

AMENDMENT NO. 2 TO PIPELINE LICENSE AGREEMENT
(JET FUEL SUPPLY LINE)

TAMPA INTERNATIONAL AIRPORT

BY AND BETWEEN

HILLSBOROUGH COUNTY AVIATION AUTHORITY

AND

TAMPA AIRPORT PIPELINE CORPORATION

_____, 2019

Prepared by:

Real Estate Department
Attn.: Rebecca E. Waterman
Hillsborough County Aviation Authority
P. O. Box 22287
Tampa, FL 33622

AMENDMENT NO. 2 TO PIPELINE LICENSE AGREEMENT
(JET FUEL SUPPLY LINE)
TAMPA INTERNATIONAL AIRPORT

This Amendment No. 2 to that certain Pipeline License Agreement (Jet Fuel Supply Line) dated November 4, 2004, by and between Hillsborough County Aviation Authority, a public body corporate existing under the laws of the State of Florida (Authority) and Tampa Airport Pipeline Corporation, formerly known as Tampa Pipeline Corporation, a corporation organized and existing under the laws of the State of Florida and authorized to do business in the State of Florida (Company) (hereinafter individually and collectively referred to as Party or Parties), is entered into this _____ day of _____, 2019.

WITNESSETH:

WHEREAS, on November 4, 2004, Authority and Tampa Pipeline Corporation entered into a Pipeline License Agreement (Jet Fuel Supply Line) (Agreement) for the construction, operation, maintenance and service of an underground pipeline system required for the supply of jet fuel to the Authority's bulk fuel storage facility for airlines serving Tampa International Airport (Airport); and

WHEREAS, on September 4, 2008, Authority consented to an Assignment and Assumption Agreement whereby Tampa Pipeline Corporation expressly assigned all of its rights, title and interests in the Agreement to Company and Company assumed and agreed to be bound by and perform all of the covenants, agreements, terms, obligations, provisions and conditions on the part of Tampa Pipeline Corporation under the Agreement; and

WHEREAS, on September 4, 2014, the Parties amended the Agreement to extend the term of the Agreement for two additional five-year renewal terms, increase the annual Privilege Fee paid by Company under the Agreement, and update the notice address for the Parties (Amendment No. 1); and

WHEREAS, on or about January 8, 2019, pursuant to Article 2.2(E) of the Agreement, Authority notified Company that Company will need to relocate a portion of the Pipeline due to the development of an aviation facility (Pipeline Relocation); and

WHEREAS, as a result of expected costs for the Pipeline Relocation, Company requested an additional five year renewal option be added to the Agreement; and

WHEREAS, this Amendment No. 2 (Amendment No. 2) amends the Agreement to extend the term of the Agreement for one additional five-year renewal term, increase the annual Privilege Fee paid by Company under the Agreement, and update certain administrative provisions.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the Parties do agree that the Agreement is amended as follows:

1. The above recitals are true and correct and are incorporated herein.
2. The following is hereby added to Article 2, Uses, Privileges, and Restrictions, Section 2.2, Exclusions and Reservations:

F. Upon completion of the Pipeline Relocation, Company will prepare and transmit to Authority for Authority's review and acceptance Exhibit A-1, Legal Description and Sketch of Pipeline Relocation for East Side Development. Exhibit A-1 shall show the change, if any, in the square footage of the Pipeline Corridor as a result of the Pipeline Relocation. Upon Authority review and acceptance of Exhibit A-1, Exhibit A-1 will be incorporated into this Agreement by written notice from Authority's Chief Executive Officer or designee (Authority's Representative) to Company without the need for formal amendment to this Agreement.

Additionally, upon review and acceptance of Exhibit A-1, Authority will recalculate the Privilege Fee in Section 4.1 of this Agreement to reflect the Pipeline Corridor's new square footage as a result of the Pipeline Relocation, if any. Any change in the Privilege Fee as a result of Pipeline Relocation will be incorporated into this Agreement by written notice from Authority's Representative to Company without the need for formal amendment to this Agreement.

3. Article 3, Term, is hereby deleted in its entirety and replaced with the following:

This Agreement shall become effective upon approval by the Authority and will continue for a term commencing November 1, 2004 and terminating October 31, 2024. If Company is not in default of any terms of this Agreement or in the payment of any fees or other charges to Authority, this Agreement may be renewed at the terms and conditions stated hereunder for one five-year period upon written request by Company at least 180 days prior to Agreement's expiration and written acceptance by Authority's Chief Executive Officer (Renewal Option). The Renewal Option will be effective by letter to Company without the need for formal amendment to

this Agreement. If the Renewal Option is requested by Company and approved by Authority, this Agreement will have a final termination date of October 31, 2029.

4. Article 4, Privilege Fee, Section 4.1, Privilege Fee, is hereby deleted in its entirety and replaced with the following:

Company will pay an annual privilege fee (Privilege Fee) of \$21,919.43, which is based on an Appraisal Report dated April 11, 2019, prepared by L. Burl Wilson, Jr., American Acquisition Group, LLC, which is attached hereto and incorporated by reference herein as Exhibit B. The Pipeline Corridor has been divided into two parts to determine the Privilege Fee. The land area is based on a three-foot wide corridor. The Privilege Fee is determined as follows:

A 7,500 square foot corridor (calculated as 2,500 linear feet multiplied by a three-foot wide corridor) located in the commercial portion at Corporate Center on West Boy Scout Boulevard, multiplied by the Authority's appraised value of \$17.00 per square feet, multiplied by a rate of return of ten percent (10%), multiplied by a land interest factor of .4075 = \$5,195.63 annual privilege fee; plus

A 34,200 square foot corridor (calculated as 11,400 linear feet multiplied by a three-foot wide corridor) located at the Airport, multiplied by the Authority's appraised value of \$12.00 per square feet, multiplied by a rate of return of ten percent (10%), multiplied by a land interest factor of .4075 = \$16,723.80 annual privilege fee.

The Parties recognize a credit to Company in the amount of \$1,807.92 for the payments due on November 1, 2019, November 1, 2020, November 1, 2021, November 1, 2022, and November 1, 2023, making the annual payments due for the Privilege Fee for those years \$20,111.51.

Company will pay the Privilege Fee in advance and without demand on the first day of November of each year of the term of this Agreement, including any renewal option (Payment Date). The first payment shall be due and payable on November 1, 2019.

5. Article 4, Privilege Fee, Section 4.2, Adjustment of Privilege Fee, is hereby deleted in its entirety and replaced with the following:

4.2 Adjustment of Privilege Fee:

If the Renewal Option is exercised by Company and approved by Authority's Chief Executive Officer, the Privilege Fee will be adjusted to the then current fair rental rate as determined by Authority for similar property, but will in no event be less than the Privilege Fee paid in the year immediately preceding the Renewal Option. When determining the fair rental rate of the Pipeline Corridor, the Authority shall follow Hillsborough County Aviation Authority Policy P853, Determination of Land and Improvement Rental Rates, as may be revised from time to time. Any adjustment to the Privilege Fee will be effective by written notice from Authority's Representative to Company without formal amendment to this Agreement.

6. Article 14, Indemnification, is hereby deleted in its entirety and replaced with the following:

ARTICLE 14
INDEMNIFICATION

- A. To the maximum extent permitted by Florida law, in addition to Company's obligation to provide, pay for and maintain insurance as set forth elsewhere in this Agreement, Company will indemnify and hold harmless Authority, its members, officers, agents, employees, and volunteers from any and all liabilities, suits, claims, expenses, losses, costs, royalties, fines and damages (including but not limited to claims for attorney's fees and court costs) caused in whole or in part by the:
1. Presence on, use or occupancy of Authority property;
 2. Acts, omissions, negligence (including professional negligence and malpractice), recklessness, intentional wrongful conduct, activities, or operations;
 3. Any breach of the terms of this Agreement;
 4. Performance, non-performance or purported performance of this Agreement;
 5. Violation of any law, regulation, rule or ordinance;
 6. Infringement of any patent, copyright, trademark, trade dress or trade secret rights; and/or
 7. Contamination of the soil, groundwater, surface water, storm water, air or the environment by fuel, gas, chemicals or any other substance deemed by the

Environmental Protection Agency or other regulatory agency to be an environmental contaminant;

of or by Company or Company's officers, employees, agents, volunteers, subcontractors, invitees, or any other person whether the liability, suit, claim, expense, loss, cost, fine or damages is caused in part by an indemnified party.

B. In addition to the duty to indemnify and hold harmless, Company will have the separate and independent duty to defend Authority, its members, officers, agents, employees, and volunteers from all suits, claims or actions of any nature seeking damages, equitable or injunctive relief expenses, losses, costs, royalties, fines or attorney's fees in the event the suit, claim, or action of any nature arises in whole or in part from the:

1. Presence on, use or occupancy of Authority property;
2. Acts, omissions, negligence (including professional negligence and malpractice), recklessness, intentional wrongful conduct, activities, or operations;
3. Any breach of the terms of this Agreement;
4. Performance, non-performance or purported performance of this Agreement;
5. Violation of any law, regulation, rule or ordinance;
6. Infringement of any patent, copyright, trademark, trade dress or trade secret rights; and/or
7. Contamination of the soil, groundwater, surface water, stormwater, air or the environment by fuel, gas, chemicals or any other substance deemed by the Environmental Protection agency or other regulatory agency to be an environmental contaminant;

of or by Company or Company's officers, employees, agents, volunteers, subcontractors, invitees, or any other person directly or indirectly employed or utilized by Company regardless of whether it is caused in part by Authority, its members, officers, agents, employees, or volunteers. This duty to defend exists immediately upon presentation of written notice of a suit, claim or action of any nature to Company by a party entitled to a defense hereunder.

- C. If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Fla. Stat. § 725.06(2)-(3) or Fla. Stat. § 725.08, then with respect to the part so limited, Company agrees to the following: To the maximum extent permitted by Florida law, Company will indemnify and hold harmless Authority, its members, officers, agents, employees, and volunteers from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fee, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of Company and persons employed or utilized by Company in the performance of this Agreement.
- D. If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Florida Statute § 725.06 (1) or any other applicable law, then with respect to the part so limited the monetary limitation on the extent of the indemnification shall be the greater of the (i) monetary value of this Agreement, (ii) coverage amount of Commercial General Liability Insurance required under this Agreement, or (iii) \$1,000,000.00. Otherwise, the obligations of this Article will not be limited by the amount of any insurance required to be obtained or maintained under this Agreement.
- E. In addition to the requirements stated above, to the extent required by Florida Department of Transportation (FDOT) Public Transportation Grant Agreement and to the fullest extent permitted by law, the Company shall indemnify and hold harmless the State of Florida, FDOT, including the FDOT's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Company and persons employed or utilized by the Company in the performance of this Agreement. This indemnification in this paragraph shall survive the termination of this Agreement. Nothing contained in this paragraph is intended nor shall it constitute a waiver of the State of Florida's and FDOT's sovereign immunity.
- F. Company's obligations to defend and indemnify as described in this Article will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that any suit, claim or other action against Authority, its members, officers, agents, employees, and volunteers its fully and finally barred by the applicable statute of limitations or repose.

- G. Nothing in this Article will be construed as a waiver of any immunity from or limitation of liability Authority, or its members, officers, agents, employees, and volunteers may have under the doctrine of sovereign immunity under common law or statute.
- H. Authority and its members, officers, agents, employees, and volunteers reserve the right, at their option, to participate in the defense of any suit, without relieving Company of any of its obligations under this Article.
- I. If the above subarticles A – H or any part of subarticles A – H are deemed to conflict in any way with any law, the subarticle or part of the subarticle will be considered modified by such law to remedy the conflict.

- 7. Article 18, Americans with Disabilities Act, is hereby deleted in its entirety and replaced with the following:

**ARTICLE 18
AMERICANS WITH DISABILITIES ACT**

Company will comply with the applicable requirements of the Americans with Disabilities Act; the Florida Americans with Disabilities Accessibility Implementation Act; Florida Building Code, Florida Accessibility Code for Building Construction; and any similar or successor laws, ordinances, rules, standards, codes, guidelines, and regulations and will cooperate with Authority concerning the same subject matter.

- 8. Article 19, Non-Discrimination / Affirmative Action, is hereby deleted in its entirety and replaced with the following:

**ARTICLE 19
NON-DISCRIMINATION**

These provisions apply to all work performed under this Agreement. Failure to comply with the terms of these provisions may be sufficient grounds to:

- A. Terminate this Agreement;
- B. Seek suspension/debarment of Company; or
- C. Take any other action determined to be appropriate by Authority or the FAA.

19.1 Civil Rights – General – 49 USC § 47123

- A. Compliance:

Company agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race,

creed, color, national origin, sex, age, or disability, be excluded from participating in any activity conducted with or benefitting from Federal assistance. If Company transfers its obligation to another, the transferee is obligated in the same manner as Company.

B. Duration:

1. This provision obligates Company for the period during which the property is owned, used or possessed by Company and the Airport remains obligated to the FAA. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.
2. This provision also obligates Company or its transferee for the period during which Federal assistance is extended to the Airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of, personal property, real property or interest therein, structures or improvements thereon. In these cases, the provision obligates Company or any transferee for the longer of the following periods:
 - a. The period during which the property is used by Authority or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. The period during which Authority or any transferee retains ownership or possession of the property.

19.2 Civil Rights – Title VI Assurances

A. Compliance with Non-Discrimination Requirements:

During the performance of this Agreement, Company, for itself, its assignees, successors in interest, subcontractors and consultants agrees as follows:

1. **Compliance with Regulations:** Company will comply with the Title VI List of Pertinent Non-Discrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

2. **Non-Discrimination:** Company, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Company will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including but not limited to those listed at Section 19.2(B) below, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by Company for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by Company of Company's obligations under this Agreement and the Acts and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** Company will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Authority or the FAA to be pertinent to ascertain compliance with such Acts, Regulations, and directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, Company will so certify to Authority or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of Company's non-compliance with the non-discrimination provisions of this Agreement, Authority will impose such Agreement sanctions as it or the FAA may determine to be appropriate, including, but not limited to, cancelling, terminating, or suspending this Agreement, in whole or in part.
6. **Incorporation of Provisions:** Company will include the provisions of paragraphs one through six of this Article in every subcontract, including

procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Company will take action with respect to any subcontract or procurement as Authority or the FAA may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, that if Company becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, Company may request Authority to enter into any litigation to protect the interests of Authority. In addition, Company may request the United States to enter into the litigation to protect the interests of the United States.

B. Title VI List of Pertinent Non-Discrimination Authorities:

During the performance of this Agreement, Company, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
5. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age);

6. Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-209) (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
9. The FAA’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, Company must take reasonable steps to ensure that LEP persons have meaningful access to Company’s programs (70 Fed. Reg. at 74087 to 74100); and

12. Title IX of the Education Amendments of 1972, as amended, which prohibits Company from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

C. Duration:

Company must comply with this Article during the period during which Federal financial assistance is extended to Authority, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case this provision obligates Company for the longer of the following periods:

1. So long as the Airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 2. So long as Authority retains ownership or possession of the property.
9. Article 43, Compliance with Chapter 119, Florida Statutes Public Records Law, is hereby added:

ARTICLE 43

COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES PUBLIC RECORDS LAW

IF COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (813) 870-8721, ADMCENTRALRECORDS@TAMPAAIRPORT.COM, HILLSBOROUGH COUNTY AVIATION AUTHORITY, P. O. BOX 22287, TAMPA FL 33622.

Company agrees in accordance with Florida Statute Section 119.0701 to comply with public records laws including the following:

- A. Keep and maintain public records required by Authority in order to perform the services contemplated by this Agreement.
- B. Upon request from Authority's custodian of public records, provide Authority with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Fla. Stat. or as otherwise provided by law.

- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement term and following completion of this Agreement.
- D. Upon completion of this Agreement, keep and maintain public records required by Authority to perform the services. Company shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Authority, upon request from Authority custodian of public records, in a format that is compatible with the information technology systems of Authority.

10. Article 44, Authority Approvals is hereby added:

ARTICLE 44
AUTHORITY APPROVALS

Except as otherwise indicated elsewhere in this Agreement, wherever in this Agreement approvals are required to be given or received by Authority, it is understood that the Authority's Chief Executive Officer is hereby empowered to act on behalf of Authority.

11. Except as stated herein, all other terms remain in full force and effect and are hereby ratified and confirmed. The Agreement, Amendment No. 1, and this Amendment No. 2 represent the entire understanding between the Parties on the issues contained herein, either written or oral, and may be amended only by written instrument signed by both Parties.

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ATTEST:

HILLSBOROUGH COUNTY AVIATION AUTHORITY

Lesley "Les" Miller, Jr., Secretary
Address: P. O. Box 22287
Tampa, FL 33622

By: _____
Robert I. Watkins, Chairman
Address: P. O. Box 22287
Tampa, FL 33622

Signed, sealed, and delivered
in the presence of:

Witness Signature

LEGAL FORM APPROVED:

Print Name

By: _____

David Scott Knight
Assistant General Counsel

Witness Signature

Print Name

HILLSBOROUGH COUNTY AVIATION AUTHORITY
STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this ____ day of _____, 2019,
by Robert I. Watkins in the capacity of Chairman, and by Lesley "Les" Miller, Jr. in the capacity of
Secretary, of the Board of Directors, Hillsborough County Aviation Authority, a public body corporate
under the laws of the State of Florida, on its behalf. They are personally known to me and they did not
take an oath.

(Stamp or seal of Notary)

Signature of Notary

Type or print name of Notary

Date of Commission Expiration (if not on stamp or seal)

TAMPA AIRPORT PIPELINE CORPORATION

Signed in the presence of:

By: Robert L. Rose

Title: President

ROBERT L ROSE

Print Name

PO Box 35236, Sarasota FL 34242

Print Address

[Signature]

Witness

Giorgji Chakareski

Print Name

[Signature]

Witness

LARRY PRAZAK

Print Name

TAMPA AIRPORT PIPELINE CORPORATION

STATE OF FLORIDA

COUNTY OF Sarasota

The foregoing instrument was acknowledged before me this 19 day of September, 2019, by Robert L Rose in the capacity of president, at TAMPA AIRPORT PIPELINE CORPORATION, a Florida corporation, on its behalf. He is (personally known to me / not personally known to me) and has produced the following document of identification FL DL

(Stamp or seal of Notary)



Giorgji Chakareski
State of Florida
My Commission Expires 01/01/2023
Commission No. GG 287484

[Signature]

Signature of Notary

Giorgji Chakareski

Type of print name of Notary

01/01/2023

Date of Commission Expiration

(if not on stamp or seal)