

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

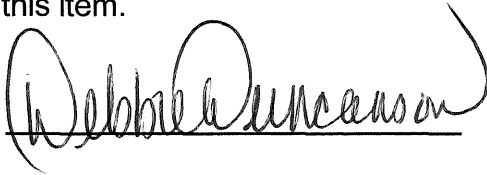
Fiscal Years	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	* =====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

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

Budget Account No: Fund 4100 Department 120 Unit 2547 Object 4620
 Reporting Category _____

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

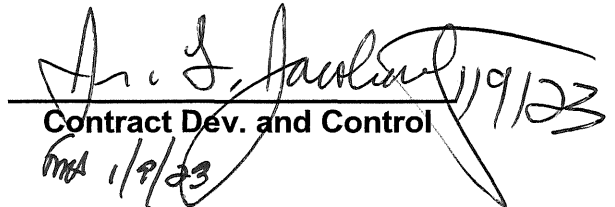
* There is no fiscal impact for this item.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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

 12/29/2022
 MG 12/29 OFMB/DA 12/28

 1/9/23
 Contract Dev. and Control
 MSA 1/9/23

B. Legal Sufficiency:

 1-10-23
 Assistant County Attorney

C. Other Department Review:

 Department Director

REVISED 11/17

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

MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF HOMELAND SECURITY
TRANSPORTATION SECURITY ADMINISTRATION
AND
PALM BEACH COUNTY, FLORIDA

ARTICLE I – PARTIES AND AUTHORITY

This Memorandum of Agreement (Agreement) is entered into by the United States Department of Homeland Security, Transportation Security Administration (TSA), and Palm Beach County (County). This Agreement is authorized under the provisions of 49 U.S.C. §§ 106(l)(6), 114(m), and the Homeland Security Act of 2002.

ARTICLE II – PURPOSE AND SCOPE

The purpose of this effort is to update the following criteria in the Checked Baggage Resolution Area (CBRA) and Checked Baggage Inspection System (CBIS) areas of Palm Beach International Airport (PBI), as funds allow, to meet the TSA Planning Guidelines and Design Standards for Checked Baggage Inspection Systems (version 7.0, 2020) (PGDS).

- Main Terminal
 - Explosives Detection System (EDS) Over-Height Protection
 - Fail-Safe
 - E-stop Reset

A. Installation of EDS Over-Height Protection

Purpose – Over-height protection upstream of EDS devices protects the machine from being jammed by a bag that is too tall for the EDS aperture. Over-height protection consists of photo eyes that identify bags to be diverted or to stop on the BHS prior to reaching the EDS. This requirement is provided by PGDS Section 12.8.12, which states, “Additionally, an over-height protective device shall be installed two queues in front of each EDS unit, e.g., an over-height photo eye, light curtain, headache bar or other similar device to ensure over height bags are stopped prior to the EDS unit.”

B. Modification of Fail-Safe Operations to Comply with PGDS

Purpose – CBIS fail-safe operations are intended to prevent non-clear bags from inadvertently being conveyed to airside locations where they could be loaded onto a flight. Fail-safe areas shall be programmed in accordance with PGDS Sections 12.9 through 12.9.2.

C. Modification of CBRA E-stop Resets to Comply with PGDS

Purpose – PGDS Section 14.3.1 also requires that “A single start push button per E-stop zone shall be installed to ensure the system can only be started (reset) from one location within the zone after an E-stop has been activated.” To avoid inadvertently prematurely re-starting the CBRA conveyor belts after an E-stop is pulled, only a single E-stop reset location should exist.

ARTICLE III – RESPONSIBILITIES

In furtherance of this Agreement, the parties shall have the following respective duties, responsibilities, and obligations:

A. TSA Responsibilities:

TSA and its contractors, as funds allow, shall modify or install the following:

- (1) EDS Over-Height Protection
 - (a) The contractor shall install an over-height photo eye and support frame three (3) queues upstream of each EDS entrance.
 - (b) The contractor shall utilize the existing control station reset push button to reset the system from an over-height condition.
 - (c) The contractor shall install one stack light with horn, photo eye, and photo eye reflector on each support frame.
 - (d) The contractor shall install conduit, wire, Unistrut®, and junction boxes as needed.
 - (e) The contractor shall revise the Programmable Logic Controller (PLC) code to integrate the new over-height protection hardware and functionality.
 - (f) The contractor shall modify the existing alarm package to include the new over-height fault condition.
- (2) Fail-safe
 - (a) Fail-safe zone’s operation and functionality will be reprogrammed as per PGDS.
 - (b) The side guard makings of all conveyors within the fail-safe zones will be refreshed.
- (3) E-stop Reset
 - (a) The contractor shall reprogram the Start/Reset push button from control stations that are not designated as the single e-stop reset location for the line.
 - (i) Contractor will not remove Start/Reset push buttons that have dual functionality.

- (ii) Dual function push buttons will be reprogrammed to remove the E-stop restart function.
- (b) The contractor shall modify the PLC program to reset all associated conveyors from the selected single e-stop reset location.
- (4) Determine the quantity, manufacturer, make, and model of equipment to be installed.
- (5) Obtain all necessary licenses, insurance permits, and approvals before the initial start of the project.
- (6) The contractor will compose and submit a CBIS Change Request to TSA Engineering for approval before making any PLC changes.
- (7) All testing will be in accordance with PGDS Appendix D.
- (8) Refer to Site Implementation Plan (SIP) for details of planned implementation and integration (SEDSCB11860_R0_060822_N020_C002_BHS SIP_PBI).

B. County Responsibilities:

County shall:

- (1) Provide design input during creation of the concept design drawing (CDD) and site implementation plan (SIP) stages; the final accepted design will be confirmed by TSA.
- (2) Assist TSA's contractors to identify and obtain required permit(s) and permissions, as necessary that allows work to be performed
- (3) Facilitate scope and schedule of work performed by TSA and its contractor
- (4) Provide TSA or its contractors access to restricted areas to perform scope of work
 - (a) County shall notify personnel on COVID-19 rules and regulations
- (5) Allow TSA or its contractors to perform all necessary testing of all newly integrated equipment
- (6) Perform and bear all costs of the operation, maintenance, and repairs for installed property

C. Maintenance:

It is understood and agreed that upon completion of the scope of work, all equipment installed will become property of the County with the exception of any security screening equipment owned by TSA. It will remain the responsibility of the County to maintain, repair, and/ or replace such airport property to sustain the operational capabilities of the security screening equipment. TSA's contractor will provide documentation from the OEM regarding new equipment installed and will review the operations of the equipment with the BHS maintenance leads.

D. Operations:

TSA contractor shall demonstrate how each item listed in this Agreement functions during equipment operation.

E. Equipment Warranties:

Original Equipment Manufacturer (OEM) hardware warranties associated with installed equipment shall transfer to the County upon completion of installation.

F. Spare Equipment/Repair Parts:

The County will be responsible for procuring any spare equipment and parts needed to maintain or repair the installed equipment.

ARTICLE IV – EFFECTIVE DATE AND TERM

- A.** This Agreement takes effect on the date on which it has been signed by both Parties, and ends when TSA completes testing of installation.
- B.** This Agreement may be terminated by either party upon 30 days' written notice to the other party in the event of an irreconcilable dispute arising under Article V.B of this Agreement.

ARTICLE V – LIMITATIONS ON LIABILITY & DISPUTE RESOLUTION

- A.** The tort liability of the United States shall be governed by the Federal Tort Claims Act, 28 U.S.C. §§ 1342(b), 1402(b), 2401(b), 2671-2680, and the implementing regulations published at 28 C.F.R. part 14. The tort liability of the County shall be governed by the Florida Tort Claims Act, Fla. Stat. § 768.28.
- B.** The parties shall exert their best efforts to resolve any disputes arising under this Agreement by discussions between officials at all appropriate levels within their respective agencies. Disputes concerning the interpretation, performance, or execution of this Agreement that cannot be resolved by discussions between the parties shall be decided by the TSA Assistant Administrator for Acquisition Program Management using the procedure provided by the Contract Disputes Act, 41 U.S.C. § 7103(a), (d)-(h). If the County is not satisfied with the Contracting Officer's decision, the County may pursue its claim *de novo* in the United States Court of Federal Claims pursuant to 28 U.S.C. § 1491(a)(1) (or, for claims up to \$10,000, the U.S. District Court for the Southern District of Florida pursuant to 28 U.S.C. §§ 89, 1346(a)(2), 1402(a)(1)), with a right of appeal to the United States Court of Appeals for the Federal Circuit pursuant to 28 U.S.C. § 1295(a)(3) (or the Court of Appeals for the Eleventh Circuit pursuant to 28 U.S.C. §§ 41, 1291, & 1294(1) for appeals from decisions of the U.S. District Court for the Southern District of Florida). A civil action based on any such claim must be commenced within six years after the claim accrues, 28 U.S.C. § 2401(a).

ARTICLE VI – POINTS OF CONTACT:

TITLE	NAME	CONTACT INFORMATION
TSA - Region 2 (East) Technical Monitor	Terry Spradlin	Phone Number: 404-464-2015 Email: terry.Spradlin@tsa.dhs.gov
TSA - Checked Baggage Inspection System (CBIS) Remediation Task Order - Deputy COR	Roland Taylor	Phone Number: 571-422-2113 Email: roland.taylor@tsa.dhs.gov
TSA - Checked Baggage Inspection System (CBIS) Remediation Task Order - COR	Timothy Dulac	Phone Number: 571-289-8537 Email: timothy.dulac@tsa.dhs.gov

ARTICLE VII – EXAMINATION OF RECORDS

The Comptroller General of the United States, or authorized representative, shall, upon reasonable notice and during business hours, be allowed by the County, access to and the right to examine any directly pertinent records involving transactions related to this Agreement.

ARTICLE VIII – CHANGES AND MODIFICATIONS

No change or modification to this Agreement shall be effective unless it is in writing and signed by the parties' authorized representatives. No oral statement by any person shall be interpreted as modifying or otherwise affecting the terms of this Agreement. The properly signed modification shall be attached to this Agreement and thereby become a part of this Agreement.

ARTICLE IX – CONSTRUCTION OF THE AGREEMENT

- A.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties.
- B.** This Agreement is not intended to be, nor shall it be construed as creation of a partnership, corporation, or other business entity between the parties. Unless otherwise expressly provided herein, nothing in this Agreement shall be construed to create, enhance, or diminish any substantive right, duty or obligation owed to each party by the other, or by either party to any third party.

- C. Nothing in this Agreement is intended to expand, diminish, or otherwise affect the authority of any agency to carry out its statutory, regulatory or other official functions, nor is it intended to create any right or benefit substantive or procedural, enforceable at law by any party against the United States, its agencies or officers, state, local, or tribal agencies or officers carrying out programs under Federal law, or any other person.

ARTICLE X – FUNDING AND PAYMENT

No funds are required to be obligated under the terms of this Agreement. Each party shall bear the cost of its own performance under the Agreement.

ARTICLE XI – PROTECTION OF INFORMATION

A. General:

The parties agree that they shall take appropriate measures to protect proprietary, privileged, confidential, or Security Sensitive Information (SSI) that may come into its possession as a result of this Agreement.

B. Handling of Sensitive Security Information:

- (1) All SSI, as defined in 49 C.F.R. Part 1520, Protection of Sensitive Security Information, shall be handled in accordance with TSA policies and regulations. All persons assigned to work under this Agreement are subject to the provisions of 49 C.F.R. Part 1520, because they act for, or carry out duties for, or on behalf of the TSA. SSI may not be disclosed except in accordance with the provisions of that rule or where TSA otherwise approves.
- (2) No SSI, oral or written, concerning the scope of this Agreement, shall be published or released to the public, without prior written approval of the TSA Administrator and his or her designee.

C. Media:

All publicity or public affairs activities related to the subject matter of this Agreement must be coordinated with the TSA Office of Strategic Communication and Public Affairs.

ARTICLE XII – SURVIVAL OF PROVISIONS

The following provisions of this Agreement shall survive termination of this Agreement: Articles III.C, V, X, and XI.

ARTICLE XIII – ADDITIONAL COUNTY REQUIREMENTS

A. Palm Beach County Office of The Inspector General Audit Requirements:

Pursuant to Palm Beach County Code, Section 2-421-2-440, as amended, Palm Beach County's Office of Inspector General is authorized to review past, present and proposed County contracts, transactions, accounts, and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud.

B. Contractor Bonds/Insurance

- (1) TSA shall cause its contractors to furnish for the benefit of County a payment and performance bond satisfying the requirements of Section 255.05, Florida Statutes, in a form approved by County for any work valued at \$50,000.00 or more. TSA shall require its contractors to name County as a dual obligee on the bond(s).
- (2) TSA shall also require its general contractor to provide the following insurance:
 - (a) Commercial General Liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) per aggregate, which shall not exclude products/completed operations. County and Lessee shall each be endorsed as an additional insured on the Commercial General Liability policy.
 - (b) Business Auto Liability insurance with minimum limits of One Million Dollars (\$1,000,000) per accident.
 - (c) Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes and all federal laws. The Workers' Compensation policy shall include Employer's Liability with minimum limits of One Million Dollars (\$1,000,000) per accident.
 - (d) Builder's Risk Insurance with the interest of the County endorsed thereon, in such amounts and in such manner as County's Risk Management Department may reasonably require.
- (3) Contractor Requirements. TSA shall require its contractors to furnish satisfactory evidence of statutory Workers' Compensation insurance, comprehensive general liability insurance, comprehensive auto insurance and physical damage insurance

on a Builder's Risk form with the interest of County endorsed thereon, in such amounts and in such manner as County's Risk Management Department may reasonably require. County's Risk Management Department may require additional insurance for any alterations, additions or improvements approved pursuant to this Agreement in such amounts as County's Risk Management Department reasonably determines to be necessary.

IN WITNESS WHEREOF, the Parties have entered into this Agreement by their duly authorized officers.

Department of Homeland Security
Transportation Security Administration

Date _____

Joseph J. Illar, Executive Director
Deployment & Sustainment Division
Transportation Security Administration

ATTEST:
JOSEPH ABRUZZO, Clerk of the
Circuit Court & Comptroller

PALM BEACH COUNTY, FLORIDA a
Political Subdivision of the State of Florida

BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Gregg K. Weiss, Mayor

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:



Senior Assistant County Attorney

APPROVED AS TO TERMS AND
CONDITIONS:



Director of Airports