OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: December 16, 2008

Agenda Item No. 14(A)(10)

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

From: George M. Burgess
County Manager

Resolution No. R-1445-08

Subject: Resolution Awarding Service Agreement to ACS Transport Solutions, Inc., for servers and software upgrades required for SunPass® and other revenue-collection equipment related to MIA's Public Parking Facilities in the amount of $1,323,438

RECOMMENDATION

It is recommended that the Board approve the attached Service Agreement with ACS Transport Solutions, Inc. (ACS), for the purchase and installation of servers, software upgrades, and other revenue-collection equipment due in part to the requirements for SunPass use at Miami International Airport (MIA) public parking facilities. It is further recommended that the Board authorize the Mayor or the Mayor's designee to execute said agreements, and approve a waiver of competitive bid procedures in accordance with Section 5.03(D) of the Home Rule Charter and Section 2-8.1 of the Code of Miami-Dade County, as being in the best interest of the County.

SCOPE

Miami International Airport is located primarily within Commission District Six.

FISCAL IMPACT/FUNDING SOURCE

The source of funding for this Agreement is Miami-Dade Aviation Department (MDAD) Revenue Funds. The total contract amount is $1,323,438, which includes a ten percent (10%) contingency fee and Inspector General Audit Account.

TRACK RECORD/MONITOR

ACS is a current vendor with Airport Parking Associates (APA), the management company responsible for overseeing the parking facilities, and is in good standing according to Commercial Operations Division Project Manager Ray Diaz, who will monitor the contract.

COMPLIANCE DATA

There is no history of violations for this firm in the Small Business Development Department's database.

DELEGATED AUTHORITY

The authority of the Mayor/County Manager to execute and implement this contract is consistent with those authorities granted under the Code of Miami-Dade County. Additional delegation of authority requested for this contract includes exercising any termination provisions therein.

BACKGROUND

The Board adopted Resolution No. R-210-08, approving MDAD to enter into an agreement with the Florida Turnpike Enterprise of the Florida Department of Transportation (FDOT) for incorporation of SunPass® technology into MIA's public parking facilities. The agreement calls for the County to purchase servers, software upgrades and equipment for the Parking Revenue Control System (PRCS), which is a fully integrated, networked and centralized vehicle parking and traffic management system at

the public parking facilities at MIA. A critical software upgrade provides for PRCS to comply with the Payment Card Industry Data Security Standards required for SunPass®.

ACS is the existing revenue-collection system used at MIA's public parking facilities. The revenue collection equipment and software code are proprietary. Because the software is proprietary, the only way to adapt MIA's parking payment system to the Sunpass system is through a bid waiver with MDAD's existing service provider.

PROJECT:	Upgrades to Revenue Collection System for the Public Parking Facilities at MIA.
PROJECT LOCATION:	Miami International Airport
DESCRIPTION OF PROJECT:	The contractor shall purchase and install servers, software upgrades, and other revenue-collection equipment in order to implement SunPass® for the revenue-collection system at the public parking facilities at MIA.
AGREEMENT AMOUNT	$1,323,438.00 including the Inspector General Audit Account.
CONTRACT PERIOD:	Three (3 years)
OPTION TO EXTEND:	None
REVIEW COMMITTEE DATE:	October 29, 2008
CONTRACT MEASURES:	None
COMPANY NAMES:	ACS Transport Solutions, Inc.
COMPANY PRINCIPALS:	ACS is publicly traded (NYSE: ACS)
PREVIOUS AGREEMENTS WITH THE COUNTY IN LAST FIVE (5) YEARS:	None
LIVING WAGE:	No
USER AGENCY:	Miami-Dade Aviation Department

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: December 16, 2008

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

SUBJECT: Agenda Item No. 14(A)(10)

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. 14(A)(10)
12-16-08

RESOLUTION NO. **R-1445-08**

RESOLUTION APPROVING SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND ACS TRANSPORT SOLUTIONS, INC., FOR UPGRADE OF SERVERS AND SOFTWARE INTERFACE FOR SUNPASS® EQUIPMENT AT MIAMI INTERNATIONAL AIRPORT IN AN AMOUNT NOT TO EXCEED $1,323,438.00; AUTHORIZING COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE THE AGREEMENT; AUTHORIZING COUNTY MAYOR TO EXERCISE ALL OTHER RIGHTS INCLUDING TERMINATION PROVISIONS CONTAINED THEREIN; AND WAIVING COMPETITIVE BID PROCEDURES AND PROVISIONS CONTAINED IN SECTION 5.03(D) OF HOME RULE CHARTER, AND ADMINISTRATIVE ORDER NO. 3-38

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board hereby authorizes: (i) execution of the Services Agreement between Miami-Dade County and ACS Transport Solutions Inc. for the upgrade of servers and software interface for the Sunpass® equipment at Miami International Airport in substantially the form attached hereto, with the exhibits on file with the Clerk of this Board, in an amount not to exceed $1,323,438 for a term of three (3) years, as more particularly set forth in the accompanying memorandum from the County Manager; (ii) the County Mayor or his designee to execute same, and to exercise or enforce any provision of the agreement, including the termination provisions therein; and (iii) waiver of the competitive bid provisions of Section 5.03(D) of the Home Rule Charter and Administrative Order No. 3-38 related to the procurement of goods and services.

4

The foregoing resolution was offered by Commissioner **Joe A. Martinez**, who moved its adoption. The motion was seconded by Commissioner **Barbara J. Jordan** and upon being put to a vote, the vote was as follows:

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

Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Carlos A. Gimenez	**absent**	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	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of December, 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: **Kay Sullivan**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

David Stephen Hope

Dept. of Small Business Development

Project Worksheet

Project/Contract Title: SERVICE AGREEMENT TO ACS TRANSPORTATION SOLUTION, INC. FOR SERVERS AND SOFTWARE UPGRADES REQUIRED FOR SUNPASS (ACS TRANSPORTATION SOLUTION, INC.)

RC Date: 10/29/2008

Item No: 2-04

Project/Contract No: O-141-A

Funding Source: REVENUE

Department: MIAMI DADE AVIATION DEPARTMENT

Resubmittal Date(s):

Estimated Cost of Project/Bid: $1,320,138.00

Description of Project/Bid: TO ESTABLISH A SOLE SOURCE CONTRACT / SERVICE AGREEMENT FOR THE PURCHASE AND INSTALLATION OF READERS REQUIRED FOR SUNPASS, BY THE REVENUE COLLECTION SYSTEM AT THE PUBLIC PARKING FACILITIES AT MIAMI-INTERNATIONAL AIRPORT (MIA). ACS TRANSPORTATION SOLUTIONS, INC. IS THE EXISTING REVENUE-COLLECTION SYSTEM USED AT MIA'S PARKING FACILITIES. THE REVENUE COLLECTION EQUIPMENT AND SOFTWARE CODE ARE PROPRIETARY.

Contract Measures Recommendation

Measure	Program	Goal Percent
No Measure	SBE	

Reasons for Recommendation

SOLE SOURCE.
Sole Source (ACS Transportation Solution, Inc.)
(17 SBE certified firms; 0 firms comply with bid specifications).

Commodity Code:
205-00 Computers and Information Processing Systems.

Analysis for Recommendation of a Goal

Subtrade	Cat.	Estimated Value	% of Items to Base Bid	Availability
	SBE	$0.00		17
	Total	$0.00		

Living Wages: YES [ ] NO [X]

Responsible Wages: YES [ ] NO [X]

Ordinance 90-143 is applicable to all construction projects over $100,000 that do not utilize Federal Funds

REVIEW COMMITTE RECOMMENDATION

Tier 1 Set Aside _____

Set Aside _____ **Level 1** _____ **Level 2** _____ **Level 3** _____

Trade Set Aside (MCC) _____ **Goal** _____ **Bid Preference** _____

No Measure _____ **Deferred** _____ **Selection Factor** _____

Chairperson, Review Committee _____ Date _____ SBD Director _____ Date _____

6

REVIEW COMMITTEE AGENDA

PROCUREMENT
October 29 , 2008
REGULAR

ITEM #	PROJECT	DEPT.	BID / REQ No.	CONTRACT MEASURE RECOM NO MEASURE - REASON
2	**PROCUREMENT**			
2-01	HEAD START LANGUAGE AND LITERACY KIT (LEAPFROG ENTERPRISES, INC.)	CA	RQCA0800013	NO MEASURE-SOLE SOURCE
2-02	PRIME COAT SYSTEMS FOR SHOWERS (PRIME COAT COATING SYSTEMS)	CR	RQCR0800021	NO MEASURE-SOLE SOURCE
2-03	EMERGENCY DIESEL FUEL PURCHASES FOR MDT (EMERGENCY)	GS	RQGS0900002	NO MEASURE-EMERGENCY
2-04	SERVICE AGREEMENT TO ACS TRANSPORTATION SOLUTION, INC. FOR SERVERS AND SOFTWARE UPGRADES REQUIRED FOR SUNPASS (ACS TRANSPORTATION SOLUTION, INC.)	AV	O-141-A	NO MEASURE-SOLE SOURCE
2-05	SERVICE AGREEMENT TO TRANSCORE FOR THE PURCHASE AND INSTALLATION OF READERS REQUIRED FOR SUNPASS (TRANSCORE, LP)	AV	O-142-A	NO MEASURE-SOLE SOURCE
2-06	CUSTOM CUSHMAN HAULSTER CARTS	FR	RQFR0800067	NO MEASURE-BID WAIVER
2-07	ITS ARCHITECTURE UPGRADE PROJECT	MT	RQMT0900003	NO MEASURE-AWARDED
2-08	EMERGENCY VEHICLE RENTAL SERVICES	XX	RQPM0900020	NO MEASURE-AWARDED

SERVICE AGREEMENT FOR THE UPGRADE OF SERVERS AND SOFTWARE INTERFACE FOR THE SUNPASS® EQUIPMENT AT MIA

made as of the _____ day of _____ in the year Two Thousand and Eight.

Between the County: **Miami-Dade County Florida**, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, hereinafter called the "County", which shall include its officials, successors, legal representatives, and assigns.

And the CONTRACTOR: **ACS Transport Solutions, Inc.**
3100 Medlock Bridge Rd.
Suite 250
Norcross, GA 30071

Which term shall include its officers, partners, employees, successors, legal representatives and assigns.

TABLE OF CONTENTS

ARTICLE 1 – Definitions 3

ARTICLE 2 – Term 5

ARTICLE 3 – Scope of Services 5

ARTICLE 4 – Compensation 5

4.01 Compensation for Services and Reimbursable Expenses 5
4.02 Invoices and Method of Payment 6
4.03 Accounting Records and Audit Provisions 6
4.04 Retainage 7

ARTICLE 5 – Indemnification 7

ARTICLE 6 – Nondiscrimination 8

6.01 Equal Employment Opportunity 8
6.02 Nondiscrimination 8
6.03 Disability Nondiscrimination Certification 9
6.04 Breach of Nondiscrimination Covenant 9

ARTICLE 7 – Affirmative Action 9

ARTICLE 8 – Insurance 10

ARTICLE 9 – Rules, Regulations and Permits 12

9.01 Rules and Regulations 12
9.02 Violations of Rules and Regulations 12
9.03 Permits and Licenses 12
9.04 Compliance with Additional Rules and Regulations 13

ARTICLE 10 – Civil Actions 13

10.01 Governing Law; Venue 13
10.02 Registered Officer/Agent; Jurisdiction 13
10.03 Violations of Laws and Regulations 13

ARTICLE 11 – Contractor 13

11.01 Pre-Work Conference 13
11.02 Commencement & Prosecution of Work 14

11.03 Contractor's responsibilities for the Work....14
11.04 Contractor's Superintendent and Equipment....15
11.05 Environmental Protection....15
11.06 Weekly Progress Coordination Meetings....15
11.07 Certificate of Compliance....15
11.08 Project Schedules....15

ARTICLE 12 – Subcontractor Relations 16

ARTICLE 13 – Default and Termination 17

13.01 Events of Default 17
13.02 Other Defaults 17
13.03 Notice of Default and Opportunity to Cure 17
13.04 Termination for Convenience 18
13.05 Termination for Cause 18
13.06 Actions at Termination 19

ARTICLE 14 – General Provisions 19

14.01 Assignment 19
14.02 Solicitation 19
14.03 Conflict of Interest 19
14.04 Compliance with Applicable Law 19
14.05 Rights to be Exercised by Department 19
14.06 Notices 20
14.07 Severability 20
14.08 Rights Reserved to County 20
14.09 Right to Regulate 20
14.10 Authorized Uses Only 21
14.11 Survival 21
14.12 No Damages for Delay 21
14.13 Administrative Modifications 21
14.14 Inspector General 21
14.15 Inspector General Audit Account 22
14.16 Miscellaneous Audit Provisions 22
14.17 Trademarks and Licenses 23
14.18 Headings 23
14.19 Binding Effect 23
14.20 Governmental Authority 24
14.21 No Estoppel or Waiver 24
14.22 Independent Contractor 24
14.23 Modifications 24
14.24 Prior Agreements 24
14.25 Right to Amend 24
14.26 Intent of Agreement 25

14.27 Entirety of Agreement 25
14.28 Performance Bond 25
14.29 Total Authorized Amount for this Agreement 27

EXHIBITS -

Exhibit A – Technical Specifications
Exhibit B – Contractor Payment Schedule
Exhibit C – Proposed Project Timeline (Project Schedule)
Exhibit D – License Agreement

SERVICE AGREEMENT FOR THE UPGRADE OF SERVERS AND SOFTWARE INTERFACE FOR THE SUNPASS® EQUIPMENT AT MIA

This Service Agreement for automatic vehicle identification hardware acquisition, installation and software interfacing to enable the collection of parking fees from SunPass® transponder customers (the "Agreement") is made this _____ day of _____, 2008 by and between **MIAMI-DADE COUNTY** (the "County"), a political subdivision of the State of Florida, by and through its Board of County Commissioners (the "Board"), and ACS Transport Solutions, Inc. (the "Contractor") (collectively, the "Parties").

WHEREAS, the County as owner and operator of the Miami International Airport ("MIA" or the "Airport") through its Miami-Dade Aviation Department ("MDAD" or the "Department"), is interested in upgrading the servers and supporting software for the SunPass® equipment at MIA; and

NOW THEREFORE, in consideration of the Agreement, and the mutual covenants herein contained, the Parties agree as follows:

ARTICLE 1 – DEFINITIONS

The following words and expressions used in this solicitation shall be construed as follows, except when it is clear from the context that another meaning is intended:

a) The word "Airport" means the Miami International Airport.

b) The words "Airport System" mean Miami International Airport, and its general aviation airports, and two training airports.

c) The word "Board" means the Board of County Commissioners of Miami-Dade County, Florida.

d) The word "Code" means the Code of Miami-Dade County, Florida.

e) The words "Contract" or "Agreement" mean (i) all contract terms and conditions, (ii) Contractor's Proposal, and (iii) all other attachments and amendments issued hereto.

f) The word "Contractor" means the responder that receives an award of a contract from the County.

g) The words "Contract Time" mean the number of days allowed for completion of the Work.

h) The word "County" means Miami-Dade County, a political subdivision of the State of Florida.

i) The word "Days" means calendar days.

j) The word "Department" means the Miami-Dade Aviation Department ("MDAD").

k) The word "Director" means the Director of the Miami-Dade Aviation Department or his/her designee.

l) The word "Deliverables" means all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.

m) The words "Final Acceptance" mean the Certificate of Final Acceptance issued by the Project Manager, which certifies that all Work specified in this Agreement, including any additions or deletions authorized by Service Order and all punch list work, has passed all acceptance tests as specified in the Technical Specifications, and the County has taken title to all the hardware, and received the software licenses included in the work, in accordance with requirements of the Technical Specifications.

n) The words "Final Payment" mean the last payment to the Contractor, after final acceptance of the Work by the County.

o) The words "Notice to Proceed" ("NTP") mean the written communication issued by MDAD to the Contractor directing the Contractor to begin Work and establishing the date of commencement of the Work.

p) The words "Project Manager" mean the County person, assigned to oversee the project or his or her designee. The Project Manager's responsibilities are to coordinate and communicate with the Contractor and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement. All parties may rely on the instructions or determinations made by the Project Manager; provided, however, that such instructions and determinations do not change the Scope of Services or modify the terms and conditions of this Agreement. The County shall from time to time provide written notice to the Contractor designating the Project Manager.

q) The word "Proposal" means the Proposal of the Contractor, submitted to the County for the award of this Agreement to the Contractor.

r) The word "Report(s)" means all documentation concerning the Services offered by the Contractor concerning Contractor's performance in meeting the requirements of this Contract.

s) The words "Scope of Services" mean all services, work, and actions by the Contractor performed pursuant to Article 3.0 of this Agreement.

t) The words "Service Order" mean a written order signed by the Director directing the Contractor to perform or modify the performance of such Services.

u) The word "Sub-Article" means the subarticle section contained in the Services Agreement.

v) The word "Subcontractor" means any person, firm, entity, or organization, other than the employees of the Contractor, who contracts with the Contractor to furnish labor, or labor and materials, in connection with the Work or Services to the County, whether directly or indirectly, on behalf of the Contractor.

w) The words "Technical Specifications" mean all the written directions, provisions and requirements contained herein, entitled "Technical Specifications," and any Service Order and Amendments that may be issued for the Agreement, all describing the work required to be performed, including detailed technical requirements as to labor, materials, supplies, equipment and standards to which such work is to be performed.

x) The words "Trust Agreement" mean the Amended and Restated Trust Agreement dated as of December 15, 2002, by and among Miami-Dade County, Florida, JPMorgan Chase Bank as Trustee, and Wachovia Bank, National Association as Co-Trustee.

y) The words "Work", "Services", "Program", "Project", or "Engagement" mean all matters, and things, required to be done by the Contractor in accordance with the provisions of this Agreement.

ARTICLE 2 – TERM

The term of this Agreement shall be for three (3) years and shall begin upon execution by the parties and shall be in effect until all Services are completed and accepted.

ARTICLE 3 - SCOPE OF SERVICES

3.1 INTRODUCTION/BACKGROUND

Contractor will be responsible for providing installation of servers and software equipment, as contained in **Exhibit A "Technical Specifications"**, necessary to implement the installation and replacement of the existing parking readers at MIA.

ARTICLE 4 - COMPENSATION

4.01 Compensation for Services and Reimbursable Expenses

Compensation for Services is subject to the procedures contained in **Exhibit B "Contractor Payment Schedule"** which may be amended by the Department. As compensation for the provision of Services and only if authorized by Department Services Order(s), the County shall pay the Contractor the fees specified in the Service Order(s) issued and in accordance with the Contractor's Proposal.

The County shall have no obligation to issue any Service Order(s). The total amount authorized for Services and reimbursable expenses is not to exceed **$1,320,138.00**, unless otherwise adjusted by the County. All invoices for services rendered on a time and materials basis must be accompanied by personnel time records satisfactory to the Department.

Reimbursable expenses incurred by the Contractor and Subcontractor shall be reimbursed upon prior written authorization from the Department, as part of such Service Order. Such payments to the Contractor shall be reimbursed without any Contractor or Subcontractor mark-up of the expenses, and must be approved by the Department. Disputed items will be presented to the Contractor in accordance with the Florida Prompt Payment Act.

The Department reserves the right to have the Contractor produce documentary support that said reimbursement is applicable to specific Work.

4.02 Invoices and Method of Payment

The Contractor shall submit, not more frequently than monthly, to the Project Manager one (1) original and two (2) copies of a duly certified invoice for payments due on account of the portion(s) of Services performed and eligible for payment under the terms of this Agreement. This invoice must be accompanied by (i) copy(ies) of applicable Service Order(s), (ii) documentation of personnel time, and (iii) original receipts for reimbursable expenses, as appropriate. The Contractor shall compare the actual year to date billings to the work plan and budget proposal. The Project Manager may request other supporting documentation reasonably required to support the processing of payments. All payments shall be governed by the provisions of the Florida Prompt Payment Act. All invoices submitted by the Contractor to the Department will also be subject to the procedures outlined in **Exhibit B "Contractor Payment Schedule".**

4.03 Accounting Records and Audit Provisions

The County reserves the right to audit the accounts and records of the Contractor supporting all payments for Services hereunder and all reimbursable expenses

including, but not limited to, payroll records and federal tax returns. The County shall have unrestricted access to all of the Contractor's books and records that pertains to the Contractor's operation under this Agreement. In addition, the County shall have unrestricted right to audit, either by County staff or an audit firm chosen by the County. Such audit may take place during reasonable business hours for the period of the performance of this Agreement and for three (3) years after final payment under this Agreement. The Contractor shall maintain, as part of its regular accounting system, records of a nature and in a sufficient degree or detail to enable such audit to determine the personnel hours and personnel costs and other expenses associated with the Agreement. It is further agreed that said compensation provided for in this Agreement shall be adjusted to exclude any significant costs where the County determines that the payment for Services was increased due to inaccurate, incomplete or non-current wage rates or other factual unit costs. All such adjustments in compensation paid or payable to Contractor under this Agreement shall be made within three (3) years from the date of final billing or acceptance of the Services by the County, whichever is later. The Contractor shall pay for all audit-related expenses where the audit findings aggregate to greater than or equal to three percent (3%) of the correct amount the County should have paid or been invoiced. The three percent (3%) audit-related expense threshold only applies to the amount(s) audited, and not all of the Contractor's billings. Any overpayment amount(s) discovered by audit shall be reimbursed to the County within fifteen (15) day of notice of the audit results to the Contractor.

4.04 Retainage

Except as provided hereafter, the County shall retain **ten percent (10%)** of the value of such Work, until Final Acceptance. At Final Acceptance all retainage will be released with the Final Payment.

A. Early Release of, and Substitution of Securities for Retainage Amounts - The Contactor agrees (i) that no substitution of securities for retainage amounts will be permitted under this Agreement, and (ii) that no early release of retainage amounts shall be permitted under this Agreement, except for such release permitted pursuant to the terms of Section 702 of the Trust Agreement.

ARTICLE 5 - INDEMNIFICATION

Provider shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Provider or its employees, agents, servants, partners, principals or Subcontractors. Provider shall pay all claims and

losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Provider expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Provider shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

ARTICLE 6 – NONDISCRIMINATION

6.01 Equal Employment Opportunity

The Contractor shall neither discriminate against any employee or applicant for employment because of age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, nor in accordance with the Americans with Disabilities Act (42 U.S.C. § 12101), discriminate against any otherwise qualified employees or applicants for employment with disabilities who can perform the essential functions of the job with or without reasonable accommodation. The Contractor shall take affirmative actions to ensure that applicants are employed and that employees are treated during their employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, or disability. Such actions include, but are not limited to, the following: employment, upgrading, transfer or demotion, recruitment, recruitment advertising, layoff or termination, rates of pay of other forms of compensation, and selection for training including apprenticeships.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County setting forth the provisions of this Equal Employment Opportunity clause. The Contractor shall comply with all applicable provisions of the Civil Rights Act of 1964, Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, revised Order No. 4 of December 1, 1971, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act effective June 12, 1968, the rules, regulations and relevant orders of the Secretary of Labor, Florida Statutes §§ 112.041, 112.042, and 112.043, and Miami-Dade County Ordinance No. 75-46, Articles 3 and 4.

6.02 Nondiscrimination

During the performance of this Agreement, the Contractor agrees as follows:

The Contractor shall, in all solicitations or advertisements for employees placed by or behalf of the Contractor, state that all qualified applicants shall receive consideration for employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, physical handicap or disability. The Contractor shall furnish all information and Reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit

access to Contractor's books, records, accounts by the County and Compliance Review Agencies for purposes of investigation to ascertain the compliance with such rules, regulations, and orders. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, and orders, this Agreement may be cancelled, terminated, or suspended in whole or in part in accordance with Sub-Article 13.05 hereof and the Contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 as amended or by rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

The Contractor shall include Sub-Article 6.01 above in all Contractor subcontracts in excess of $10,000, unless exempted by the rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, so that such provisions shall be binding upon each Subcontractor.

6.03 Disability Nondiscrimination Certification

By entering into this Agreement with the County and signing the Disability Nondiscrimination Certification, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement officer, courts, or the County to be in violation of the act or the resolution, such violation shall render this Agreement terminable in accordance with the Sub-Article 13.05 hereof. This Agreement shall be void if the Contractor submits a false certification pursuant to this resolution or the Contractor violated the act or the resolution during the term of this Agreement, even if the Contractor was not in violation at the time it submitted its affidavit.

6.04 Breach of Nondiscrimination Covenant

In the event it has been determined that the Contractor has breached any enforceable nondiscrimination covenant contained in Sub-Article 6.01 above, pursuant to the complaint procedures contained in the applicable federal regulations, and the Contractor fails to comply with the sanctions and/or remedies which have been prescribed, the County shall have the right to terminate this Agreement pursuant to the Sub-Article 13.05 hereof.

ARTICLE 7 – AFFIRMATIVE ACTION

In accordance with the requirements of Section 2.8.1.5 of the Code of Miami-Dade County, all firms with annual gross revenues in excess of $5 million seeking to contract with Miami-Dade County shall, as a condition of award, have a written Affirmative Action Plan and

Procurement Policy on file with the Department of Small Business Development ("SBD"). Said firms must also submit, as a part of their submission to be filed with the Clerk of the Board (the "Clerk"), an appropriately completed and signed Affirmative Action Plan/Procurement Policy Affidavit.

Firms whose Boards of Director are representative of the population make-up of the nation are exempted from this requirement and must submit, in writing, a detailed listing of their Boards of Directors, showing the race or ethnicity of each board member, to SBD. Firms claiming exemption must submit, as part of their proposal/bids to be filed with the Clerk, an appropriately completed and signed Exemption Affidavit in accordance with Section 2.8.1.5 of the Code. These submittals shall be subject to periodic review to assure that the entities do not discriminate in their employment and procurement practices against minorities and women/owned businesses.

It shall be the responsibility of each firm to provide verification of their gross annual revenues to determine the requirement for compliance with the ordinance. Those firms that do not exceed $5 million annual gross revenues must clearly state so in their submission.

ARTICLE 8 – INSURANCE

The Contractor shall furnish to Miami-Dade County Aviation Department, c/o Risk Management Office, 4200 NW 36 Street, Miami, Florida 33122 or P.O. Box 025504, Miami, Florida 33102-5504, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

A. Workers' Compensation Insurance for all employees of the Contractor as required by Chapter 440, Florida Statutes.

B. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage.

C. Commercial General Liability Insurance on a comprehensive basis, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be shown as an additional insured with respect to this coverage.

D. Professional Liability Insurance in an amount not less than $100,000 per claim. Contractor shall be responsible for any self-insured retention that it may carry for professional liability and will reference such amount on the certificate of insurance.

The insurance coverages required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Contractor.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, according to the latest edition of "Best's Insurance Guide" published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the Miami-Dade County Aviation Department's Risk Management Office.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and is a member of the Florida Guaranty Fund.

Certificates of Insurance will indicate that no cancellation or non-renewable in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this article or under any other article in this Agreement.

The Agreement is contingent upon the receipt of the insurance documents from the Contractor, to the County, within fifteen (15) calendar days after Board approval. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after Board approval, the Contractor shall be in default of the contractual terms and conditions and this Agreement will be terminated, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this article remain in force for the duration of the Agreement, including any and all options years that may granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the Agreement period, the County shall suspend the contract until such time as the new or renewed certificates are received by the County in the manner prescribed in this article; provided, however, that this suspended period shall not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this Agreement.

ARTICLE 9 – RULES, REGULATIONS AND PERMITS

9.01 Rules and Regulations

The Contractor, shall comply with: (i) the ordinances of the County including the rules and regulations of the Department; (ii) Chapter 25 of the Code; (iii) operational directives issued hereunder; (iv) all additional laws, statutes, ordinances, regulations and rules of the federal, state and local governments, and any and all plans and programs developed in compliance therewith; (v) any County administrative orders and resolutions of the Board of County Commissioners which may be applicable to its operations or activities under this Agreement; (vi) federal air and safety laws and regulations; and (vii) federal, state, and County environmental, hazardous wastes and materials, and natural resources laws and regulations.

9.02 Violations of Rules and Regulations

The Contractor represents and agrees to pay on behalf of the County any penalty, assessment or fine, issued against the County, or to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the federal, state or local governments, based in whole or substantial part upon a claim or allegation that the Contractor, its agents, employees, Contractors, Subcontractors, suppliers, or invitees, have violated any law, statute, ordinance, regulation or rule described in Sub-Article 9.01 above or any plan or program developed in compliance therewith. The Contractor further represents and agrees that the substance of this Sub-Article 9.01 and Sub-Article 9.02 shall be included in every contract and other agreements, which the Contractor may enter into related to its operations and activities under this Agreement and that any such contract and other agreements shall specifically provide that "Miami-Dade County, Florida is a third party beneficiary of this and related provisions." This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments, subletting or subcontracting.

9.03 Permits and Licenses

The Contractor covenants, represents, and warrants that it shall, at its sole cost and expense, be strictly liable and responsible to obtain, pay for, maintain current, fully comply with, and make available to the Department upon request, all permits, licenses, and governmental authorizations and approvals, however designated and as may be required, at any time during the term of this Agreement, by any federal, state, or County governmental entity or judicial body having jurisdiction over the Contractor or its operations and activities, for any activity and for any actions of the Contractor at the Airport, including ensuring that all legal requirements, permits, and licenses necessary for or resulting, directly or indirectly, from the Contractor's operations and activities at the Airport have been obtained and are in compliance.

9.04 Compliance with Additional Rules and Regulations

The Contractor acknowledges and accepts full responsibility for compliance with all applicable rules and regulations of the Transportation Security Administration ("TSA"), Federal Aviation Administration ("FAA"), and MDAD as set forth from time to time relating to Contractor's work at the Airport.

ARTICLE 10 – CIVIL ACTIONS

10.01 Governing Law Venue

This Agreement shall be governed and construed in accordance with the laws of the State of Florida. Venue for any action or claim arising from this Agreement shall be in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or in the United States District Court in and for the Southern District of Florida.

10.02 Registered Officer/Agent Jurisdiction

The Contractor, if a corporation, shall designate a registered office and a registered agent, as required by Section 48.091, Florida Statutes, and such designations to be filed with the Florida Department of State in accordance with Section 607.034, Florida Statutes. If the Contractor is a natural person, both the Contractor and his or her personal representative(s) hereby submit themselves to the jurisdiction of the courts of the State of Florida for any cause of action based in whole or in part on the alleged breach of this Agreement.

10.03 Violations of Laws and Regulations

The Contractor agrees to pay on behalf of the County any penalty, assessment, or fine, issued in the name of the County, or to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the federal, state or County governments, based in whole or substantial part upon a claim or allegation that the Contractor, its agents, Subcontractors, employees or invitees, have violated any law, statute, ordinance, resolution, regulation or rule described in this Agreement or any plan or program developed in compliance therewith.

ARTICLE 11 – CONTRACTOR

11.01 Pre-Work Conference

A pre-work conference will be held prior to the issuance of the Notice to Proceed to discuss the work to be performed under this Contract. The Contractor and its major Subcontractors shall be required to attend this meeting. The Contractor will be advised of the time, date and location of the meeting.

11.02 Commencement and prosecution of Work

Within ten (10) days after the receipt of an acceptable Performance Bond, proof of the required insurance, and the condition of award documents, the Owner will issue a written Notice to Proceed to the Contractor to proceed with the work, which said NTP shall direct the Contractor to commence work on a certain day. The time within which all of the work is to be completed following the giving of the NTP shall be as stipulated in the Contract. The Contractor is not authorized to perform work under the Contract until the effective date of the NTP, upon which the Contractor shall commence work and shall diligently prosecute the Work to completion within the time limits specified. The Contract time commences on the effective date shown on the NTP.

Any work performed by the Contractor prior to the effective date of the NTP shall be at the Contractor's own risk and shall not be considered as the basis for any claim resulting from this pre-NTP work.

The Contractor shall prosecute the work so as not to interfere with normal airport operations. If the Contractor desires to prosecute the work at other than the days and times set forth herein, it shall notify the Owner at least forty-eight (48) hours in advance, so that the Owner may make arrangements for access to the job site and to be present. Any work performed without such advance notice having been given to the Owner or without having the Owner being present may be rejected, if in the sole judgment of the Owner, such work is not susceptible to its observation after the fact to determine compliance with the Contract.

The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the work to full completion in the manner and time required by the Contract. All workers shall have sufficient skill and experience to properly perform the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily.

The Contractor shall be responsible for taking steps necessary to ascertain the nature and location of the Work, and the general and local conditions which can affect the Work or the cost thereof. Failure by the Contractor to do so will not relieve it from responsibility for successfully performing work without additional expense to Owner. Owner will not be responsible for any understanding or representations concerning conditions, unless such understanding or representations are expressly stated in the Contract.

11.03 Contractor's Responsibilities for the Work

The Contractor shall be responsible for the complete performance for all of the work under the Contract, and for the methods, means, and equipment used in performing the Contract and for all materials, tools, apparatus and property of every description used in connection therewith.

The Contractor shall give constant attention to the work to facilitate the progress thereof, and he shall cooperate with the County, Department, Project Manager and with other contractors in every way possible.

11.04 Contractor's Superintendent and Equipment

The Contractor shall provide a competent English-speaking superintendent on the work at all times, who shall be fully authorized as the Contractor's agent on the work. The superintendent shall be capable of reading and thoroughly understanding the plans, and technical specifications.

11.05 Environmental Protection

The Contractor shall comply with all federal, state, and local laws and regulations controlling pollution of the environment. It shall take necessary precautions to prevent pollution of streams, lakes, ponds, underground waters, aquifers and reservoirs with fuels, oils, bitumens, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

11.06 Weekly Progress Coordination Meetings

The Contractor shall attend weekly, or as scheduled by the Owner, Progress Coordination Meetings at a time and place to be designated by the County. These meetings are intended to determine job progress, identify job problems, assist in solving and preventing job problems, and promote coordination with all entities involved in the Contract and with other Owner contractors. The Contractor shall cause Subcontractors and suppliers to attend as he deems advisable, or as requested by the Owner.

11.07 Certificate of Compliance

The County may permit the use, prior to sampling and testing, of certain materials or assemblies when accompanied by manufacturer's certificates of compliance stating that such materials or assemblies fully comply with the requirements of the Contract. The certificate shall be signed by the manufacturer. Each lot of such materials or assemblies delivered to the work must be accompanied by a certificate of compliance in which the lot is clearly identified.

11.08 Project Schedules

This project shall be done in accordance with the approved schedule or the most recently approved schedule update, as applicable. The Project Schedules shall be used for coordination, monitoring, and payment of all work under the Contract including all activities of Subcontractors, vendors, and suppliers. The Contractor's submission of the final baseline schedule and subsequent revisions confirms that its

Subcontractors and suppliers have reviewed the schedule and concur with the sequence of events, and activity durations. The Contractor shall be solely responsible for the preparation, revisions and updating of the Project Schedules.

ARTICLE 12 – SUBCONTRACTOR RELATIONS

If the Contractor, with the written approval of the Department, causes any part of this Agreement to be performed by a Subcontractor, the provisions of this Agreement will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.

The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services, which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.

Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Agreement.

In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the County finds Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey

nor imply any obligation or liability on the part of the County to any Subcontractor hereunder as more fully described herein.

ARTICLE 13 – DEFAULT AND TERMINATION

13.01 Events of Default

A default shall mean a breach of this Agreement by the Contractor (an "Event of Default"). In addition to those defaults defined in Sub-Article 13.02, an Event of Default, may also include one (1) or more of the following occurrences:

(A) The Contractor has violated the terms and conditions of this Service Agreement;

(B) the Contractor has failed to make prompt payment to Subcontractors or suppliers for any Service or Work provided pursuant to the Agreement;

(C) the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law, or the Contractor's affairs have been put in the hands of a receiver;

(D) the Contractor has failed to obtain the approval of the County where required by this Agreement;

(E) the Contractor has failed in a representation or warranty stated herein; or

(F) the Contractor has received three (3) notices of default, of any kind, within a twenty-four (24) month period.

13.02 Other Defaults

The County shall have the right, upon thirty (30) calendar days written notice to the Contractor to terminate this Agreement upon the occurrence of any one (1) or more of the following unless the same shall have been corrected within such period:

(A) Failure of the Contractor to comply with covenants of this Agreement.

(B) The conduct of any business or the performance of any service not specifically authorized herein.

13.03 Notice of Default and Opportunity to Cure

If an Event of Default occurs, the Department shall notify the Contractor (the "Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. The Contractor can cure and rectify the default, to the Department's reasonable satisfaction, within thirty (30) days of actual notice of the Default Notice

(the "Cure Period") or such other timeframe as delineated in the Agreement. The Department may extend the Cure Period and grant an additional period of such duration as the Department shall deem appropriate without waiver of any of the County's rights hereunder, so long as, the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the Department prescribes. The Default Notice shall specify the date by when the Contractor shall discontinue the services (the "Termination Date").

13.04 Termination For Convenience

In addition to any other termination rights provided for in this Agreement, this Agreement may be terminated for convenience and without penalty by: (i) the mutual and written consent of both parties; (ii) upon not less than thirty (30) days written notice from the County to the Contractor; or (iii) upon not less than one hundred eighty (180) days written notice from the Contractor to the Department, provided however, in the event of the termination of this Agreement pursuant to this clause (iii), the Department, in its sole discretion, may require the Contractor to complete work on any Service Orders outstanding and issued by the Department prior to the date of receipt of the written termination notice. The County's sole obligation to the Contractor shall be payment for those units or sections of work previously authorized. Such payment shall be determined on the basis of the hours performed by the Contractor up to the Termination Date, plus fees and any Reimbursable Expenses for Service Orders issued prior to the Termination Date that the Department requires the Contractor to complete. All payments pursuant to this Agreement shall be accepted by the Contractor in full accord and satisfaction of all claims against the County arising out of the termination including, without limitation, lost profits, overhead or other consequential damages.

13.05 Termination For Cause

The County may terminate this Agreement, effective immediately if: (i) the Contractor fails to cure an Event of Default during the Cure Period; (ii) an individual, firm, corporation, joint venture, or other entity attempts to meet its contractual obligation(s) with the County through fraud, misrepresentation or material misstatement; or (iii) a principal of the Contractor is convicted of a felony during the term of the Agreement.

The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or joint venture or other entity has with the County and that such individual, corporation or joint venture or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

The foregoing notwithstanding, any individual, firm, corporation, joint venture, or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be disbarred from

County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform, and all other reasons set forth in § 10-38 of the Code.

13.06 Actions at Termination

The Contractor shall, upon receipt of such notice, and as directed by the Department:

(A) stop all work on the Termination Date specified in the notice;

(B) take such action as may be necessary for the protection and preservation of the Airport and other County materials and property;

ARTICLE 14 – GENERAL PROVISIONS

14.01 Assignment

The Contractor shall not assign, transfer, or convey this Agreement to any person, firm, association, joint venture, corporation, or other entity, in whole or in part without the prior written consent of the Department.

14.02 Solicitation

Except as provided by Section 2-11.1 (s) of the Code, the Contractor warrants: 1) that it has not employed or retained any company or person other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement; and 2) that it has not paid, or agreed to pay any company or other person any fee, or commission, gift, or other consideration contingent upon the execution of this Agreement. A breach of this warranty makes this Agreement voidable by the County without liability to the Contractor for any reason whatsoever.

14.03 Conflict of Interest

The Contractor agrees to adhere to and be governed by the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 of the Code).

14.04 Compliance with Applicable Law

The Contractor shall comply with all applicable provision of law pertaining to the Services required under this Agreement.

14.05 Rights to be Exercised by Department

Wherever in this Agreement rights are reserved to the County, the Department may exercise such rights. The Department shall have the right to add, amend or delete any security related portions of the Agreement, in order to meet reasonable security requirements of MDAD or Transportation Security Administration ("TSA").

14.06 Notices

Any notices given under the provisions of this Agreement shall be in writing and shall be hand-delivered or sent by Registered or Certified Mail, Return Receipt Requested, or express mail service to:

To the County:
Director
Miami International Airport
Concourse E, Fifth Floor,
Miami, Florida 33122 or
P.O. Box 025504
Miami, Florida 33102-5504

To the Contractor:
ACS Transport Solutions, Inc.
3100 Medlock Bridge Rd.
Norcross, GA 30071
Attn: Jason Barth

or to such other respective addresses as the parties may designate to each other in writing. Notices by Registered or Certified Mail shall be deemed given on the delivery date indicated on the Return Receipt from the United States Postal Service or on the express mail service receipt.

14.07 Severability

If any provision of this Agreement or the application thereof to either party to this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this Agreement, which can be given effect without the invalid provision, and to this end, the invalid provisions of this Agreement are severable.

14.08 Rights Reserved to County

All rights not specifically granted to the Contractor by this Agreement are reserved to the County.

14.09 Right to Regulate

Nothing in this Agreement shall be construed to waive or limit the governmental authority of the County, as a political subdivision of the State of Florida, to regulate the Contractor or its operations. Notwithstanding any provision of this Agreement, nothing herein shall bind or obligate the County, MDAD, the Community Zoning

Appeals Boards, the Building Department, the Planning and Zoning Department, or any department, board, or agency of the County, to agree to any specific request of Contractor that relates in any way to the regulatory or quasi-judicial power of the County. The County shall be released and held harmless by Contractor from any liability, responsibility, claims, consequential damages or other damages, or losses resulting from the denial or withholding of such requests; provided, however, that this provision shall not preclude any appeal from County action wherein the sole remedy sought is reversal of the County's action or injunctive relief.

14.10 Authorized Uses Only

Notwithstanding anything to the contrary herein, the Contractor shall not use or permit the use of the Airport for any illegal or unauthorized purpose or for any purpose, which would invalidate any insurance policies of the County, or any policies of insurance written on behalf of the Contractor under this Agreement.

14.11 Survival

Any obligations of the Contractor and the County which by their terms would continue beyond the termination, cancellation or expiration of this Agreement or any Service Order shall survive with such termination, cancellation or expiration.

14.12 No Damages for Delay

The Contractor hereby: (i) agrees to make no claim(s) for damages for delay, whether contemplated or not contemplated, in the performance hereunder occasioned by any act(s) or omission(s) to act of the County, or any of its employees, agents, representatives, or other Contractors or Subcontractors; and (ii) agrees that any such claim(s) shall be fully compensated for by an extension of time to complete performance of the Services.

14.13 Administrative Modifications

It is understood and agreed that the Department, upon written notice to the Contractor, shall have the right to modify administratively and to add, delete, and revise certain Articles and exhibits to this Agreement pursuant to Sub-Article 14.05, Sub-Article 14.23, and Sub-Article 14.25, provided however that such revisions shall not have a materially adverse effect on either the right of Contractor to be reimbursed for costs and expenses incurred on a timely basis or to receive reasonable compensation for its services.

14.14 Inspector General

Pursuant to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General (the "Inspector General or IG"), which is empowered to conduct random audits on all County contracts throughout the duration of each contract. The deduction of one quarter (1/4) of one (1) percent

from each progress payment to pay for the functions of the Office of Inspector General is inapplicable because this Agreement is either financed by aviation revenue bonds or funded by aviation revenue, which are subject to federal regulations. An audit account has been established within this Agreement to pay for Inspector General Services (see Sub-Article 14.16). In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor existing projects and programs. Monitoring of an existing project or program may include a Report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to retain the services of independent private sector inspector generals to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, and County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

The Inspector General shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the Contract, including but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful and unsuccessful Subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents proposal and contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personal records and supporting documentation for the aforesaid documents and records. The provisions in this section shall apply to the Contractor, its officers, agents, employees, Subcontractors, and suppliers. The Contractor shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Contractor in connection with the performance of this Agreement.

14.15 Inspector General Audit Account

An Audit Account is hereby established to pay for mandatory random audits by the County's Inspector General. The amount for the Inspector General Audit Account is hereby set at **THREE THOUSAND THREE HUNDRED DOLLARS ($3,300.00)**. The Contractor shall have no entitlement to any of these funds. The County retains all rights to these funds, may expend these funds at its sole discretion, and any funds not expended from these audit accounts remain the property of the County.

14.16 Miscellaneous Audit Provisions

Nothing herein shall limit the right of the Contractor to contest any action by the IPSIG or the Inspector General on any legal or equitable ground. Nothing in this contract shall impair any independent right of the County to conduct audit or

investigative activities. The provisions of this Sub-Article are neither intended nor shall they be construed to impose any liability on the County by the Contractor or third parties.

The County shall be responsible for the payment of these IPSIG and Inspector General services and for the payment of costs of Contractor related to actions by the IPSIG and/or the Office of the Inspector General for clerical staff time for obtaining and copying the documentation, and any documents, provided however, the Contractor shall pay for all audit-related expenses where the audit findings aggregate to greater than or equal to three percent (3%) of the correct amount the County should have paid or been invoiced. The three percent (3%) audit-related expense threshold only applies to the amount(s) audited, and not all of the Contractor's billings. Any overpayment amount(s) discovered by audit shall be reimbursed to the County within fifteen (15) day of notice of the audit results to the Contractor. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or to review the operations, activities and performance of the Contractor as and to the extent as provided under this Agreement.

14.17 Trademarks and Licenses

The County may require the Contractor as part of its advertising and marketing program, to utilize certain patents, copyrights, trademarks, trade names, logos, computer software and other intellectual property owned by the County in the performance of this Agreement, which patents, copyrights, trademarks, trade names, logos, computer software and intellectual property may have been created pursuant to the terms of this Agreement. Such permission, when granted, shall be evidenced by a nonexclusive license executed by the Contractor and the Department, on behalf of the County, granting the Contractor the right, license and privilege to use a specific patent, copyright, trademark, trade name, logo, computer software or other intellectual property without requiring payment of fees therefore. Failure of the parties to execute a formal license agreement shall not vest title or interest in such patent, copyright, trademark, trade name, logo, computer software or intellectual property in the Contractor.

14.18 Headings

The headings of the various articles and sections of this Agreement, and its Table of Contents, are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

14.19 Binding Effect

The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. This provision shall not constitute a waiver of any conditions prohibiting assignment or subletting.

14.20 Governmental Authority

Nothing in this Agreement shall be construed to waive or limit the governmental authority of the County, as a political subdivision of the State of Florida, to regulate the Contractor or its operations.

14.21 No Estoppel or Waiver

No acceptance, order, measurement, payment, or certificate of or by a party or its employees or agents shall estop the other party from asserting any right of the ensuing Agreement. There shall be no waiver of the right of a party to demand strict performance of any of the provisions, terms and covenants of this Agreement, nor, shall there be any waiver of any breach, default or non-performance hereof by the other party unless such waiver is explicitly made in writing by the party. No delay or failure to exercise a right under the ensuing Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time, or of any other right under this Agreement.

14.22 Independent Contractor

The Contractor shall perform all services described herein as an independent contractor and not as an officer, agent, servant, or employee of the County. All personnel provided by the Contractor in the performance of this Agreement shall be considered to be, at all times, the sole employees of the Contractor under its sole discretion, and not employees or agents of the County.

14.23 Modifications

This Agreement may be modified and revised by written amendment duly executed by the parties hereto. Neither electronic mail nor instant messaging shall be considered a "writing" sufficient to change, modify, extend or otherwise affect the terms of the Agreement. **Any oral representation or modifications concerning this Agreement shall be of no force or effect**.

14.24 Prior Agreements

The parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. **No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless set forth in writing in accordance with this Agreement**.

14.25 Right to Amend

In the event that the FAA or its successor requires modifications or changes in this Agreement as a condition precedent to the granting of its approval or to the obtaining of funds for improvements at the Airport, the Contractor hereby consents to any and all such modifications and changes as may be reasonably required.

14.26 Intent of Agreement

This Agreement is for the benefit of the parties only and does not: (a) grant rights to third party beneficiaries, or to any person; or (b) authorize non-parties to the Agreement to maintain a suit for personal injuries, professional liability, or property damage pursuant to the terms or provisions of the Agreement.

Neither the Contractor nor the County intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement, and that no third party shall be entitled to assert a claim against either of the parties based upon this Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third party or entity under this Agreement.

14.27 Entirety of Agreement

The parties hereto agree that this Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except as may be specifically authorized by Sub-Article 14.23 and Sub-Article 14.27 to the Agreement, or by written instrument executed by the parties hereto.

14.28 Performance Bonds

Within twenty (20) days of the date of this Agreement, the Contractor shall provide the MDAD with an annually renewable performance bond which shall be kept in full force and effect during the term of this Agreement and, thereafter, until all financial obligations, reports or other requirements of the Agreement there under are satisfied, a surety bond or an irrevocable letter of credit, or other form of security acceptable to MDAD and so endorsed as to be readily negotiable by MDAD for the payments required hereunder, in an amount equal to **ONE HUNDRED PERCENT (100%) of the total project cost,** plus any state sales taxes as may be applicable and required by law. Such performance bond shall be kept in full force throughout the term of this Agreement and any Extension Periods agreed to by MDAD and Contractor. MDAD, without prior notice to the Contractor, may draw upon such performance bond, given the Contractor's failure to perform or breach of this Agreement. MDAD may require the Contractor to increase or decrease the amount of the performance bond during the term of this Agreement or any Extension Periods.

Surety Bonds:

(a) All bonds shall be written through surety insurers authorized to do business in the State of Florida, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

Bond Amount	Best Rating
500,001 – 1,500,000	B-V
1,500,001 – 2.500,000	A-VI
2,500,000 – 5,000,000	A-VII
5,000,001 – 10,000,000	A-VIII
Over 10,000,000	A-IX

(b) On contract amounts of $500,000 or less, the bond provisions of Section 287.0935, Florida Statutes shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

1. Providing evidence that the surety has twice (2x) the minimum surplus and capital required by the Florida Insurance Code at the time the solicitation is issued.

2. Certifying that the surety is otherwise in compliance with the Florida Insurance Code.

3. Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury ("Treasury") under .31 U.S.C. §§ 9304-9308.

   Surety insurers shall be listed in the latest Circular 570 of the Treasury entitled "Surety Companies Acceptable on Federal Bonds". The bond amount shall not exceed the underwriting limitations as shown in this circular.

(c) For contracts in excess of $500,000, the provisions of this Sub-Article must be adhered to, plus the company must have listed for at least three (3) consecutive years, or holding a valid Certificate of Authority of at least $1.5 million dollars on a Treasury list.

(d) Surety bonds guaranteed through the Small Business Administration or Contractors Training and Development Inc., will also be acceptable.

(e) The attorney-in fact or other officer who signs a contract company must file with such bond a certified copy of his power of attorney authorizing him to do so. The contract bond must be counter signed by the surety's resident Florida agent.

The required bonds shall be written by or through and shall be countersigned by, a licensed Florida agent of the surety insurer, pursuant to Section 624.425, Florida Statutes.

The bonds shall be delivered to MDAD upon execution of the contract between the MDAD and the Contractor.

14.29 Total Authorized Amount for this Agreement:

Except as provided for herein, the Total Authorized Amount for this Agreement is **ONE MILLION THREE HUNDRED TWENTY-THREE THOUSAND FOUR HUNDRED THIRTY-EIGHT DOLLARS ($1,323,438.00)** including the Inspector General (IG) Audit Account.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials as of the date first above written.

BOARD OF COUNTY COMMISSIONERS
OF MIAMI-DADE COUNTY, FLORIDA

By: _____
County Mayor

Attest: Harvey Ruvin, Clerk

(COUNTY SEAL)

By: _____
Deputy Clerk

Contractor

Name: **ACS Transport Solutions, Inc.**

(Corp. Seal)

TAMARA H. JOHNSON
MY COMMISSION EXPIRES
NOV 29 2011
GWINNETT CO., GEORGIA
NOTARY PUBLIC

Name: Scot S. Love
Vice President

By: _____
Signature

_____
Print Name

Attest: Tamara H. Johnson
Secretary

Tamara H. Johnson
Print Name