

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

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Meeting Date: July 11, 2017 ☒ Consent ☐ Regular
 Department: ☐ Workshop ☐ Public Hearing

Submitted By: Department of Airports

Submitted For: _____

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends a motion to approve: Assignment of Rights to Refund of Sales Tax by the Florida Department of Revenue (FDR) to Delta Air Lines, Inc. (Delta).

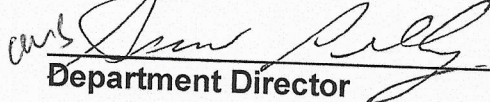
Summary: Delta is seeking reimbursement from the FDR for sales tax paid on certain airport space rentals at Palm Beach International Airport. The approval form will allow the FDR to review Delta's reimbursement claim and, if approved, to reimburse Delta directly for sales tax Delta originally paid. Delta agrees to provide the County with documentation supporting the taxability pertaining to the claim. Delta is a customer in good standing with the County and promptly pays all invoices including sales tax; therefore, staff recommends allowing Delta to seek this reimbursement. **Countywide (AH)**

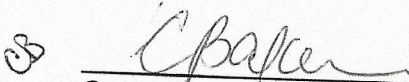
Background and Justification: The Department of Airports invoices tenants for airport terminal rental plus applicable sales tax and subsequently remits sales tax to the FDR. FDR regulations contain tax exemptions for certain aviation facility rentals but require the tax payer to prove that circumstances meet the exemption criteria. The attached approval allows Delta to pursue this claim and be directly reimbursed for payments that Delta made.

Attachments:

1. Assignment of Rights to Refund of Sales Tax (3)

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Recommended By:  6/19/17
 Department Director Date

Approved By:  7/5/17
 County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

FISCAL YEARS	2017	2018	2019	2020	2021
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues (Grants)	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT *	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes _____ No _____
 Budget Account No.: Fund _____ Department _____ Unit _____ Object _____
 Reporting Category _____

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

* There is no fiscal impact on this item as Delta is seeking reimbursement from the FDR for sales tax that Delta originally paid.

C. Departmental Fiscal Review: CM Sumner

III. REVIEW COMMENTS

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

[Signature] 6/16/17
 OFMB ET 5/31
 ET 6/22

[Signature] 6/30/17
 Contract Dev. and Control
 6/29/17 TW

B. Legal Sufficiency:

Anne Delgent 7-3-17
 Assistant County Attorney

C. Other Department Review:

 Department Director

ASSIGNMENT OF RIGHTS TO REFUND OF SALES TAX

Dealer Registration Number: 60-8012091272-8

Palm Beach County ("County") by and through its Department of Airports, owns and operates the Palm Beach International Airport, located in Palm Beach County, Florida ("Airport"). Delta Air Lines, Inc. ("Delta") rents space from the County at the Airport, pursuant to Delta's Airline-Airport Use and Lease Agreement with the County ("Agreement"). Delta is required to pay sales and use taxes to the County for the rental of airport space in accordance with the Agreement. The County thereafter remits Delta's sales and use taxes to the Florida Department of Revenue ("FDR"). The County acts as a collection agent for the FDR and agrees that it has no rights to the value of use and sales taxes collected from Delta. The County and Delta agree that any reimbursable sales and use taxes which Delta recovers from the FDR relating to the rental of airport space totaling \$182,699.83 and occurring during the period of September 1, 2012 through December 31, 2015 is the property of Delta and not the County. Delta agrees to cooperate with the County in providing the County information Delta receives from the FDR supporting the taxability or non-taxability of rented space at the Airport; provided, however, that Delta shall not be required to provide to the County any documentation that contains confidential taxpayer information.

ATTEST:

SHARON R. BOCK,
CLERK AND COMPTROLLER

PALM BEACH COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

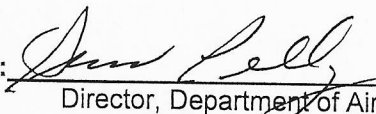
By: _____
Deputy Clerk

By: _____
Paulette Burdick, Mayor

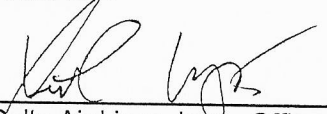
APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
County Attorney

By:  _____
Director, Department of Airports

APPROVED BY:

By:  _____
Delta Air Lines, Inc. – Officer
Kenneth Morge, Vice President & Treasurer
Delta Air Lines, Inc.

Date: 5/24/2017

DELTA AIR LINES, INC.

City of Atlanta)
County of Fulton)
State of Georgia)

AFFIDAVIT OF KENNETH MORGE

NOW COMES KENNETH MORGE, affiant herein, who, after being duly sworn before the undersigned notary, who is authorized by law to administer oaths, gives this Affidavit based on his personal knowledge that the following information set forth herein is true and correct:

1.

My name is Kenneth Morge. I am over the age of eighteen and competent to testify to the facts herein based on my personal knowledge.

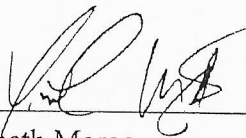
2.

I am employed by Delta Air Lines, Inc. ("Delta" or the "Company"), a corporation organized under the laws of Delaware with its principal place of business in Atlanta, Georgia.


3.

I am an officer of Delta, employed as Vice President and Treasurer of the Company and authorized to execute the Assignment of Rights attached hereto as Exhibit 1.

FURTHER AFFIANT SAYETH NOT.



Kenneth Morge

Subscribed to and sworn before me this
20 day of June, 2017.


Notary Public
My commission expires March 19, 2020