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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

# Memorandum

MIAMI-DADE COUNTY

**Date:** March 3, 2009

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

**To:** Honorable Chairperson Dennis C. Moss
and Members, Board of County Commissioners

**From:** George M. Burgess
County Manager

**Resolution No. R-158-09**

**Subject:** Ratification of Acceptance and Execution of Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT) for Grant amounting to $4,994,000. under Financial Project Number 42344419401 for Miami International Airport roadway improvements

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## RECOMMENDATION

It is recommended that the Board approve the attached resolution ratifying the actions of the County Manager as the Mayor's Designee, pursuant to provisions of the Aviation Department's Expedite Ordinance No. 95-64, codified as Section 2-285(6) of the Miami-Dade County Code, in accepting and executing a Joint Participation Agreement (JPA) 42344419401 between Miami-Dade County and the State of Florida Department of Transportation (FDOT) for roadway improvements to the intersection of NW 67th Avenue/Ludlum Road, SR 948/NW 36th Street, and Perimeter Road at Miami International Airport ("MIA").

## SCOPE

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

## FISCAL IMPACT

This JPA provides $4,994,000 in FDOT funding for the total Right-of-Way (ROW) acquisition and intersection improvements and construction costs estimated to be approximately $9,988,000. Since the ROW acquisition consists of a slow take eminent domain process, the Aviation Department is currently updating the appraisals for the privately owned property. The Aviation Department's obligation will be funded through the Airport Improvement Funds.

## PROJECT MONITOR

The project is managed by Jose A. Ramos, R.A., Chief of Aviation Planning. This Joint Participation Agreement is managed by Norma Mata, Chief of Aviation Grants.

## BACKGROUND

The roadway intersection at NW 36th Street and NW 67th Avenue was originally constructed as an interim access roadway to NW 36th Street and used for maintenance of traffic during the widening of NW 36th Street. Today, the intersection has functional problems that affect the capacity and safety of vehicular traffic, and present traffic management problems. From FDOT's traffic analysis, using the Highway Capacity Manual and existing traffic signal cycle lengths, it has been found that the single left turning lane on northbound NW 67th Avenue does not have the capacity to carry the existing and future volume of traffic turning left to westbound NW 36th Street.

The scope of the proposed project includes (a) the acquisition of a Right of Way (ROW) through a privately owned property located at 6600 NW 36th Street, on the East side of NW 67th Avenue between NW 36th Street and MIA's Perimeter Road, (b) the widening and repaving of NW 67th Avenue from a point starting approximately 500 feet south of MIA's Perimeter Road and running north to NW 36th Street, (c) the widening of MIA's Perimeter Road from NW 67th Avenue to the East for approximately 700 feet, (d) a total rebuilding of the southern portion of the intersection, (e) the modification of the westbound-to-southbound left turn lane and median of NW 36th Street, (f) installation of new traffic signals and traffic signal controllers at the intersection of NW 36th Street and NW 67th Avenue and the intersection of NW 67th Avenue and Perimeter Road, and (g) installation of new roadway lighting, new exfiltration trenches, and new dry retention ponds.

It is therefore recommended that the Board ratify the actions of the Mayor's Designee in accepting and executing the FDOT Joint Participation Agreement (JPA) for the improvements to the intersection of NW 67th Avenue/Ludlum Road, SR 948/NW 36th Street, and MIA's Perimeter Road.

Assistant County Manager

# MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: March 3, 2009

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

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

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 Mayor'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)(B)
3-3-09

RESOLUTION NO. **R-158-09**

**RESOLUTION RELATING TO MIAMI INTERNATIONAL AIRPORT; RATIFYING ACTION OF MAYOR'S DESIGNEE IN APPROVING AND EXECUTING, PURSUANT TO THE PROVISIONS OF SECTION 2-285(6) OF MIAMI-DADE COUNTY'S CODE, A JOINT PARTICIPATION AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION UNDER FINANCIAL PROJECT NUMBER 42344419401 FOR A GRANT IN THE AMOUNT OF $4,994,000 TO OFFSET THE COSTS OF PROPERTY ACQUISITION FOR, AND ROADWAY IMPROVEMENTS TO, THE INTERSECTIONS IN THE VICINITY OF NW 36TH STREET AND NW 67TH AVENUE**

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

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that this Board approves, ratifies and confirms the actions of the Mayor's designee, pursuant to the provisions of Section 2-285(6) of the Miami-Dade County Code, in accepting and executing a Joint Participation Agreement (JPA) under Financial Project Number 42344419401 between Miami-Dade County and the State of Florida Department of Transportation (FDOT), under which FDOT will provide funding in the amount of $4,994,000 to offset the County's costs of property acquisition for, and roadway improvements to, the intersections in the vicinity of NW 36th Street and NW 67th Avenue at Miami International Airport.

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

Dennis C. Moss, Chairman **aye**
Jose "Pepe" Diaz, Vice-Chairman **aye**

| | | | |
|---|---|---|---|
| Bruno A. Barreiro | **aye** | Audrey M. Edmonson | **aye** |
| Carlos A. Gimenez | **aye** | Sally A. Heyman | **aye** |
| Barbara J. Jordan | **aye** | Joe A. Martinez | **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 3rd day of March, 2009. 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.

Thomas P. Abbott

# PUBLIC TRANSPORTATION JOINT PARTICIPATION AGREEMENT

| | | |
|---|---|---|
| Financial Project No.: 42344419401 (item-segment-phase-sequence) | Fund: DDR | FLAIR Approp.: 088719 |
| | Function: 215 | FLAIR Obj.: 750004 |
| | Federal No.: | Org. Code: 55062020628 |
| Contract No.: AP779 | DUNS No.: | Vendor No.: F596000573258 |
| CFDA Number: | CSFA Number: | 55004 |

THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter referred to as the Department, and Miami-Dade County Florida by and through MDAD P.O. Box 025504, Miami, FL 33102-5504 hereinafter referred to as Agency. The Department and Agency agree that all terms of this Agreement will be completed on or before 06/30/2012 and this Agreement will expire unless a time extension is provided in accordance with Section 18.00.

W I T N E S S E T H :

WHEREAS, the Agency has the authority to enter into said Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under 332.006(6), Florida Statutes, to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

**1.00 Purpose of Agreement:** The purpose of this Agreement is to provide improvements to the intersection of NW 67th Avenue/Ludlam Road, SR 948/NW 36th Street and Perimeter Road including right of way acquisition, widening and reconstruction of the intersection adding capacity, new turning lanes, new traffic signals, roadway lighting, new drainage for roadway improvements, upgraded signals and pavement markings.
JACIP Project No.: PFL0004023

and as further described in Exhibit(s) A,B,C and D attached hereto and by this reference made a part hereof, hereinafter referred to as the project, and to provide Departmental financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

**2.00 Accomplishment of the Project**

**2.10 General Requirements:** The Agency shall commence, and complete the project as described in Exhibit "A" attached hereto and by this reference made a part hereof this Agreement, with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws.

**2.20 Pursuant to Federal, State, and Local Law:** In the event that any election, referendum, approval, permit, notice, or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder, or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

**2.30 Funds of the Agency:** The Agency shall initiate and prosecute to completion all proceedings necessary including federal aid requirements to enable the Agency to provide the necessary funds for completion of the project.

**2.40 Submission of Proceedings, Contracts and Other Documents:** The Agency shall submit to the Department such data, reports, records, contracts and other documents relating to the project as the Department may require as listed in Exhibit "C" attached hereto and by this reference made a part hereof.

**3.00 Project Cost:** The total estimated cost of the project is $ 9,988,000 . This amount is based upon the estimate summarized in Exhibit "B" attached hereto and by this reference made a part hereof this Agreement. The Agency agrees to bear all expenses in excess of the total estimated cost of the project and any deficits involved.

**4.00 Department Participation:** The Department agrees to maximum participation, including contingencies, in the project in the amount of $ 4,994,000 as detailed in Exhibit "B", or in an amount equal to the percentage(s) of total project cost shown in Exhibit "B", whichever is less.

**4.10 Project Cost Eligibility :** Project costs eligible for State participation will be allowed only from the effective date of this agreement. It is understood that State participation in eligible project costs is subject to:

(a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed;

(b) Availability of funds as stated in Section 17.00 of this Agreement;

(c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement;

(d) Department approval of the project scope and budget (Exhibits A & B) at the time appropriation authority becomes available.

**4.20 Front End Funding :** Front end funding ○ is ◉ is not applicable. If applicable, the Department may initially pay 100% of the total allowable incurred project costs up to an amount equal to its total share of participation as shown in paragraph 4.00.

**5.00 Retainage :** Retainage ○ is ◉ is not applicable. If applicable, _____ percent of the Department's total share of participation as shown in paragraph 4.00 is to be held in retainage to be disbursed, at the Department's discretion, on or before the completion of the final project audit.

**6.00 Project Budget and Payment Provisions:**

**6.10 The Project Budget:** A project budget shall be prepared by the Agency and approved by the Department. The Agency shall maintain said budget, carry out the project and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved budget for the project. No budget increase or decrease shall be effective unless it complies with fund participation requirements established in Section 4.00 of this Agreement and is approved by the Department Comptroller.

**6.20 Payment Provisions:** Unless otherwise allowed under Section 4.20, payment will begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Payment will be made for actual costs incurred as of the date the invoice is submitted with the final payment due upon receipt of a final invoice.

**7.00 Accounting Records:**

**7.10 Establishment and Maintenance of Accounting Records:** The Agency shall establish for the project, in conformity with requirements established by Department's program guidelines/procedures and "Principles for State and Local Governments", separate accounts to be maintained within its existing accounting system or establish independent accounts. Such accounts are referred to herein collectively as the "project account". Documentation of the project account shall be made available to the Department upon request any time during the period of the Agreement and for three years after final payment is made.

**7.20 Funds Received Or Made Available for The Project:** The Agency shall appropriately record in the project account, and deposit in a bank or trust company which is a member of the Federal Deposit Insurance Corporation, all payments received by it from the Department pursuant to this Agreement and all other funds provided for, accruing to, or otherwise received on account of the project, which Department payments and other funds are herein collectively referred to as "project funds". The Agency shall require depositories of project funds to secure continuously and fully all project funds in excess of the amounts insured under federal plans, or under State plans which have been approved for the deposit of project funds by the Department, by the deposit or setting aside of collateral of the types and in the manner as prescribed by State Law for the security of public funds, or as approved by the Department.

**7.30 Costs Incurred for the Project:** The Agency shall charge to the project account all eligible costs of the project. Costs in excess of the latest approved budget or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

**7.40 Documentation of Project Costs:** All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges.

**7.50 Checks, Orders, and Vouchers:** Any check or order drawn by the Agency with respect to any item which is or will be chargeable against the project account will be drawn only in accordance with a properly signed voucher then on file in the office of the Agency stating in proper detail the purpose for which such check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified, readily accessible, and, to the extent feasible, kept separate and apart from all other such documents.

**7.60 Audit Reports:** In addition to the requirements below, the Agency agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department, including but not limited to site visits and limited scope audits. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the State Comptroller or Auditor General. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of three years from the date the audit report is issued, and shall allow the Department access to such records and working papers upon request. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official.

The Agency shall comply with all audit and audit reporting requirements as specified in Exhibit "D" attached hereto and by this reference made a part hereof this Agreement.

**7.61 Monitoring:** In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, (see "Audits" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, and/or other procedures. The Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the Agency is appropriate, the Agency agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by FDOT's Office of Inspector General (OIG) and Florida's Chief Financial Officer (CFO) or Auditor General.

**7.62 Audits:**

**Part I Federally Funded:** If the Agency is a state, local government, or non-profit organizations as defined in OMB Circular A-133 and a recipient of federal funds, the following annual audit criteria will apply:

1. In the event that the recipient expends $500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit "D" to this agreement indicates Federal resources awarded through the Department by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.

2. In connection with the audit requirements addressed in Part I, Paragraph 1., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133.

3. If the recipient expends less than the amount in Part I, Paragraph 1., an audit conducted in accordance with the provisions of OMB Circular A-133, is not required. If the recipient elects to conduct such an audit, the cost of the audit must be paid from resources obtained from other than Federal entities.

4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

**Part II State Funded:** If the Agency is a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes, and a recipient of state funds, the following annual audit criteria will apply:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of $500,000 in any fiscal year, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "D" to this agreement indicates state financial assistance awarded through the Department by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, Paragraph 1., the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than the amount in Part II, Paragraph 1., such audit is not required. If the recipient elects to conduct such an audit, the cost of the audit must be paid from the recipient's resources obtained from nonstate entities.

4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

**Part III Other Audit Requirements**

1. The Agency shall follow-up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

2. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the Department, the Department Comptroller, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

**Part IV Report Submission**

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Section 7.622 Part I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, by or on behalf of the recipient directly to each of the following:

   A. The Department at each of the following addresses:

   B. The number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, submitted to the following address:

   Federal Audit Clearinghouse
   Bureau of the Census
   1201 East 10th Street
   Jeffersonville, IN 47132

   C Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133.

2. In the event that a copy of the reporting package for an audit required by Section 7.62 Part I of this Agreement and conducted in accordance with OMB Circular A-133 is not required to be submitted to the Department for reasons pursuant to section .320 (e)(2), OMB Circular A-133, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited schedule of expenditures of Federal awards directly to each of the following:

   In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320 (c), OMB Circular A-133, and any management letters issued by the auditor, to the Department at each of the following addresses:

3. Copies of financial reporting packages required by Section 7.62 Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:

   A. The Department at each of the following addresses:

   B. The Auditor General's Office at the following address:

   Auditor General's Office
   Room 401, Pepper Building
   111 West Madison Street
   Tallahassee, Florida 32399-1450

4. Copies of reports or the management letter required by Section 7.62 Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:

   A. The Department at each of the following addresses:

5. Any reports, management letter, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Section 215.97, Florida Statutes, and Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

**7.63 Record Retention:** The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least five years from the date the audit report is issued, and shall allow the Department, or its designee, the CFO or Auditor General access to such records upon request. The Agency shall ensure that the independent audit working papers are made available to the Department, or its designee, the CFO, or Auditor General upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the Department.

**7.64 Other Requirements:** If an audit discloses any significant audit findings related to any award, including material noncompliance with individual project compliance requirements or reportable conditions in internal controls of the Agency, the Agency shall submit as part of the audit package to the Department a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary. The Agency shall take timely and appropriate corrective action to any audit findings, recommendations, and corrective action plans.

**7.65 Insurance:** Execution of this Joint Participation Agreement constitutes a certification that the Agency has and will maintain the ability to repair or replace any project equipment or facilities in the event of loss or damage due to any accident or casualty for the useful life of such equipment or facilities. In the event of the loss of such equipment or facilities, the Agency shall either replace the equipment or facilities or reimburse the Department to the extent of its interest in the lost equipment or facility. In the event this Agreement is for purchase of land or for the construction of infrastructure such as airport runways the Department may waive or modify this section.

**8.00 Requisitions and Payments:**

**8.10 Action by the Agency:** In order to obtain any Department funds, the Agency shall file with the Department of Transportation, District VI Public Transportation Office 1000 NW 111 Ave., Room 6114, Miami , FL, 33172 its requisition on a form or forms prescribed by the Department, and any other data pertaining to the project account (as defined in Paragraph 7.10 hereof) to justify and support the payment requisitions.

**8.11** Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

**8.12** Invoices for any travel expenses shall be submitted in accordance with Chapter 112.061, F.S. The Department may establish rates lower than the maximum provided in Chapter 112.061, F.S.

**8.13** For real property acquired, submit;

(a) the date the Agency acquired the real property,
(b) a statement by the Agency certifying that the Agency has acquired said real property, and actual consideration paid for real property.
(c) a statement by the Agency certifying that the appraisal and acquisition of the real property together with any attendant relocation of occupants was accomplished in compliance with all federal laws, rules and procedures required by any federal oversight agency and with all state laws, rules and procedures that may apply to the Agency acquiring the real property.

**8.20 The Department's Obligations:** Subject to other provisions hereof, the Department will honor such requisitions in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment on the project if:

**8.21 Misrepresentation:** The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

**8.22 Litigation:** There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement, or payments to the project;

**8.23 Approval by Department:** The Agency shall have taken any action pertaining to the project which, under this agreement, requires the approval of the Department or has made related expenditures or incurred related obligations without having been advised by the Department that same are approved;

**8.24 Conflict of Interests:** There has been any violation of the conflict of interest provisions contained herein; or

**8.25 Default:** The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

**8.26 Federal Participation (If Applicable):** Any federal agency providing federal financial assistance to the project suspends or terminates federal financial assistance to the project. In the event of suspension or termination of federal financial assistance, the Agency will reimburse the Department for all disallowed costs, including any and all federal financial assistance as detailed in Exhibit "B."

**8.30 Disallowed Costs:** In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement, costs which are not provided for in the latest approved budget for the project, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

**8.40 Payment Offset:** If, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this agreement, the Department may offset such amount from payments due for work or services done under any public transportation joint participation agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting amounts shall not be considered a breach of contract by the Department.

**9.00 Termination or Suspension of Project:**

**9.10 Termination or Suspension Generally:** If the Agency abandons or, before completion, finally discontinues the project; or if, by reason of any of the events or conditions set forth in Sections 8.21 to 8.26 inclusive, or for any other reason, the commencement, prosecution, or timely completion of the project by the Agency is rendered improbable, infeasible, impossible, or illegal, the Department will, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or the Department may terminate any or all of its obligations under this Agreement.

**9.11 Action Subsequent to Notice of Termination or Suspension.** Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (1) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to the minimum the costs upon the basis of which the financing is to be computed; (2) furnish a statement of the project activities and contracts, and other undertakings the cost of which are otherwise includable as project costs; and (3) remit to the Department such portion of the financing and any advance payment previously received as is determined by the Department to be due under the provisions of the Agreement. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and budget as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and budget within a reasonable time. The approval of a remittance by the Agency or the closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

**9.12** The Department reserves the right to unilaterally cancel this Agreement for refusal by the contractor or Agency to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S. and made or received in conjunction with this Agreement.

**10.00 Remission of Project Account Upon Completion of Project**: Upon completion of the project, and after payment, provision for payment, or reimbursement of all project costs payable from the project account is made, the Agency shall remit to the Department its share of any unexpended balance in the project account.

**11.00 Audit and Inspection:** The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives to inspect all work, materials, payrolls, records; and to audit the books, records and accounts pertaining to the financing and development of the project.

**12.00 Contracts of the Agency:**

**12.10 Third Party Agreements:** Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department joint participation funds, including consultant, construction or purchase of commodities contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department as provided in Section 8.23. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

**12.20 Compliance with Consultants' Competitive Negotiation Act**: It is understood and agreed by the parties hereto that participation by the Department in a project with an Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency complying in full with provisions of Chapter 287, F.S., Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the Consultant Selection Process for all contracts. In all cases, the Agency's Attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

**12.30 Disadvantaged Business Enterprise (DBE) Policy and Obligation:**

**12.31 DBE Policy:** It is the policy of the Department that disadvantaged business enterprises as defined in 49 CFR Part 26, as amended, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of 49 CFR Part 26, as amended, apply to this Agreement.

**12.32 DBE Obligation:** The Agency and its contractors agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts and this Agreement. In this regard, all recipients, and contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Grantees, recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department assisted contracts.

**12.40** The Agency agrees to report any reasonable cause notice of noncompliance based on 49 CFR Part 26 filed under this section to the Department within 30 days of receipt by the Agency.

**13.00 Restrictions, Prohibitions, Controls, and Labor Provisions:**

**13.10 Equal Employment Opportunity:** In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin. The Agency will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development or operation of the project, except contracts for standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

**13.20 Title VI - Civil Rights Act of 1964:** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et. seq.), the Regulations of the Federal Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

**13.30 Title VIII - Civil Rights Act of 1968:** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VIII of the Civil Rights Act of 1968, 42 USC 3601,et seq., which among other things, prohibits discrimination in housing on the basis of race, color, national origin, creed, sex, and age.

**13.40 Americans with Disabilities Act of 1990 (ADA):** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by the ADA (42 U.S.C. 12102, et. seq.), the regulations of the federal government issued thereunder, and the assurance by the Agency pursuant thereto.

**13.50 Prohibited Interests:** The Agency shall not enter into a contract or arrangement in connection with the project or any property included or planned to be included in the project, with any officer, director or employee of the Agency, or any business entity of which the officer, director or employee or the officer's, director's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer, director or employee or the officer's, director's or employee's spouse or child, or any combination of them, has a material interest.

"Material Interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity.

The Agency shall not enter into any contract or arrangement in connection with the project or any property included or planned to be included in the project, with any person or entity who was represented before the Agency by any person who at any time during the immediately preceding two years was an officer, director or employee of the Agency.

The provisions of this subsection shall not be applicable to any agreement between the Agency and its fiscal depositories, any agreement for utility services the rates for which are fixed or controlled by the government, or any agreement between the Agency and an agency of state government.

**13.60 Interest of Members of, or Delegates to, Congress:** No member or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

**14.00 Miscellaneous Provisions:**

**14.10 Environmental Pollution:** Execution of this Joint Participation Agreement constitutes a certification by the Agency that the project will be carried out in conformance with all applicable environmental regulations including the securing of any applicable permits. The Agency will be solely responsible for any liability in the event of non-compliance with applicable environmental regulations, including the securing of any applicable permits, and will reimburse the Department for any loss incurred in connection therewith.

**14.20 Department Not Obligated to Third Parties:** The Department shall not be obligated or liable hereunder to any party other than the Agency.

**14.30 When Rights and Remedies Not Waived:** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist, on the part of the Agency, and the making of such payment by the Department while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

**14.40 How Agreement Is Affected by Provisions Being Held Invalid:** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

**14.50 Bonus or Commission:** By execution of the Agreement the Agency represents that it has not paid and, also, agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

**14.60 State or Territorial Law:** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable State law: Provided, that if any of the provisions of the Agreement violate any applicable State law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

**14.70 Use and Maintenance of Project Facilities and Equipment:** The Agency agrees that the project facilities and equipment will be used by the Agency to provide or support public transportation for the period of the useful life of such facilities and equipment as determined in accordance with general accounting principles and approved by the Department. The Agency further agrees to maintain the project facilities and equipment in good working order for the useful life of said facilities or equipment.

**14.71 Property Records:** The Agency agrees to maintain property records, conduct physical inventories and develop control systems as required by 49 CFR Part 18, when applicable.

**14.80 Disposal of Project Facilities or Equipment:** If the Agency disposes of any project facility or equipment during its useful life for any purpose except its replacement with like facility or equipment for public transportation use, the Agency will comply with the terms of 49 CFR Part 18 relating to property management standards. The Agency agrees to remit to the Department a proportional amount of the proceeds from the disposal of the facility or equipment. Said proportional amount shall be determined on the basis of the ratio of the Department financing of the facility or equipment as provided in this Agreement.

**14.90 Contractual Indemnity:** To the extent provided by law, the Agency shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Agency, its agents, or employees, during the performance of the Agreement, except that neither the Agency, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by the Agency in the performance of services required under this Agreement, the Department will immediately forward the claim to the Agency. The Agency and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the Agency in the defense of the claim or to require that the Agency defend the Department in such claim as described in this section. The Department's failure to promptly notify the Agency of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Agency. The Department and the Agency will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all expenses at trial.

**15.00 Plans and Specifications:** In the event that this Agreement involves the purchasing of capital equipment or the constructing and equipping of facilities, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the project and comments or recommendations concerning any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause for nonpayment by the Department as provided in 8.23.

**16.00 Project Completion, Agency Certification:** The Agency will certify in writing on or attached to the final invoice, that the project was completed in accordance with applicable plans and specifications, is in place on the Agency facility, that adequate title is in the Agency and that the project is accepted by the Agency as suitable for the intended purpose.

**17.00 Appropriation of Funds:**

**17.10** The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

**17.20 Multi-Year Commitment:** In the event this Agreement is in excess of $25,000 and has a term for a period of more than one year, the provisions of Chapter 339.135(6)(a), F.S., are hereby incorporated: "(a) The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of 25,000 dollars and which have a term for a period of more than 1 year."

**18.00 Expiration of Agreement:** The Agency agrees to complete the project on or before 06/30/2012. If the Agency does not complete the project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the District Secretary or Designee. Expiration of this Agreement will be considered termination of the project and the procedure established in Section 9.00 of this Agreement shall be initiated.

**18.10 Final Invoice:** The Agency must submit the final invoice on this project to the Department within 120 days after the expiration of this Agreement. Invoices submitted after the 120 day time period will not be paid.

**19.00 Agreement Format:** All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

**20.00 Execution of Agreement:** This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

**21.00 Restrictions on Lobbying:**

**21.10 Federal:** The Agency agrees that no federal appropriated funds have been paid or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Joint Participation Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this section be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

**21.20 State:** No funds received pursuant to this contract may be expended for lobbying the Legislature or a state agency.

**22.00 Vendors Rights:** Vendors (in this document identified as Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

If a payment is not available within 40 days after receipt of the invoice and receipt, inspection and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), F.S. will be due and payable, in addition to the invoice amount to the Agency. The interest penalty provision applies after a 35 day time period to health care providers, as defined by rule. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices which have to be returned to an Agency because of vendor preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Services Hotline, 1-800-848-3792.

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

**24.00 Discrimination:** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

Financial Project No. 42344419401

Contract No. AP779

Agreement Date

IN WITNESS WHEREOF, the parties hereto have caused these presents be executed, the day and year first above written.

AGENCY

Miami-Dade County Florida by and through MDAD
AGENCY NAME

Jose Abreu
SIGNATORY (PRINTED OR TYPED)

SIGNATURE

Director
TITLE

FDOT

See attached Encumbrance Form for date of Funding Approval by Comptroller

LEGAL REVIEW
DEPARTMENT OF TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

D6-Director of Transportation Development
TITLE

**Approved as to form and legal sufficiency**

**Assistant County Attorney**

COUNTY COMMISSIONERS DADE COUNTY FLORIDA

## Filer, Carl

**From:** The job FI989RPR
**Sent:** Monday, July 07, 2008 3:45 PM
**To:** Filer, Carl
**Subject:** FUNDS APPROVAL/REVIEWED FOR CONTRACT AP779

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

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```
Contract #AP779   Contract Type: AG          Method of Procurement: G
Vendor Name: MIAMI DADE COUNT
Vendor ID:   VF596000573258
Beginning date of this Agmt: 08/01/08
Ending date of this Agmt:    06/30/12
Contract Total/Budgetary Ceiling: ct = $4,994,000.00

**********************************************************************
Description:
67th Ave. Improvements provides direct access to west cargo  area of MIA
**********************************************************************
ORG-CODE     *EO  *OBJECT *AMOUNT           *FIN PROJECT  *FCT  *CFDA
(FISCAL YEAR)     *BUDGET ENTITY            *CATEGORY/CAT YEAR
AMENDMENT ID      *SEQ.   *USER ASSIGNED ID *ENC LINE(6S)/STATUS
**********************************************************************

Action:                Funds have been: REVIEWED*

55 062020628 *PT  *750004  *     2994000.00 *42344419401  *215  *
2011               55100100                  088719 11
A001              *01      *                *    /04
*Funds Approval and encumbrance processing is contingent upon Annual
 Legislative appropriation.
----------------------------------------------------------------------

Action:                Funds have been: REVIEWED*

55 062020628 *PT  *750004  *     2000000.00 *42344419401  *215  *
2010               55100100                  088719 10
A001              *00      *                *    /04
*Funds Approval and encumbrance processing is contingent upon Annual
 Legislative appropriation.
----------------------------------------------------------------------
         TOTAL AMOUNT:   *$    4,994,000.00 *
----------------------------------------------------------------------
FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER
DATE: 07/07/2008
```

20

Financial Project No.: 4234441 94 01
Contract No.: AP779

**EXHIBIT "A"**
**PROJECT DESCRIPTION AND RESPONSIBILITIES**

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and, Miami-Dade County Florida by and through Miami-Dade County Aviation Department, dated_____.

PROJECT LOCATION:
Miami-Dade County

PROJECT DESCRIPTION:
This project provides for improvements to the intersection of NW 67th Avenue/Ludlam Road, SR 948/NW 36th Street and Perimeter Road including right of way acquisition, widening and reconstruction of the intersection adding capacity, new turning lanes, new traffic signals, roadway lighting, new drainage for roadway improvements, upgraded signals and pavement markings. JACIP Project No.: PFL0004023

SPECIAL CONSIDERATIONS BY AGENCY:
The audit report(s) required in paragraph 7.60 of the Agreement shall include a schedule of project assistance that will reflect the Department's contract number, Financial Project Number and the Federal Identification number, where applicable, and the amount of state funding action (receipt and disbursement of funds) and any federal or local funding action and the funding action from any other source with respect to the project.

SPECIAL CONSIDERATIONS BY DEPARTMENT: None

OTHER REQUIREMENTS
Approval of Plans and Specs does not imply that the Department has made a detailed engineering review, as it is the responsibility of the Submitting Agency to provide its own detailed review for accuracy of plans, specifications, reports and contract documents. Similarly, legal aspects of these documents were not addressed as they are also considered the responsibility of the Submitting Agency to ensure compliance with all applicable laws, statutes and ordinances.

The Agency must submit an invoice to the Department no later than One Hundred and Twenty (120) days after the period of services covered by said invoice. Failure to submit invoices in a timely manner may result in non-payment by the Department.

Approval of the properly submitted invoice by the Department must occur no later than five days after receipt of the invoice.

Funds encumbered for this contract will be forfeited if not expended within five years of the fiscal year of encumbrance.

THIRD PARTY CONTRACTS

The Department must approve third party contracts pursuant to Paragraph 12.00 except that written approval is hereby granted for:

1. Contracts for materials from a valid state or intergovernmental contract. Such materials must be included in the Department approved project scope and/or quantities.

2. Contracts, purchase orders, and construction change orders (excluding engineering consultant services) up to the threshold limits of Category Three. Such contracts must be for services and/or materials included in the Department approved project scope and/or quantities. Purchasing Categories and Thresholds are defined in Section 287.017 Florida Statutes, and in Rule Chapter 60, Florida Administrative Code. The threshold limits are adjusted periodically for inflation, and it shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this section comply with the current threshold limits. Obligations made in excess of the appropriate limits shall be cause for Department non-participation.

3. Contracts, purchase orders, and construction change orders that exceed the current JPA budget, provided they are within the threshold limits of Category Three, as defined in Section 287.017 Florida Statutes, and in Rule Chapter 60, Florida Administrative Code. Such contracts must be for services and/or materials included in the Department approved project scope and/or quantities.

This approval does not represent a State financial commitment for funds exceeding the current JPA budget unless and until the JPA is supplemented to provide for the additional cost.

In all cases, the Agency shall include a copy of the executed contract or other agreement with the backup documentation of the invoice for reimbursement of costs associated with the contract.

Financial No.: 42344419401
Contract No.: AP779

**EXHIBIT "B"**
**PROJECT BUDGET**

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and Miami-Dade County Florida by and through Miami-Dade County Aviation Department, dated _____.

| | | |
|---|---|---|
| I. | PROJECT COST: | $9,988,000. |
| | TOTAL PROJECT COST: | $9,988,000. |

II. FUND PARTICIPATION:

WITH FAA PARTICIPATION

| | |
|---|---|
| Federal Participation: (FAA) | $ 0 |
| Public Agency Participation: (LF) | $ 0 |
| Department Participation: (DS) | $ 0 |
| | SUBTOTAL = $ 0 |

WITHOUT FAA PARTICIPATION

| | |
|---|---|
| Public Agency Participation: (LF) | $4,994,000. |
| Department Participation: (DDR/DS) | $4,994,000. |
| | SUBTOTAL=$9,988,000. |

"It is the intent of the Department to participate for a total Department s hare of $4,994,000. Reimbursements will not exceed 50% of the total non-federal of eligible project cost."

FINANCIAL PROJECT NO.: 42344419401
CONTRACT NO.: AP779
CSFA NO.: 55004

# EXHIBIT C
# AVIATION PROGRAM ASSURANCES

This exhibit forms an integral part of the Joint Participation Agreement between the State of Florida, Department of Transportation and Miami-Dade County Florida by and through Miami-Dade County Aviation Department.

## A. General

**1. Duration:** The terms, conditions, and assurances of the Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date that the Agreement is executed. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with state funds.

**2. Obligation:** The Agency shall honor these assurances for the duration of this Agreement. If the Agency takes any action that is not consistent with these assurances, the full amount of this Agreement will immediately become due and payable to the Florida Department of Transportation.

## B. General Assurances

The Agency hereby assures that:

**1. Good Title:** It holds good title, satisfactory to the Department, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Department that good title will be acquired.

**2. Preserving Rights and Powers:**

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the Agreement without the written approval of the Department, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the Agency. This shall be done in a manner acceptable to the Department.

b. If an arrangement is made for management and operation of the airport by any agency or person other than the Agency or an employee of the Agency, the Agency will reserve sufficient rights and authority to ensure that the airport will be operated and maintained according to applicable federal and state laws, regulations, and rules.

**3. Hazard Removal & Mitigation:** It will clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

**4. Compatible Land Use:** It will take appropriate action to ensure local government adoption of airport zoning ordinances that comply with Chapter 333, F.S. The ordinances shall address height restrictions and other potential aviation hazards and limitations on incompatible land uses in the vicinity of the airport. The vicinity of the airport includes all areas that will be affected by normal aircraft operations and noise.

The Agency assures that it will take appropriate action to oppose and/or disapprove any attempted change in local land use regulations that would adversely affect the continued level of airport operations by the creation or expansion of incompatible land use areas. The Agency assures that it will provide the Department with a copy of all local airport zoning ordinances, codes, rules, regulations, and amendments, including proposed and granted variances thereto.

**5. Consistency with Local Plans:** It will take appropriate actions to have the current airport master plan adopted into the local government comprehensive plan at the earliest feasible opportunity.

**6. Airport Layout Plan:**

a. It will keep a layout plan of the airport up to date showing:

(1) Boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Agency for airport purposes and proposed additions thereto;

(2) Location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and

(3) Location of all existing and proposed non-aviation areas and of all existing improvements thereon.

b. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Department. The Agency will not make or permit any changes or alterations in the airport or any of its facilities that are not in conformity with the airport layout plan as approved by the Department and which might, in the opinion of the Department, adversely affect the safety, utility, or efficiency of the airport.

**7. Fee and Rental Structure:** It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport taking into account such factors as the volume of traffic and economy of collection. If this Agreement results in a facility that will be leased or otherwise produces revenue, the Agency assures that the revenue will be at fair market value or higher.

**8. Airport Revenue:** That all revenue generated by the airport will be expended for capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property, or for environmental or noise mitigation purposes on or off the airport.

**9. Financial Plan:** It will develop and maintain a cost-feasible financial plan to accomplish the projects necessary to achieve the proposed airport improvements depicted in the airport layout plan. The financial plan shall be a part of the airport master plan. The financial plan shall realistically assess project phasing considering availability of state funding and local funding and the likelihood of federal funding under the Federal Aviation Administration's priority system. All project cost estimates contained in the financial plan shall be entered in the Joint Automated Capital Improvement Program (JACIP) Online Web site. The JACIP Online information shall be kept current as the financial plan is updated.

**10. Operation & Maintenance:** The airport and all facilities which are necessary to serve the aeronautical users of the airport, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation. The Agency assures that it will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Department. The Agency will have arrangements for promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when flooding or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the Agency.

**11. Economic Nondiscrimination:** It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds, and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

**12. Exclusive Rights:** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public.

**13. Federal Funding Eligibility:** It will take appropriate actions to maintain federal funding eligibility for the airport. Further, it will avoid any action that renders the airport ineligible for federal funding.

**14. Termination of Agreement:** It will make expenditures or incur obligations pertaining to this Agreement within two years after the date of this Agreement or the Department of Transportation may terminate this Agreement. The Agency may request a one-year extension of this two-year time period. The District Secretary shall have approval authority.

**15. Retention of Rights and Interests:** It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which state funds have been expended, for the duration of the terms, conditions, and assurances in the Agreement without approval by the Department.

**16. Consultant, Contractor, Scope, and Cost Approval:** It will grant the Department the right to disapprove the Agency's employment of specific consultants, contractors, and subcontractors for all or any part of this project if the specific consultants, contractors, or subcontractors have a record of poor project performance with the Department. Further, the Agency assures that it will grant the Department the right to disapprove the proposed project scope and cost of professional services.

## C. Planning Projects

If this project involves planning or other aviation studies, the Agency assures that it will:

**1. Project Scope:** Execute the project in accordance with the approved project narrative or with approved modifications.

**2. Reports:** Furnish the Department with such periodic project and work activity reports as required.

**3. Public Information:** Make such material available for examination by the public. No material prepared under this Agreement shall be subject to copyright in the United States or any other country.

**4. Disclosure:** Grant the Department unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Agreement.

**5. Department Guidelines:** Comply with Department airport master planning guidelines if the project involves airport master planning or developing an airport layout plan. This includes:

a. Providing copies, in electronic and editable format, of final project materials to the Department. This includes computer-aided drafting (CAD) files of the airport layout plan.

b. Developing a cost-feasible financial plan, approved by the Department, to accomplish the projects described in the airport master plan or depicted in the airport layout plan. The cost-feasible financial plan shall realistically assess project phasing considering availability of state and local funding and the likelihood of federal funding under the Federal Aviation Administration's priority system.

c. Entering all projects contained in the cost-feasible plan out to twenty years in the Joint Automated Capital Improvement Program (JACIP) database.

**6. No Implied Commitments:** Understand and agree that Department approval of this project Agreement or any planning material developed as part of this Agreement does not constitute or imply any assurance or commitment on the part of the Department to approve any pending or future application for state aviation funding.

## D. Land Acquisition Projects

If this project involves land purchase, the Agency assures that it will:

**1. Applicable Laws:** Acquire the land interest in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; the National Environmental Policy of 1969; FAA Order 5100.37A; FAA Order 5050.4A.; chapters 73 and 74, F.S., when property is acquired through condemnation; and section 286.23, F.S.

**2. Administration:** Maintain direct control of project administration, including:

a. Maintaining responsibility for all contract letting and administrative procedures necessary for the acquisition of the land interests.

b. Securing written permission from the Department to execute each agreement with any third party.

c. Furnishing a projected schedule of events and a cash flow projection within twenty (20) calendar days after completion of the review appraisal.

d. Establishing a project account for purchase of land interests.

e. Collecting and disbursing federal, state, and local project funds.

**3. Loans:** Comply with the following requirements if the funding conveyed by this Agreement is a loan for land purchase according to Chapter 332, F.S.:

a. The Agency shall apply for a Federal Aviation Administration Airport Improvement Program grant for the land purchase within 60 days of executing this Agreement.

b. If federal funds are received for the land purchase, the Agency shall notify the Department by U.S. Mail within 14 calendar days of receiving the federal funds and is responsible for reimbursing the Department within 30 calendar days to achieve normal project federal, state, and local funding shares as described in Chapter 332, F.S.

c. If federal funds are not received for the land purchase, the Agency shall reimburse the Department to achieve normal project state and local funding shares as described in Chapter 332, F.S., within 30 calendar days after the loan matures.

d. If federal funds are not received for the land purchase and the state funding share of the land purchase is less than or equal to normal state and local funding shares as described in Chapter 332, F.S., when the loan matures, no reimbursement to the Department shall be required.

**4. New Airports:**

a. Protect the airport and related airspace by ensuring local government adoption of an airport zoning ordinance or amending an existing airport zoning ordinance, consistent with the provisions of Chapter 333, F.S., prior to the completion of the project.

b. Apply for federal and state funding to construct a paved runway, associated aircraft parking apron, and connecting taxiway within one year of the date of land purchase.

c. Complete an airport master plan within two years of land purchase.

d. Complete construction necessary for basic airport operation within ten years of land purchase.

**5. Airfield Access:** The Agency will not grant or allow easement or access that opens onto or crosses the airport runways, taxiways, flight line, passenger facilities, or any area used for emergency equipment, fuel, supplies, passengers, mail and freight, radar, communications, utilities, and landing systems, including but not limited to flight operations, ground services, emergency services, terminal facilities, maintenance, repair, or storage.

**6. Use of Land:** The Agency shall use the land for aviation purposes in accordance with the terms of this Agreement within ten years after the acquisition date.

**7. Disposal of land:** For land purchased under an Agreement for airport noise compatibility or airport development purposes, disposition of such land will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

## E. Aviation Construction Projects

If this project involves construction, the Agency assures that it will:

**1. Certifications:** Provide certifications that:

a. Consultant and contractor selection comply with all applicable federal, state and local laws, rules, regulations, and policies.

b. All design plans and specifications comply with federal, state, and professional standards and applicable Federal Aviation Administration advisory circulars.

c. The project complies with all applicable building codes and other statutory requirements.

d. Completed construction complies with the original project plans and specifications.

**2. Construction Inspection & Approval:** Provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Department for the project. The Agency assures that it will allow the Department to inspect the work. The Department may require cost and progress reporting by the Agency.

**3. Pavement Preventative Maintenance:** With respect to a project for the replacement or reconstruction of pavement at the airport, implement an effective airport pavement maintenance management program and the Agency assures that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with state financial assistance at the airport.

## F. Noise Mitigation Projects

If this project involves noise mitigation, the Agency assures that it will:

**1. Local Government Agreements:** For all noise compatibility projects that are carried out by another unit of local government or are on property owned by a unit of local government other than the Agency, enter into an agreement with that government. The agreement shall obligate the unit of local government to the same terms, conditions, and assurances that apply to the Agency. The agreement and changes thereto must be satisfactory to the Department. The Agency assures that it will take steps to enforce the agreement if there is substantial non-compliance with the terms of the agreement.

**2. Private Agreements:** For noise compatibility projects to be carried out on privately owned property, enter into an agreement with the owner of that property to exclude future actions against the airport. The Agency assures that it will take steps to enforce the agreement if there is substantial non-compliance with the terms of the agreement.

# EXHIBIT D

**Financial Project No. 42344419401**
**Contract No. AP779**

**FEDERAL** and/or **STATE** resources awarded to the recipient pursuant to this agreement should be listed below. If the resources awarded to the recipient represent more than one Federal or State program, provide the same information for each program and the total resources awarded. **Compliance Requirements** applicable to each Federal or State program should also be listed below. If the resources awarded to the recipient represent more than one program, list applicable compliance requirements for each program in the same manner as shown here:

- (e.g., Eligibility requirements for recipients of the resources)
- (Etc...)

**NOTE:** Instead of listing the specific compliance requirements as shown above, the State awarding agency may elect to use language that requires the recipient to comply with the requirements of applicable provisions of specific laws, rules, regulations, etc. The State awarding agency, if practical, may want to attach a copy of the specific law, rule, or regulation referred to.

**FEDERAL RESOURCES**

| Federal Agency | Catalog of Federal Domestic Assistance (Number & Title) | Amount |
|---|---|---|

Compliance Requirements

1.

2.

3.

**STATE RESOURCES**

| State Agency | Catalog of State Financial Assistance (Number & Title) | Amount |
|---|---|---|
| FDOT | 55.004 Aviation Development Grants | $ 4,994,000. |

**Compliance Requirements**

1. In developing audit procedures to test compliance with the requirements for a state project, the auditor should first look to Part Two, Matrix of Compliance Requirements, to identify which of the 10 types of compliance requirements described in Part Three of the Compliance Supplement are applicable and then look to Parts Three and Four for the details of the requirements.

**Activities Allowed**

**Airport Planning**

Airport Planning Grants are to study options for airport development and operations. The Department funds airport master plans, airport layout plans (ALP), noise and environmental studies, economical impact, services development, and airport promotion. Examples of projects are:

- Master plans and ALPs;
- Master drainage plans;
- Environmental assessments (EA);
- Development of regional impact (DRI);
- Operations and emergency response plans;
- Federal Aviation Regulations (FAR) Part 150 noise studies;

- Environmental impact studies (EIS);
- Wildlife hazard studies;
- Feasibility and site selection studies;
- Business plans;
- Airport management studies and training;
- Air services studies and related promotional materials.

(FDOT Aviation Grant Program Handbook)

**Airport Improvement**

These grants are to provide capital facilities and equipment for airports. Examples of projects are:
- Air-side capital improvement projects (runways, taxiways, aprons, T-hangers, fuel farms, maintenance hangers, lighting, control towers, instrument approach aids, automatic weather observation stations);
- Land-side capital improvement projects (terminal buildings, parking lots and structures, road and other access projects);
- Presentation projects (overlays, crack sealing, marking, painting buildings, roofing buildings, and other approved projects;
- Safety equipment (including AARF fire fighting equipment and lighted Xs);
- Safety projects (tree clearing, land contouring on overrun areas, and removing, lowering, moving, and marking, lighting hazards);
- Information technology equipment (used to inventory and plan airport facility needs);
- Drainage improvements.

(FDOT Aviation Grant Program Handbook)

**Land Acquisition**

This grant program protects Florida's citizens from airport noise and protects airport clear zones and runway approach areas from encroachment. Administrative Costs, appraisals, legal fees, surveys, closing costs and preliminary engineering fees are eligible costs. In the event the negotiation for a fair market value is unsuccessful, the court will be petitioned for "an Order of Taking" under the eminent domain laws of Florida. Examples of projects are:
-Land acquisition (for land in an approved master plan or ALP);
-Mitigation land (on or off airport);
-Aviation easements;
-Right of way;
-Approach clear zones.
(FDOT Aviation Grant program Handbook)

**Airport Economic Development**

This grant program is to encourage airport revenue. Examples of projects are:

-Any airport improvement and land purchase that will enhance economic impact;
-Building for lease;
-Industrial park infrastructure and buildings;
-General aviation terminals that will be 100 percent leased out;
-Industrial park marketing programs.
(FDOT Aviation Grant Program Handbook)

**Aviation Land Acquisition Loan Program**

The Department provides interest free loans for 75 percent of the cost of airport land purchases for both commercial service and general aviation airports.

# EXHIBIT D

This is a general description of project types. A detail list of project types approved for these grant programs can be found in the Aviation Grant Program manual which can be accessed through the internet at www.dot.state.fl.us/Aviation/Public.htm.

**Matching**

Commercial Service Airports

When no federal funding is available, the Department provides up to 50 percent of the project costs. (FDOT Aviation Grant Program Handbook and Section 332.007(6) Florida Statutes)

General Aviation Airports

When no federal funding is available, the Department provides up to 80 percent of project costs. (FDOT Aviation Grant Program Handbook and Section 332.007(6) Florida Statutes)

Economic Development

The Department provides up to 50 percent of airport economic development funds to build on-airport revenue-producing capital improvements. This program is for local match only. (FDOT Aviation Grant Program Handbook and Section 332.007(6) Florida Statutes)

Airport Loans

The Department provides a 75 percent loan program to fund the Aviation Land Acquisition Loan Program. (FDOT Aviation Grant Program Handbook and Section 332.007(6) Florida Statutes)

Matching Resources for Federal Programs

| Federal Agency | Catalog of Federal Domestic Assistance (Number & Title) | Amount |
|---|---|---|

Compliance Requirements

1.

2.

3.

**NOTE: Section .400(d) of OMB Circular A-133, as revised, and Section 215.97(5)(a), Florida Statutes, require that the information about Federal Programs and State Projects included in this exhibit be provided to the recipient.**