

FOURTH AMENDMENT TO THE FIRST AMENDED AND RESTATED BUSINESS TECHNOLOGY SERVICE CENTERS CONCESSION AGREEMENT BETWEEN BROWARD COUNTY, FLORIDA AND FORT LAUDERDALE BUSINESS AND CURRENCY SERVICES, LLC

This Fourth Amendment (“Fourth Amendment”) to the Agreement (hereinafter defined) between Broward County, a political subdivision of the State of Florida (“County”), and Fort Lauderdale Business and Currency Services, LLC, a Delaware limited liability corporation authorized to transact business in the State of Florida (“Concessionaire”) (collectively, the “Parties”), is effective on the date this Fourth Amendment is fully executed by the Parties (“Effective Date”).

RECITALS

A. County and Concessionaire entered into a First Amended and Restated Business Technology Service Centers Concession Agreement with an effective date of April 1, 2018, which was amended by a First Amendment, dated September 29, 2020, a Second Amendment, dated September 29, 2021, and a Third Amendment, dated June 1, 2022 (collectively, as so amended, the “Agreement”).

B. The Agreement is currently scheduled to expire on March 31, 2023.

C. The Parties desire to extend the term of the Agreement for an additional three (3) years with an option for an additional one (1) year extension.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The foregoing Recitals are true and correct and incorporated herein. Except as modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

2. Amendments to existing language in the Agreement made by this Fourth Amendment are shown by strikethrough text to indicate deletions and bold underlined text to indicate additions. Capitalized terms used in this Fourth Amendment and not otherwise defined in this Fourth Amendment shall have the meaning given to such terms in the Agreement.

3. Article II of the Agreement is hereby amended as follows:

2.1 The term of this Agreement (“Term”) shall commence on the Effective Date, April 1, 2018, ~~and shall terminate~~ **for an initial period of five (5) years from such date, i.e., through March 31, 2023, followed immediately by a period of three (3) years (“Extension Period”) from April 1, 2023, through March 31, 2026** (“Termination Date”), unless earlier terminated as provided for in this Agreement.

2.2 **If Concessionaire has met its additional Minimum Capital Expenditure requirement and completed the Extension Improvements by the Completion Date established in Section 3.9 below, Concessionaire may request an extension of the Term**

of this Agreement for an additional period of one year ("Option Period"). The Option Period request by Concessionaire must be in writing and delivered to the Director of Aviation during the last Contract Year, and no later than one hundred eighty (180) days prior to the last day of the Term. If the Director determines that Concessionaire is in full compliance with the terms and conditions of this Agreement, the Director of Aviation is authorized to provide written approval of Concessionaire's request. The Option Period, if approved, shall be on the same terms and conditions as stated in this Agreement.

2.3 County has submitted a written request to the FAA Office of Civil Rights, Southern Region, to obtain FAA approval of the Extension Period and the Option Period.

a. If, as a condition of its approval, the FAA requires modifications or changes to the Agreement, Concessionaire shall consent to such modifications or changes as may be required in an amendment to this Agreement and the Director of Aviation shall have the authority to approve such amendment.

b. If Concessionaire refuses to consent to any conditions imposed by the FAA as a condition of its approval, if the FAA denies approval, or if FAA approval is not received by June 30, 2023, this Agreement may be terminated by the County, acting through the Director of Aviation, upon thirty (30) calendar days prior written notice. Termination of this Agreement shall not relieve Concessionaire of any liabilities or obligations under this Agreement that accrued on or before the effective date of termination, or that survive termination of this Agreement. Upon the expiration or earlier termination of this Agreement, Concessionaire shall cease all operations in the Assigned Areas and immediately vacate and surrender the Assigned Areas as set forth in Article 15.

4. Article III, Section 3.9 is amended to read as follows:

3.9 Minimum Capital Expenditure. ~~Concessionaire shall make a total~~ has met the initial Minimum Capital Expenditure ~~shall make a total~~ Minimum Capital Expenditure requirement for the initial Improvements to the Assigned Areas in the amount of not less than Two Hundred Thousand Dollars (\$200,000.00), within the twelve months period following the Effective Date. Concessionaire shall make an additional Minimum Capital Expenditure of Forty Thousand Dollars (\$40,000.00) to complete the following improvements: remove the existing currency exchange located in Terminal 4 and install a new currency exchange kiosk in the Assigned Area ("Extension Improvements"). The new currency exchange shall be located in the Assigned Area as designated on Exhibit A, which may be modified as authorized in Section 3.1(g) of this Agreement.

(a) ~~In no event shall Concessionaire spend less than the Minimum Capital Expenditure by twelve months after the Effective Date.~~ Concessionaire shall make the additional Minimum Capital Expenditure and complete the Extension Improvements no later than March 31, 2024 ("Completion Date"). A failure to

make such **additional** Minimum Capital Expenditure within the required time frame shall be a default of this Agreement.

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5. Article III of the Agreement is amended to add Section 3.11 to read as follows (bold/underlining omitted):

3.11 If at any time during the Term of this Agreement the Aviation Department implements a Central Receiving and Distribution Center (CRDC) for the intake, processing, and distribution of goods for the Airport Terminals (operated by the Aviation Department or third parties), Concessionaire shall utilize the CRDC as directed in writing by the Aviation Department. Concessionaire's required utilization of the CRDC shall include, but not be limited to, ordering Concessionaire's suppliers to make all of its Airport deliveries to the CRDC (except where delivery to a third party is prohibited by law or otherwise approved in writing by the Aviation Department). Upon implementation of the CRDC, each concessionaire located at the Airport that is required to utilize the CRDC shall pay to County the concessionaire's allocation of operational and development costs related to its use of the CRDC. The Aviation Department, in its reasonable discretion, shall allocate costs to each concessionaire based on the amount and frequency of the intake and processing of goods at the CRDC and delivery of such goods to the Airport Terminals ("CRDC Concessionaire Cost Allocation"). Upon determination of the CRDC Concessionaire Cost Allocation, the Aviation Department shall provide written notice to Concessionaire of its CRDC Concessionaire Cost Allocation, accompanied by evidence supporting the manner in which the CRDC Concessionaire Cost Allocation was determined. Concessionaire shall pay the CRDC Concessionaire Cost Allocation in the manner and amount determined by the Aviation Department.

6. Article XXI of the Agreement is amended to add Section 21.46 to read as follows (bold/underlining omitted):

21.46 Polystyrene Food Service Articles. Concessionaire shall not sell or provide for use on County property expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.173, Broward County Administrative Code.

7. Concessionaire acknowledges that through the date this Fourth Amendment is executed by Concessionaire, Concessionaire has no claims against the County with respect to any of the matters covered by the Agreement, as amended, and Concessionaire has no right of set-off or counterclaims against any of the amounts payable under the Agreement.

8. In the event of any conflict or ambiguity between this Fourth Amendment and the Agreement, the Parties agree that this Fourth Amendment shall control.

9. Preparation of this Fourth Amendment has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

10. This Fourth Amendment may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which taken together, shall constitute one and the same agreement.

11. The Agreement, as amended herein, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement or this Fourth Amendment. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Fourth Amendment: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20__, and Fort Lauderdale Business and Currency Services, LLC, signing by and through its authorized representative.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its
Board of County Commissioners

Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By _____
Mayor

____ day of _____, 20__

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Aviation Office
320 Terminal Drive, Suite 200
Fort Lauderdale, Florida 33315
Telephone: (954) 359-6100

By _____
Sharon V. Thorsen (Date)
Senior Assistant County Attorney

SVT/ch
Business Technology 4th Amendment
01/26/23
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SERVICE CENTERS CONCESSION AGREEMENT BETWEEN BROWARD COUNTY, FLORIDA AND
FORT LAUDERDALE BUSINESS AND CURRENCY SERVICES, LLC

CONCESSIONAIRE

FORT LAUDERDALE BUSINESS AND
CURRENCY SERVICES, LLC

By: 
Authorized Signer

Karen White, President
Print Name and Title

2nd day of February, 2023

WITNESS:

A. Blare
Witness

Adrian Blake
Print Name:


Witness

Wellington Teixeira
Print Name: