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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: November 6, 2007

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

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

From: George M. Burgess
County Manager

Subject: Supplemental Agreement No. 1 to "Other Transaction Agreement" between the Federal Aviation Administration and the Miami-Dade County for the transfer of additional funds for the construction and equipping of a new Airport Traffic Control Tower for Opa-locka Executive Airport. **R-1205-07**

Recommendation

It is recommended that the Board approve the attached resolution authorizing the Mayor or designee to execute the Supplemental Agreement No. 1 to the Other Transaction Agreement (OTA) between Miami-Dade County and the Federal Aviation Administration (FAA), for the construction and equipping of a new Airport Traffic Control Tower (ATCT) facility that will be owned and operated by the County for the Opa-locka Executive Airport.

Scope

The Opa-locka Executive Airport (OPF) is located primarily within Commission District One. However, the impact of this agenda item is countywide in nature as Opa-locka Executive Airport is a regional asset.

Fiscal Impact/Funding Source

The estimated cost of the new ATCT is $10,925,000. This Supplemental Agreement No. 1 will add additional congressionally designated funding in the amount of $4,200,000 towards the construction and equipping of the tower which brings the total federal funding for the project to $6.7 million.

In addition, funding from the Florida Department of Transportation is anticipated at the maximum level of $3,871,000. The remaining funding of approximately $354,000 will be provided by the County through the Aviation Department's Improvement Fund, unless additional federal funding is secured.

Contract/Project Monitor

José A. Ramos, MDAD Chief of Aviation Planning

Background

OPF is a general aviation airport and serves as a reliever airport for Miami International Airport. 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 based on the number and type of operations, intermix of aircraft traffic, and U.S. Coast Guard operations, the ATCT is an essential facility.

On November 17, 2006, pursuant to Resolution No. R-496-06, the Board of County Commissioners entered into an OTA with the FAA for the construction and equipping of a new ATCT at OPF to replace its outdated and unsafe ATCT. The new ATCT will be owned and operated by the County through the Miami-Dade Aviation Department (MDAD).

Under the original OTA, the FAA transferred $2.35 million as its total share of the $2.5 million appropriated for this ATCT project ($1.0 million of which was congressionally designated), for MDAD's use for construction costs under the Agreement. The FAA reserved the $150,000 balance of the $2.5 million appropriation for its anticipated costs associated with the purchase and installation of telecommunications circuits, lines and equipment and related work, and for other FAA-provided equipment, as required.

The FAA has now approached MDAD with the intent of amending the OTA to reflect an increase to the previously designated congressionally designated funding for the ATCT project. The attached Amendment No. 1 to the OTA will contribute an additional $4.2 million for the construction, and equipping of the new ATCT facility, currently under design.

The additional $4.2 million when added to the prior $1.0 million in congressionally-designated funds brings the total to $5.2 million in congressionally-designated funds. The $5.2 million, when added to the non-congressionally designated funds of $1.5 million from the FAA, brings the total federal funding for the ATCT project to $6.7 million.

The new ATCT is currently in the design phase. Construction completion and occupancy is scheduled in 2009. It is therefore recommended that the Board adopt the attached Resolution approving the Supplemental Agreement No. 1 to the OTA that will provide such additional funding for the OPF ATCT project.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: November 6, 2007

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

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

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)(C)

11-06-07

RESOLUTION NO. **R-1205-07**

RESOLUTION RELATING TO OPA-LOCKA EXECUTIVE AIRPORT; APPROVING SUPPLEMENTAL AGREEMENT NO. 1 TO THE "OTHER TRANSACTION AGREEMENT" BETWEEN MIAMI-DADE COUNTY AND THE FEDERAL AVIATION ADMINISTRATION FOR ADDITIONAL FEDERAL FUNDING IN THE SUM OF $4.2 MILLION FOR CONSTRUCTION OF THE AIR TRAFFIC CONTROL TOWER AT THE AIRPORT; AUTHORIZING MAYOR OR DESIGNEE TO EXECUTE SUPPLEMENTAL AGREEMENT NO. 1 AND TO TAKE ALL STEPS REQUIRED TO OBTAIN SUCH ADDITIONAL FUNDING

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 hereby approves Supplemental Agreement No. 1 to the prior "Other Transaction Agreement" between the County and the Federal Aviation Administration ("FAA") under which the County will receive additional funding from the FAA in the sum of $4.2 million for the construction of the new air traffic control tower at Opa-locka Executive Airport; authorizes the Mayor or designee to execute Supplemental Agreement No. 1 and to take all steps necessary in order for the County to receive such additional federal funding, upon review by the County Attorney.

The foregoing resolution was offered by Commissioner **Jose "Pepe" Diaz** , who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

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

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

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of November, 2007. 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: KAY SULLIVAN
Deputy Clerk

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

Thomas P. Abbott

SUPPLEMENTAL AGREEMENT NO. 1 TO THE OTHER TRANSACTION AGREEMENT (OTA) BETWEEN THE FEDERAL AVIATION ADMINISTRATION AND MIAMI-DADE COUNTY ('MDC," OR "SPONSOR"), BY AND THROUGH ITS AVIATION DEPARTMENT ('MDAD")

WHEREAS, effective as of November 17, 2006, and pursuant to the approval of the Board of County Commissioners of Miami-Dade County in its Resolution No. R-496-06, the parties entered into an "Other Transaction Agreement" (the "OTA") regarding the construction and equipping of a new Airport Traffic Control Tower (ATCT) at the Sponsor's Opa-Locka Executive Airport (the "Airport" or "OPF"); and

WHEREAS, the parties desire in this Supplemental Agreement No. 1 to amend the OTA to reflect additional congressionally designated funding for such ATCT project, as such amendment is permitted by Paragraph 13 of the OTA;

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the parties agree to the following amendments to the OTA:

1. ARTICLE 2. SCOPE, is hereby amended by adding the following thereto:

a. The purpose of this Supplemental Agreement is to add additional congressionally designated funding in the amount of $4,200,000.00 (refer to Article 8 below).

b. The purpose of this Supplemental Agreement is to provide congressionally designated and appropriated funds through the FAA, in the amount set forth in this Agreement, to Miami - Dade County's Aviation Department, for the design, construction, and equipping of an ATCT at the Airport.

c. The OTA and this Supplemental Agreement thereto shall be separate and distinct from any other associated agreements entered into between MDAD and the FAA for the construction of the ATCT facility. Other types of associated agreements may include reimbursable agreements between MDAD and the FAA for the review of the Airport Sponsor-provided ATCT construction plans and specifications by FAA.

d. In the event that any attachments to this Supplemental Agreement conflict with the terms of the OTA as amended by this Supplemental Agreement, the OTA as so amended shall supersede any such conflicting terms of an attachment.

2. ARTICLE 4. SCHEDULE, is hereby replaced in its entirety with the following:

   a. FAA and MDAD recognize that prior to design and construction of the ATCT certain Federal and State approvals and permits are necessary. FAA and MDAD recognize that MDAD must utilize all applicable procurement law for its contracts.

   b. The MDAD and Sponsor agree to have the ATCT ready for operations within three (3) years after the effective date of this Amendment subject to obtaining timely approval by the FAA of (a) MDAD's Airport Layout Plan (if a new one or revised one is required), (b) air space determination, and (c) environmental documents and public participation and hearing process under the National Environmental Protection Act (NEPA) to the extent applicable, as well as approval by other federal and state agencies of permits and plans required for construction.

   c. The MDAD and Sponsor agree to use their best efforts to timely obtain FAA and other federal approvals and to perform coordination with all entities having an interest herein as required. However, failure or delay by the FAA or other federal agencies to issue approvals or permits shall be considered an excusable delay. Further, delays caused by litigation or bid protests or other circumstances beyond the control of the MDAD also shall be considered an excusable delay. Such an excusable delay shall entitle the MDAD to an extension of the 3-year completion schedule and shall not be considered a breach of this Agreement.

3. ARTICLE 7. POINTS OF CONTACT, is hereby amended as follows:

The progress report shall be sent to the FAA Contracting Officer and other key individuals regarding this Agreement as listed below:

For the Airport Sponsor:

Name: Mr. Jose Abreu, P.E.
Aviation Director

Address: Miami-Dade Aviation Department
PO Box 025504
4200 NW 36th Street, Building 5A, Suite 400
Miami, Florida 33102-5504
Phone: 305-876-7090
Fax: 305-876-7630

For the Federal Aviation Administration (*regarding this Agreement*):

Name:	Mr. Robert Valdes	Ms. Katherine Petito-Peverall
	Contracting Officer	Contract Specialist

Address: Federal Aviation Administration
ATO-A, 4th Floor
600 Independence Avenue, S.W.
Washington, DC 20591
Phone: 202-385-6157 (Mr. Valdes)
202-385-8591 (Ms. Petito-Peverall)
Fax: 202-493-4717

For the Federal Aviation Administration (*regarding Washington HQ project lead*):
Name: Mr. Charley Smith
Terminal Planning Lead, Eastern Service Area

Address: Federal Aviation Administration
ATO-T Planning, 5th Floor
600 Independence Avenue, S.W.
Washington, DC 20591

Phone: 202-385-8527
Fax: 202-493-4653

For the Federal Aviation Administration (*regarding overall technical and project implementation*):
Name: Mr. W. Chuck Murphy
Manager, Program Integration Management

Address: Federal Aviation Administration
ATO- Eastern Service Center
1701 Columbia Avenue
College Park, GA 30337
Phone: 404-305-6413
Fax: 404-305-6413

For the Federal Aviation Administration (*regarding air traffic requirements*):
Name: Mrs. Rhonda Phillips
FCT Coordinator
ATO Planning & Requirements Team

Address: Federal Aviation Administration
FCT Coordinator, ASO-510
1701 Columbia Avenue
College Park, GA 30337

4. ARTICLE 8. FUNDING AND PAYMENT, is hereby replaced in its entirety with the following:

a. The obligating documents used to fund the design and construction of the ATCT via this Agreement are as follows:
   Purchase Order (PO) DTFANM-06-A-00007 in the amount of $842,000 dated 8/11/2006,
   Purchase Order (PO) DTFANM-06-A-00008 in the amount of $508,000 dated 8/11/2006,
   Modification 0001 to DTFANM-06-00008 in the amount of $500,000 dated 9/8/2006,
   Modification 0002 to DTFANM-06-A-00008 in the amount of $500,000 dated 9/22/2006,
   Modification 0003 to DTFANM-06-A-00008 in the amount of $4,200,000 dated 9/10/2007.

   TOTAL OBLIGATED AMOUNT IS $6,550,000.

b. The total legislative earmark for this OTA has increased by $4,200,000 from $2,500,000 to $6,700,000. The FAA has obligated $6,550,000 as its total share of the $6,700,000 appropriated for this ATCT replacement project ($5,200,000 of which is congressionally designated), with the FAA reserving $150,000 for its costs associated with the purchase and installation of telecommunications circuits, lines and equipment and related work, and for other FAA-provided equipment, as required.

c. $500,000 has been disbursed to the MDAD for design costs in accordance with the initial OTA dated November 17, 2006.

d. Funds in an amount to be jointly agreed to by the FAA and the MDAD, under this Agreement, will be disbursed to the County for construction costs within 45 days after the MDAD has received and accepted a bid/offer for the construction of the ATCT, associated structures and related facilities, and the FAA has received written notice of the same. A supplemental agreement to this Agreement will be executed to effect the payment of funds to the MDAD.

e. If determined to be appropriate by the FAA and the MDAD , a final payment in an amount to be agreed to by the FAA and the MDAD, under this Agreement, will be made to the MDAD to cover construction cost shortfalls or for closing out contract actions. A supplemental agreement to this OTA will be executed to effect the payment of funds to the MDAD. The FAA's total contribution to this project may not exceed $6,550,000 unless the FAA identifies additional funds and a supplemental agreement to this Agreement is executed.

f. Any portion of the appropriated $6,700,000 not required for this project, may be reprogrammed by the FAA to other projects at MIA at the discretion of the FAA.

g. The FAA will not be responsible for any costs of any kind whatsoever, including, but not limited to, cost overruns, for the design and construction of the aforementioned ATCT and related facilities, equipment purchases and installation over and above the transferred funds as specified herein.

h. With the funds provided under this Agreement, the MDAD shall design, construct, and equip the ATCT at the Airport and the MDAD shall use all funds provided by the FAA under this Agreement only for the aforementioned purpose.

i. Unless this Agreement has been modified in accordance with e. above, the MDAD shall be solely responsible for obtaining any additional funds for completion of the ATCT over and above those provided by the FAA under this Agreement.

j. Nothing contained herein shall prevent this Agreement from being amended or modified. Such amendments and/or modifications must be in writing and signed by the Parties.

k. The FAA may terminate this Agreement upon thirty (30) days notice in writing if the MDAD does not comply with the terms and conditions contained herein as determined by the FAA.

5. ARTICLE 9 LIMITATION OF FUNDS

The liability of the FAA and the Federal Government's liability to the MDAD is limited to $6,550,000 as set forth in Article 8.

6. ARTICLE 10. OTHER TERMS AND CONDITIONS

All other terms and conditions of the OTA remain unchanged and in full force and effect.

AGREED TO BY:

Attest:

Miami-Dade County, Florida

By: _____
County Manager

Harvey Ruvin, Clerk

Date: _____

By:_____
Deputy Clerk

Miami-Dade Aviation Department (MDAD)

By _____
name
title ASS'T COUNTY ATTORNEY

Date 9/24/07

Federal Aviation Administration (FAA)

By: _____
Robert Valdes
Contracting Officer

Date: _____