRACT/LEASE
INTERNAL COORDINATION SHEET**

Procurement/Contract/Lease Number: L16-0441-AP Tracking Number: 4407-21

Procurement/Contractor/Lessee Name: Delta Air Lines Grant Funded: YES ___ NO X

Purpose: amendment/renewal

Date/Term: 9-30-24

Department #: 4210K

Account #: various

Amount: revenue

Department: airport Dept. Monitor Name: Stage

1. GREATER THAN \$100,000
 2. GREATER THAN \$50,000
 3. \$50,000 OR LESS

Purchasing Review

Procurement or Contract/Lease requirements are met:

Delta Air Date: 8-12-21

Purchasing Manager or designee: Jeff Hyde, DeRita Mason, Jessica Darr, Angela Etheridge

2CFR Compliance Review (if required)

Approved as written: no federal li Grant Name: _____

Grants Coordinator: _____ Date: _____

Risk Management Review

Approved as written: see email Date: 8-25-21

Risk Manager or designee: Lisa Price

County Attorney Review

Approved as written: see email attached Date: 8-17-21

County Attorney: Lynn Hoshihara, Kerry Parsons or Designee

Department Funding Review

Approved as written: _____ Date: _____

IT Review (if applicable)

Approved as written: _____ Date: _____

DeRita Mason

From: Lisa Price
Sent: Wednesday, August 25, 2021 3:44 PM
To: DeRita Mason
Subject: FW: Emailing: UNITED AIRLINES AMENDMENT.docx
Attachments: UNITED AIRLINES AMENDMENT.docx; SOUTHWEST AIRLINES AMENDMENT.docx; AMERICAN AIRLINES AMENDMENT.docx; ALLEGIANT AIR LLC AMENDMENT.docx; DELTA AIRLINES AMENDMENT OF LEASE L16.docx

DeRita,

These are approved by risk.

Lisa Price
Risk Management
Public Records & Contracts Specialist
302 N Wilson Street, Suite 301
Crestview, FL. 32536
(850) 689-5979
lprice@myokaloosa.com

For all things Wellness please visit:
<http://www.myokaloosa.com/wellness>

Due to Florida's very broad public records laws, most written communications to or from county employees regarding county business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.

-----Original Message-----

From: DeRita Mason <dmason@myokaloosa.com>
Sent: Thursday, August 12, 2021 6:36 AM
To: Kerry Parsons <kparsons@myokaloosa.com>
Cc: Lynn Hoshihara <lhoshihara@myokaloosa.com>; Lisa Price <lprice@myokaloosa.com>
Subject: FW: Emailing: UNITED AIRLINES AMENDMENT.docx

DeRita Mason

From: Lynn Hoshihara
Sent: Friday, August 27, 2021 4:53 PM
To: DeRita Mason
Cc: Kerry Parsons
Subject: Re: Southwest Amendment #2 - revised

These are approved as to legal sufficiency.

Lynn M. Hoshihara
County Attorney
Okaloosa County, Florida

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From: DeRita Mason
Sent: Friday, August 27, 2021 1:52:59 PM
To: Lynn Hoshihara
Cc: Kerry Parsons
Subject: FW: Southwest Amendment #2 - revised

Please see updated amendments attached.

Thank you,

DeRita Mason



DeRita Mason, CPPB, NIGP-CPP
Senior Contracts and Lease Coordinator
Okaloosa County Purchasing Department
5479A Old Bethel Road
Crestview, Florida 32536
(850) 689-5960
dmason@myokaloosa.com

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**SECOND AMENDMENT
AND EXTENSION OF SIGNATORY
AIRLINE AGREEMENT AND TERMINAL BUILDING LEASE
L16-0442-AP**

DELTA AIR LINES, INC. AT THE
DESTIN – FORT WALTON BEACH AIRPORT

This Second Amendment and Extension of Lease made and entered into this 5th day of December, 2023, (the “Amendment”) hereby amends lease L16-0442-AP (the “Lease Agreement”), and is entered into between Delta Air Lines, Inc. (“Airline”), and Okaloosa County, Florida through its Board of County Commissioners (the “County”). The County and Airline are each referred to as a “party” and, together, are referred to herein as the “parties.”

WITNESSETH:

WHEREAS, on September 22, 2016, Airline and the County entered into the Lease Agreement relating to operating at the Destin-Fort Walton Beach Airport (“VPS”) with an expiration date of September 30, 2021; and

WHEREAS, pursuant to an amendment to the Lease Agreement, dated July 10, 2018 (the “First Amendment” and, the Lease Agreement as amended thereby the “Agreement”), Airline leased an additional 110 square feet of storage area at VPS; and

WHEREAS, the Agreement has been in holdover status since September 30, 2021 and the parties now desire to amend certain sections of the Agreement, including the extension options and other language relative to the nature of approved aircraft operations; and

WHEREAS, Airline and County each now desire to extend the Term of Agreement by five (5) years and clarify certain matters relating to the management of the number and timing of schedule aircraft operations at VPS.

NOW, THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties consent to and agree to the following:

AMENDMENT

The Agreement is hereby further amended as follows. Capitalized terms that are not otherwise defined shall have the meanings set forth in the Agreement.

1. Section 1.01 of the Agreement, Definitions, is amended to add:

“Approved Aircraft Operation” means a planned operation to use the full range of Airport infrastructure necessary to arrive at or depart from VPS at a specific scheduled date and time.

“Policy” means the Destin-Fort Walton Beach Airport (VPS) Schedule Management Program Policy as adopted by the County as of the date of this Amendment and as may be further amended by the County from time to time in accordance with the terms hereof.

2. Section 4.01 of the Agreement is amended to add the following new paragraph at the end thereof:

(E) The parties acknowledge that as of the date of this Amendment, the number of hourly commercial aircraft operations are currently subject to limitations imposed by the United States Air Force pursuant to the Eglin Agreements. In order to equitably regulate the use and assignment of such limited operations, the County has established the Policy regarding the process for allocating scheduled commercial aircraft operations at VPS and will enforce the Policy in a reasonable and not unjustly discriminatory manner. The Policy in effect as of the date hereof is based upon and is generally consistent with the Worldwide Slot Guidelines, jointly published by IATA, Airports Council International (ACI) and the Worldwide Airport Coordinators Group (as the same have been or may be amended, the “Guidelines”), with deviations appropriate to reflect the terms of the Eglin Agreements and conditions at VPS. Prior to any amendment or modification to or replacement of the Policy becoming effective, the County shall provide a copy of the proposed amendment(s), modification(s) or replacement(s) to each Signatory Airline, provide an opportunity for comment by the Signatory Airlines and reasonably consider any such comments prior to implementing any amendment, modification to, or replacement of the Policy; provided, however, that any amendment, modification to, or replacement of the Policy shall be generally consistent with the Guidelines then in effect, with deviations appropriate to reflect the terms of the Eglin Agreements and conditions at VPS (including without limitation any changes in the number of permitted operations under the Eglin Agreements then in effect). If any Airline operates at VPS without an approved hourly allocation under the Policy (except in the event of an emergency), VPS shall have the right to notify the Airline of an event of default under Section 14.01 of this Agreement within three (3) business days’ after that specific flight and if it does not do so within such time period, any such default will be waived provided that VPS shall not be precluded from declaring a default for any subsequent operation without an approved hourly allocation within a three (3) day period following that operation. Notwithstanding anything in Section 14.01 of the Agreement, the County must provide an Airline a timely notice of default based on an unapproved operation as set forth herein before it may rely on such unapproved operation(s) to invoke any termination provision of Section 14.01. Notwithstanding the foregoing or anything herein to the contrary, if the Eglin Agreements cease to restrict the number of operations, the Policy shall be void and of no further force effect for as long as the Air Force does not limit commercial aircraft operations at VPS.

3. Section 5.01(B) of the Agreement is deleted in its entirety and replaced with the following:

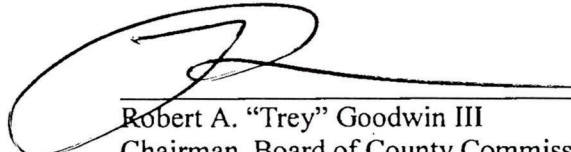
Provided that Airline is not in default of the terms of this Agreement, or any other Agreement with the County, Airline agrees to meet with the County and other Signatory Airlines no later than eighteen (18) months prior to the expiration of this Agreement to

determine whether this Agreement should be extended or whether a new agreement should be negotiated. The Airline and County have mutually agreed to extend the term of this Agreement for one (1) five (5) year period, from October 1, 2021 to September 30, 2026 ("Extension Period"), unless cancelled sooner as provided herein. The Extension Period shall be subject to the same terms and conditions, including any amendments to the Agreement, existing at the commencement of the Extension Period.

4. Neither the execution of this Amendment by Airline or County, nor the performance by either party under the Agreement or this Amendment, shall in any way prejudice or constitute a waiver of: (a) Airline's right to challenge, directly or indirectly, the implementation of the Policy, as may be amended or replaced with another policy for scheduling operations at the Airport in accordance with the terms hereof, or (b) the rights of either party to fully prosecute or defend, as applicable, any lawsuit or regulatory action by or on behalf of the Airline against the County challenging the implementation of such Policy or a replacement policy, including the validity and enforceability thereof. Each party reserves any and all rights it may have with respect to this matter.
5. Except as expressly amended by this Amendment, the Agreement is hereby ratified and confirmed and all other provisions of the Agreement shall remain in full force and effect through the duration of the term including the Extension Period.


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

OKALOOSA COUNTY, FLORIDA

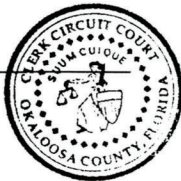


Robert A. "Trey" Goodwin III
Chairman, Board of County Commissioners
Date: 12/5/2023

ATTEST:



J.D. Peacock II
Clerk of Circuit Court

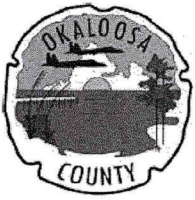


DELTA AIR LINES, INC.

Name: Huck Mack
Title: Gen. Mgr.
Date: 091823

ATTEST:
[Signature]
Witness

Randy Starr
Witness



BOARD OF COUNTY COMMISSIONERS AGENDA REQUEST

DATE: December 5, 2023
TO: Honorable Chairman and Distinguished Members of the Board
FROM: Tracy Stage
SUBJECT: Delta Air Lines Amendment 2 - Airline Operating Agreement and Lease L16-0442-AP
DEPARTMENT: Airport
BCC DISTRICT: 2

STATEMENT OF ISSUE: The Airports Department requests the Board of County Commissioners' approval of Second Amendment and Extension of Signatory Airline Operating Agreement and Terminal Building Lease for Delta Air Lines at the Destin - Fort Walton Beach Airport (VPS).

BACKGROUND:

The current Signatory Airline Operating Agreement and Terminal Building Lease expired on September 30, 2021. There is a five-year renewal option in this agreement that is requested to be exercised retroactively with this amendment action.

During initial renewal negotiations in 2020, some of the signatory carriers resisted signing a five-year renewal due to COVID uncertainties. Airport staff were working to negotiate a 3-year renewal with a 2-year option, in lieu of the stated five (5) year extension, for prospective Board action in 2021. During those negotiations, COVID uncertainties in our market faded and the impacts of the Joint Use Agreement (JUA) changes with the U.S. Air Force became the forefront of negotiations with the carriers. The JUA was being negotiated prior to and throughout 2021. The new JUA agreement was completed and signed in January 2022 and airport staff have continued active negotiations with the signatory carriers to accomplish amendments to the airline operating agreements that incorporate language relative to the JUA and the resulting Schedule Management Program, implemented to ensure compliance with the JUA allocations. Delta Air Lines has continued to operate in good faith in holdover status while amendments have been negotiated with a renewed commitment to VPS.


The results of negotiations are updated agreement language related to definitions specific to the Schedule Management Program and an addition to Section 4.01 to address the updated JUA and the policies surrounding its implementation. This action also serves to exercise the option in the original agreement to extend for a second five (5) year term, resulting in a new expiration date of September 30, 2026. In order to maintain continuity with the original agreement, the terms of which the County and airline have continued to operate under during the holdover period, this extension would be retroactive to September 30, 2021.

OPTIONS: Approve, Deny or Postpone

RECOMMENDATIONS: Approval of the Second Amendment and Extension of the Signatory Airline Operating Agreement and Terminal Building Lease for Delta Air Lines, Inc., as stated

above.

RECOMMENDED BY:



Tracy Stage, Airport Director 11/16/2023

APPROVED BY:



John Hofstad, County Administrator 11/27/2023