

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

=====

Meeting Date: December 18, 2018	<input checked="" type="checkbox"/> [ X ] Consent	<input type="checkbox"/> [ ] Regular
	<input type="checkbox"/> [ ] Workshop	<input type="checkbox"/> [ ] Public Hearing

Department:

Submitted By: Department of Airports

Submitted For:

=====

I. EXECUTIVE BRIEF



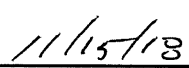


**Motion and Title:** Staff recommends motion to receive and file: Addendum To Airline Agreement (Addendum) with Frontier Airlines, Inc., a Colorado corporation, commencing October 15, 2018, and terminating on the date the Non-Signatory Airline Agreement with Frontier Airlines, Inc. (R-2015-1611), either expires or is canceled, providing for changes in leased facilities on a short-term basis due to seasonal demands at the Palm Beach International Airport.

**Summary:** The Addendum allows airlines to receive a short-term license to use facilities at PBJA to accommodate their seasonal demands. Delegation of authority for execution of the standard County Addendum agreement above was approved by the BCC in R-2016-0976. Countywide (AH)

**Background and Justification:** N/A

- Attachments:**
- 1. Addendum To Airline Agreement (1)

=====

	Recommended By: 	
	Department Director	Date
Approved By:		
	County Administrator	Date

## **II. FISCAL IMPACT ANALYSIS**

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Capital Expenditures					
Operating Costs					
Operating Revenues					
Program Income (County)					
In-Kind Match (County)					
<b>NET FISCAL IMPACT</b>	<b><u><u>\$-0-</u></u></b>	<b><u><u>\$-0-</u></u></b>	<b><u><u>\$-0-</u></u></b>	<b><u><u>\$-0-</u></u></b>	<b><u><u>\$-0-</u></u></b>
<b># ADDITIONAL FTE</b>					
<b>POSITIONS (Cumulative)</b>					

Is Item Included in Current Budget? Yes X No       
Does this item include the use of federal funds? Yes      No X

**Budget Account No:** Fund 4100 Department 120 Unit 8320/8430 Rsource various  
Reporting Category \_\_\_\_\_


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

The Addendum provides flexibility and increases efficiency in processing seasonal air carriers; therefore, there is no fiscal impact of this action. Non-Signatory carriers pay approximately \$1,600,000 per year in fees. Revenues are not guaranteed, however, and may vary from year-to-year.

**C. Departmental Fiscal Review:** CM Swinn

### III. REVIEW COMMENTS

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

 11/20/16  
 ASD OFMB 11/26

*A. S. Jacobson* 11/30/18  
Contract Dev. and Control

### B. Legal Sufficiency:

Anne Delgent 12-3-18  
Assistant County Attorney

**C. Other Department Review:**

**Department Director**

REVISÉD 11/17

**(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)**

Summary of Certificates

This report displays detailed Certificate of Insurance information for a selected Insured. Any items shown in red are deficient.

Wednesday, November 14, 2018

Simple View

Certificate Images

Documents

Insured: Frontier Airlines, Inc

Insured ID: PBI-FA-14-01

Status:

Compliant

ITS Account Number:

PLC1722

Project(s):

Palm Beach County - Airport Properties - (Active)

Insurance Policy	Required	Provided	Override
<u>General Liability</u>			
Expiration: 7/1/2019			
General Aggregate:	\$50,000,000	\$100,000,000	
Products - Completed Operations Aggregate:	\$50,000,000	\$100,000,000	
Personal And Advertising Injury:	\$25,000,000	\$100,000,000	
Each Occurrence:	\$50,000,000	\$100,000,000	
Fire Damage:	\$0	\$0	
Medical Expense:	\$0	\$0	
<u>Workers Compensation/Employers Liability</u>	WC Stat. Limits	WC Stat. Limits	
Expiration: 6/1/2019			
Each Accident:	\$1,000,000	\$1,000,000	
Disease - Policy Limit:	\$1,000,000	\$1,000,000	
Disease - Each Employee:	\$1,000,000	\$1,000,000	
<u>Aircraft Liability Insurance</u>			
Expiration: 7/1/2019			
Each Occurrence:	\$100,000,000	\$100,000,000	
Aggregate Limit:	\$100,000,000	\$100,000,000	

Notifications [\(Show All\)](#)

There were no deficiency letters issued.

Do you have an updated Certificate? Click the button below to submit a Certificate.

Certificate Submittal

**CERTIFICATE**  
(Corporation)

The undersigned hereby certifies that the following are true and correct statements:

1. That Howard Diamond is the Secretary of Frontier Airlines, Inc., a corporation organized and existing in good standing under the laws of the State of Colorado, hereinafter referred to as the "Corporation", and that the following Resolutions are true and correct copies of certain Resolutions adopted by the Board of Directors of the Corporation as of the 35th day of July, 2014, in accordance with the laws of the State of CO, the Articles of Incorporation and the By-laws of the Corporation:

RESOLVED, that the Corporation shall enter into that certain Addendum to Airline Agreement between Palm Beach County, a political subdivision of the State of Florida and the Corporation (the "Agreement"), a copy of which is attached hereto; and be it

FURTHER RESOLVED, that Howard Diamond, the Secretary of the Corporation, is hereby authorized and instructed to execute such Agreement and such other instruments as may be necessary and appropriate for the Corporation to fulfill its obligations under the Agreement.

2. That the foregoing resolutions have not been modified, amended, rescinded, revoked or otherwise changed and remain in full force and effect as of the date hereof.

3. That the Corporation is in good standing under the laws of the State of Florida, and has qualified, if legally required, to do business in the State of Florida and has the full power and authority to enter into such Agreement.

IN WITNESS WHEREOF, the undersigned has set his hand and affixed the Corporate Seal of the Corporation the Fifth day of November, 2018.



[Signature]  
[Signature]

General Counsel, Secretary

## **ADDENDUM TO AIRLINE AGREEMENT**

**THIS ADDENDUM TO AIRLINE AGREEMENT** (this "**Addendum**") is made and entered into this 14<sup>th</sup> day of November, 2018, by and between Palm Beach County, a political subdivision of the State of Florida, ("**County**") and Frontier Airlines, Inc., a Colorado corporation, having its office and principal place of business at 4545 Airport Way, Denver, Colorado 80239 ("**Airline**").

### **WITNESSETH:**

**WHEREAS**, County, by and through its Department of Airports (the "**Department**"), is the owner and operator of the Palm Beach International Airport (the "**Airport**"); and

**WHEREAS**, the parties entered into that certain Non-Signatory Airline Agreement dated March 23, 2015 (R-2015-1611) (the "**Airline Agreement**"), which is hereby incorporated herein by reference; and

**WHEREAS**, Airline requires use of Airport facilities from time-to-time on a short-term, seasonal basis in connection with its aircraft operations at the Airport under the Airline Agreement.

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

### **ARTICLE 1 BASIC PROVISIONS**

1.01 **Recitals.** The foregoing recitals are true and correct and incorporated herein. Terms not defined herein shall have the meanings set forth in the Airline Agreement.

1.02 **Designated License Area.** In the event Airline requires additional space such as ticket counter or office space on a short term basis for its seasonal aircraft operations at the Airport, Airline may notify County in writing of the: (a) type and amount of space required for its operations; (b) the anticipated date Airline will commence use of the space; and (c) the anticipated date Airline will return the space. Airline should notify County no less than ninety (90) days prior to its proposed commencement of operations of its space requirements. In the event appropriate space is available, County will notify Airline in writing of the available space and provide the attached Exhibit "A" ("**Facilities Use Permit**") to Airline for approval. In the event Airline approves of the space(s) designated for Airline's use under the Facilities Use Permit ("**License Area**"), Airline shall cause an authorized representative of Airline to sign and return the Facilities Use Permit to the County.

1.03 **Return of License Area.** Upon expiration or earlier termination of Airline's license to use the License Area under a Facilities Use Permit, Airline, at its sole cost and expense, shall surrender the License Area to the County in at least the same condition as the License Area was in as of the Commencement Date of the Facilities Use Permit. Airline shall remove all personal property and signage from the License Area at Airline's sole cost and expense, unless otherwise approved in writing by the Department. Any personal property of Airline not removed in accordance with this Section, at the option of County, may be removed and placed in storage by County at the sole cost of Airline, or may become the property of County, all at no cost to County. In the event County does not elect to take ownership of the property, it may dispose of same by either public or private sale and retain the proceeds thereof. Any costs of removal and disposition not covered by such proceeds shall be borne by Airline. In the event Airline fails to timely restore the License Area as provided above, County may restore the License Area at Airline's sole cost and expense. Airline shall reimburse County for County's actual costs plus a twenty five percent (25%) administrative overhead within thirty (30) days of the date of County's invoice. Airline's reimbursement obligations under this Section shall survive the expiration or earlier termination of the Facilities Use Permit, the Airline Agreement and/or this Addendum until County has received full reimbursement.

**ARTICLE 2**  
**TERM**

The term of this Addendum shall commence on October 15, 2018 (the “Commencement Date”) and automatically terminate on the date the Airline Agreement expires or is terminated (the “Term”), unless terminated earlier as provided for herein.

**ARTICLE 3**  
**FEES AND CHARGES**

Airline shall pay County all fees and charges applicable to the License Area identified in the Facilities Use Permit in accordance with the then current Rate and Fee Schedule (as defined in the Airline Agreement), subject to any waiver of fees and charges pursuant to an Airline Service Incentive Program Participation Agreement entered into by the parties.

**ARTICLE 4**  
**LICENSE AREA**

Airline acknowledges and agrees that Airline’s use of the License Areas shall be governed by the terms and conditions of the Airline Agreement, this Addendum and the Facilities Use Permit.

**ARTICLE 5**  
**REVOCATION OF ADDENDUM/DEFAULT**

5.01 License. Notwithstanding any provision of this Addendum to the contrary, the parties acknowledge and agree the rights granted to Airline under the Facilities Use Permit shall be a non-exclusive license to use the License Area.

5.02 Termination for Convenience. Either party may terminate this Addendum or a Facilities Use Permit for convenience upon fifteen (15) days prior written notice to the other party, whereupon the parties shall be relieved of all further obligations hereunder with the exception of those obligations accruing prior to the date of such termination and which expressly survive termination of this Addendum.

5.03 Default. Failure to perform or observe any of the agreements, covenants or conditions contained in the Airline Agreement, this Addendum or any Facilities Use Permit issued pursuant to this Addendum to be performed or observed by such party upon thirty (30) days prior written notice shall constitute a material default of this Addendum and the Airline Agreement.

**ARTICLE 6**  
**EFFECTIVE DATE**

This Addendum shall become effective when executed by the parties hereto.

**(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)**

IN WITNESS WHEREOF, County and Airline have executed this Addendum, or have caused the same to be executed as of the day and year first above written.

WITNESSES:

[Signature]  
Signature  
Steven K. Schlamp  
Typed or Printed Name  
Debra Reese  
Signature  
Debra Reese  
Typed or Printed Name

PALM BEACH COUNTY, FLORIDA,  
A POLITICAL SUBDIVISION OF THE  
STATE OF FLORIDA

By: [Signature]  
Director, Department of Airports

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: Anne Bryant  
County Attorney

WITNESSES:

[Signature]  
Signature  
Alexis Clark  
Typed or Printed Name  
[Signature]  
Signature  
Shannon Muir  
Typed or Printed Name

AIRLINE: Frontier Airlines, Inc.

By: [Signature]  
Signature  
Howard Diamond  
Typed or Printed Name

Title: General Counsel & Secretary

(Seal)



**EXHIBIT "A"**  
**FACILITIES USE PERMIT**





FACILITIES USE PERMIT

AIRLINE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

TELEPHONE/E-MAIL: \_\_\_\_\_

NAME AND TITLE OF  
AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

In accordance with that certain Non-Signatory Airline Agreement dated March 23, 2015 (R-2015-1611) (the "Airline Agreement") and Addendum to Airline Agreement dated \_\_\_\_\_, 20\_\_ (R-\_\_\_\_\_) ("Addendum"), by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and Frontier Airlines, Inc., a Colorado corporation ("Airline"), Airline shall have a short-term license to utilize the following space(s) ("License Area"), which license shall commence and terminate on the dates/times listed below, unless otherwise agreed to in writing by the Department of Airports:

Space Type	Location	Square Footage	Commencement Date/Time	Termination Date/Time
	See Attachment "I"			
	See Attachment "I"			
	See Attachment "I"			
	See Attachment "I"			

By signing below, I hereby certify that I have the authority to represent and obligate Airline and that Airline shall comply with all terms and conditions of the Airline Agreement, the Addendum and this Facilities Use Permit applicable to the use of the License Area.

AIRLINE:

\_\_\_\_\_  
*Signature of Authorized Representative of Airline*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Date*

APPROVED BY:

\_\_\_\_\_  
*Director, Department of Airports*

\_\_\_\_\_  
*Date*

TRANSMITTED TO AIRPORT FINANCE DIVISION BY:

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Date*