

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	(\$213,088)	(\$255,706)	(\$255,706)	(\$255,706)	(\$255,706)
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	(\$213,088)	(\$255,706)	(\$255,706)	(\$255,706)	(\$255,706)
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No X
 Budget Account No: Fund 4100 Department 120 Unit 8430 Object 4413
 Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

The fiscal impact assumes the annual rental rate for Type 4 space will remain unchanged over the term of the Agreement.

C. Departmental Fiscal Review: *Chris Smith*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

[Signature] 5-18-07
 OFMB
 5/16/2007
 5-16-07
 CN 5/15/07

[Signature] 5/21/07
 Contract Dev and Control
 5/21/07

B. Legal Sufficiency:

[Signature] 5/24/07
 Assistant County Attorney

This Contract complies with our contract review requirements.

C. Other Department Review:

 Department Director

TERMINAL BUILDING LEASE AGREEMENT

BETWEEN

PALM BEACH COUNTY

AND

**THE GENERAL SERVICES ADMINISTRATION,
AN EXECUTIVE AGENCY OF THE UNITED STATES OF AMERICA**

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SCHEDULE OF EXHIBITS

EXHIBIT "A" – THE PREMISES

EXHIBIT "B" – GENERAL CLAUSES

TERMINAL BUILDING LEASE AGREEMENT

THIS TERMINAL BUILDING LEASE AGREEMENT (this "Lease") is entered into by and between Palm Beach County, a political subdivision of the State of Florida (hereinafter referred to as "County" or "Lessor") and the General Services Administration, an Executive Agency of the United States of America (hereinafter referred to as "Lessee" or the "Government").

W I T N E S S E T H :

WHEREAS, County, by and through its Department of Airports, owns and operates Palm Beach International Airport, located in Palm Beach County, Florida; and

WHEREAS, County has constructed upon the Airport a terminal and related facilities; and

WHEREAS, Lessee requires the use of certain specific premises, facilities, rights and privileges in connection with its use of the Airport and County is willing to lease the same to Lessee upon the terms and conditions hereinafter stated.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and for other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

ARTICLE 1 **DEFINITIONS**

- 1.01 "Airport" means the Palm Beach International Airport located in Palm Beach County, Florida.
- 1.02 "Board" means the Palm Beach County Board of County Commissioners.
- 1.03 "Bond Resolution" means the Palm Beach County Airport System Revenue Bond Resolution dated April 3, 1984 (R-84-427), as amended and supplemented, which is hereby incorporated herein by reference and made a part hereof.
- 1.04 "Department" means the Palm Beach County Department of Airports.
- 1.05 "Director of Airports" and "Director" means the Director or Acting Director of the Department of Airports or his or her designee.
- 1.06 "Effective Date" means the date that this Lease is approved by the Palm Beach County Board of County Commissioners and has been signed by all parties.
- 1.07 "Initial Improvements" means the initial improvements to be made to the Premises by Lessee required for Lessee's operations prior to occupancy, including but not limited to, the construction of walls and finishes and improvements to utilities and systems serving the Premises.
- 1.08 "Lease" means this Terminal Building Lease Agreement.
- 1.09 "Premises" means the Terminal Building space more particularly identified in the attached Exhibit "A".
- 1.10 "Terminal" and "Terminal Building" means the Airline Terminal Building located at the Airport, including any expansion thereof or any improvements thereto.

ARTICLE 2
PREMISES, RIGHTS AND USES

- 2.01 Premises. County hereby demises and leases to Lessee, and Lessee rents from County the Premises upon the terms and conditions hereinafter set forth.
- 2.02 Relocation, Change of Locations. Notwithstanding anything in this Lease to the contrary, the Department may, at any time, provide Lessee with an alternative premises within the Terminal Building for its activities under this Lease. Lessee acknowledges and agrees that the alternative premises designated by the Department may vary in size or configuration from the Premises. In the event of a change of premises pursuant to this paragraph, the parties shall enter into an amendment to this Lease, which amendment shall: (i) replace Exhibit "A" with a description of the alternative premises; (ii) establish the date Lessee shall be required to relocate to the alternative premises and surrender possession of the Premises; (iii) provide the square footage of the alternative premises; and (iv) provide for the adjustment in rentals in accordance with square footage of the alternative premises. The Department shall provide Lessee with no less than ninety (90) days prior written notice of any change of Premises. In the event Lessee fails to relocate to the alternative premises as provided for herein, this Lease shall be canceled and of no further force or effect, and neither County nor Lessee shall be liable to the other for any damages of any kind whatsoever. Any amendment entered into pursuant to this paragraph or any amendment to increase or decrease the square footage of Premises may be executed by the Director on behalf of County.
- 2.03 Rights and Uses. The Premises shall be used solely by the Lessee as administration and support for the Transportation Security Administration (TSA). No other uses of the Premises are permitted.
- 2.04 General Privileges, Uses and Rights. In addition to the specific privileges granted pursuant to this Article, County hereby grants to Lessee:
- (A) the nonexclusive use of the common areas within the Terminal Building for Lessee, its employees, contractors and agents. For purposes of this Lease, "Common Areas" means the public corridors, restrooms and other public areas within the Terminal Building. The Common Areas shall at all times be subject to the exclusive control and management of County. County shall the full right and authority to make all rules and regulations as the County may in its sole discretion deem proper, pertaining to the proper operation and maintenance of the Common Areas; and
 - (B) the nonexclusive right of ingress to and egress from the Terminal Building over and across public roadways and walkways serving the Airport for Lessee, its employees, contractors and agents.
- 2.05 Restrictions of Privileges, Uses and Rights. The rights granted under this Lease are limited to the maintenance and operation of the Premises pursuant to the terms and conditions of this Lease. Except as expressly set forth in Articles 2.03 and 2.04 above, nothing in this Lease shall be construed to grant to Lessee the right to use any space or area improved or unimproved which is leased to a third party, or which County has not leased herein.
- 2.06 Employee Parking. County shall use its reasonable efforts to ensure that parking facilities are sufficient to accommodate Lessee's personnel employed on the Airport.

ARTICLE 3
TERM AND TERMINATION

- 3.01 Effective Date. This Lease is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners (the "Effective Date").
- 3.02 Commencement Date. The term of this Lease shall be for five (5) years (the "Term"), which Term shall commence upon the date of substantial completion of the Initial Improvements, as certified by a Certificate of Occupancy, or December 01, 2007, whichever occurs first (the "Commencement Date"). The Commencement Date hereof shall be confirmed in writing from the Department to the Lessee.
- 3.03 Extended Term. At the end of the Term, this Lease shall automatically be extended on a year-to-year basis (the "Extended Term") upon the same terms and conditions as set forth herein.
- 3.04 Termination. This Lease may be terminated at any time by either party, with or without cause, upon ninety (90) calendar days prior written notice to the other party, in which event the parties shall be released from all obligations arising after the date of such termination except for those obligations which expressly survive termination of this Lease. Notwithstanding anything in this Lease to the contrary, termination of this Lease shall not relieve Lessee of any liability or obligations arising on or prior to the date of termination.

ARTICLE 4 **RENTALS, FEES AND CHARGES**

- 4.01 Building Rental. Rental to be paid by Lessee for the Premises shall be the sum of \$51.92 per square foot. Rental shall be based upon the square footage set forth in Exhibit "A".
- 4.02 Commencement and Time of Payment. Payment of rental by Lessee to County shall commence upon the Commencement Date of this Lease. Said rental shall be payable in arrears, without demand, in equal monthly installments by the tenth (10th) day of each month following the month for which payment is due throughout the Term and any Extended Term. Any rent payment due hereunder for a fractional month shall be calculated and paid on a per diem basis [calculated on the basis of a thirty (30) day month]. Rental shall be adjusted pursuant to Article 4.04 below.
- 4.03 Other Charges. Other charges payable by Lessee to County, in addition to those specified elsewhere in this Lease shall be as follows:
- A. Employee Parking Charges. Lessee shall pay to County such charges as have been reasonably established by County for the use of employee parking areas designated in accordance with Article 2.06 above, which charges shall not exceed that which is charged to other commercial tenants in the Terminal Building.
- B. Additional Rent. Any and all sums of money or charges required to be paid by Lessee under this Lease other than the rent shall be considered additional rent, whether or not the same is specifically so designated, and County shall have the same rights to enforce due and timely payment by Lessee of all additional rent as are available to County with regard to rent.
- 4.04 Method of Payment. Lessee shall pay sums due hereunder, including, without limitation, rental payments, by electronic funds transfer ("EFT"). The Department shall designate a financial institution for receipt of EFT payments in accordance with the requirements of Title 48, Part 552.223-76 of the Code of Federal Regulations, entitled "Electronic Funds Transfer Payment", and made a part of this Lease in Exhibit "B", entitled the General Clauses.

4.05 Adjustment of Rental.

- A. Each October 1st through the Term and any Extended Term, the rental rate applicable to the Premises as set forth in Article 4.01 shall be adjusted in accordance with the provisions of the then current Airline-Airport Use and Lease Agreement relating to the adjustment of rates, fees and charges adopted by the Board, as such agreement may be amended from time to time or any successor resolution or agreement adopted by the Board establishing rental rates for similar space within the Terminal Building. As of the Effective Date, the current standard Airline-Airport Use and Lease Agreement was adopted pursuant to Resolution No. 2006-1906, which resolution is hereby incorporated herein by reference and made a part hereof. The Premises shall be considered Type Four (4) Space, as defined in the aforementioned Airline-Airport Use and Lease Agreement, for purposes of rental adjustments under this paragraph. Lessee shall pay rates applicable to signatory airlines.
- B. Notwithstanding anything in this Lease to the contrary, Lessee acknowledges and agrees County shall have the right to establish and maintain rental rates under this Lease to ensure compliance with the provisions of Section 710 of the Bond Resolution.

4.06 Failure to Pay Rental, Fees or Charges. In the event Lessee fails to pay rental, fees or charges as required to be paid under provisions of this Lease within ten (10) days after the earliest due date, interest shall accrue against the delinquent payment(s) at the rate established under Section 12 of the Contract Disputes Act of 1978 (41 USC §611) from the date due until payment is received by County. Implementation of this provision shall not preclude the Department from terminating this Lease for default in the payment of rental, fees and charges or from enforcing any other provisions contained herein or implied by law.

ARTICLE 5
OBLIGATIONS OF COUNTY AND LESSEE

5.01 County's Obligations.

- A. Condition of the Premises. Lessee certifies that Lessee has inspected the Premises and accepts same "As Is", in its existing condition, as the Effective Date. Lessee further acknowledges that the Lessor has made no warranties or representations of any nature whatsoever regarding the Premises including, without limitation, any relating to the physical condition of the Premises or any improvements located therein, or the suitability of the Premises or any improvements for Lessee's intended use of the Premises. No repair work, alterations, or remodeling of the Premises is required to be done by County as a condition of this Lease.
- B. Maintenance Responsibility. Subject to and except as otherwise provided in Articles 5.02 and 13 below, County agrees to repair and maintain in good order and condition, ordinary wear and tear excepted, all exterior walls, the existing fire-sprinkler, HVAC, electrical and plumbing systems serving the Premises; provided, however, County shall not be responsible for: (i) repair or maintenance of any system or equipment inside the Premises, whether or not directly connected to the Terminal Building's system(s), or installed specifically to serve the Premises; (ii) repair or maintenance of interior decorations, unless damage is caused by or growing out of breakage, leakage or defective condition of any system required to be repaired or maintained by County pursuant to this paragraph; or (iii) any damage caused by Lessee, its employees, agents, contractors, customers, licensees or