Memorandum

MIAMI-DADE COUNTY

Date: March 4, 2008

Agenda Item No. 8(A)(1)(D)

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Resolution Approving Agreement Between Miami-Dade County and the Florida Turnpike Enterprise ("FTE") of the Florida Department of Transportation, an executive agency of the State of Florida, to incorporate SunPass technology into the public parking facilities at Miami International Airport

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RECOMMENDATION

It is recommended that the Board approve the attached Agreement between Miami-Dade County, and the Florida Turnpike Enterprise of the Florida Department of Transportation, to incorporate SunPass technology into the public parking facilities at Miami International Airport ("MIA") for customer convenience.

SCOPE

Miami International Airport is located within District Six. However, the impact of this item is countywide in nature as MIA is a regional asset.

FISCAL IMPACT/FUNDING SOURCE

The cost to procure the related hardware and software is estimated to be approximately $700,000. In addition, there will be recurring costs that include hardware, maintenance, and processing fees estimated at approximately $325,333 annually. The Miami-Dade Aviation Department (MDAD) recommends proceeding with the installation of SunPass as a customer service even though the investment and annual operating cost not will be recouped.

TRACK RECORD/MONITOR

No negative information has been found regarding FTE and/or SunPass. This Agreement will be monitored by MDAD Commercial Operations Division Director Patricia Ryan.

BACKGROUND

Resolution R-1174-07, sponsored by Commissioner Jose "Pepe" Diaz, directed the County Manager to prepare a report on the use of SunPass as a payment method at MIA's public parking garage facility. The report was issued December 4, 2007, and resulted in instructions to MDAD to move forward with negotiations of an agreement with the FTE.

The primary purpose of SunPass is to enhance the customer experience at MIA's public parking facilities by enhancing the convenience of paying parking charges with the customer's SunPass. The SunPass technology permits operators of motor vehicles who have SunPass transponders to pay for various turnpike and roadway fees by using the transponder rather than paying in cash. It has become

quite successful in Florida, and is supervised by the Florida Turnpike Enterprise, an operating division of the Florida Department of Transportation.

Discussions were also held with MDX on the opportunity for providing services related to SunPass at a reduced cost. The result was that the agreement between MDAD and SunPass could not be enhanced by MDX's participation.

A survey conducted over seven consecutive days -- at various times of the day at MIA's public parking garages -- to determine the potential for SunPass produced a sample size of 2,122 patrons. Of those surveyed, 1,239 or 58.3 percent of the responders indicated that they either own or would use SunPass if it were available.

Under the agreement, a passenger operating a motor vehicle will be able to pay the parking fee by using the SunPass transponder. The amount of the parking charges will promptly be deducted from the deposit account of the passenger, and all the parking charges using the SunPass system will be forwarded to MDAD not less than every week. The only deduction from such amounts will be a processing fee that FTE needs to recoup, and the agreement provides that, for each transaction, FTE is entitled to keep .0065% of the transaction amount. For a typical daily parking charge of $14, the processing fee will be 9 cents ($.09).

The agreement calls for the County to purchase, install, operate and maintain revenue collection equipment which electronically transfers files containing SunPass transponder transactions to FTE for processing. The agreement is for a five (5) year term, with automatic renewals for a one-year term unless otherwise terminated.

The initial capital cost for the hardware and software is estimated to be approximately $700,000.00. Funds in this amount are available in Aviation's revenue fund. Annual operating costs thereafter are estimated to be approximately $325,333 annually, and funds in that amount will be budgeted annually in MDAD's operating budget for such purpose. Such initial costs and the subsequent operating costs will not have a material impact on the level of landing fees payable by the airlines during the period of the agreement.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: March 4, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(A)(1)(D)

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(D)
03-04-08

RESOLUTION NO. _____

RESOLUTION RELATING TO MIAMI INTERNATIONAL AIRPORT; APPROVING AGREEMENT BETWEEN THE FLORIDA TURNPIKE ENTERPRISE ("FTE") OF THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE INCORPORATION OF SUNPASS TECHNOLOGY INTO THE PUBLIC PARKING FACILITIES AT MIAMI INTERNATIONAL AIRPORT

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and documents, copies of which are incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the attached agreement between Miami-Dade County and the Florida Turnpike Enterprise ("FTE"), an operating division of the Florida Department of Transportation, for the incorporation of SunPass technology into the public parking facilities of Miami International Airport; authorizing the Mayor or designee to execute such agreement and to exercise the termination provisions thereof.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz
Carlos A. Gimenez
Joe A. Martinez
Dorrin D. Rolle
Katy Sorenson
Sen. Javier D. Souto
Audrey M. Edmonson
Sally A. Heyman
Dennis C. Moss
Natacha Seijas
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of March, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. TPA

Thomas P. Abbott

JOINT PARTICIPATION AGREEMENT

MIAMI INTERNATIONAL AIRPORT

SUNPASS PARKING PROGRAM

This JOINT PARTICIPATION AGREEMENT ("JPA") is entered into this _____ day of _____, ____, by and between Miami-Dade County, a political subdivision of the state of Florida (hereinafter, "COUNTY"), with principal place of business located at P.O. Box 025504 Miami, Florida 33102, and the FLORIDA DEPARTMENT OF TRANSPORTATION, Florida's Turnpike Enterprise (hereinafter, "FTE "), an executive agency of the State of Florida, with principal place of business located at Turnpike Headquarters, Post Office Box 613069, Ocoee, Florida 34761.

W I T N E S S E T H

WHEREAS, the COUNTY and FTE desire to incorporate SunPass® technology into the public parking facilities at the Miami International Airport ("MIA") in order to allow airport customers to pay public parking fees using their SunPass® and SunPass®-compatible transponders (hereinafter, "Project"); and

WHEREAS, the purpose of this JPA is to provide a description of the roles, responsibilities, business rules, specifications and other terms and provisions as hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

1. **Recitations.** The above recitals are true and correct and are incorporated herein by this reference.

2. **Effective Date; Go-Live Date.** The "Effective Date" is the date of upon which the last of the parties to execute and deliver this JPA to the other occurs. On the "Effective Date" this JPA shall become binding and effective upon the parties. The "Go-Live Date" is the date mutually agreed by Miami-Dade County Aviation Department ("MDAD") and Florida's Turnpike Enterprise that processing of SunPass parking transactions shall begin at MIA.

3. **Roles and Responsibilities of Florida's Turnpike Enterprise.**

   (a) FTE will provide a SunPass® transponder base of customers that are eligible for parking at MIA.

   (b) FTE will provide for the internal processing of MIA parking revenue transactions using SunPass® transponders.

   (c) FTE will wire transfer funds to MDAD for SunPass® parking transactions at MIA on a weekly basis. However, if during the term of this Agreement, FTE changes its Accounting processes to transfer funds at a greater frequency, FTE shall then wire transfer funds to MDAD accordingly. An "initial credit card fee" of 2% of the credit transactions will be deducted from the wire transfers to MDAD. A reconciliation of the initial credit card fee will be calculated against the actual credit card fee during the following month. This reconciliation will be calculated based on the actual SunPass® related credit card fees incurred by FTE during the month multiplied by the "MIA Factor" (as hereinafter defined). The resulting amount shall have subtracted from any credit card fees already deducted from MIA's distributions during the month. The resulting "true up" amount will then be added/deleted on the next wire transfers from FTE to MDAD. The "MIA Factor" is a fraction, the numerator of which shall be the total MIA parking revenue using SunPass® transponders for the month, and the denominator of which shall be the total SunPass® revenue collected for the month.

(d) On a weekly basis, FTE will deduct 0.65% (the "FTE Fee") from the gross revenue to be sent via wire transfer to MDAD. For example, if MDAD's weekly gross SunPass revenue was $810,000, the FTE fee would be $5,265 ($810,000 x 0.0065). The transaction fee shall be calculated before the credit card fees are taken from the gross revenue. The FTE Fee is to cover the costs of FTE providing this service to MDAD. The FTE Fee will be waived during the first 24 months of operation following the Go-Live Date and will not be charged to the COUNTY during such 24-month period. For purposes of this JPA, a parking transaction shall be any transaction in which a MIA airport customer utilizes a SunPass transponder to pay the MIA airport parking fees.

(e) FTE will also deduct from the gross revenue sent to MDAD, if and when these charges occur, duplicate transactions, credit card charge backs, parking fee write-offs and wire transfer fees.

(f) FTE and COUNTY will jointly promote SunPass® Plus parking at MIA in accordance with a marketing plan that will be developed and agreed to by the parties.

(g) No interest shall be paid by FTE on collected MDAD parking funds while awaiting the weekly wire transfer of parking funds.

(h) All SunPass®-compatible transponders, regardless of issuing toll agency, will be handled through SunPass® in the same manner as any SunPass® transponder issued by FTE.

(i) Possible Future Airport Parking Participants. At some future date when SunPass®' interoperable partners have the ability to operate in a "real time" environment, they may become participants in SunPass® Plus parking.

4. **WIRE TRANSFER OF FUNDS**

FTE will transfer funds on a weekly basis from the SunPass® prepaid account to the COUNTY MIA's parking revenue account as stated in

Airport Parking Functional and Non-functional requirements, Mobile Commerce Initiative Version 1.10. A reconciliation of credit card fees shall be performed monthly.

5. **SunPass Customer Statements and Receipts, Issues and Inquiries.**

(a) Each SunPass® customer statement provided by FTE to its customers will include MIA parking facility transactions. SunPass® customers who have elected to receive their statements by mail will have access to their MIA parking facility transactions through this media. SunPass® customers who view their statements online will also have internet access to their MIA parking facility transaction records and can obtain printed receipts from the SunPass® website. SunPass® customers can also obtain a written receipt through the SunPass® Customer Service Center.

(b) FTE will act as the primary point of contact for all SunPass® related customer service issues and inquiries. FTE will provide toll free phone number for customer service issues and inquiries.

(c) Pursuant to the provisions of Section 338.155 (6), Florida Statutes, the personal identifying information of SunPass® customers in the possession of the COUNTY and FTE for the purpose of using a credit card, charge card, or check for the prepayment of electronic toll facility charges is exempt from Section 119.07 (1), Florida Statutes, and Article I, Section 24 (a) of the Florida Constitution. Accordingly neither the COUNTY nor FTE will disclose SunPass® customer account personal identifying information to any other person or entity for any purpose other than the collection of MIA parking fees, the enforcement of MIA parking fees, or otherwise as required by law. The parties hereto will preserve and protect the aforesaid exemption and not waive the same.

6. **Roles and Responsibility of the COUNTY.**

(a) It is the responsibility of COUNTY to separately contract to purchase, install, operate and maintain the revenue collection equipment at MIA. COUNTY will provide the land for all SunPass® toll lanes at MIA and will be responsible for the purchase, installation, on-going maintenance, and ownership of the SunPass® revenue collection equipment at MIA.

(b) COUNTY will be responsible for costs associated with software changes to its revenue control system that are required to implement and maintain the Project. COUNTY will indemnify and hold FTE harmless from the economic consequences of MDAD system calibration problems, loss to transactional data integrity, and internal transponder data corruption that is beyond the control of FTE.

(c) COUNTY will be responsible for any costs associated with modifying MIA parking system signage for the Project.

(d) COUNTY will be responsible for all credit card processing fees, FTE fees, and other charges related to MIA parking transactions as described in Paragraph 3 above.

(e) COUNTY will send each MIA SunPass® parking transaction electronically as specified in the data requirements established in **Exhibit A (Airport Parking Functional and Non-functional requirements, Mobile Commerce Initiative, Version 1.10).** FTE is responsible only for collecting parking fees from SunPass® customers and remitting same to COUNTY in accordance with Paragraph 3 above and as further described in **Exhibit A**. COUNTY is responsible for collecting all parking fees for the MIA parking facilities that are not paid by customers using SunPass® transponders.

7. **Transcore Equipment and SunPass® Software Changes.**

(a) It shall be the responsibility of the COUNTY to make necessary changes to the revenue collection system (equipment or software) at MIA to accommodate any changes to Transcore Equipment or end-of-life equipment issues with Transcore Equipment.

(b) FTE shall make best efforts not to implement policies that result in major changes to hardware and software requirements.

(c) It shall be the responsibility of FTE to provide the COUNTY with a minimum of 120 calendar days notice prior to making any changes to their software or processing environment that will require changes to revenue collection system (equipment or software or processing) at MIA. FTE will provide the COUNTY with an opportunity for input as to any potential impact of such change at MIA.

8. **Assignment.**

This JPA or any interest herein shall not be assigned, transferred or otherwise encumbered by the COUNTY or FTE under any circumstances without the prior written consent of the other party. However, this JPA shall run to FTE and COUNTY and their successors and permitted assigns. In the event of any such assignment the assignee shall expressly assume, perform, and be bound by the duties, covenants, and obligations of the assignor contained in this JPA.

9. **Term.**

The initial term of this JPA shall commence upon the Effective Date and shall continue for five (5) years ("Initial Term"). Thereafter, this JPA shall be renewed automatically for additional one (1) year terms (each such successive term being called a "Renewal Term"), unless terminated in accordance with the terms and conditions of this JPA. The Initial Term and any Renewal Terms are collectively referred to as the "Term."

10. **Termination.**

(a) After the initial term, either party may terminate this JPA for any reason by providing at least ninety (90) calendar days' prior written notice to the other Party.

(b) This JPA may be terminated for cause by action of Miami-Dade Board of Commissioners ("Board") or by FTE if the party in breach has not corrected the breach within ten (10) calendar days' written notice from the aggrieved party identifying the breach. This JPA may also be terminated by the Miami-Dade Administrator or FTE upon such notice as the Administrator or FTE deems appropriate under the circumstances in the event Administrator or FTE determines that termination is necessary to protect the public health, safety, or welfare.

(c) Termination of this JPA for cause shall include, but not be limited to, negligent, intentional, or repeated submission of false or incorrect transaction, data, bills or invoices, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this JPA, or multiple breach of this JPA which has a material adverse effect on the efficient administration of the Project, notwithstanding whether any such breach was previously waived or cured.

(d) Notice of termination shall be provided in accordance with the NOTICES section of this JPA except that notice of termination by Contract Administrator which County Administrator deems necessary to protect the public health, safety, or welfare shall be promptly confirmed in writing in accordance with the NOTICES section of this JPA.

(e) In the event this JPA is terminated for convenience, FTE shall be paid for any services properly performed to the date the JPA is

terminated. Compensation shall be withheld until all documents specified in subparagraph (f), below are provided to the COUNTY. Upon being notified of COUNTY's election to terminate, FTE should refrain from performing further services or incurring additional expenses under the terms of this JPA. Under no circumstances shall COUNTY be required to make payment for services, which have not been performed.

(f) In the event of any termination, FTE shall deliver all monies payable to the COUNTY and all documents and records, including without limitation, all data, studies, models, and reports prepared or provided by FTE in connection with this JPA (in whatever state they may be in at the date of termination) to the COUNTY within seven (7) calendar days following receipt of the written notice of termination. Any compensation due FTE shall be withheld until all monies owed to the COUNTY and all documents and records are received by COUNTY as provided herein.

11. **Notices.**

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, postage prepaid, return receipt requested, or by overnight courier with delivery confirmation, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR* COUNTY*:
Director of Aviation
Miami-Dade Aviation Department
P.O. Box 025504
Miami, FL 33102

FOR FLORIDA'S TURNPIKE ENTERPRISE:
Turnpike Headquarters
Turkey Lake Service Plaza
Mile Post 263, Building 5315
Post Office Box 613069
Ocoee, Florida 34761.

12. **Records.**

Records of airport parking charges and payments incurred under the terms of this JPA shall be maintained and made available upon request by either party to the other at all times during the period of this JPA and for five (5) years after completion of the Project. Copies of these documents and records shall be furnished to either party upon request. Records of costs incurred include general accounting records and the Project records, together with supporting documents and records of the contractor and all subcontractors performing work on the Project, and all other records of the contractor and subcontractors considered necessary by the either party for a proper audit of costs.

13. **Section 339.135 (6) (a), Florida Statutes.**

Florida's Turnpike Enterprise during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. Florida's Turnpike Enterprise shall require a statement from the Comptroller of the Florida Department of Transportation that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of Florida's Turnpike Enterprise which are for an amount in excess of TWENTY FIVE

THOUSAND DOLLARS ($25,000.00) and which have a term for a period of more than one year.

14. **Chapter 129, Florida Statutes.**

If the term of this JPA extends beyond a single fiscal year of COUNTY, the continuation of this JPA beyond the end of any fiscal year shall be subject to the availability of funds from COUNTY in accordance with Chapter 129, Florida Statutes, as it may be amended.

15. **Amendment.**

No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless set forth in a written document prepared with the same or similar formality as this JPA and executed by the parties hereto.

16. **Governing Law**

The laws of the State of Florida shall govern the validity of this JPA and any of its terms and provisions, as well as the rights and duties of the parties to this JPA.

17. **Non-Solicitation**

The COUNTY warrants that it has not employed or obtained any company or person, other than bona fide employees of the to solicit or secure this JPA and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the FTE warrants that it has not employed or obtained any company or person, other than bona fide employees of the Florida's Turnpike Enterprise to solicit or secure this JPA and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by FTE.

18. **Convicted Vendor List**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

19. **ADA**

Both parties agree to comply with Titles I and II of the Americans with Disabilities Act of 1990, as well as state and federal civil rights laws, and each party agrees to comply with its own rules and ordinances for implementation thereof.

20. **Tort Liability**

FTE is an executive state agency and is a political subdivision of the State of Florida as defined in Chapter 768.28, Florida Statutes. Accordingly, each party agrees to be fully responsible for acts and omissions of its agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this JPA or any other contract.

21. **No Third Party Beneficiaries**

Neither FTE nor COUNTY intends to directly or substantially benefit a third party by this JPA. Therefore, the parties agree that there are no third party beneficiaries to this JPA and that no third party shall be entitled to assert a claim against either of them based upon this JPA.

22. **Severance**

In the event this JPA or a portion of this JPA is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective.

23. **Controlling Document**

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this JPA by reference and a term, statement, requirement, or provision of this JPA, the term, statement, requirement, or provision contained in Paragraphs 1 through 27 of this JPA shall prevail and be given effect.

24. **Recitals**

The truth and accuracy of each whereas clause set forth above is acknowledged by the parties.

25. **Authority**

The individuals executing this JPA on behalf of each party have full authority to execute this JPA on behalf of the party for whom they are acting herein.

26. **Integration**

This document incorporates and includes all prior negotiations, correspondence, agreements, or understandings applicable to the matters

contained herein and the parties agree that there are no commitments, agreements or understanding concerning the subject matter of this JPA that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed by the parties hereto.

27. **Multiple Originals**

Multiple copies of this JPA may be fully executed by all parties, each of which shall be deemed to be an original.

28. **Exhibit**

The following exhibits are hereby incorporated into and made a part of this JPA:

Exhibit A:

Airport Parking Functional

and Non-functional requirements Mobile Commerce Initiative Version 1.10.

IN WITNESS WHEREOF, the parties hereto have made and executed this Joint Participation Agreement on the respective dates under each signature: MIAMI-DADE COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Designee, authorized to execute same by Board action on the _____ day of _____, 2008, and FLORIDA DEPARTMENT OF TRANSPORTATION, FLORIDA'S TURNPIKE ENTERPRISE, signing by and through its Deputy Executive Director and Chief Operating Officer duly authorized to execute same.

Approved for Form and Execution:

_____
Office of the County Attorney

Board of County Commissioners
MIAMI-DADE COUNTY, FLORIDA

By:_____
Chairman of the Board of County Commissioners

Date Signed:
The ____ day of _____. 2008

Florida Department of Transportation
Florida's Turnpike Enterprise

ATTEST:

By: _____
Christopher L. Warren, P.E.
Deputy Executive Director and
Chief Operating Officer

_____
Secretary

Date Signed:
The ____ day of _____ 2008.

Approved as to Form and Execution by:

By: _____
Office of the Turnpike General Counsel