Pledge of Allegiance

Public Comment on Consent and Administrative Agenda

Executive Director Recognitions

Consent Agenda

Administrative Agenda

Executive Director Items

Port Attorney Items

Airports Special Management Committee Items

Adjourn
CONSENT AGENDA

ADMINISTRATION – Ben Siegel

1. Request Committee approve the minutes of the February 19, 2019 Airports Special Management Committee (ASMC) meeting.
   - **Term:** N/A
   - **Funding Source:** N/A

2. Request Committee approve the minutes of the April 16, 2019 Airports Special Management Committee (ASMC) meeting.
   - **Term:** N/A
   - **Funding Source:** N/A

3. Request Board approve an “Off-Airport Parking Company Airport Use Permit Agreement” with Picoger LLC.
   - **Term:** month-to-month beginning September 1, 2019
   - **Funding Source:** n/a

4. Request Board approve a Second Amendment to “Airline-Airport Use and Lease Agreement” with Delta Air Lines, Inc.
   - **Term:** October 1, 2008, to September 30, 2021
   - **Funding Source:** n/a

5. Request Board approve a “Permit Agreement for Landside Ground Service at Southwest Florida International Airport” with Luggage Express RSW, LLC.
   - **Term:** month-to-month, beginning April 1, 2019
   - **Funding Source:** n/a

6. Request Board approve a “Lease of Terminal Space at Southwest Florida International Airport” with MN Airlines, LLC.
   - **Term:** month-to-month, beginning May 1, 2019
   - **Funding Source:** n/a
ADMINISTRATIVE AGENDA

DEVELOPMENT – Mark Fisher

7. Informational update on the RSW Terminal Expansion design (60%).
   
   Term: n/a
   
   Funding Source: n/a

EXECUTIVE DIRECTOR ITEMS

PORT ATTORNEY ITEMS

COMMENTS FROM THE CHAIR OF THE ASMC

ADJOURN
### BOARD OF PORT COMMISSIONERS
### OF THE
### LEE COUNTY PORT AUTHORITY

<table>
<thead>
<tr>
<th>1. REQUESTED MOTION/PURPOSE:</th>
<th>5. CATEGORY: 1. Consent Agenda</th>
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<tbody>
<tr>
<td>Request Committee approve the minutes of the February 19, 2019 Airports Special Management Committee (ASMC) meeting.</td>
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<tr>
<td>2. FUNDING SOURCE:</td>
<td>6. ASMC MEETING DATE: 5/21/2019</td>
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<td>N/A</td>
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<td>3. TERM:</td>
<td>7. BoPC MEETING DATE: N/A</td>
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| 8. AGENDA: | 9. REQUESTOR OF INFORMATION: |
| CEREMONIAL/PUBLIC PRESENTATION | (ALL REQUESTS) |
| X CONSENT | NAME Ben Siegel |
| ____ ADMINISTRATIVE | DIV. Administration |

| 10. BACKGROUND: | |
| Attachment: | ASMC Meeting Minutes-2/19/2019 - Draft |

| 11. RECOMMENDED APPROVAL | |
| DEPUTY EXEC DIRECTOR | COMMUNICATIONS AND MARKETING | OTHER | FINANCE | PORT ATTORNEY | EXECUTIVE DIRECTOR |
| Benjamin R. Siegel | Victoria B. Moreland | N/A | Brian W. McGonagle | Gregory S. Hagen | Jeffrey A. Mulder |

| 12. SPECIAL MANAGEMENT COMMITTEE RECOMMENDATION: | 13. PORT AUTHORITY ACTION: |
| APPROVED | APPROVED |
| APPROVED as AMENDED | APPROVED as AMENDED |
| DENIED | DENIED |
| OTHER | DEFERRED to |
| | OTHER |
A meeting of the Airports Special Management Committee (ASMC) was held this date, February 19, 2019, in the Training and Conference Center at Southwest Florida International Airport, with the following members present:

Noel Andress
John Goodrich
Randy Krise (Vice-Chair)
Robbie Roepstorff

Committee members Fran Myers, Scott Cameron and Dana Carr were absent for the entire meeting.

Randy Krise called the meeting to order at 1:30 p.m. followed by the Pledge of Allegiance.

On file (electronically) in the Communications and Marketing Office: Monthly Project Summary Reports for January and February and the Procurement Status Report for February.

ANNUAL REORGANIZATION OF AIRPORTS SPECIAL MANAGEMENT COMMITTEE:

The annual reorganization of the Airports Special Management Committee was held and conducted by Ben Siegel, deputy executive director of administration. Noel Andress nominated Randy Krise, seconded by John Goodrich. Mr. Siegel called for any additional nominations for Chairman. No other members were nominated. Mr. Siegel closed nominations and took a voice vote and Mr. Krise was approved 4-0. Mr. Siegel then turned the reorganization over to the newly appointed Chair to conduct the nomination for Vice-Chairman. Mr. Andress nominated Robbie Roepstorff. Mr. Siegel called for any additional nominations for Vice-Chairman and no other members were nominated. Mr. Andress moved to close the nominations, seconded by Mr. Goodrich. A voice vote was taken and Ms. Roepstorff was approved 4-0 as Vice-Chairman. Mr. Siegel then turned the meeting over to the newly elected Chairman.

PUBLIC PRESENTATION:

1. Division Director of Aviation Chris Styles introduced Maintenance Department Director James Furiosi, who gave a brief history of job experience, accomplishments, and personal life, and along with the ASMC Chair, congratulated and presented the Length of Service Award to:

   • Michael Culver - 15 Year Service Award

EXECUTIVE DIRECTOR RECOGNITIONS:

The details of the recognitions are contained in the Executive Director Employee Achievement Remarks (Copy on file, electronically, in the Communications & Marketing Department at the Lee County Port Authority). Referring to the police K-9 certification recognition mentioned by Mr. Mulder, Robbie Roepstorff requested that she receive the Port Authority trading cards for each of the three police dogs in the K-9 unit for her collection.

Public Comment on Consent or Administrative Agenda Items: No public comments on the Consent or Administrative agenda.

The following are Consent Agenda items pulled for discussion:

Noel Andress  None
John Goodrich  None
Randy Krise  None
Robbie Roepstorff  None
**CONSENT AGENDA** - A motion to approve the Consent agenda was made by Noel Andress, seconded by John Goodrich, called and carried with Committee members Fran Myers, Scott Cameron and Dana Carr absent (4-0).

**CONSENT AGENDA ITEMS**

**ADMINISTRATION**

2. Request Committee approve the minutes of the December 18, 2018 Airports Special Management Committee (ASMC) meeting.
   **Term:**
   N/A
   **Funding Source:**
   N/A

3. Request Board approve a “Land Lease for Construction and Operation of a Flight School at Page Field” and a “Lease of Office Space at Page Field” with FMY Holdings, LLC.
   **Term:**
   Land lease: initial term of twenty (20) years from Rent Commencement Date, with two (2) options to extend by five (5) years each. Office space lease: month to month.
   **Funding Source:**
   n/a

4. Request Board approve a “Ground Lease of Skyplex Parcel at Southwest Florida International Airport” to NeoGenomics Laboratories, Inc.
   **Term:**
   30 years, plus four 5-year extension options
   **Funding Source:**
   n/a

5. Request Board approve a First Amendment to “Land Lease for Construction of Corporate Hangar Building at Page Field” with JCP Leasing, Inc.
   **Term:**
   20 years, plus two 5-year extension options
   **Funding Source:**
   n/a

**AVIATION**

6. Request Board award RFB 19-02, Repair and Maintenance of Centrifugal Chillers, Cooling Towers and Related Systems for the Lee County Port Authority to Johnson Controls, Inc., the lowest responsive, responsible bidder, and authorize the Chair to execute the attached Service Provider Agreement on behalf of the Board.
   **Term:**
   June 1, 2019 to May 31, 2022
   **Funding Source:**
   General Operating Revenues collected during the normal operation of the SWFIA, Account WJ5422941200.503490, Other Contracted Services, contingent upon approval of associated annual operating budgets.
AVIATION – Continued

7. Request Board award RFB #19-04, Purchase of New ITW GSE Preconditioned Air and Ground Power Units for Lee County Port Authority to ITW GSE Inc., the lowest, most responsive and responsible bidder in the amount of $283,400 per terms and conditions of the purchase contract.

   **Term:**
   One year contract to commence on or about March 11, 2019.

   **Funding Source:**
   Capital Account VB5131541200.506410.

8. Request Board approve the purchase of seven (7) fleet vehicles, three (3) from Tamiami Ford under Collier County Contract #12-5935 and four (4) vehicles from Alan Jay Automotive under Sourcewell Contract #2019-120716-NAF in the amount of $273,878.48.

   **Term:**
   N/A

   **Funding Source:**
   Funds are available in accounts: VB5131541200.506430, Vehicles/Rolling Stock and PD5420141206.506430, Gerlach Trust used exclusively for Airport Police Department Canine expenses.

DEVELOPMENT

9. Request Board authorize execution of a contract with Owen-Ames-Kimball Company (OAK), for construction management/general contracting services for the Rental Car Relocation/Expansion and Associated Improvements at Southwest Florida International Airport (RSW).

   **Term:**
   Five years

   **Funding Source:**
   N/A

10. Request Board authorize a contract amendment with Atkins North America, Inc., in the amount of $307,802 to perform Concept Refinement and Preliminary Design services associated with the Rental Car Areas Relocation/Expansion and Associated Improvements at Southwest Florida International Airport (RSW).

    **Term:**
    Five Years

    **Funding Source:**
    Customer Facility Charges, RSW Account No. 20859941234.506510.20

11. Request Board authorize a contract amendment with Aero Systems Engineering, Inc. in the amount of $1,199,061 to perform design services associated with the Replacement of Passenger Boarding Bridges at Southwest Florida International Airport (RSW).

    **Term:**
    Five Years

    **Funding Source:**
    Passenger Facility Charges, Account No. 20860841234.506510.20.
DEVELOPMENT – Continued

12. Request Board authorize a Contract Amendment with Manhattan Construction (Florida), Inc., in the amount of $103,386 to provide Construction Manager/General Contractor (CM-GC) Preconstruction Services for the Replacement of Passenger Boarding Bridges at Southwest Florida International Airport (RSW).

   **Term:**
   Five years

   **Funding Source:**
   Passenger Facility Charges, Account No. 20860841234.506510.20.

13. Request Board (1) approve a grant (Modification No. Z0114-3 to Subgrant Agreement) from the Division of Emergency Management in the amount of $74,313.98 for hurricane-related property damage at Southwest Florida International Airport (RSW) and Page Field (FMY) and (2) authorize Executive Director to approve any future Modifications on behalf of the LCPA.

   **Term:**
   N/A

   **Funding Source:**
   N/A

ATTORNEY

14. Request Board approve grant of non-exclusive underground utility easement to Florida Power & Light Company to provide electrical service for the Accent Stripe Hangar.

   **Term:**
   N/A

   **Funding Source:**
   N/A
ADMINISTRATIVE AGENDA ITEMS

ATTORNEY

15. Request Board Adopt Resolution amending Sections 5 & 9 of the Lee County Port Authority Purchasing Manual to place greater emphasis on current firm workload when evaluating responses to competitive Requests for Letters of Qualifications

   Term: 
   N/A

   Funding Source: 
   N/A

Mr. Mulder explained the item in greater detail, referring to the State Statute that governs the selection process. Greg Hagen, assistant port attorney referred to the Consultant’s Competitive Negotiations Act (CCNA) and the criteria involved when considering firm qualifications. Emily Underhill, division director of development explained the process for a tie vote during the selection process. Robbie Roepstorff asked for clarification of the term “Port Authority” in Section 9 of the amendment and Mr. Mulder explained that it referred to airport staff, ASMC members and the Board of Port Commissioners. Mr. Andress commented that this amendment is a step in the right direction. Mr. Goodrich asked what backup information from the submitting firms the Committee would receive going forward. Ms. Underhill stated that the summary sheets they currently receive will now include workload information to aid in making a selection. Mr. Krise thanked the staff for making changes to the Purchasing Manual that will streamline the selection process.

After all questions were answered to the satisfaction of the Committee members, a motion to approve the item was made by Noel Andress, seconded by John Goodrich, called and carried with Committee members Fran Myers, Scott Cameron and Dana Carr absent (4-0).

EXECUTIVE DIRECTOR ITEMS

Items of interest are contained in the Executive Director Remarks dated February 19, 2019 (copy on file, electronically, in the Communications & Marketing Department at the Lee County Port Authority).

PORT ATTORNEY ITEMS

No items offered by Senior Assistant Port Authority Attorney Gregory S. Hagen.

AIRPORTS SPECIAL MANAGEMENT COMMITTEE ITEMS

Robbie Roepstorff stated she is excited about NeoGenomics at Skyplex.

John Goodrich commended Fran Myers on her year as the Chair of the Committee.

ADJOURN

The Chair adjourned the meeting at 1:53 p.m.
## BOARD OF PORT COMMISSIONERS
OF THE
LEE COUNTY PORT AUTHORITY

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### AGENDA:

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| 8. AGENDA: | |
| 9. REQUESTOR OF INFORMATION: | (ALL REQUESTS) |
| NAME | Ben Siegel |
| DIV. | Administration |

### BACKGROUND:

Attachment:
ASMC Meeting Minutes- 4/16/2019 - Draft

### RECOMMENDED APPROVAL

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### SPECIAL MANAGEMENT COMMITTEE RECOMMENDATION:

- APPROVED
- APPROVED as AMENDED
- DENIED
- OTHER

### PORT AUTHORITY ACTION:

- APPROVED
- APPROVED as AMENDED
- DENIED
- DEFERRED to
- OTHER
A meeting of the Airports Special Management Committee (ASMC) was held this date, April 16, 2019, in the Training and Conference Center at Southwest Florida International Airport, with the following members present:

Randy Krise (Chair)
Robbie Roepstorff
Scott Cameron

Committee members Noel Andress, John Goodrich, Fran Myers and Dana Carr were absent for the entire meeting.

Randy Krise called the meeting to order at 1:30 p.m. followed by the Pledge of Allegiance.

On file (electronically) in the Communications and Marketing Office: Monthly Project Summary Reports for March and April and the Procurement Status Report for April.

Public Comment on Consent or Administrative Agenda Items: No public comments on the Consent or Administrative agenda.

PUBLIC PRESENTATION:

1. Division Director of Aviation, Chris Styles gave a brief history of job experience, accomplishments, and personal life, and along with the ASMC Chair, congratulated and presented the Length of Service Award to the following individuals:
   - Bennett Moreland, Maintenance – 10 Year Service Award
   - Al Gulamali, Operations – 15 Year Service Award
   - James Furiosi, Maintenance – 20 Year Service Award
   - Scott Sheets, Page Field – 20 Year Service Award
   - Helga Thibodeaux, Airport Police – 35 Year Service Award

Mr. Krise introduced Port Attorney Greg Hagen who stated that due to lack of a quorum, the meeting of April 16, 2019 was to be an informational meeting only. Members could ask questions but no formal actions were requested or taken. All agenda items, except as specifically noted below, were forwarded to the May 16, 2019 Joint Port Board Meeting.

Please refer to the May 16, 2019 Joint Port Board meeting for final action on agenda items.

The following are Consent Agenda items pulled for discussion:

Randy Krise (Chair)  None
Robbie Roepstorff  None
Scott Cameron  C.3
CONSENT AGENDA ITEMS

ADMINISTRATION

2. Request Committee approve the minutes of the February 19, 2019 Airports Special Management Committee (ASMC) meeting.
   Term: N/A
   Funding Source: N/A
   Deferred - Please refer to the May 21, 2019 ASMC meeting for formal action on this item.

3. Request Board adopt a Resolution approving an application to the Foreign-Trade Zone Board of the U.S. Department of Commerce to reorganize Foreign Trade Zone #213 under the Alternative Site Framework, and delegate authority to the Executive Director to execute related documents and take further action incident to securing approval of the application.
   Term: n/a
   Funding Source: n/a
   Mr. Cameron requested this item be pulled for discussion. Mr. Cameron asked if the Foreign-Trade Zone (FTZ) application covered Collier County. From the podium, Ben Siegel, deputy executive director of administration, explained that the FTZ covered Lee, Collier and Charlotte Counties within its boundaries. There were no other comments or questions from the committee members.

4. Request Board approve a “Lease of Terminal Space at Southwest Florida International Airport” to Arthrex, Inc.
   Term: month-to-month, beginning June 1, 2019
   Funding Source: n/a

AVIATION

5. Request Board approve the purchase of one (1) Toro Groundsmaster 4000-D T4F mower with fan, canopy, beacon and light kit from WescoTurf, Incorporated under Florida State Contract Number: 21100000-15-1 in the amount of $62,076.65.
   Term: N/A
   Funding Source: Capital Account VB5131541200.506410.
DEVELOPMENT

6. Request Board approve a Contract Amendment with Johnson Engineering, Inc. to delete Section 2.2 referencing Florida Statutes 287.055 since it is not applicable to this contract.
   Term:
   N/A
   Funding Source:
   N/A

7. Request Board approve a Contract Amendment with Passarella and Associates, Inc. to delete Section 2.2 referencing Florida Statutes 287.055 since it is not applicable to this contract.
   Term:
   N/A
   Funding Source:
   N/A

8. Request Board authorize a Contract Amendment with Manhattan Construction (Florida), Inc. in the amount of $10,766,976.14 to perform Construction Manager/General Contractor services associated with the Passenger Check-in Modernization Project at the Southwest Florida International Airport (RSW); and approve a Total Project Budget in the amount of $13,007,270.
   Term:
   June 22, 2022
   Funding Source:
   Florida Department of Transportation Grant 441246-1-94-01 and RSW Construction Acct. 20859641234.506540.20.

9. Request Board authorize a Contract Amendment with Schenkel & Shultz, Inc., in the amount of $179,683 to perform Construction Administration services associated with the Passenger Check-in Modernization Project at the Southwest Florida International Airport (RSW).
   Term:
   Five Years
   Funding Source:
   Florida Department of Transportation Grant 441246-1-94-1, Passenger Facility Charges and net funds from the normal operation of the Southwest Florida International Airport; Account No. 20859641234.506510.70.

10. Request Board authorize a Contract Amendment with DeAngelis Diamond Construction in the amount of $44,695,122 to provide Construction Manager/General Contractor Services associated with the construction of a new Airport Traffic Control Tower/Terminal Radar Approach Control facility at the Southwest Florida International Airport; and authorize a Total Project Budget in the amount of $80,163,694.
    Term:
    January 31, 2023
    Funding Source:
    Florida Department of Transportation Grant 420652-1-94-04 and Passenger Facility Charges, Account No. 21845041234.506530.30
DEVELOPMENT – Continued

11. Request Board authorize a Contract Amendment with AECOM Technical Services, Inc. in the amount of $3,755,440 to provide Project Management/Construction Administration services associated with the construction of a new Airport Traffic Control Tower/Terminal Radar Approach Control facility at the Southwest Florida International Airport.

   **Term:**
   January 31, 2023

   **Funding Source:**
   Florida Department of Transportation Grant 420652-1-94-04 and Passenger Facility Charges, Account No. 21845041234.506510.70

12. Accept a state grant (Public Transportation Grant Agreement, Financial Project No. 420652-1-94-04) in the amount of $2,120,254 from the Florida Department of Transportation for the Air Traffic Control Tower at Southwest Florida International Airport.

   **Term:**
   N/A

   **Funding Source:**
   N/A

13. Request Board authorize a contract amendment with Atkins North America, Inc., in the amount of $1,976,545.39 to perform design manager services associated with the Terminal Expansion Project at the Southwest Florida International Airport (RSW).

   **Term:**
   Five Years

   **Funding Source:**
   Florida Department of Transportation Grant 441981-1-94-01; Passenger Facility Charges and net funds from the normal operation of the Southwest Florida International Airport, Account No. 20859541234.506510.20.

14. Accept a state grant (Supplemental Joint Participation Agreement, Financial Project No. 431368-1-94-01) in the amount of $340,000 from the Florida Department of Transportation for the Rehabilitation of Runways, Associated Taxiways and Aprons at Page Field.

   **Term:**
   N/A

   **Funding Source:**
   N/A

ADMINISTRATIVE AGENDA ITEMS

There were no administrative agenda items offered.
EXECUTIVE DIRECTOR ITEMS
Items of interest are contained in the Executive Director Remarks dated April 16, 2019 (copy on file, electronically, in the Communications & Marketing Department at the Lee County Port Authority). Mr. Mulder then announced the departure of Gene Meyers, division director of administration, noting his many accomplishments during his 15 years of service to the Port Authority.

PORT ATTORNEY ITEMS
No items offered by Senior Assistant Port Authority Attorney Gregory S. Hagen.

AIRPORTS SPECIAL MANAGEMENT COMMITTEE ITEMS
Randy Krise wanted to mention we are now getting ready to break ground on the new Air Traffic Control Tower and congratulated the staff on their hard work.

Robbie Roepstorff and Scott Cameron asked about the cost of the project and the funding for it. Mr. Mulder responded to their questions and answered them to their satisfaction.

ADJOURN
The Chair adjourned the meeting at 1:47 p.m.
1. REQUESTED MOTION/PURPOSE: Request Board approve an “Off-Airport Parking Company Airport Use Permit Agreement” with Picoger LLC.
2. FUNDING SOURCE: n/a
3. TERM: month-to-month beginning September 1, 2019
4. WHAT ACTION ACCOMPLISHES: authorizes Picoger LLC to provide off-airport parking

5. CATEGORY: 3. Consent Agenda
6. ASMC MEETING DATE: 5/21/2019

8. AGENDA:
   _X_ CEREMONIAL/PUBLIC PRESENTATION
   _____ CONSENT
   _____ ADMINISTRATIVE

9. REQUESTOR OF INFORMATION:
   (ALL REQUESTS)
   NAME Ben Siegel
   DIV. Administration

10. BACKGROUND:
    Guy Piccolo is the manager of Drive N Fly Out, LLC, which operates an off-airport parking business called “Executive Valet” at 10431 Radar Court. Drive N Fly Out operates its shuttles at Southwest Florida International Airport pursuant to an existing “Off-Airport Parking Company Airport Use Permit Agreement.” The existing agreement includes courtesy vehicle fees as well as a privilege fee of 4% of the first $20,000 of monthly gross revenue, and 8% of monthly gross revenue over $20,000. Like the Authority’s other off-airport parking agreements, the existing agreement provides that the Authority may increase these fees upon thirty (30) days written notice.

    Mr. Piccolo desires to start up a second off-airport parking business, serving RSW from a location at 14500 Global Parkway via a newly formed entity named Picoger LLC. Picoger will constitute an “off-airport parking company” pursuant to the Airport Rules and Regulations Ordinance. The ordinance provides that off-airport parking companies are not permitted to operate shuttle vehicles at Southwest Florida International Airport without entering into an airport use permit agreement with the Authority.

    Given the fact the Operator will have two separate operations, staff has reevaluated the split 4%/8% privilege fee structure used to-date for off-airport parking operators, and has determined that changing the privilege fee to a straight 8% would be appropriate going forward. Accordingly, as requested, Picoger has executed the

11. RECOMMENDED APPROVAL

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12. SPECIAL MANAGEMENT COMMITTEE RECOMMENDATION:
    APPROVED
    APPROVED as AMENDED
    DENIED
    OTHER

13. PORT AUTHORITY ACTION:
    APPROVED
    APPROVED as AMENDED
    DENIED
    DEFERRED to
    OTHER
attached “Off-Airport Parking Company Airport Use Permit Agreement.” The proposed agreement will allow Picoger, as permittee, to operate its courtesy vehicles (shuttles) on the Southwest Florida International Airport roadways, and to pick up and drop off its customers at designated locations. The agreement also provides for, among other things, the permittee’s payment to the Authority of courtesy vehicle fees, plus privilege fees in the amount of 8% per month of gross revenue derived from airport parking customers. The start date of the proposed agreement is September 1, 2019. Accordingly, upon approval of this proposed new agreement with Picoger, staff will provide written notice of the privilege fee change (effective September 1, 2019) to the other off-airport parking companies currently permitted at RSW.

Attachments
1. Contract Summary
2. Proposed Permit Agreement
## Contract Summary

| Permittee: | Picoger LLC  
|           | 10431 Radar Ct.  
|           | Ft. Myers, FL 33913 |
| Leased Premises: | n/a |
| Allowed Activity: | airport access for shuttle vehicles used in the operation of an off-airport parking business |
| Term of Agreement: | month to month, commencing September 1, 2019, until terminated by either party giving at least sixty (60) days advance written notice to the other party |
| Privilege/Permit Fees: | courtesy vehicle fees, plus privilege fees in the amount of 8% per month of gross revenue derived from airport parking customers |
| Insurance Requirements: | $1 million general liability, $1 million business auto, and workers’ compensation as required by Florida law |

**Note:** This page is intended as a general summary only, for ease of review, and is not a part of the contract. In the event of any conflict between this page and the proposed contract, the contract (being more precise) will prevail.
SOUTHWEST FLORIDA INTERNATIONAL AIRPORT (RSW)
OFF-AIRPORT PARKING COMPANY

AIRPORT USE PERMIT AGREEMENT

THIS PERMIT AGREEMENT is made and entered into this _____ day of ______________________, 2019, by and between LEE COUNTY PORT AUTHORITY, a political subdivision of the State of Florida with offices at 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida, 33913 (herein referred to as "Authority") and PICOGER LLC, a Florida limited liability company, with principal offices located at 10431 Radar Court, Fort Myers, FL 33913 (herein referred to as "Permittee").

Background

The Authority operates and regulates Southwest Florida International Airport (the "Airport") pursuant to Chapter 63-1541, Laws of Florida, and Lee County Ordinance 01-14. All off-airport parking companies desiring access to the Airport are required by law to first obtain a permit from the Authority, and to pay monthly privilege fees at the rate set by the Authority. Permittee plans to operate an off-airport parking company and has requested authorization to operate at the Airport, operate its courtesy vehicles on the Airport roadways and pick up and drop off its Airport Parking Customers at the Airport for transportation to and from its off-Airport site.

NOW THEREFORE, in consideration of the mutual promises herein, the Authority hereby issues this Permit, and by accepting this Permit, Permittee agrees to abide by the provisions hereof:

SECTION 1. DEFINITIONS

As used in this Permit, the following words or phrases shall have the following definitions:

"Airport" means Southwest Florida International Airport.

"Parking Customer" means any person who provides compensation to Permittee (or Permittee’s agent, contractor, or subtenant) for the reservation or
provision of space to park or store a motor vehicle (excluding boats) upon premises owned or operated by Permittee (including but not limited to space in an open parking lot, or in an enclosed building or storage unit, and regardless of whether the transaction is characterized as a lease, license, or otherwise).

"Airport Parking Customer" means all Parking Customers except those which sign a separate written statement, either:

(a) stand-alone and separate from any contract or invoice, or
(b) contained within and placed on the front page of such contract or invoice, in print in capital letters and no smaller than the remainder of the document, with a separate signature line,

indicating:

"CUSTOMER'S AFFIRMATION. By signing this statement, I hereby affirm under oath, and subject to penalty of law, that between the time of leaving the vehicle for parking or storage, and the time of retrieving that vehicle, I:

(1) was not transported by the parking operator to or from the Airport; and
(2) did NOT, and will not, arrive at or depart from Southwest Florida International Airport by any aircraft within 24 hours of delivery or retrieval of the vehicle.

Signature:_____________________________"

(or such alternative statement to the same effect as may be approved in advance by the Authority), in which case they will be presumed to be non-airport customers absent evidence to the contrary.

"Courtesy Vehicle" means any vehicle (including but not limited to vans and shuttle buses, provided the seating capacity is 18 or less, not including the driver) used to carry Airport Parking Customers to and from the Airport and Permittee's off-airport business location(s).

"Gross Revenue" means all amounts charged (whether received or receivable, whether cash or credit, whether made by time or some other method, and regardless of where, by whom, or to whom, the payment is made) for:

(1) provision of parking or storage space for motor vehicles to Airport Parking Customers, including but not limited to any type of charges, surcharges,
taxes, or fees now or hereafter made or assessed to Permittee's Airport Parking Customers;

(2) any item or service sold, rented, or provided to an Airport Parking Customer, including but not limited to any type of insurance; and

(3) transportation to or from the Airport.

However, notwithstanding the above, "Gross Revenue" excludes the amount of any federal, state, or local sales taxes, now or hereafter levied or imposed, when such taxes are collected from customers of the Permittee and separately stated on the customer’s agreement or invoice (if any). There shall be no deductions or exclusions from "Gross Revenue" except as specifically set forth above. For example, Gross Revenue shall not be reduced by reason of any amount collected or withheld by, or paid out or rebated to, travel agents, reservation agents, third parties involved in booking or reserving parking, or others, or for bad debt losses, bank charges, uncollectible credit or charge accounts, etc.

Each transaction made on installment or credit shall be treated as a transaction for the full price in the month during which such charge or transaction is made, regardless of when or whether the Permittee receives any full or partial payment therefore. In no event shall the Permittee's Gross Revenue be negative in any revenue category or in any period.

SECTION 2. TERM

The term of this Permit will commence on September 1, 2019, and will continue month to month thereafter unless or until terminated, effective at the end of a calendar month, by either party giving at least sixty (60) days advance written notice to the other party.

SECTION 3. PRIVILEGES

Permittee is granted a non-exclusive license to operate only those of its Courtesy Vehicle(s) which are listed on Exhibit "A" hereof (as may be amended as provided below) on the public roadways of the Airport, by the route directed by the Authority, and to pick up its customers from, and to deliver its customers to, the Airport at such locations as the
Authority designates. Notwithstanding the above, or the commencement of the term of this agreement, Permittee shall not be allowed to engage in any activity on the Airport until Permittee has satisfied its insurance requirements set forth below in this agreement.

Permittee may add and delete particular Courtesy Vehicles onto or from Exhibit "A" at any time by providing, in advance of any such additions or deletions, an updated Exhibit "A" (in the same format and containing all required information for each vehicle) to the Authority at:

Landside Manager, Operations Department
Lee County Port Authority
11000 Terminal Access Road, Suite 8671
Fort Myers, FL 33913

Permittee shall not operate any Courtesy Vehicle on the Airport unless such vehicle is listed on the then-current Exhibit "A," and shall not operate any vehicle for hire on the Airport unless authorized by the Authority under a separate written agreement.

Permittee may, for the duration of this Agreement (unless Permittee ceases business operations for 90 or more consecutive days): (1) maintain a phone number on the Authority’s common-use phone in the bus shelter used by off-airport parking customers; and (2) maintain identification signage on the Airport, at Permittee’s sole expense, in reasonable proximity to the pick-up/drop-off location designated by the Authority, in the same size, type, and location(s) as the Authority may approve for other off-airport parking companies, subject to availability.

The pickup location shall initially be the existing off-airport shuttle bus shelter just east of the Airport’s parking garage (depicted on Exhibit B attached hereto). The dropoff location shall initially be the main terminal curb, second level. Permittee’s assigned pick up and drop off locations, courtesy phone locations, and identification signage locations, are all subject to change by the Authority at any time in the Authority’s sole discretion.

SECTION 4. FEES TO BE PAID BY PERMITTEE

A. Privilege Fees

For each calendar month (or portion thereof) during the term of this Permit, Permittee will pay to the Authority a Privilege Fee for the privilege of using the Airport and
for the business benefits it derives from the Airport. Said Privilege Fee will initially be in
the amount of eight percent (8%) of "Gross Revenue," as that term is defined above.

The Privilege Fee is payable monthly at the Authority's address, without demand,
setoff, or deduction, to Lee County Port Authority, Attn.: Finance Department, 11000
Terminal Access Road, Suite 8671, Fort Myers, Florida, 33913 (or such other place as the
Authority may direct in writing) as follows:

Twenty (20) days following the end of each calendar month of the term hereof,
Permittee shall submit to the Authority's Finance Department, in a format shown on Exhibit
"C" hereto (as may be amended from time to time by the Authority), a "Monthly Statement
of Gross Revenue," signed by a responsible accounting officer of Permittee, and
accompanied by a check for the amount due the Authority for the covered month. (Exhibit
"C" is intended to be construed in accordance with the definition of "Gross Revenue set
forth above; in the event of any conflict between Exhibit "B" and said definition, the
definition will prevail.)

B. Courtesy Vehicle Registration Fees

In addition to the Privilege Fees set forth above, Permittee will pay to the Authority,
for and during the term of this Permit, a monthly Courtesy Vehicle Registration Fee, for
each Courtesy Vehicle that Permittee operates or is permitted to operate on the Airport
during that calendar month or portion thereof (which shall not be transferable between
vehicles) which will initially be in the following amount(s):

<table>
<thead>
<tr>
<th>VEHICLE SEATING CAPACITY (excluding driver)</th>
<th>FEE (per vehicle per month)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Five or less</td>
<td>$15.00</td>
</tr>
<tr>
<td>Six to twelve</td>
<td>$35.00</td>
</tr>
<tr>
<td>Thirteen or more</td>
<td>$50.00</td>
</tr>
</tbody>
</table>

This Courtesy Vehicle Registration Fee is payable monthly or annually; such fees paid
annually will be prorated to coincide with the Authority's fiscal year; such fees prepaid for a
twelve-month period coinciding with the Authority's fiscal year will be entitled to a one-
twelfth discount, such that Permittee pays eleven times the monthly fee and is credited for
twelve months. The Courtesy Vehicle Registration Fee set forth above will not apply if Permittee has already paid the courtesy shuttle registration fees under a separate Courtesy Shuttle Permit from the Authority for the same time period and same vehicle.

C. Courtesy Vehicle Trip Fees

In addition to the Privilege Fees and Courtesy Vehicle Registration Fees set forth above, Permittee will pay to the Authority, for and during the term of this Permit, a Courtesy Vehicle Trip Fee. Said fee will initially be $1.00 for each departure from the Airport by a Courtesy Vehicle owned or operated by or for the Permittee. The method of billing and collection of said trip fee shall be as determined by the Authority.

D. Treatment of Fees

The fees set forth above are airport user fees imposed on Permittee, and not on Permittee's customers. Accordingly, Permittee will not separately assess, collect, charge, state, or list an amount for, any airport "fee," "surcharge," "tax," or any other charge on its contracts purporting to be imposed on the customers by the Airport or the Authority. The foregoing shall not prohibit Permittee from listing a "facility fee" or "location fee" separate from its parking fee, nor from collecting sales taxes or other taxes which may now or in the future be imposed by applicable governmental authorities.

E. Increases in Fees

The Authority may, upon thirty (30) days advance written notice to Permittee, but not more frequently than annually, increase the Privilege Fees, Courtesy Vehicle Registration Fees, and Courtesy Vehicle Trip Fees set forth above.

SECTION 5. ACCOUNTING RECORDS AND AUDITS

A. Records

Permittee shall maintain, in a complete and accurate manner, on an accrual basis and in accordance with Generally Accepted Accounting Principles (GAAP), such accounts, books, records, and data pertaining to its parking operations as would reasonably be expected to be examined by an independent certified public accountant in performing an audit or examination of the Gross Revenues from Permittee's parking operation in
accordance with GAAP and Generally Accepted Auditing Standards (GAAS). Such books and records shall include, at a minimum:

1. all individual customer agreements;
2. all agreements between Permittee and any third party booking or reservation providers or agents utilized or contracted with by Permittee;
3. a breakdown of the various components of Permittee's Gross Revenue and the permitted exclusions therefrom;
4. daily business reports;
5. sales journals; and
6. all other books and records customarily used in the parking business.

Said materials shall be in sufficient detail to substantiate all information Permittee provides the Authority.

All contract forms, tickets, or invoices used by Permittee in its operations within Lee County shall be sequentially numbered, with preprinted numbers. Permittee shall maintain or cause to be maintained records and controls pertaining to the pre-numbered series.

Permittee shall make all such books and records available to the Authority at a location in Lee County, Florida, for at least five (5) years after the end of the term of this Permit.

B. Annual Statements to be submitted by Permittee

Permittee shall annually provide to the Authority, at Permittee's sole cost and expense, a "Statement of Gross Revenues" for the preceding twelve-month period (or portion thereof) ending September 30th during the period this permit is in force. Said Statement shall be certified by the chief financial officer ("CFO") of Permittee when payments made by the Permittee for such period were not more than $25,000. If payments made by the Permittee for such period were more than $25,000, said Statement shall be prepared by an independent certified public accountant ("CPA") duly licensed in the state where the audit is performed, in accordance with generally accepted auditing standards and the terms of this permit agreement. Said Statement shall be provided to the Authority within ninety (90) days after each such September 30th, and shall include the
following:

(1) a written statement that in said CFO's or CPA's opinion, based on information available to Permittee, all Privilege Fees owed by Permittee to the Authority for the year ending on said September 30th were paid in accordance with the terms of this permit agreement.

(2) a schedule of revenues upon which the monthly payments to Authority are computed;

(3) a list of the payments made to the Authority for the period; and

(4) a calculation to determine that the total Privilege Fees for the year or applicable portion thereof have been paid in accordance with this agreement. Any adjustment due will be determined, and payment remitted to the party to whom it is due, within thirty (30) calendar days from receipt and acceptance of said audit report by the Authority. Any additional sums found to be due to Authority shall be paid forthwith to Authority and shall bear interest at the rate of eighteen percent (18%) per annum from the date such sums should have been paid until the date actually paid.

Delivery of an audit report containing a qualified opinion, an adverse opinion, or a disclaimer of opinion as defined in the Statements on Accounting Standards, as may from time to time be amended or superseded, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, shall be deemed to be a default hereof.

C. Audits by Authority

The Authority shall have the right, at all reasonable times, to have Permittee produce any or all of Permittee's books and records pertaining to its parking business that are in its possession, custody, or control, including sales tax and other tax return records for the preceding five (5) years, to the Authority in Lee County, Florida, and to have the Authority's representatives inspect, examine, copy, and audit those books and records for the purpose of verifying the Gross Revenues hereunder. Should the Permittee have any of such books or records maintained outside of Lee County, Florida, and not wish to make them available to the Authority in Lee County, then the Permittee shall reimburse the Authority for the audit costs incurred, including round trip air fare and ground transportation from Fort Myers to the location at which the books and records are kept, hotel lodging, and meals.

In any event, if, as a result of such audit, it is established that Permittee has understated the Gross Revenues as defined above by three percent (3%) or more, the
entire expense of said audit shall be borne by Permittee. Any additional Privilege Fee due shall be invoiced to Permittee and promptly paid to Authority with interest at the rate of one percent (1.0%) per month from the date such additional Privilege Fee originally was due. Notwithstanding the foregoing, the Authority shall not be prevented from terminating this Permit for default in the payment of fees or from enforcing any other provisions hereof.

SECTION 6. RELEASE, INDEMNITY, AND HOLD HARMLESS

Neither the Authority nor Lee County will be liable to the Permittee for, and Permittee agrees to release, indemnify, and hold harmless, the Authority and Lee County (and their respective Commissioners, officers, agents, and employees) from any and all injury, loss, or damage, of any nature whatsoever (other than damages for Authority's breach of this Agreement), to any person or property in connection with the use of the leased premises or the Airport by Permittee, its employees, agents, or contractors, unless caused solely by negligent acts or intentional malfeasance of the Authority or Lee County, or their agents or servants acting within the scope of their employment.

SECTION 7. INSURANCE

Permittee must procure and maintain at its own expense the following types and amounts of insurance prior to commencing any activities on the Airport, and then continuously during the remainder of the term of this Agreement:

1. Commercial general liability insurance with minimum limits of $1,000,000.00 combined single limits per occurrence, for bodily injury, wrongful death, or property damage, including product liability;

2. Business automobile liability insurance covering all owned, non-owned, and hired vehicles, with limits of no less than $1,000,000.00 ("scheduled autos" may be specified in lieu of "all owned autos" only if a schedule, including year, make, and entire VIN, of each vehicle covered by the policy accompanies the certificate of insurance); and

3. Workers' compensation insurance, in the amounts required by state law.

An original hand-signed certificate(s) evidencing the insurances specified above shall be sent to the Port Authority's Risk Management Department prior to the commencement of any activities on the Airport by Permittee. The Authority must be
named as additional insured in all policies of insurance. The original or a certified copy of above policy or policies, plus certificates evidencing the existence (including renewals) thereof, shall be delivered to the Authority not more than ten days after request. Each such policy or certificate shall contain a valid provision or endorsement that "This policy will not be cancelled or materially changed or altered without first giving advance written notice to the Lee County Port Authority" (or such alternative statement to the same effect as may be approved by the Authority). The Permittee's insurance will be primary and noncontributory.

SECTION 8. ASSIGNMENT
Permittee will not assign this Permit, in whole or in part, and any such attempted assignment shall be void, unless the Permittee first obtains written consent of the Authority, which shall not be unreasonably withheld.

SECTION 9. STANDARDS OF OPERATION
Permittee is prohibited from:

(1) having personnel on the Airport which are not neat, clean and courteous;

(2) allowing its agents or employees to solicit tips (however this restriction shall not prohibit receiving tips or maintaining a tip jar within courtesy vehicles), or to conduct business in a loud, noisy, boisterous, offensive or objectionable manner;

(3) allowing its agents or employees to engage in open or public disputes or conflicts, or to solicit business in any manner whatsoever (except as expressly provided below);

(4) having an office or station at the airport (except that Permittee may maintain a courtesy phone as set forth in Section 3 above);

(5) transporting any persons, other than "Airport Parking Customers" (and, if Permittee operates a hotel, Permittee's hotel customers) to or from the Airport;

(6) parking its courtesy vehicles on Airport property, except when actively loading or unloading passengers;

(7) conducting any business activity on Airport property other than as expressly provided herein or as otherwise expressly permitted by the Authority; and

(8) using the Airport's cell phone lot(s).

Additionally, Permittee agrees to:
(1) load and unload its customers only as specified by the Authority;

(2) have its drivers remain in the vehicles except to assist customers loading or unloading baggage into or out of the shuttle vehicle (drivers shall not walk beyond the loading/unloading area);

(3) refrain from any use of the Airport which would interfere with or adversely affect the operation or maintenance of the Airport, or otherwise constitute an Airport hazard; and

(4) make no unlawful, improper, or offensive use of the Airport.

SECTION 10. SOLICITATION AND ADVERTISING

Permittee will not solicit business on the Airport. However, Permittee may contract separately with the Authority or the Authority's advertising concessionaire (if any) for the provision at the Airport of display advertising, courtesy telephones, or both, at Permittee's sole cost and expense, and at such fees, charges, and location as may be negotiated. Notwithstanding the foregoing, Permittee may have informational displays inside and on the outside of its courtesy vehicles promoting Permittee's business.

SECTION 11. COMPLIANCE WITH LAWS

Permittee (including its officers, agents, servants, employees, contractors, suboperators, licensees, and any other person over which Permittee has the right to control) shall comply at all times with all present and future laws, including the Airport Rules and Regulations Ordinance (Lee Co. Ord. 94-09), and all other statutes, ordinances, orders, directives, rules, and regulations, of the federal, state, and local governments, which may be or become applicable to its operations (including its courtesy vehicles) at the Airport.

SECTION 12. DOT NONDISCRIMINATION CLAUSE

This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23, subpart F. The Permittee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR part 23, subpart F.

SECTION 13. NONEXCLUSIVITY
Nothing herein contained shall be deemed to grant Permittee any exclusive right or privilege in the conduct of any activity on the Airport. Authority expressly reserves the right to grant the same or similar privileges to other off-airport parking operators, but at rates and privilege fees not less than those charged by Authority to Permittee.

SECTION 14. NONLIABILITY OF AGENTS OR EMPLOYEES
No officer, agent, or employee of Authority shall be charged personally or held liable under the provisions of this Agreement or because of any breach thereof or because of its or their execution or attempted execution.

SECTION 15. TERMINATION BY AUTHORITY
In addition to all other remedies provided herein or at law, in the event Permittee has intentionally or recklessly understated its Gross Revenues, knowingly reported an Airport Customer as a non-airport customer, or encouraged a customer's falsification of the "Customer's Affirmation, the Authority may suspend or terminate this Permit and suspend or cancel all privileges hereunder. Also, Authority may suspend or terminate this Permit and suspend or cancel all privileges hereunder at any time by giving thirty (30) days written notice to Permittee should any one or more of the following events occur, unless same shall have been corrected within such period:

(1) Permittee becomes a corporation in dissolution;
(2) Permittee fails to make any payment required when due, or to perform and observe any other promise, covenant or condition set forth in this Agreement;
(3) Cessation or deterioration of Permittee's service to the public which materially and adversely affects the quality of Permittee's operation;
(4) Permittee violates the Airport Rules and Regulations Ordinance, or any other law applicable to Permittee's operations.

SECTION 16. LICENSES AND TAXES
Permittee shall have and maintain in current status all federal, state, and local licenses and permits required for the operation of its business. Permittee agrees to bear, pay, and discharge, on or before their respective due dates, all federal, state, and local taxes, fees, assessments, and levies which are now or may hereafter be levied upon the
premises, or upon Permittee, or upon the business conducted on the premises, or upon any of Permittee's property used in connection therewith.

SECTION 17. WAIVER OF CLAIMS

Permittee hereby waives any claim against the Authority and its officials, officers, agents or employees, for loss of anticipated profits caused by any suit or proceeding directly or indirectly attacking the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void or voidable or delaying the same or any part hereof.

SECTION 18. INTERPRETATION

The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either the Authority or Permittee. In the event that any provisions of this Agreement are held to be unenforceable or invalid by any court or regulatory agency of competent jurisdiction, the validity and enforceability of the remaining provisions shall not be affected thereby, and Permittee and Authority shall negotiate an equitable adjustment in the provisions of this Agreement with a view toward effecting the purposes of this Agreement.

SECTION 19. NOTICES

Notice to Authority will be sufficient if sent by certified or registered mail, postage prepaid, or by a nationally recognized overnight delivery service, such as Federal Express or UPS, to: Executive Director, Lee County Port Authority, 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida 33913. Notice to Permittee will be sufficient if sent in the same manner to its address set forth on page 1 above. The parties may designate in writing other addresses for notice. Notice shall be deemed given when delivered (if sent by a delivery company) or when postmarked (if sent by mail).

SECTION 20. NONWAIVER OF RIGHTS

No waiver by either party of a breach by the other party of any of the terms, covenants, and conditions hereof shall operate as a waiver of any other breach.
SECTION 21. **TIME**
Time is of the essence in the performance of this Agreement.

SECTION 22. **GOVERNING LAW AND VENUE**
This Agreement shall become valid when executed and accepted by the Authority in Lee County, Florida; it will be deemed made and entered into in the State of Florida and will be governed by and construed in accordance with the laws of Florida. In the event of a dispute between the parties, suit will be brought only in the federal or state courts of Florida, and venue shall be in Lee County, Florida.

SECTION 23. **WAIVER OF RIGHT TO JURY TRIAL**
The parties agree to waive trial by jury in any action between them arising out of or in any way connected with this contract or Permittee’s use or occupation of the premises.

SECTION 24. **AUTHORITY’S REPRESENTATIVE**
Unless otherwise specified herein, whenever in this Agreement the Permittee is required or permitted to receive direction from, obtain the approval of, consult with, give notice to, receive notice from, or other otherwise deal with the Authority, Permittee shall deal with the Authority’s authorized representative, which shall be the Authority’s Executive Director or his designee.

SECTION 25. **ENTIRE AGREEMENT**
This contract sets out the entire agreement between the parties. No agreement to modify this contract will be effective unless in writing and executed by the Permittee and duly approved by, and executed on behalf of, the Authority’s Board of Port Commissioners.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized
representatives, have executed this Agreement on the date first above written.

PICOGER LLC
(Permittee)

By: ____________________________
Guy Piccolo
Title: Manager
Date: 4/1/19

WITNESSED BY:

Witness: ____________________________
Print Name: Amber Lawrence
Date: 4/1/19

Witness: ____________________________
Print Name: Christine Lawless
Date: 4/1/19

LEE COUNTY PORT AUTHORITY

By: ____________________________
Chair or Vice Chair,
Board of Port Commissioners
Date: ____________________________

Approved As To Form for the Reliance of the Lee County Port Authority only:

By: ____________________________
Port Authority Attorney

ATTEST:
LINDA DOGGETT, CLERK

By: ____________________________
Deputy Clerk
EXHIBIT "A"

DESIGNATION OF PERMITTEE'S COURTESY VEHICLES

EFFECTIVE DATE OF THIS VEHICLE LIST: ________________

<table>
<thead>
<tr>
<th>YEAR</th>
<th>MAKE</th>
<th>MODEL</th>
<th>VIN</th>
<th>PASSENGER SEATING CAPACITY</th>
<th>LICENSE PLATE #</th>
<th>TRANSPONDER # (Issued by LCPA staff)</th>
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SUBMITTED BY: ____________________________
TITLE: ________________________________
PERMITTEE: _____________________________
PHONE NUMBER: ___________________________
EMAIL ADDRESS: __________________________

PHONE NO. FOR OFF-SITE PICK-UP AREA, DIRECT DIAL PHONE: ________________________________

24 HOUR EMERGENCY CONTACT INFORMATION (FOR AUTOMATED SYSTEM)
PHONE: ________________________________
TEXT NO.: ______________________________
EMAIL: ________________________________
Shuttle Bus Pick up for off site rental car & off site parking

EXHIBIT B
EXHIBIT “C”

MONTHLY OFF-AIRPORT PARKING REPORT
GROSS REVENUES AND RSW TRIPS

TO: Lee County Port Authority
   Attn: Finance Department
   11000 Terminal Access Road, Suite 8671
   Fort Myers, FL 33913

Phone: (239) 590-4519
Fax: (239) 590-4621

Gross Revenue for the month of ___________________________
   (Company Name)                        (Month/Year)

Privilege Fee

Gross Revenue derived from “airport customers” ______________

X 8% = TOTAL PARKING PRIVILEGE FEE DUE (a) $ ______________

Trip Fees

Number of Trips ______________

X $1.00 Per Trip (b) $ ______________

TOTAL DUE (add lines a and b) $ ______________

Signature of Accounting Officer ___________________________ Date __________

Printed Name ___________________________________________
# BOARD OF PORT COMMISSIONERS
## OF THE LEE COUNTY PORT AUTHORITY

<table>
<thead>
<tr>
<th>1. REQUESTED MOTION/PURPOSE:</th>
<th>Request Board approve a Second Amendment to “Airline-Airport Use and Lease Agreement” with Delta Air Lines, Inc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. FUNDING SOURCE:</td>
<td>n/a</td>
</tr>
<tr>
<td>3. TERM:</td>
<td>October 1, 2008, to September 30, 2021</td>
</tr>
<tr>
<td>4. WHAT ACTION ACCOMPLISHES:</td>
<td>Extends the Airline-Airport Use and Lease Agreement with Delta Air Lines, Inc. by three years, to September 30, 2021, adjusts leased space, and updates non-discrimination requirements.</td>
</tr>
<tr>
<td>5. CATEGORY:</td>
<td>4. Consent Agenda</td>
</tr>
<tr>
<td>6. ASMC MEETING DATE:</td>
<td>5/21/2019</td>
</tr>
</tbody>
</table>

| 8. AGENDA:                  | CEREMONIAL/PUBLIC PRESENTATION X CONSENT ADMINISTRATIVE |

<table>
<thead>
<tr>
<th>9. REQUESTOR OF INFORMATION:</th>
<th>(ALL REQUESTS) NAME Ben Siegel</th>
</tr>
</thead>
<tbody>
<tr>
<td>DIV.</td>
<td>Administration</td>
</tr>
</tbody>
</table>

| 10. BACKGROUND: | The Airline-Airport Use and Lease Agreements currently in effect between the Port Authority and Southwest Florida International Airport’s “participating” or “signatory” airlines originally were for a five-year term, from October 1, 2008, through September 30, 2013. These “signatory” agreements worked well for all parties, allowing the Authority significant financial flexibility in supporting its capital improvement program, while providing a competitive cost structure for the airlines. Accordingly, the agreements were extended to September 30, 2018. In 2018, negotiations were undertaken toward extending those agreements for an additional three years, to September 30, 2021, and the Board has already approved lease amendments with the other signatory airlines providing for such extensions. Delta has now signed a proposed lease amendment providing for a similar extension to September 30, 2021. The proposed amendment also provides for certain changes to Delta’s ticket counter space and gates (including a net reduction in ticket counter space, from 1,748 square feet to 1,206 square feet, in conjunction with the Authority’s planned ticket counter modernization project, and, effective October 1, 2019, a reduction from four assigned preferential-use gates to three). The amendment also incorporates new non-discrimination language, now required by the FAA, into the agreement. |

**Attachments**

1. Contract summary
2. Proposed amendment

<table>
<thead>
<tr>
<th>11. RECOMMENDED APPROVAL</th>
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<tbody>
<tr>
<td>DEPUTY EXEC DIRECTOR</td>
</tr>
<tr>
<td>Benjamin R. Siegel</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>12. SPECIAL MANAGEMENT COMMITTEE RECOMMENDATION:</th>
<th>APPROVED</th>
<th>APPROVED as AMENDED</th>
<th>DENIED</th>
<th>DEFERRED to</th>
<th>OTHER</th>
</tr>
</thead>
</table>

| 13. PORT AUTHORITY ACTION: | APPROVED | APPROVED as AMENDED | DENIED | DEFERRED to | OTHER |
**Contract Summary**

*includes effects of proposed Second Amendment*

Type of Agreement: Airline-Airport Use and Lease Agreement

Carrier: Delta Air Lines, Inc.

Gate(s): C2, C4, C6, and C8 [deleting C8 effective October 1, 2019]

Exclusive Use Space:
- **first floor**
  - 482 s.f. baggage service office
  - 2,879 s.f. operations space
  - 4,095 s.f. baggage make-up space

- **second floor**
  - 1,392 s.f. ticket counter space [being reduced to 1,206 s.f.; see text of amendment for effective date of this change]
  - 1,953 s.f. ticket office space
  - 189 s.f. curbside check-in space (for podium)
  - 48 s.f. curbside storage space (closet)

(also allows carrier nonexclusive use of certain ramp space, gate areas, and bag claim areas)

Allowed Use(s): airline passenger and cargo service

Term: commencing October 1, 2008, and expiring on September 30, 2018 [Second Amendment is extending term to September 30, 2021].

Fees: landing fees, terminal rents, aircraft parking changes, and other fees and changes as may apply

Insurance Requirements: $1 million employers liability; $50 to $100 million airport liability (depending on aircraft size); $100 million aircraft liability; $5 million business auto liability

**Note:** This page is intended as a general summary only, for ease of review, and is not a part of the contract. In the event of any conflict between this page and the proposed contract, the contract (being more precise) will prevail.
SECOND AMENDMENT
TO
"AIRLINE-AIRPORT USE AND LEASE AGREEMENT"
WITH DELTA AIR LINES, INC.
This agreement is entered into this _____ day of ________________, 2019, by and between LEE COUNTY PORT AUTHORITY, a special district and political subdivision of the State of Florida, with offices at 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida 33913 ("Port Authority"), and DELTA AIR LINES, INC., a Delaware corporation ("Airline").

Background

Port Authority manages and operates the Southwest Florida International Airport, located in Lee County, Florida (the "Airport"). Port Authority and Airline are parties to an "Airline-Airport Use and Lease Agreement", dated November 10, 2008, and amended September 9, 2013 (the "Agreement").

The Port Authority and Airline now desire to amend said Agreement to adjust Airline’s space and to extend the term of the Agreement.

NOW THEREFORE, in consideration of the mutual promises herein, the undersigned parties agree to amend the Agreement as follows:

1. The term of the agreement is extended three years, to September 30, 2021. Accordingly, Article 3 of the Agreement shall be deleted and replaced with the following:
This Agreement shall commence October 1, 2008, and expire September 30, 2021, unless sooner terminated as provided herein.

2. Effective on the earlier of: (1) the date Authority’s planned Ticket Counter Modernization Project results in the commencement of deconstruction or demolition of the ticket counters in the Deleted Ticket Counter Space (as defined below); or (2) October 1, 2019; the Agreement shall be amended such that:

(a) the Deleted Ticket Counter Space will be deleted from Airline’s leased “ticket counter space”;

(b) certain space will be added to Airline’s leased “ticket counter space,” such that Airline’s ticket counter space from that date forward shall be the area shown as “New Delta Ticket Counter Space” on the attached “Exhibit B, Part II, Second Revised Page 2 of 7”;

(c) the above changes will result in a net reduction of Airline’s leased ticket counter space, from 1,748 square feet to 1,206 square feet, as shown on the attached REVISED EXHIBIT B, PART I;

(d) Exhibit B, Part I will be deleted and replaced with the attached REVISED EXHIBIT B, PART I;

(e) for the purpose of calculation of rents, fees, and any other amounts payable by Airline under the Agreement, the leased areas set forth in the attached REVISED EXHIBIT B, PART I shall be used; and

(f) “Exhibit B, Part II (Revised Page 2 of 7)” will be deleted and replaced with the attached “Exhibit B, Part II, Second Revised Page 2 of 7”.

“Deleted Ticket Counter Space” means the area shown as “Existing Delta Ticket Counter Space to be Vacated” on the attached “Exhibit B, Part II, Second Revised Page 2 of 7.”
3. Notwithstanding the above, effective October 1, 2019, Airline's preferential right to use gate C8 will be deleted from this Agreement.

4. The following is added to the Agreement as Article 19:

Article 19: Civil Rights and Title VI.

19.1 General Civil Rights Provisions. Airline agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefitting from Federal assistance. If the Airline transfers its obligation to another, the transferee is obligated in the same manner as the Airline. This provision obligates the Airline for the period during which the property is owned, used or possessed by the Airline and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

19.2 Compliance with Nondiscrimination Requirements. During the performance of this contract, Airline, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

A. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

B. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination
Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

C. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

D. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Port Authority or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will certify to the Port Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Port Authority will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

   a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

   b. Cancelling, terminating, or suspending a contract, in whole or in part.

F. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the
Port Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Port Authority to enter into any litigation to protect the interests of the Port Authority. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

19.3 Transfer of Real Property Acquired or Improved Under the Airport Improvement Program.

A. Airline, for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the property described in this lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Airline will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. In the event of breach of any of the above Nondiscrimination covenants, Authority will have the right to terminate the lease and to enter, re-enter, and repossess said lands and facilities thereon.

19.4 Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.

A. Airline, for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from
participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination, (3) that the Airline will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

B. In the event of breach of any of the above nondiscrimination covenants, Authority will have the right to terminate the lease and to enter or re-enter and repossess said land and the facilities thereon.

19.5 Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, the Airline, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination on the basis of disability).
discrimination based on race, creed, color, national origin, or sex);

7. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 - 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

9. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).
5. All other provisions of the Agreement remain unchanged and in full force.

IN WITNESS WHEREOF, the parties hereto have subscribed their names on the date first above written.

DELTA AIR LINES, INC.
(Airline)
By: [Signature]
Print name: HANK MOODY
Title: GM, CRE
Date: 04/10/19

WITNESSED BY:
[Signature]
Witness
[Signature]
Witness

LEE COUNTY PORT AUTHORITY

By: [Title]
Chairman or Vice Chairman,
Board of Port Commissioners
Date: ________________

Approved As To Form for the Reliance of the Lee County Port Authority only:

By: ________________________
Port Authority Attorney

ATTEST:
LINDA DOGGETT, CLERK

By: ________________________
Deputy Clerk
REVISED EXHIBIT B

To

AIRLINE – AIRPORT AND LEASE AGREEMENT

With

DELTA AIR LINES, INC.

FOR

SOUTHWEST FLORIDA INTERNATIONAL AIRPORT

PART I

For the remainder of the term of this agreement, except as specified below regarding gate C8, Airline shall have in the Terminal:

1. the preferential, but not exclusive, right to use the following gate position(s) and, associated loading bridge(s) and equipment assigned for its use as shown on Page 1 of Part II of this Exhibit B: gates C2, C4, C6, and, through and until September 30, 2019, gate C8; the number of Airline’s preferentially assigned gate positions shall be used to determine Airline’s Apron Fee rent and Gate Area rent.

2. the exclusive use of the following spaces assigned for its use as shown on Pages 2 through 4 of Part II of this Exhibit B:

   (a) 1,206 square feet of ticket counter space;
   (b) 1,953 square feet of ticket office space;
   (c) 189 square feet of curbside check-in space;
   (d) 482 square feet of baggage service office space;
   (e) 2,879 square feet of operations space; and
   (f) 48 square feet of curbside storage space;

3. the exclusive use of the baggage belt within the 4,095 square foot baggage make-up space, as shown on Page 5 of Part II of this Exhibit B; and

4. the right of joint use with other airlines to use the Baggage Claim Area in the Terminal as shown on Page 6 of Part II of this Exhibit B.
# BOARD OF PORT COMMISSIONERS
OF THE
LEE COUNTY PORT AUTHORITY

<table>
<thead>
<tr>
<th>1. REQUESTED MOTION/PURPOSE: Request Board approve a “Permit Agreement for Landside Ground Service at Southwest Florida International Airport” with Luggage Express RSW, LLC.</th>
<th>5. CATEGORY: 5. Consent Agenda</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. FUNDING SOURCE: n/a</td>
<td></td>
</tr>
<tr>
<td>3. TERM: month-to-month, beginning April 1, 2019</td>
<td>6. ASMC MEETING DATE: 5/21/2019</td>
</tr>
<tr>
<td>4. WHAT ACTION ACCOMPLISHES: authorizes Luggage Express RSW, LLC to provide landside ground services to airlines</td>
<td>7. BoPC MEETING DATE: 6/27/2019</td>
</tr>
</tbody>
</table>

8. AGENDA:  
   - CEREMONIAL/PUBLIC PRESENTATION  
   - CONSENT  
   - ADMINISTRATIVE  

9. REQUESTOR OF INFORMATION:  
   (ALL REQUESTS)  
   NAME Ben Siegel  
   DIV. Administration  

10. BACKGROUND:  
    Luggage Express RSW, LLC proposes to provide ground services only in pre-security (landside) areas for airlines at Southwest Florida International Airport. The proposed permit agreement requires Luggage Express RSW, LLC, as permittee, to (among other things) maintain certain insurance coverage and pay the Authority monthly privilege fees in the amount of 8% of gross revenue, plus employee parking lot charges.

Attachments:  
1. Contract summary  
2. Proposed agreement

## 11. RECOMMENDED APPROVAL

<table>
<thead>
<tr>
<th>DEPUTY EXEC DIRECTOR</th>
<th>COMMUNICATIONS AND MARKETING</th>
<th>OTHER</th>
<th>FINANCE</th>
<th>PORT ATTORNEY</th>
<th>EXECUTIVE DIRECTOR</th>
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</thead>
<tbody>
<tr>
<td>Benjamin R. Siegel</td>
<td>Victoria B. Moreland</td>
<td>N/A</td>
<td>Brian W. McGonagle</td>
<td>Gregory S. Hagen</td>
<td>Jeffrey A. Mulder</td>
</tr>
</tbody>
</table>

## 12. SPECIAL MANAGEMENT COMMITTEE RECOMMENDATION:  
- APPROVED  
- APPROVED as AMENDED  
- DENIED  
- OTHER

## 13. PORT AUTHORITY ACTION:  
- APPROVED  
- APPROVED as AMENDED  
- DENIED  
- DEFERRED to  
- OTHER
CONTRACT SUMMARY

Permittee: Luggage Express RSW, LLC
16804 Colony Lakes Blvd.
Ft. Myers, FL 33908

Allowed Activities: Provision of landside ground services to air carriers

Term of Agreement: Commences April 1, 2019, and will continue month-to-month thereafter until terminated by either party upon thirty (30) days advance written notice.

Privilege Fees: Monthly:
(a) 8% of gross revenue; and
(b) Employee Parking Lot Charge (currently $15/employee with access to employee parking lot)

Security/Perf. Guaranty: $2,500

Insurance Requirements: Commercial General Liability in the amount of $1,000,000; Workers’ compensation as required by state law; Employers liability in the amount of $1,000,000.

Note: This page is intended as a general summary only, for ease and review, and is not a part of the contract. In the event any conflict between this page and the proposed contract, the contract (being more precise) will prevail.
PERMIT AGREEMENT
FOR LANDSIDE GROUND SERVICE AT
SOUTHWEST FLORIDA INTERNATIONAL AIRPORT

LEE COUNTY PORT AUTHORITY ("Authority"), upon its execution hereof, hereby grants to the below-named Permittee, and Permittee accepts, the right to engage in the business of providing certain ground services, as set forth below, at Southwest Florida International Airport ("Airport"), on the terms and conditions herein stated and agreed to by the Authority, by Permittee, and by any airline or airlines which is or are a party to this agreement by virtue of execution of a rider hereto:

1. **PERMITTEE.** The "Permittee" herein is identified as:

Name: LUGGAGE EXPRESS RSW, LLC
Type of entity: a Florida limited liability company

Permittee's address and telephone number are as follows:

Address: 16804 Colony Lakes Blvd.
         Fort Myers, FL 33908

Telephone: (239) 690-9908

2. **TERM.** The term of this permit shall commence on April 1, 2019, and will continue month-to-month thereafter until terminated by either party giving the other thirty (30) days advance written notice thereof.

3. **DEFINITIONS.** As used in this permit agreement, the following words or terms have the meanings given herein:

"Ground Service Gross Revenue" means all amounts charged (whether received or receivable, cash, credit, or otherwise, and
including, without limitation, any standby charges, wait charges, late charges, etc., and without making any deductions or set-offs) for all Ground Service provided by Permittee at the Airport.

"Ground Service" means any service (including, but is not limited to, ramp services, cargo handling, baggage handling, passenger handling, ticketing, aircraft cleaning, security services, baggage delivery service, and the rental, fueling, operation, maintenance, and repair of ground service equipment) provided at the Airport in support of an airline (including, but not necessarily limited to, both passenger and cargo airlines), excluding only:

1. aircraft maintenance and repair;
2. fueling service (other than fueling ground service equipment);
3. provision of food or beverages; and
4. "Skycap Service" as defined below.

"Skycap Service" means curbside check-in for passengers, providing wheelchair assistance for passengers, and handling and transporting baggage and other articles of personal property for passengers through the terminal building.

4. PRIVILEGES. During the term of this permit and in accordance with the terms and conditions thereof, Permittee is permitted to provide "Ground Service", only in pre-security (landside) areas of the Airport.

This Permit grants Permittee only a license to enter upon
certain areas of the Airport, and not a lease of any particular space. If Permittee desires its own work space at the Airport, Permittee must secure a separate written agreement with the Authority providing for same, or an Authority-approved sublease from an Airport tenant.

5. OPERATIONAL REQUIREMENTS. Permittee must ensure that all employees are properly trained and equipped to conduct the subject activities on the airside portion of the Airport. Permittee must obtain all necessary federal, state, and local licenses prior to the commencement of business activities.

6. FEES. In consideration of the rights and privileges granted to Permittee, during the term of this permit, Permittee will pay to the Authority, monthly, a “Privilege Fee” equal to the sum of:

(1) eight percent (8%) of Permittee's “Ground Service Gross Revenue” (as defined above); and

(2) an “Employee Parking Lot Charge” equal to the number of Permittee’s employees which have been granted access to the Airport’s employee parking lot as of the first day of each calendar month, multiplied by Airport’s monthly employee parking lot fee effective as of such day. The Airport’s employee parking lot fee is currently $15.00 per employee per month. Permittee will be notified in writing at least thirty (30) days in advance of any change in the Airport’s employee parking lot fee.

The Privilege Fee will be payable monthly at the Authority's address, as follows: Twenty (20) days following the end of each calendar month of the term of this permit, Permittee will submit to the Authority, in a format approved by the Authority, a statement of its Ground Service Gross Revenue and related information as required concerning the preceding month, along
with its number of employees with access to the Airport’s employee parking lot signed by a responsible accounting officer of the Permittee, accompanied by a check in the amount due the Authority.

This Privilege Fee is imposed on Permittee, and not on Permittee's customers. Accordingly, Permittee may charge to, and collect from, its customers, a separate amount, to recoup the amount of the Privilege Fee, so long as Permittee does not separately assess, collect, charge, state, or list an amount for any airport “fee,” “surcharge,” “tax,” or any other charge purporting to be imposed by the Airport or the Authority on Permittee's customers. In the event Permittee violates this provision, in addition to any other remedies available to Authority, any such amount will be deemed included in Permittee's “Ground Service Gross Revenue” and subject to the percentage Privilege Fee.

7. ACCOUNTING RECORDS AND AUDITS.

(A) Records

Permittee shall maintain in a complete and accurate manner, on an accrual basis and in accordance with Generally Accepted Accounting Principles (GAAP), such accounts, books, records, and data pertaining to its operations in Lee County, Florida, as would reasonably be expected to be examined by an independent certified public accountant in performing an audit or examination of the Permittee's Ground Service Gross Revenues in accordance with GAAP and Generally Accepted Auditing Standards (GAAS). Such
books and records shall include, at a minimum, all contracts, invoices, daily business reports, sales journals, and all other books and records customarily used in Permittee's type of business. Said materials shall be in sufficient detail to substantiate all information Permittee provides the Authority.

Permittee shall make the above records or copies thereof available to the Authority, upon reasonable request, at the Authority's offices, for at least three (3) years after the end of the term of this Permit. The Authority will have the right, at all reasonable times, to have its representatives inspect, examine, copy, and audit the originals of such books and records at Permittee's offices.

(B) Annual Statements to be Submitted by Permittee

Permittee shall annually provide to the Authority, at Permittee's sole cost and expense, a "Statement of Ground Service Gross Revenues" for the preceding twelve-month period (or portion thereof) ending December 31st during the period this permit is in force. Said Statement shall be certified by the chief financial officer ("CFO") of Permittee when payments made by the Permittee for such period were not more than $25,000. If payments made by the Permittee for such period were more than $25,000, said Statement shall be prepared by an independent certified public accountant ("CPA") duly licensed in the state where the audit is performed, in accordance with generally accepted auditing standards and the terms of this permit agreement. Said Statement shall be provided to the Authority within ninety (90) days after each such December 31st, and shall include the following:
(1) a written statement that in said CFO's or CPA's opinion all Privilege Fees owed by Permittee to the Authority for the year ending on said December 31st were paid in accordance with the terms of this permit agreement.

(2) a schedule of revenues upon which the monthly payments to Authority are computed;

(3) a list of the payments made to the Authority for the period; and

(4) a calculation to determine that the total Privilege Fees for the year or applicable portion thereof have been paid in accordance with this agreement. Any adjustment due will be determined, and payment remitted to the party to whom it is due, within thirty (30) calendar days from receipt and acceptance of said audit report by the Authority. Any additional sums found to be due to Authority shall be paid forthwith to Authority and shall bear interest at the rate of eighteen percent (18%) per annum from the date such sums should have been paid until the date actually paid.

Delivery of an audit report containing a qualified opinion, an adverse opinion, or a disclaimer of opinion as defined in the Statements on Accounting Standards, as may from time to time be amended or superseded, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, shall be deemed to be a default hereof.

(C) Audits by Authority

The Authority shall have the right, at all reasonable times, to have Permittee produce any or all of the above enumerated books and records, including sales tax and other tax return records, to the Authority in Lee County, Florida, and to have the Authority's representatives inspect, examine, copy, and audit those books and records for the purpose of verifying the Gross Revenues hereunder. Should the Permittee have any of such books
or records maintained outside of Lee County, Florida, and not wish to make them available to the Authority in Lee County, then the Permittee shall reimburse the Authority for the audit costs incurred, including round trip air fare and ground transportation from Fort Myers to the location at which the books and records are kept, hotel lodging, and meals.

In any event, if, as a result of such audit, it is established that Permittee has understated the Ground Service Gross Revenues as defined above by one percent (1%) or more, the entire expense of said audit shall be borne by Permittee. Any additional Privilege Fee due shall be invoiced to Permittee and promptly paid to Authority with interest at the rate of one and one-half percent (1.5%) per month from the date such additional Privilege Fee originally was due. Notwithstanding the foregoing, the Authority shall not be prevented from terminating this Permit for default in the payment of fees or from enforcing any other provisions hereof.

8. INSURANCE REQUIRED.

(A) Permittee must procure and maintain at its own expense the following types and amounts of insurance for the term of the Agreement:

(i) Commercial General Liability, which shall include liability arising from independent contractors and contractual liability, written on ISO occurrence form, with limits of no less than the following:

<table>
<thead>
<tr>
<th>Type</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premises/Operations Coverage</td>
<td>$ 500,000 Each Occurrence</td>
</tr>
<tr>
<td>Personal Injury &amp; Advertising Injury</td>
<td>$ 500,000 Each Occurrence</td>
</tr>
<tr>
<td>General Aggregate</td>
<td>$1,000,000 Annually</td>
</tr>
<tr>
<td>Medical Payments</td>
<td>$ 5,000</td>
</tr>
</tbody>
</table>
The Authority shall be an additional insured on the General Liability policy, up to the full policy limits.

The Permittee’s insurance will be primary and noncontributory and include a waiver of subrogation, in favor of the Authority.

(ii) Workers’ compensation in the amount (if applicable) required by Florida state law. Employer’s liability is required with limits of at least the following:

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Employee</td>
<td>$1,000,000 (Accident)</td>
</tr>
<tr>
<td>Per Employee</td>
<td>$1,000,000 (Disease)</td>
</tr>
<tr>
<td>Policy Limit</td>
<td>$1,000,000 (Disease)</td>
</tr>
</tbody>
</table>

A waiver of subrogation, in favor of the Authority, is required for this coverage.

(B) An original hand-signed certificate(s) evidencing the insurances specified above shall be sent to the Port Authority’s Risk Management Department prior to the commencement of the term of this agreement. The certificates of insurance must be issued by a company or companies acceptable to the Authority. The Authority reserves the right to reject insurance written by an insurer it deems unacceptable because of a poor financial condition or other operational deficiencies. The Authority reserves the right to request and obtain certified copies of all required policies. Subsequent renewal certificates shall be delivered to the Authority at least fifteen (15) days prior to a policy's expiration date except for any policy expiring on or after the expiration date of this Agreement.

Each certificate shall contain a valid provision or endorsement that the policy shall provide advance written notice to the Port Authority in the event that the policy is to be nonrenewed, canceled, or materially changed or altered. Such
Failure of the Authority to demand such certificates or other evidence of full compliance with these insurance requirements or failure of the Authority to identify a deficiency from evidence that is provided shall not be construed as a waiver of Permittee's obligation to maintain such insurance. Permittee shall provide certified copies of any or all insurance policies required above within ten (10) days of the Authority's written request for said copies.

The Permittee's insurance will be primary and noncontributory and include a waiver of subrogation, in favor of the Authority for each policy required.

9. SECURITY DEPOSIT. Permittee shall post with the Authority, within thirty (30) days after execution of this agreement, a security deposit in the amount of $2,500.00 in the form of cash, or a bond, or letter of credit in a format satisfactory to the Authority. Said amount may be adjusted upward or downward by the Authority based on Permittee's actual gross revenues and payment performance, and, if adjusted upward, such additional cash, or a bond, or letter of credit in a format satisfactory to Authority, will be posted by Permittee and retained by Authority as security for the faithful performance of Permittee's obligations hereunder.

Authority shall have the right, but not the obligation, to apply said security deposit to the payment of any sum due to
Authority which has not been paid, including, but not limited to, reimbursement of any expenses incurred by Authority in curing any default of Permittee. In the event that all or any portion of the security deposit is so applied, Permittee shall promptly upon demand by Authority remit to Authority the amount of cash required to restore the security deposit to its original sum, and Permittee's failure to do so within five (5) days after its receipt of such demand shall constitute a default under this Permit. If said deposit shall not have been applied for any of the foregoing purposes, it shall be returned to Permittee, as soon after the end of the term of this Permit as it can be reasonably determined that all obligations for which Permittee may be liable have been paid.

10. PERMITTEE'S PROPERTY. Any and all property belonging to, or brought onto the Airport by, Permittee or its employees, guests, or invitees shall be at the sole risk of Permittee.

11. COMPLIANCE WITH LAWS; RULES AND REGULATIONS.

(A) Airport Rules and Regulations. Permittee will observe and comply with: (i) all rules and regulations of Authority which now exist, or may hereafter be promulgated from time to time; and (ii) all laws of Lee County, including but not limited to Lee County Ordinance #94-09 ("Airport Rules and Regulations") as may be amended from time to time.

(B) Compliance with All Other Laws. Permittee will observe and comply with any and all federal, state, and local laws, statutes, ordinances, and regulations including but not limited
to 40 CFR Part 122, Chapter 403 and Chapter 373, Part IV, Florida Statutes, Rule 62-621.100 et seq. (Fla. Admin. Code), and all other environmental laws.

(C) **Compliance with Airport's Storm Water Permit.** Permittee will observe and comply with, and agrees not to cause any violation of, the Authority’s Storm Water Pollution Prevention Plan (SWPPP), Best Management Practices (BMPs), and the Authority’s Multi-Sector Generic Permit issued by the Florida Department of Environmental Protection.

(D) **Permittee to Obtain Own FDEP Permit if Necessary for Permittee’s Activities.** If Permittee is to perform any “industrial activity” (as defined by section “S” of 14 CFR Part 122), Permittee will, first, secure its own Multi-Sector Generic Permit from the Florida DEP.

12. **INDEMNIFICATION.** Permittee agrees to release, indemnify, defend, and hold harmless, the Authority and Lee County (and their respective Commissioners, officers, agents, and employees) from any and all injury, loss, or damage, of any nature whatsoever (including reasonable attorneys' fees), to any person or property which arises in connection with the use of the Airport by Permittee or its contractors, subcontractors, partners, joint venturers, concessionaires, licensees, or the like (whether caused by negligent acts of the Authority or Lee County, or their officers, agents, employees, or otherwise), and for any and all fines or penalties imposed by any governmental agency as a result of the failure of Permittee or its employees
to abide by or comply with any statute, ordinance, rule, 
regulation, or other requirement.

13. **WAIVER OF DAMAGE.** Permittee hereby expressly waives 
and releases any cause of action or right of recovery for 
compensation for any and all loss or damage sustained by reason 
of any fire, defect, deficiency, or impairment of any of the 
services in or to the Airport, including, but not limited to, 
electrical power, gas, telephone service, steam, heating, air 
conditioning, water supply, drainage, or sewerage systems, or 
from wires leading to or inside of any space or structure, or by 
reason of any loss resulting from the failure of any such system 
or facility which may occur from time to time from any cause. 
Permittee hereby expressly releases Authority and Authority's 
members, officers, employees, and agents from any and all 
demands, claims, and causes of action arising from any of the 
aforesaid causes.

14. **PERMIT NOT TRANSFERABLE.** This Permit and any of the 
rights granted hereunder are not transferable by Permittee 
without the prior express written consent of the Authority in 
each instance.

15. **DEFAULT.** In addition to all other remedies provided 
herein or at law, Authority may terminate this permit by giving 
thirty (30) days written notice to Permittee should any of the 
following events occur:

(a) Permittee fails to remit any payment due to Authority, 
within ten (10) days after the payment is due;
(b) Permittee fails to submit any financial report required to be submitted to Authority, within ten (10) days after the report is due; or

(c) Permittee or any of its employees, guests, or invitees violates any other term, covenant, or condition of this Permit.

Notwithstanding the above, if Permittee fails to keep evidence of current insurance, as required by Article 8 above, on file with the Authority, the Authority may terminate this agreement or suspend Permittee's privileges hereunder, in writing, with no advance notice required.

16. COSTS AND ATTORNEYS' FEES. In the event that the Authority elects to engage the services of an attorney to collect any sums due hereunder from Permittee or to enforce any provision of this Permit, Permittee agrees to reimburse Authority for all reasonable costs and expenses, including attorneys' fees.

17. NOTICES. Notice to Authority will be sufficient if sent by certified or registered mail, postage prepaid, or by a nationally recognized overnight delivery service, such as Federal Express or Airborne Express, to: Lee County Port Authority, 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida 33913. Notice to Permittee will be sufficient if sent in the same manner, addressed to Permittee at the address set forth on page 1 above.

The parties may designate in writing different addresses for notice from time to time. Notice shall be deemed given when delivered (if sent by a delivery company such as Federal Express) or when postmarked (if sent by mail). Any notice permitted or required to be given to Permittee hereunder shall be in writing.
and mailed by registered or certified mail to Permittee at the address contained in paragraph 1 of this Permit or such other address as Permittee may direct from time to time.

18. **INTEREST ON SUMS DUE AUTHORITY.** Any sums payable by Permittee to Authority under any provision of this Permit which are not paid when due shall bear interest at the rate of eighteen percent (18%) per annum from the date the same became due and payable until paid.

19. **AUTHORITY'S RESERVED RIGHTS.**

   (A) Authority reserves the right to further develop, improve, repair, and alter the Airport and all roadways, parking areas, terminal facilities, landing areas, and taxiways as it may reasonably see fit, free from any and all liability to Permittee for loss of business or damages of any nature whatsoever to Permittee occasioned during the making of such improvements, repairs, alterations, and additions.

   (B) This Permit is subject and subordinate to the provisions of any existing or future agreement between Authority and the United States Government relative to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds for the development of the Airport to the extent that the provisions of any such existing or future agreements are generally required by the United States at other civil airports receiving federal funds and provided that Authority agrees to give Permittee written notice of any provision which will modify the terms of this Permit.
20. DOT NONDISCRIMINATION CLAUSE. This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23, subpart F. Permittee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR part 23, subpart F.

21. FAA REQUIREMENTS.

(A) Permittee shall comply with all applicable regulations of the Federal Aviation Administration and Transportation Security Administration relating to Airport security and shall control the Assigned Space so as to prevent or deter unauthorized persons from obtaining access to the air operations area of the Airport.

(B) Permittee expressly agrees, on behalf of itself and its successors and assigns, to prevent any activity which would interfere with or adversely affect the operation or maintenance of the airport, or which would otherwise constitute a hazard or nuisance at the Airport.

(C) In the event that the Federal Aviation Administration or its successor shall require any amendments, modifications, or changes in this Permit as a condition precedent to the granting of funds for the operation or improvement of the Airport, Permittee hereby consents to such amendments, modifications, or changes as may reasonably be required to obtain such funds.

(D) Lessee will furnish its services on a reasonable, and not unjustly discriminatory, basis to all users of the Airport,
and will charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that Lessee will be allowed to make reasonable and nondiscriminatory discounts, rebates, or other types of price reductions to volume purchasers. Lessee will operate its business so as to not cause any violation of the grant assurances the Authority has made to the Federal government in consideration for Federal grant assistance.

22. **GENERAL PROVISIONS.**

(A) The paragraph headings contained in this Permit are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope or intent of any provision hereof.

(B) Notwithstanding anything herein contained that may appear to be to the contrary, it is expressly understood and agreed that the rights granted under this Permit are non-exclusive.

(C) Time is of the essence of this Permit.

(D) This Permit shall be deemed made and entered into in the State of Florida and will be governed by and construed in accordance with the laws of Florida. In the event of a dispute between the parties, all actions or proceedings will be brought and litigated exclusively in the federal or state courts located in Lee County, Florida. If any covenant, condition, or provision contained herein is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenant, condition, or provision herein contained.
(E) No recourse under or upon any obligation, covenant, or agreement contained in this Permit, or any other agreement or document pertaining to the operations of Permittee hereunder, as such may from time to time be altered or amended in accordance with the provisions hereof, or under any judgment obtained against Authority, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, under or independent of this Permit, shall be had against any member, officer, employee, or agent, as such, of Authority, either directly or through the Authority or otherwise, for any claim arising out of this Permit or the operations conducted pursuant to it, or for any sum that may be due and unpaid by Authority.

(F) Permittee represents and warrants to Authority that, except as may be disclosed in an Addendum hereto, no member, officer, employee, or agent of Authority has any material interest, either directly or indirectly, in the business of Permittee to be conducted hereunder, and that no such person shall have any such interest at any time during the term hereof.

(G) This Permit constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. This Permit may be altered or amended only by written instrument executed by both parties hereto.
LUGGAGE EXPRESS RSW, LLC
(Permittee)

(corporate seal)

By: ________________
Name: Hassen A. Benmerabet
Title: Manager
Date: 4/2/19

WITNESSED BY:

Witness: ________________
Print name: Kelly Ventersson
Date: 4/2/19

Witness: ________________
Print name: Harry C. Ward
Date: 4/2/19

LEE COUNTY PORT AUTHORITY

By: ________________
Chairman or Vice Chairman,
Board of Port Commissioners
Date: ________________

ATTEST:
LINDA DOGGETT, CLERK

By: ________________
Deputy Clerk

Approved As To Form
for the Reliance of the
Lee County Port Authority only:

By: __________________
Port Authority Attorney
1. REQUESTED MOTION/PURPOSE: Request Board approve a “Lease of Terminal Space at Southwest Florida International Airport” with MN Airlines, LLC.
2. FUNDING SOURCE: n/a
3. TERM: month-to-month, beginning May 1, 2019
4. WHAT ACTION ACCOMPLISHES: Leases terminal space to MN Airlines, LLC

5. CATEGORY: 6. Consent Agenda

6. ASMC MEETING DATE: 5/21/2019

8. AGENDA:
   - CEREMONIAL/PUBLIC PRESENTATION
   - CONSENT
   - ADMINISTRATIVE

9. REQUESTOR OF INFORMATION:
   (ALL REQUESTS)
   NAME Ben Siegel
   DIV. Administration

10. BACKGROUND:
MN Airlines, LLC (d/b/a Sun Country Airlines), operates passenger service to and from Southwest Florida International Airport under a 2003 “Nonparticipating Airline Airport Use Permit” agreement with the Authority. Sun Country also leased an airline ticket office space under a 2015 “Lease of Terminal Space” agreement with the authority which was terminated effective April 30, 2019.

This proposed lease agreement will provide Sun Country with a new airline ticket office space (Room # 201007E, which is approximately 108 square feet) located behind the ticket counters on the second floor of the RSW terminal building.

The term will be month-to-month beginning May 1, 2019. The initial monthly rent of $1,050.66 is subject to change by the Authority effective October 1, 2019, and annually thereafter.

Attachments
1. Contract summary
2. Proposed agreement

11. RECOMMENDED APPROVAL

<table>
<thead>
<tr>
<th>DEPUTY EXEC DIRECTOR</th>
<th>COMMUNICATIONS AND MARKETING</th>
<th>OTHER</th>
<th>FINANCE</th>
<th>PORT ATTORNEY</th>
<th>EXECUTIVE DIRECTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benjamin R. Siegel</td>
<td>Victoria B. Moreland</td>
<td>N/A</td>
<td>Brian W. McGonagle</td>
<td>Gregory S. Hagen</td>
<td>Jeffrey A. Mulder</td>
</tr>
</tbody>
</table>

12. SPECIAL MANAGEMENT COMMITTEE RECOMMENDATION:
   - APPROVED
   - APPROVED as AMENDED
   - DENIED
   - OTHER

13. PORT AUTHORITY ACTION:
   - APPROVED
   - APPROVED as AMENDED
   - DENIED
   - DEFERRED to
   - OTHER
Contract Summary

Tenant: MN Airlines, LLC (d/b/a Sun Country Airlines)
       1300 Corporate Center Curve
       Eagan, MN 55121

Leased Premises: Room #201007E, located behind the ticket counters on the second
floor of the RSW terminal building, (approximately 108 square feet)

Allowed Use(s): office and storage space associated with tenant’s airline operations

Term of Lease: Commences May 1, 2019, and will continue month-to-month
thereafter until terminated by either party upon thirty (30) days
advance written notice

Rents and Fees: initial monthly rent of $1,050.66, subject to change effective
October 1, 2019, and not more frequently than annually thereafter,
with Authority giving at least 30 days advance written notice of such
change

Security/Perf. Guaranty: $10,000 security deposit previously provided for nonparticipating
airline agreement will also serve as security for this lease

Note: This page is intended as a general summary only, for ease of review, and is not
a part of the contract. In the event of any conflict between this page and the
proposed contract, the contract (being more precise) will prevail.
LEASE OF
TERMINAL SPACE
AT
SOUTHWEST FLORIDA INTERNATIONAL AIRPORT

THIS LEASE AGREEMENT is made and entered into this ____ day of ______________, 2019, by and between LEE COUNTY PORT AUTHORITY, a political subdivision of the State of Florida (herein referred to as "Authority") with offices at 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida, 33913 and MN AIRLINES, LLC, a Minnesota limited liability company, d/b/a Sun Country Airlines (herein referred to as "Lessee"), with offices at 1300 Corporate Center Curve, Eagan, MN 55121.

Background

The Authority operates Southwest Florida International Airport, located at Fort Myers, in Lee County, Florida (the "Airport"). Lessee is an air carrier which utilizes the Airport pursuant to a "Nonparticipating Airline Airport Use Permit" dated March 6, 2003 (the "Use Permit"). To support its operations, Lessee desires to lease from the Authority certain space in the Airport’s terminal building. The Authority is willing to lease such space upon the terms and conditions provided below.

NOW THEREFORE, in consideration of the mutual promises herein, the parties hereby mutually agree as follows:

ARTICLE 1
DESCRIPTION OF LEASED PREMISES

Subject to the terms, covenants, and conditions contained herein, the Authority hereby leases to Lessee the following described real property (herein the “leased premises” or the “premises”) located in the Airport's terminal building at 11000 Terminal Access Road, Fort Myers, Florida 33913:

Room 201007E, containing approximately 108 square feet, located behind the ticket counters on the second floor, as shown on Exhibit A attached hereto.
ARTICLE 2
TERM

The initial term of this lease will commence on May 1, 2019, and will continue thereafter on a month-to-month basis, unless or until one of the parties shall end this lease effective at the end of a calendar month by giving the other party written notice thereof, in the manner provided below, at least thirty (30) days prior to the end of the term.

ARTICLE 3
USE OF LEASED PREMISES

The Lessee shall use the leased premises solely for office and storage space associated with its airline operations (including the operations of its handled carriers), and for no other use. Lessee agrees to refrain from and prevent any use of the leased premises which would interfere with or adversely affect the operation or maintenance of the Airport, or otherwise constitute an Airport hazard. Lessee shall make no unlawful or offensive use of the premises. Lessee will not allow smoking in the premises.

ARTICLE 4
RENT

Lessee agrees to pay to the Authority, for and during the term of this lease, monthly rent of $1,050.66. This rate is subject to being changed October 1, 2019, and not more frequently than annually thereafter, to such new rate as shall be determined by the Authority, provided that Authority shall give at least thirty (30) days advance notice to Lessee of each such change. Should Lessee object to such new rate, Lessee may, upon fifteen (15) days advance written notice to the Authority, terminate this lease.

The rent, plus Florida state sales tax if applicable, will be payable in advance on or before the first day of the month for which the rent is due, without demand, setoff, or deduction, to: Finance Department, Lee County Port Authority, 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida, 33913, or such other place as the Authority may direct in writing. The rent for any fractional part of the first or last month shall be prorated. The Authority intends to send monthly invoices to Lessee as a courtesy, but such invoices will not affect the due date of any payment.

ARTICLE 5
UTILITIES

Lessee will pay for all utility services to the premises, except that the Lessee may use,
free of charge, the Authority's electricity, air conditioning, and water which may be available at
the premises via existing wiring, fixtures, ducts, and plumbing. Lessee will pay and bear the cost
of all cable, wiring, fixtures, ducts, or plumbing that it desires to add. Lessee will pay its own
telephone bills.

ARTICLE 6
ASSIGNMENT AND SUBLEASING
Lessee will not assign this lease in whole or in part, or sublet all or any part of the
premises, or permit the use of the whole or any part of the premises by any licensee or sublessee,
or encumber this lease, and any such attempted transfer will be void, unless Authority gives
written consent, which will not be unreasonably withheld. Notwithstanding the preceding
sentence, Lessee may allow its ground service provider to use the premises, provided such
provider is and remains a party to a “ground service permit agreement” with the Authority.

ARTICLE 7
CONDITION OF PREMISES; LESSEE'S IMPROVEMENTS; MAINTENANCE;
REPAIRS; ALTERATIONS
Section 7.1 Initial condition. Authority will deliver the premises to Lessee and
Lessee will accept the premises in “as is” condition. Authority shall not be responsible or liable
at any time for any defects, latent or otherwise, in the terminal building or improvements therein,
including the leased premises, or any of the equipment, machinery, utilities, appliances, or
apparatus therein; nor shall Authority be responsible or liable at any time for loss of life, injury,
or damage to any person or to any property or business of Lessee or those claiming by, through,
or under Lessee, caused by or resulting from the bursting, breaking, leaking, running, seeping,
overflowing, or backing-up of water, steam, gas, or sewage, or blackouts, brownouts, or any
other interruption of any utility service, in any part of the Premises, or caused by or resulting
from acts of God or from the elements, or resulting from any defect or negligence in the
occupancy, construction, operation, or use of the building or improvements therein.

Lessee will be responsible for having any door locks on the leased premises re-keyed, at
its own cost, utilizing the Authority’s lock vendor, and will coordinate any change in locks or
keys with the Airport Police Department.

Section 7.2 Lessee's Improvements. Prior to commencing any construction work,
Lessee will: (1) submit complete plans and specifications, bonds, evidence of insurance, and all
other required items to the Authority for Authority's approval, pursuant to the Authority's "Leasehold Development Standards and Procedures" adopted March 12, 2001, as may be amended, and obtain a "Work Permit" from the Authority; and (2) obtain and pay for all governmental permits and approvals.

All materials, equipment, and fixtures installed by Lessee shall be new. All work by Lessee, whether ordinary, extraordinary, or structural, must be performed in full compliance with the plans and specifications approved by the Authority, and in compliance with all applicable laws, including the Americans with Disabilities Act (ADA).

All fixtures, installations, and improvements made by Lessee will become the property of Authority upon termination of this lease, without compensation to Lessee, unless Lessee removes such items prior to the end of the term and restores the premises to the condition they were in at the beginning of the term.

Section 7.3 Maintenance and repairs; condition of premises upon return. Lessee must maintain and repair the premises as necessary to keep it in a clean and orderly condition and in a good state of repair at all times. Upon termination of this lease, Lessee will remove, at its own cost, all proprietary equipment or improvements it has installed at the leased premises (including but not necessarily limited to signs), replace any proprietary ticket counters or kiosks it has installed with ticket counter shells matching the standard Lee County Port Authority ticket counter shells, restore the premises, and deliver the premises to Authority in the same condition they were in at the beginning of the term and prior to such installation, normal wear and tear excepted.

ARTICLE 8
RIGHT OF ENTRY

Authority or Authority's agents or employees will have the right to enter the leased premises to inspect the premises at all reasonable times, or at any time in case of emergency, to inspect, make repairs, provide custodial or other maintenance service, or to exhibit the premises to prospective tenants.
ARTICLE 9
COMPLIANCE WITH LAWS
Lessee shall comply with all present and future laws applicable to its use of the premises and the Airport.

ARTICLE 10
INDEMNITY AND HOLD HARMLESS; INSURANCE
During the term of this lease, Lessee will keep in force for the premises all insurance coverages of the applicable types, and in the amounts set forth in the Use Permit.

Lessee agrees to release, indemnify, and hold harmless, the Authority and Lee County (and their respective Commissioners, officers, agents, and employees) from any and all injury, loss, or damage, of any nature whatsoever (including but not limited to fines or penalties imposed by the TSA, FAA, or any other governmental agency as a result of a failure to comply with any statute, ordinance, rule, regulation, or other requirement, including but not limited to breaches of the Airport's security), to any person or property in connection with the use of the Airport by Lessee, its agents, and employees, in conducting operations under this lease, except to the extent that such injury, loss, fine, or penalty is caused by the negligence or wilful misconduct of the Authority or Lee County, its Commissioners, officers, employees, agents, or contractors.

ARTICLE 11
LICENSES AND TAXES
Lessee shall have and maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Lessee. Lessee agrees to bear, pay, and discharge, on or before their respective due dates, all federal, state, and local taxes, fees, assessments, and levies which are now or may hereafter be levied upon the premises, or upon Lessee, or upon the business conducted on the premises, or upon any of Lessee's property used in connection therewith.
ARTICLE 12
SECURITY DEPOSIT

If Lessee is a party to any other agreement with the Authority and has provided the Authority with security (whether in the form of a cash security deposit, a bond, or a letter of credit) for its performance thereunder, such security shall also serve as security for Lessee’s performance of Lessee’s obligations to Authority under this lease. If Lessee is a party to an “Airline-Airport Use and Lease Agreement” with the Authority, for a term beginning October 1, 2008, but is not required to provide any “Contract Security” pursuant to the terms thereof, then Lessee shall also not be required to provide the Authority with security under this lease. Otherwise, within fifteen (15) days of the date of this lease agreement, Lessee must deliver to the Authority a cash security deposit, an irrevocable letter of credit, or a performance bond, in the amount of three (3) months’ rent, to serve as security for the full and faithful performance by Lessee of all terms, covenants, and conditions of this agreement including but not limited to the rentals, fees, and charges to be paid, throughout the entire term of this agreement.

If a performance bond is provided, it shall be a binding guaranty to secure the faithful performance by Lessee of Lessee's obligations under this agreement, in form and substance reasonably acceptable to the Authority, duly issued by a surety company which is acceptable to the Authority, pursuant to which the surety company agrees to pay the Authority any amount up to the sum stated above, within twenty-four (24) hours after delivery to the said surety of the Authority's signed statement that such funds are payable to the Authority because of Lessee's default under the terms and conditions of this agreement. Such guaranty shall be in full force and effect during the term of this agreement, and Lessee shall deliver a renewal certificate or replacement guaranty (similar in all respects to the initial guaranty) to the Authority at least thirty (30) days before expiration of the then-current guaranty.

If a letter of credit is provided, it shall be issued by an American bank or trust company, shall permit partial drawings, shall automatically renew each year unless at least sixty (60) days
advance written notice of the issuer’s election not to renew is provided to the Authority, and shall be otherwise satisfactory to the Authority in form and content. If the letter of credit is not to be renewed, Lessee shall deliver a replacement letter of credit to the Authority at least twenty (20) days before expiration of the current letter of credit; Lessee’s failure to do so will constitute a breach of this agreement and will entitle Authority to present the existing letter of credit for payment and draw on same in addition to all other remedies available under this contract or at law. If the letter of credit is drawn upon, Lessee will replenish or replace same so as to always maintain the full amount required under this Article available for Authority’s protection.

If Lessee faithfully performs its lease obligations and timely surrenders possession of the leased premises, Authority will repay the security deposit (if any), without interest, after expiration of the term within sixty (60) days of Lessee’s request.

ARTICLE 13

FAA CLAUSES

Section 13.1 Nondiscrimination.

A. Lessee shall not, in exercising any of the rights, duties, and privileges herein granted to it, discriminate against any person, on the grounds of race, color, creed, national origin, political ideas, sex, age, or physical or mental handicap, in any manner prohibited by federal, state, or local law, including FAA regulations. Lessee shall furnish its accommodations and/or services on a fair, equal, and nondiscriminatory basis to all users thereof, and it shall charge fair, reasonable, and nondiscriminatory prices.

B. Lessee acknowledges that the provisions of 49 CFR, Part 23, Disadvantaged Business Enterprise (DBE), and 14 CFR, Part 152, Affirmative Action Employment Program, may be applicable to the activities of Lessee under the terms of this agreement, and hereby agrees, if such provisions are applicable, to comply with all requirements of the Federal Aviation Administration, and the U.S. Department of Transportation, in reference thereto. These requirements may include, but not be limited to, the compliance with MBE and/or Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance
efforts, which would be subject to review by the various agencies, the submission of various reports, and including, if directed by the Department, the contracting of specified percentages of goods and services contracts to Minority Business Enterprises.

Section 13.2 Airport Protection. It shall be a condition of this lease, that the Authority reserves unto itself, its successors, and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property herein described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from, or operating on the airport.

The Lessee expressly agrees for itself, its successors, and assigns, to restrict the height of structures, objects of natural growth, and other obstructions on the herein described real property to such a height so as to comply with Federal Aviation Regulations, Part 77.

The Lessee expressly agrees for itself, its successors, and assigns, to prevent any use of the premises which would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

Section 13.3 Nonexclusivity. Notwithstanding anything herein to the contrary, it is expressly understood and agreed that the rights granted under this agreement are nonexclusive and the Authority herein reserves the right to grant similar privileges to another Lessee or other Lessees on other parts of the Airport.

ARTICLE 14

WASTE; SURRENDER OF POSSESSION

Lessee will not commit or permit waste of the premises and will quit and voluntarily deliver up possession of the leased premises at the end of the term in good condition, excepting only ordinary wear and tear.

ARTICLE 15

QUIET ENJOYMENT

As long as Lessee faithfully performs the covenants that are Lessee's obligations under
this lease, the Authority will assure Lessee's quiet and peaceable possession of the premises.

ARTICLE 16

GENERAL PROVISIONS

Section 16.1 Notices. Notice to Authority will be sufficient if sent by certified or registered mail, postage prepaid, or by a nationally recognized overnight delivery service, such as Federal Express or Airborne Express, to: Executive Director, Lee County Port Authority, 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida 33913. Notice to Lessee will be sufficient if sent in the same manner, addressed to Lessee at the address stated on the first page hereof, or at the address of Lessee’s registered agent which is then on file with the Florida Division of Corporations. The parties may designate in writing other addresses for notice. Notice shall be deemed given when delivered (if sent by a delivery company such as Federal Express) or when postmarked (if sent by mail).

Section 16.2 Nonwaiver of rights. No waiver of breach by either party of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent breach of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party.

Section 16.3 Time. Time is of the essence in the performance of this agreement.

Section 16.4 Captions. The headings of the several articles of this agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this agreement and shall not be construed to affect in any manner the terms and provisions hereof, or the interpretation or construction thereof.

Section 16.5 Governing law and venue. This agreement shall become valid when executed and accepted by the Authority in Lee County, Florida; it will be deemed made and entered into in the State of Florida and will be governed by and construed in accordance with the laws of Florida.

Section 16.6 Entire agreement. This contract sets out the entire agreement between the parties with regard to the leased premises described herein. However, this contract is independent from and is not intended to affect any other contract or contracts that may be
presently in force between Lessee and the Lee County Port Authority and/or Lee County. There are no implied covenants or warranties except as expressly set forth herein. No agreement to modify this contract will be effective unless in writing and executed by the party against whom the modification is sought to be enforced.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this agreement on the date first above written above.

MN AIRLINES, LLC
(Lessee)

By: [Signature]
Title: VP Ground OPS
Date: 4/5/2019

Witnessed by:

Witness
Print Name: Adam Schnitz
Date: 4/5/2019

Witness
Print Name: Lawrence J. Marciano
Date: 4/5/2019

LEE COUNTY PORT AUTHORITY

By: [Signature]
Chairman or Vice Chairman
Board of Port Commissioners
Date: [Signature]

Approved As To Form
for the Reliance of the
Lee County Port Authority only:

By: [Signature]
Port Authority Attorney

ATTEST:
Linda Doggett, County Clerk
By: [Signature]
Deputy Clerk
Date: [Signature]
LEE COUNTY PORT AUTHORITY
Southwest Florida International Airport

Terminal Building

Sun Country Airlines
Airline Ticket Office
Space
Exhibit A

Departures Level
(Floor 2)

Date: 25 - January - 2019

EAST ATRIUM

Rm 201007E
108 SF

TICKETING HALL

DOOR 2

SIDEWALK
### BOARD OF PORT COMMISSIONERS
#### OF THE
#### LEE COUNTY PORT AUTHORITY

1. **REQUESTED MOTION/PURPOSE:** Informational update on the RSW Terminal Expansion design (60%).
2. **FUNDING SOURCE:** n/a
3. **TERM:** n/a
4. **WHAT ACTION ACCOMPLISHES:** Update the ASMC/Board on the progress of the RSW Terminal Expansion design

#### Category: 7.
- Administrative Agenda

6. **ASMC MEETING DATE:** 5/21/2019
7. **BoPC MEETING DATE:** 6/27/2019

8. **AGENDA:**
- CEREMONIAL/PUBLIC PRESENTATION
- CONSENT
- **X** ADMINISTRATIVE

9. **REQUESTOR OF INFORMATION:**
- **(ALL REQUESTS)**
  - **NAME:** Mark Fisher
  - **DIV.:** Development

10. **BACKGROUND:**
    In March 2018, the ASMC and Board of Port Commissioners approved contracts to design the expansion of the Southwest Florida International Airport (RSW) passenger terminal to combine the current three (3) security checkpoints into a single consolidated security checkpoint. This expansion will provide a better passenger experience, shorten security checkpoint wait times, provide connectivity between Concourses B, C and D, and provide an increased number of concession spaces, which will offer passengers more choices and provide the airport with more revenue.

    The design of the project is 60 percent complete and LCPA staff/design team will provide an update on the progress of the project.

11. **RECOMMENDED APPROVAL**

<table>
<thead>
<tr>
<th>DEPUTY EXEC DIRECTOR</th>
<th>COMMUNICATIONS AND MARKETING</th>
<th>OTHER</th>
<th>FINANCE</th>
<th>PORT ATTORNEY</th>
<th>EXECUTIVE DIRECTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mark R. Fisher</td>
<td>Victoria B. Moreland</td>
<td>N/A</td>
<td>Brian W. McGonagle</td>
<td>Gregory S. Hagen</td>
<td>Jeffrey A. Mulder</td>
</tr>
</tbody>
</table>

12. **SPECIAL MANAGEMENT COMMITTEE RECOMMENDATION:**
- APPROVED
- APPROVED as AMENDED
- DENIED
- OTHER

13. **PORT AUTHORITY ACTION:**
- APPROVED
- APPROVED as AMENDED
- DENIED
- DEFERRED to
- OTHER