Memorandum

MIAMI-DADE COUNTY

Date: July 9, 2012

RTC
Agenda Item No. 6B

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

From: Carlos A. Gimenez
County Mayor

Subject: Quarterly Report: Opa-locka Executive Airport Audit Update

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In accordance with Resolution No. R-228-12, attached is the quarterly update on the status of development activities at Opa-locka Executive Airport (Opa-locka). All the issues raised by Audit and Management Services (AMS) in the Opa-locka Executive Airport audit have been resolved with the exception of collectable revenues. The Miami-Dade Aviation Department (MDAD) has contacted Linebarger Goggan Blair & Sampson LLP to pursue collection from the tenants.

Attempts to collect past due rent from Opa-locka Flightline were suspended pending the outcome of its litigation filed against MDAD seeking $15 million in damages. After the case was dismissed, on the advice of legal counsel, MDAD did not litigate past due rent of $357,000, as the cost would most likely have exceeded any recovery. Instead, following mandated County procedures, on April 25, 2012, the account was transferred for collection to County Finance. To date no amounts have been recovered.

The tenants listed below were transferred to AA Acquisitions in 2007 under its development lease agreement. Under the lease, amounts due after the transfer are the responsibility of AA Acquisitions. Prior to the transfer, the tenants collectively owed MDAD $122,048. MDAD followed its standard in-house delinquency and collection procedures, but the following balances remain outstanding:

Advance Aircraft Engines, Inc.	$ 9,403	(May 15, 2009)
Aviation Center of Miami, Inc.	$ 14,974	(May 15, 2009)
Clero Aviation Corp.	$ 17,703	(December 8, 2011)
National Aviation Service	$ 79,968	(May 15, 2009)

Dates of transfer to County Finance for collection enforcement are shown in parentheses. There have been no recoveries as of the date of this report.

Jack Osterholt, Deputy Mayor

Miami-Dade Aviation Department
Opa-Locka Executive Airport Follow-Up Audit
Status of Findings as of May 29, 2012

AMS Finding	Department's Response
<u>AA Tenant Accounts</u> Our review indicates that collection on AA's tenant account continues to lag. As of March 31, 2011, amounts owed increased to $1.2 million, before application of unapplied payments and credits of $657,783. Of the $1.2 million owed, $1.1 million was outstanding more than 90 days. Most of the unapplied credits have been outstanding since 2008, and the Department has done little to resolve this long standing issue. Also, not all payments recorded in PeopleSoft were successfully transferred to AA's account in PROPworks due to a programming deficiency.	*<u>Status as of May 29, 2012</u>* *Since April 2012, rental charges have been adjusted to reflect areas occupied by AA Acquisitions (AA). The balance outstanding as of June 8, 2012 totals $59,644, after subtracting uncollectible inherited tenant balances. AA advised MDAD that it made systematic collection efforts from these tenants when leaseholds were occupied, but ceased when leaseholds were vacated upon the advice of the Company's attorney due to active or contemplated litigation.* *- National Aviation Service _ There is a money judgment with AA.* *- ALCA Avionics, Inc. - A settlement was reached with AA.* *- BMI Salvage Corporation - A settlement was reached with AA.* *- Airkraft Services - A settlement was reached with AA.* *- Suncoast - A settlement was reached with AA.* *- Air Cargo Management - Open* *- Ciero Aviation Corp.- Open* *- Opa-Locka Flightline, Inc.- Open* *- Air Repair- Open* *- Advance Aircraft - Open* *MDAD is attempting to clarify the legal issues regarding its right to pursue collection of the balances assigned to AA. The Department's future course of action is dependent upon the resolution of these issues.*

2

Miami-Dade Aviation Department
Opa-Locka Executive Airport Follow-Up Audit
Status of Findings as of May 29, 2012

AMS Finding	Department's Response
<u>Outstanding Balances</u> As of March 31, 2011, a few tenants previously reported as delinquent have since reduced their balances. However, Opa-Locka Flightline accumulated $357,751 in unpaid rents and penalty charges before they were evicted in August 2010.	*<u>Status as of May 29, 2012</u>* *Opa-Locka Flightline sued the Department seeking $15 million in damages. Attempts to collect past due rent were suspended pending the outcome of the litigation. After the case was dismissed, on the advice of legal counsel, MDAD did not litigate past due rent of $357,000, as the cost would most likely have exceeded any recovery. Instead, following mandated County procedures (see attached), the account was transferred for collection enforcement to County Finance on April 25, 2012. To date no amounts have been recovered.* *The tenants listed below were transferred to AA Acquisitions in 2007. Prior to the transfer, the tenants collectively owed MDAD $122,048, which is detailed below. MDAD followed its standard in-house delinquency and collection procedures, but the following balances remained outstanding and were transferred to the County Finance Department for collection, according to mandated County procedures:* *National Aviation Service: $ 79,968 (May 15, 2009)* *Clero Aviation Corp.:$ 17,703 (December 8, 2011)* *Aviation Center of Miami, Inc.: $ 14,974 (May 15, 2009)* *Advance Aircraft Engines, Inc.: $9,403 (May 15, 2009)* *Dates of transfer to County Finance for collection enforcement are shown in parentheses. There have been no recoveries as of the date of this report.*

3

Miami-Dade Aviation Department
Opa-Locka Executive Airport Follow-Up Audit
Status of Findings as of May 29, 2012

AMS Finding	Department's Response
<u>Security Deposit Deficiencies</u> Most deficiencies cited in the prior audit were resolved. Other deficiencies noted as of March 31, 2011 are presented.	*<u>Status as of May 29, 2012</u>* *AA increased its security deposit by $76,218 on September 30, 2011, bringing its total deposit to $102,518. In accordance with the Agreement, the security deposit was recalculated effective April 1, 2012, yielding a deficiency of $40,060. AA paid the security deposit deficiency on April 30, 2012.* *The security deposit deficiencies for AVE, LLC and Biscayne Capitol, LLC were paid on October 4, 2011 and December 20, 2011, respectively.* *The area occupied by Fightertown Inc./FS Aviation, LLC was transferred to AA and therefore included in AA's deposit requirement above, which was paid on April 30, 2012.*
<u>Expired Leases</u> Corporate Courts at Miami Lakes, Inc. and David N. and Marvis Schaecter	*<u>Status as of May 29, 2012</u>* *Corporate Courts at Miami Lakes, Inc. rejected the lease proposed by MDAD; MDAD sent a termination letter on May 9, 2012 with a termination date effective as of May 31, 2012.* *David N. Schaecter's Lease Agreement was renewed, and the new expiration date is February 28, 2015.*

Miami-Dade Aviation Department
Opa-Locka Executive Airport Follow-Up Audit
Status of Findings as of May 29, 2012

AMS Finding	Department's Response
Hangar and Land Use Violations **I.P. Aviation Investments, Inc.:** Although items cited in the prior audit were removed, a non-flyable aircraft was parked on the ramp and other aviation debris was observed on premises. **Air Cargo Management, Inc.:** Non-flyable aircraft and equipment remained on the ramp, although the tenant has vacated the premises.	*Status as of May 29, 2012* *In March 2011, MDAD identified thirty-five (35) derelict aircraft at OPF, plus four condemned office trailers, one box truck and three cargo shipping containers. As of May 1, 2012, the office trailers and box truck were removed along with nineteen (19) of the derelict aircraft. The three shipping containers remain, but have been placed into a fenced in compound presently being used as the aircraft demolition area (chop block). Of the thirty-five (35) derelict aircraft: nineteen (19) were removed from the premises; nine (9) will be demolished by June 15, 2012; three (3) are being actively repaired by the owners, with ongoing oversight by Airside and four are in dispute with liens filed or the owners refuting whether the aircraft can be restored to a flyable condition. Resolution of these four (4) is anticipated by end of June 2012.* *To ensure that derelict aircraft do not become an issue at OPF in the future, MDAD Management will enforce OD #04-03 that requires that the aircraft owners request approval from the airport management at least a forty-five (45) days in advance of the arriving aircraft and provide credentials, insurance and an activity plan. Aircraft that plan to stay at the airport for more than sixty (60) days are required to have written approval from the airport manager. In addition, MDAD will perform daily field and ramp inspections to locate potential derelict aircraft and take appropriate action. MDAD has taken over control of Taxiway "A", an area where the majority of derelict aircraft have come to rest in the past, and will allow no additional aircraft to park in this area as of April 30, 2012. Field checks of Taxiway "A" are done a minimum of once per eight (8) hour shift.*
Sun Flying, Inc.: Tenant continues to occupy the unauthorized building.	*This building appears to have been on the field since 1977. Sun Flying, Inc. was turned over to the Miami-Dade Department of Regulatory and Economic Resources (R&ER) (formerly Building and Zoning) for investigation.* *An R&ER inspector visited the site on May 24, 2012, after the inspection R&ER launched a search to confirm whether or not any authorization was provided over the past 30 years. That search continues as of today.*

Miami-Dade Aviation Department
Opa-Locka Executive Airport Follow-Up Audit
Status of Findings as of May 29, 2012

AMS Finding	Department's Response
Unauthorized Services Of 20 unauthorized tenants cited in the prior report, six were incorrectly classified as subleases, one was approved, and seven vacated the premises. In addition, another two had not been formally authorized by the Department as of January 2011. Further, the Department has done little to ensure services provided to tenants and subtenants are properly permitted.	***Status as of May 29, 2012*** *All Subtenants are now duly authorized at Miami Executive Aviation, Inc. and J.P. Aviation Investments, Inc.* *AA terminated janitorial services with the unpermitted provider, AETNA Maintenance, effective March 15, 2012.* *J.P. Aviation Investments, Inc. was fined $519 and the fine was paid on March 30, 2012.* *MDAD, confirmed that AVE, LLC and its subtenants KCI and Top Cargo, are not receiving janitorial services from the unpermitted companies reported.*
Other Billing Errors and Omissions Five tenant errors previously cited have not been corrected by the Department.	***Status as of May 29, 2012*** *Effective January 2009 the rental rates for David Schaecter and Corporate Courts at Miami Lakes, Inc. were adjusted to correct the error in the rental rate. The Corporate Courts at Miami Lakes, Inc. proposed lease was terminated effective as of May 31, 2012.* *MDAD made the billing adjustments on May 1, 2012 for Miami Executive Aviation.* *The billable rate for The Carrie Meek Foundation, Inc. was corrected on December 9, 2011 to reflect increases in the Consumer Price Index.* *MDAD made the billing adjustments for AVE, LLC. and now invoices are correct.*

Miami-Dade Aviation Department
Opa-Locka Executive Airport Follow-Up Audit
Status of Findings as of May 29, 2012

AMS Finding	Department's Response
Utilities Billings All findings noted in the prior audit were resolved. We also noted that FPL is erroneously invoicing the Department for other tenants' consumption that is not being recovered.	***Status as of May 29, 2012*** *All accounts erroneously billed to MDAD were closed on March 29, 2011 and May 6, 2011 and FPL is now direct billing AA and J.P. Aviation Investments, Inc..*
Other Deficiencies All insurance deficiencies cited were corrected or tenants vacated the premises. However, several tenants and subtenant could not substantiate payment of the required Local Business Tax or furnish evidence that requisite permits had been obtained.	***Status as of May 29, 2012*** *MDAD revised the inspection check list to forward all deficiencies relating to requisite permits and licenses to the applicable County department for enforcement.*
Permits and Licenses Exceptions AMATS (Bldg. 41 Bay 3) and Cartagena Painting (Bldg. 35) Subtenants of AA Acqusistions, LLC are missing Fire Permit, IW-5 Permit and Certification of Use.	***Status as of May 29, 2012*** *The Miami Dade Fire Technicians have advised that the drawings for Bldg. 41 Bay 3 are being finalized, and upon completion they will apply for a permit. All other repairs were completed as of May 29, 2012.* *Environmental Resources Management (formerly DERM) issued a notice to obtain an industrial waste permit for maintenance to AMATS and Cartagena was issued a field notice to renew their IW-5.* *Airport tenants must occupy facilities consistent with federal statutory and regulatory requirements. A tenant that is acceptable to the FAA must be allowed to occupy Airport facilities. Consistent with the agreement reached in the past between the Aviation Department and the then Planning and Zoning Department, that Department recognized that Certificate of Use were not appropriate for Airport tenants.*