

Memorandum



Date: January 20, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

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

From: George M. Burgess
County Manager

Subject: Ratification of Acceptance and Execution of Federal Aviation Administration (FAA) Reimbursable Agreement (RA) No. AJW-FN-ESA-10-7013 to provide FAA support to relocate FAA Air Traffic Control Tower (ATCT) at Opa-locka Executive Airport (OPF)

RECOMMENDATION

It is recommended that, pursuant to the Expedite Ordinance in Section 2-285(6) of the Code of Miami-Dade County, the Board of County Commissioners (Board) ratify the acceptance and execution by the Mayor's designee of Reimbursable Agreement (RA) No. AJW-FN-ESA-10-7013 between the Federal Aviation Administration (FAA) and Miami-Dade County through its Aviation Department (MDAD). The RA provides that the County prepays the FAA the sum of \$459,195.00 to defray the FAA's cost of providing equipment, materials, and services needed to relocate a temporary air traffic control tower (ATCT) at Opa-locka Executive Airport (OPF) to a new ATCT and to equip such new ATCT with FAA-approved equipment.

SCOPE

This project is located within Commission District 1 – Commissioner Barbara J. Jordan. The impact of this item is countywide, as OPF is a regional asset.

FISCAL IMPACT

There is no fiscal impact associated with this RA. Under the RA, the MDAD prepaid the FAA the amount of \$459,195.00 for the FAA's completion of the work on the ATCT project, funded from the ATCT Project's CIP account. After the work is completed, the FAA will then reimburse MDAD the same amount from FAA grant funds to be issued under agreements already approved for this project.

Future Operations and Maintenance (O&M) costs associated with the new ATCT, such as utilities, maintenance, landscaping, and janitorial services, are estimated at \$42,000 per year. These costs will be allocated from MDAD's annual O&M Budget and be absorbed through MDAD maintenance operations and existing contracts.

PROJECT MONITOR

This RA and the "Other Transaction Agreement" previously entered into for this project will be monitored by José A. Ramos, MDAD Chief of Planning. FAA grants relating to this project are managed by Norma Mata, Chief of Grants.

BACKGROUND

OPF is a general aviation airport and serves as a reliever for Miami International Airport (MIA). As a reliever airport, its primary mission is to accommodate the operations and services related to general aviation and commercial aircraft in need of maintenance and services that MIA is unable to provide. OPF is a vital component of Miami-Dade County's Aviation System and is an essential facility based on the number and type of operations, intermix of aircraft traffic, and U.S. Coast Guard operations.

The FAA often requires the pre-payment of certain costs associated with FAA activities on Airports, following which the FAA reimburses the Airport for such amount out of then-available FAA funds. The Airport's pre-payment is accomplished through a Reimbursement Agreement ("RA") and the FAA's commitment to reimburse this pre-paid amount back to the Airport is accomplished by an "Other Transaction Agreement" ("OTA") that is separately entered into between the FAA and the Airport. An "OTA" is the FAA's reference to an agreement with a party other than a federal agency.

On May 9, 2006, the Board entered into an OTA with the FAA for the construction and equipping of a new ATCT at OPF to replace an outdated and unsafe structure (Resolution No. R-496-06). The ATCT will be owned and operated by the County through MDAD. Through Resolution No. R-1205-07, Supplemental Amendment No. 1 to the OTA was approved, by which the FAA's total funding commitment was increased. Supplemental Amendment No. 2 was subsequently approved by the Board (Resolution No. R-969-10), in which the FAA's funding was increased again and provision was made for reimbursing MDAD in an amount up to \$470,000 for the amounts pre-paid by MDAD. Therefore, MDAD entered into the subject RA to pre-pay the FAA the amount of \$459,195.00 for the FAA's costs associated with the new ATCT.

It is therefore recommended that the Board ratify the actions of the Mayor's designee in accepting and executing this RA in the amount of \$459,195.00. Following the completion of the FAA's work in Spring 2011, MDAD will be eligible to be reimbursed the \$459,195.00 under the terms of the OTA.


Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: January 20, 2011

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

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

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(A)
1-20-11

RESOLUTION NO. _____

RESOLUTION RELATING TO OPA-LOCKA EXECUTIVE AIRPORT; RATIFYING EXECUTION BY THE MAYOR'S DESIGNEE OF REIMBURSABLE AGREEMENT NO. AJW-FN-ESA-10-7013 WITH THE FEDERAL AVIATION ADMINISTRATION UNDER WHICH THE COUNTY WILL PRE-PAY THE FAA THE SUM \$459,195.00 FOR FAA WORK IN RELOCATING FAA EQUIPMENT FROM THE TEMPORARY AIR TRAFFIC CONTROL TOWER AT SUCH AIRPORT TO THE NEWLY- CONSTRUCTED TOWER AND INSTALLING NEW EQUIPMENT THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and document, 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 ratifies, confirms, and approves the execution by the Mayor's designee of the non-federal Reimbursable Agreement No. AJW-FN-ESA-10-7013 with the Federal Aviation Administration in the amount of \$459,195.00, under which the County's Aviation Department will pre-pay the FAA the sum of \$459,195.00 for the estimated costs associated with the FAA's relocation of the FAA equipment from the temporary Air Traffic Control Tower at Opa-locka Executive Airport to the newly-constructed Air Traffic Control Tower and installation of new equipment therein, following which County will be eligible for reimbursement of such amount from the FAA under separate agreements with the FAA.

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:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

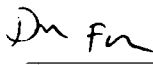
The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of January, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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.



Thomas P. Abbott

Copy

Agreement Number
AJW-FN-ESA-10-7013

NON-FEDERAL REIMBURSABLE AGREEMENT

BETWEEN

**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

AND

**MIAMI-DADE AVIATION DEPARTMENT
OPA-LOCKA EXECUTIVE AIRPORT
OPA-LOCKA, FLORIDA**

RECEIVED
AUG 31 2010
AVIATION PLANNING

WHEREAS, the Federal Aviation Administration (FAA) can furnish directly or by contract, material, supplies, equipment, and services which the Miami-Dade Aviation Department (Sponsor) requires, has funds available for, and has determined should be obtained from the FAA;

WHEREAS, it has been determined that competition with the private sector for provision of such material, supplies, equipment, and services is minimal; the proposed activity will advance the FAA's mission; and the FAA has a unique capability that will be of benefit to the Sponsor while helping to advance the FAA's mission;

WHEREAS, the authority for the FAA to furnish material, supplies, equipment, and services to the Sponsor upon a reimbursable payment basis is found in 49 U.S.C. 106 (1)(6) on such terms and conditions as the Administrator may consider necessary;

NOW THEREFORE, the FAA and the Sponsor mutually agree as follows:

ARTICLE 1. Parties

The Parties to this Agreement are the FAA and the Miami-Dade Aviation Department.

ARTICLE 2. Type of Agreement

This Agreement is an "other transaction" authorized under 49 USC 106(1)(6). It is not intended to be, nor will it be construed as, a partnership, corporation, joint venture or other business organization.

ARTICLE 3. Scope

A. The purpose of this Agreement is to provide FAA support for the relocation of the FAA Contract Tower (FCT) Airport Traffic Control Tower (ATCT) at Opa-Locka Executive Airport, Opa-Locka, Florida. With this in mind, this project is titled:

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“Provide FAA Support to Relocate FAA Contract Tower ATCT at Opa-Locka Executive Airport (OPF), Opa-Locka, Florida”

- B. This agreement provides funds to furnish only equipment, materials, and services required to relocate existing FAA equipment to a new Sponsor built ATCT. A separate Other Transactional Agreement (OTA) has been established to cover all other costs.
- C. The FAA will perform the following tasks:
1. Furnish equipment and materials to relocate the following equipment to the new ATCT: Automated Surface Observing System Acquisition Control Unit (ASOS ACU) and Operator Interface Device (OID), Computer Based Instruction (CBI) System, Flight Data Input/Output (FDIO), NAVAIDS Remote Control Equipment and the Standard Terminal Automation Replacement System (STARS).
 2. Contract for establishment of telephone circuits for FAA equipment and services.
 3. Furnish materials and services required for the removal of all FAA equipment from the existing ATCT that will not be relocated.
 4. Perform demolition of the temporary ATCT and site restoration of the property.
- D. The Project Sponsor will perform the following tasks:
1. Provide a designated representative who will be readily available to the FAA during the equipment installation phase. This representative will be responsible for addressing FAA concerns to the Sponsor’s contractor.

ARTICLE 4. Points of Contact

A. FAA Points of Contact:

1. The FAA Eastern Service Area will provide the technical administration of this Agreement.
 - o Relocation of the STARS, FDIO and CBI will be handled by the Terminal Engineering Center. Mr. Larry Adornato is the Manager and can be reached at (404) 389-8721.
 - o Relocation of the NAVAIDS equipment will be handled by the NAVAIDS Engineering Center. Mr. Anthony Sims is the Manager and can be reached at (404) 389-8531.
 - o Relocation of the ASOS equipment will be handled by the Surveillance and Weather Engineering Center. Mr. Steve Braddy is the point of contact and can be reached at (404) 389-8691.



The Engineering Centers are not authorized to make any commitment, or otherwise obligate the FAA, or authorize any changes which affect the estimated cost, period of performance, or other terms and conditions of this Agreement.

2. FAA Contracting Officer: The execution, modification, and administration of this Agreement must be authorized and accomplished by the Contracting Officer, Ms. Bertha Russell who can be reached at (404) 305-5724.

B. Sponsor Point(s) of Contact

Miami-Dade Aviation Department
Attn: Mr. Jose Ramos
P.O. Box 025504
Miami, Florida 33102
(305) 876-7090

ARTICLE 5. Non-Interference with Operations

The Sponsor understands and hereby agrees that any relocation, replacement, or modification of any existing or future FAA facility, system, and/or equipment covered by this Agreement during its term or any renewal thereof made necessary by Sponsor improvements, changes, or other actions which in the FAA's opinion interfere with the technical and/or operations characteristics of an FAA facility, system, and/or piece of equipment will be at the expense of the Sponsor, except when such improvements or changes are made at the written request of the FAA. In the event such relocations, replacements, or modifications are necessitated due to causes not attributable to either the Sponsor or the FAA, the FAA parties will determine funding responsibility.

ARTICLE 6. Transfer Agreement

Not Used

ARTICLE 7. Estimated Costs

The estimated FAA costs associated with this project are as follows:

Description of Reimbursable Item	Estimated Cost
Relocate STARS – WB4060	\$100,000.00
Relocate FDIO – WB4060	\$35,000.00
Relocate ASOS control Equipment – WB4060	\$10,000.00
Relocate NAVAIDS Monitoring & Control Equipment – WB4060	\$10,000.00
Relocate Telecommunications – WB4080	\$100,000.00
Dismantle/Removal of Temporary ATCT –WB6050	\$75,000.00
Contingency – 10%	\$33,000.00

Subtotal	\$363,000.00
Overhead (26.5 %)	\$96,195.00
Total Estimated Cost	\$459,195.00

ARTICLE 8. Period of Agreement and Effective Date

This Agreement supersedes and nullifies any previous agreements between the parties on the subject matter. The effective date of this Agreement is the date of the last signature. This Agreement is considered complete when the final invoice is provided to the Sponsor and a refund is sent or payment is received as provided for in Article 9, Section A of this Agreement. Under no circumstances will this Agreement extend five years beyond its effective date.

ARTICLE 9. Reimbursement and Accounting Arrangements

- A. The Sponsor agrees to prepay the entire estimated cost of the Agreement. The Sponsor will send a copy of the executed Agreement and full advance payment in the amount stated in Article 7 to the Accounting Division listed in Section C of this Article. The advance payment will be held as a non-interest bearing deposit. Such advance payment by the Sponsor must be received before the FAA incurs any obligation to implement this Agreement. In addition, in the event that a contractor performing work pursuant to the scope of this Agreement brings a claim against the FAA and the FAA incurs additional costs as a result of the claim, the sponsor agrees to reimburse the FAA for the additional costs incurred whether or not a final bill or a refund has been sent.
- B. The Sponsor certifies that arrangements for sufficient funding have been made to cover the estimated costs of the Agreement.
- C. The Accounting Division is identified by the FAA as the billing office for this Agreement. The Sponsor will send a copy of the executed Agreement and the full advance payment to the Accounting Division shown below. All payments must include the Agreement number, Agreement name, Sponsor name, and project location.

The mailing address is:

FAA – Mike Monroney Aeronautical Center
ATTN: AMZ-330, Reimbursable Project Team
P.O. Box 25082
Oklahoma City OK 73125
Telephone (405) 954-9429

The overnight mailing address is:

DOT/FAA/Mike Monrone Aeronautical Center
AMZ-330 Reimbursable Project Team
6500 S. MacArthur Blvd.
Oklahoma City OK 73169

The Sponsor hereby identifies the office to which the FAA will render bills for the project costs incurred as:

Miami-Dade Aviation Department
Attn: Mr. Jose Ramos
P.O. Box 025504
Miami, Florida 33102
(305) 876-7090

- D. The FAA will provide updates at least quarterly of costs incurred against the advance payment. A Reimbursable Bill Support List (a summary of cost by object class) will accompany all updates.
- E. The cost estimates contained in Article 7 are expected to be the maximum costs associated with this Agreement, but may be modified to recover the FAA's actual costs. If during the course of this Agreement actual costs are expected to exceed the estimated costs, the FAA will notify the Sponsor immediately. The FAA will also provide the Sponsor a modification to the Agreement which includes the FAA's additional costs. The Sponsor agrees to prepay the entire estimated cost of the modification. The Sponsor will send a copy of the executed amendment to the Agreement to the FAA-Mike Monrone Aeronautical Center with the additional advance payment. Work identified in the amendment cannot start until receipt of the additional advance payment. In addition, the FAA reserves the right to request additional funding in the event that a contractor brings a claim against the FAA resulting in additional costs. More so, the sponsor agrees to reimburse the FAA for the additional costs incurred whether or not a final bill or a refund has been sent.

ARTICLE 10. Changes and Modifications

Changes and/or modifications to this Agreement will be formalized by an appropriate written amendment that will outline in detail the exact nature of the change. Any amendment to this Agreement will be executed in writing and signed by the authorized representative of each party. The parties signing this Agreement and any subsequent amendment(s) represent that each has the authority to execute the same on behalf of their respective organizations. No oral statement by any person will be interpreted as amending or otherwise affecting the terms of the Agreement. Any party to this Agreement may request that it be amended, whereupon the parties will consult to consider such amendments.

ARTICLE 11. Termination

In addition to any other termination rights provided by this Agreement, either party may terminate this Agreement at any time prior to its expiration date, with or without cause, and without incurring any liability or obligation to the terminated party other than payment of amounts due and owing and performance of obligations accrued, in each case on or prior to the termination date, by giving the other party at least thirty (30) days prior written notice of termination. Payment of amounts due and owing may include all costs reimbursable under this Agreement, not previously paid, for the performance of this Agreement before the effective date of the termination; the total cost of terminating and settling contracts entered into by the FAA for the purpose of this Agreement; and any other costs necessary to terminate this Agreement. Upon receipt of a notice of termination, the receiving party will take immediate steps to stop the accrual of any additional obligations which might require payment. All funds due after termination will be netted against the advance payment and, as appropriate, a refund or bill will be issued.

ARTICLE 12. Order of Precedence

Not Used

ARTICLE 13. Legal Authority

This Agreement is entered into under the authority of 49 U.S.C. 106(l)(6), which authorizes the Administrator of the FAA to enter into and perform such contracts, leases, cooperative agreements and other transactions as may be necessary to carry out the functions of the Administrator and the Administration on such terms and conditions as the Administrator may consider appropriate. Nothing in this Agreement will be construed as incorporating by reference or implication any provision of Federal acquisition law or regulation.

ARTICLE 14. Disputes

Where possible, disputes will be resolved by informal discussion between the parties. In the event the parties are unable to resolve any dispute through good faith negotiations, the dispute will be resolved by alternative dispute resolution using a method to be agreed upon by the parties. The outcome of the alternative dispute resolution will be final unless it is timely appealed to the Administrator, whose decision is not subject to further administrative review and, to the extent permitted by law, is final and binding (see 49 USC 46110).

ARTICLE 15. Warranties

The FAA makes no express or implied warranties as to any matter arising under this Agreement, or as to the ownership, merchantability, or fitness for a particular purpose of any property, including any equipment, device, or software that may be provided under this Agreement.

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ARTICLE 16. Insurance

The Sponsor will arrange by insurance or otherwise for the full protection of itself from and against all liability to third parties arising out of, or related to, its performance of this Agreement. The FAA assumes no liability under this Agreement for any losses arising out of any action or inaction by the Sponsor, its employees, or contractors, or any third party acting on its behalf.

ARTICLE 17. Limitation of Liability

To the extent permitted by law, the Sponsor agrees to indemnify and hold harmless the FAA, its officers, agents and employees from all causes of action, suits or claims arising out of the work performed under this Agreement. However, to the extent that such claim is determined to have arisen from the act or omission by an employee of the FAA acting within the scope of his or her employment, this hold harmless obligation will not apply and the provisions of the Federal Tort Claims Act, 28 USC, Section 2671, et seq., will control. The FAA assumes no liability for any losses arising out of any action or inaction by the Sponsor, its employees, or contractors, or any third party acting on its behalf. In no event will the FAA be liable for claims for consequential, punitive, special and incidental damages, claims for lost profits, or other indirect damages.

ARTICLE 18. Civil Rights Act

The Sponsor will comply with Title VI of the Civil Rights Act of 1964 relating to nondiscrimination in federally assisted programs.

ARTICLE 19. Protection of Information

The parties agree that they will take appropriate measures to identify and protect proprietary, privileged, or otherwise confidential information that may come into their possession as a result of this Agreement.

ARTICLE 20. Security

In the event that the security office determines that the security requirements under FAA Order 1600.72A applies to work under this Agreement, the FAA is responsible for ensuring that security requirements, including compliance with AMS clause 3.14-2, Contractor Personnel Suitability Requirements (January 2009) are met.

ARTICLE 21. Entire Agreement

This document is the entire Agreement of the parties, who accept the terms of this Agreement as shown by their signatures below. In the event the parties duly execute any amendment to this Agreement, the terms of such amendment will supersede the terms of this Agreement to the extent of any inconsistency. Each party acknowledges participation in the negotiations and drafting of this Agreement and any amendments

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thereto, and that, accordingly this Agreement will not be construed more stringently against one party than against the other. If this Agreement is not executed by the Sponsor within 100 calendar days after the FAA transmits it to the Sponsor, the terms contained and set forth in this Agreement shall be null and void.

AGREED:

**FEDERAL AVIATION
ADMINISTRATION**



SIGNATURE _____
NAME _____
TITLE Contracting Officer
DATE _____

**MIAMI-DADE AVIATION
DEPARTMENT**

SIGNATURE  _____
NAME Jose Abreu
TITLE Director
DATE 9/14/10

**Approved as to form
and legal sufficiency**


Assistant County Attorney



Deputy Clerk