

# BOARD OF PORT COMMISSIONERS OF THE LEE COUNTY PORT AUTHORITY

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| <p>1. <b>REQUESTED MOTION/PURPOSE:</b> Request Board approve a new “Airline-Airport Use and Lease Agreement” with United Airlines, Inc.</p> <p>2. <b>FUNDING SOURCE:</b> N/A</p> <p>3. <b>TERM:</b> from October 1, 2023, to September 30, 2034</p> <p>4. <b>WHAT ACTION ACCOMPLISHES:</b> Approves a new signatory airline agreement with United for the ten years beginning October 1, 2024, and extends their prior Airline-Airport Use and Lease Agreement by one year, to September 30, 2024.</p> | <p>5. <b>CATEGORY:</b> 18<br/>Administrative Agenda</p> <hr/> <p>6. <b>ASMC MEETING DATE:</b> 12/19/2023</p> <p>7. <b>BoPC MEETING DATE:</b> 1/18/2024</p> |
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**8. AGENDA:**

☐ CEREMONIAL/PUBLIC PRESENTATION

☐ CONSENT

☒ ADMINISTRATIVE

**9. REQUESTOR OF INFORMATION:**  
(ALL REQUESTS)

NAME Brian W. McGonagle

DIV. Administration

**10. BACKGROUND:**

The Authority employs two types of agreements with passenger airlines. One is known as a “signatory” or “participating” agreement, whereby the airline, through the rates and charges applied to its space and its operations, effectively shares in the financial risk, and the revenue, of the airport’s operations. The other, known as a “non-signatory” or “non-participating” agreement, does not involve such sharing. The airlines with the most activity at RSW are generally signatory airlines, and airlines with less activity are generally non-signatory.

The airport’s current signatory airline agreement has been in use since 2008, when five airlines signed on to become signatory airlines. Since then, three additional airlines signed on, bringing the current total to eight (the eight, with their affiliates, accounted for over 94% of RSW’s passengers in the fiscal year just ended). With extensions to date, the signatory agreements were set to expire September 30, 2023. Accordingly, staff, with assistance from its industry consultant, Ricondo and Associates, Inc., began negotiating the terms of a new agreement the signatory airlines in early 2022. Those negotiations resulted in this new proposed new agreement. The signatory airlines support the agreement, and are currently at various stages of obtaining their internal approvals and signatures; United has signed and returned its proposed agreement.

The proposed new signatory agreement accomplishes two main goals. First, the agreement’s rate structure positions the Authority to move forward with the financing and construction of a new Concourse E. Secondly, the agreement helps maximize utilization of the current terminal facilities by expanding the Authority’s ability to cross-utilize gates, ticket counters, and baggage make-up space to accommodate multiple carriers. The substantive changes contributing to these accomplishments are summarized below.

**11. RECOMMENDED APPROVAL**

<u>DEPUTY EXEC DIRECTOR</u>	<u>COMMUNICATIONS AND MARKETING</u>	<u>OTHER</u>	<u>FINANCE</u>	<u>PORT ATTORNEY</u>	<u>EXECUTIVE DIRECTOR</u>
Brian W. McGonagle	Victoria B. Moreland	N/A	David W. Amdor	Andrea R. Fraser	Benjamin R. Siegel

**12. SPECIAL MANAGEMENT COMMITTEE  
RECOMMENDATION:**

APPROVED **X (5-0)**  
APPROVED as AMENDED  
DENIED  
OTHER

**13. PORT AUTHORITY ACTION:**

APPROVED  
APPROVED as AMENDED  
DENIED  
DEFERRED to  
OTHER

## **Background (continued)**

As we are already within the new fiscal year, under the proposed agreement, the current signatory agreements (essentially, the existing business deal) will be extended until the end of the Authority's current fiscal year, i.e. September 30, 2024. Thereafter, the terms of the new agreement will become effective beginning October 1, 2024, and will continue for a term of ten (10) years, until September 30, 2034.

### Summary of Most Significant Changes (to be effective October 1, 2024):

- Replaces the prior minimum space requirement for signatory status (one assigned gate plus at least 4,000 square feet of leased terminal space, including at least one ticket counter) with a minimum annual guarantee of \$1.25 million.
- Changes assigned ticket counter space and baggage make-up (BMU) space from leased or "exclusive" space to "preferential" space to allow for potential use by other airlines when not being used by the signatory airline (allowing the Authority additional flexibility when allocating resources in the terminal building).
- Allows the Authority to recapture a gate assigned for preferential use by a signatory airline if that airline does not utilize its gates for an average of four (4) turns per day per preferential use gate.
- Allows the Authority to utilize the gates assigned to signatory airlines for their preferential use for other airlines, outside of a defined "Period of Use" for each scheduled flight by the signatory airline.
- Allows the signatory airlines to reduce their exclusive or preferential space by up to 25% after the first five (5) years of the new agreement, i.e. effective September 30, 2029.
- Eliminates the "Apron Cost Center" and splits those costs between the "Terminal Cost Center" and "Airfield Cost Center."
- Establishes a new "Baggage Handling System Cost Center" to recover 100% of the BHS costs.
- Excludes both revenue and debt service associated with the airport's recently adopted rental car CFC from both the revenue sharing and debt service coverage calculations in the signatory airline agreement.
- Increases the threshold for projects to be considered Capital Expenditures rather than Operating Expenses, from \$100,000.00 to \$300,000.00.
- Adjusts the year-end revenue sharing allocation, for the first three (3) years of the new agreement, from the current 60% Authority, 40% signatory airlines, to 70% Authority, 30% signatory airlines. The allocation will then revert to 60% Authority, 40% signatory airlines, for the remaining seven (7) years of the new agreement.
- Establishes a new "Additional Concourse E Protection" charge. In the event the Authority proceeds with a project to add a Concourse E to the Terminal, and projects that, as a result thereof, for any Fiscal Year, the amount of Revenues, less O&M Expenses, will be less than one hundred forty percent (140%) of that Fiscal Year's Debt Service, this will allow the Authority, in its sole discretion, to increase the rents, fees, and charges payable by the Signatory Airlines for the remainder of that Fiscal Year, by allocating to the Terminal Cost Center any additional amounts which must be collected to eliminate such a deficit in the projected Revenues.
- Updates, revises, and clarifies various other provisions such as those on insurance, indemnification, and environmental compliance.

### **Attachments:**

1. Contract Summary
2. Proposed agreement