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

Memorandum

MIAMI-DADE COUNTY

Date: July 20, 2010

Agenda Item No. 14(A)(17)

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

From: George M. Burgess
County Manager

Resolution No. R-834-10

Subject: Resolution Approving a Preliminary Design Reimbursable Agreement (RA) with the Federal Aviation Administration (FAA) to relocate Navigational Aids for Runway 9L at Opa-locka Executive Airport (OPF) under RA Agreement Number AJW-FN-ESA-10-7019

Recommendation
It is recommended that the Board approve the attached Preliminary Design Reimbursable Agreement (RA) No. AJW-FN-ESA-10-7019 between the Federal Aviation Administration (FAA) and the County through its Miami-Dade Aviation Department (MDAD) in the amount of $29,601.00, under which the FAA will provide engineering design services for the County requested relocation of Navigational Aids (NAVAIDs) for Runway 9L at the Opa-locka Executive Airport (OPF) which will make available a 2.8-acre parcel of land to the developer AVE, LLC (AVE) in accordance with provisions contained in their development lease with the County.

Scope
OPF is located within District 1, Commissioner Barbara J. Jordan.

Fiscal Impact/Funding Source
This Reimbursable Agreement will require MDAD to pay the FAA $29,601.00 for engineering services associated with the County's requested relocation of the subject NAVAIDs. Once the engineering services are completed, the removal and relocation of the equipment may also need to be done by the FAA, as there are proprietary issues and liabilities involved with their equipment. If this is the case, the County will enter into a second reimbursement agreement with the FAA for the actual relocation services. Those cost will be determined by the initial engineering services. Funding for this relocation work is available in the Department's operating budget. This is FAA maintained equipment and therefore, the project will not create any additional impact on the current budget nor will it impact future budgets.

Track Record/Monitor
The Reimbursable Agreement will be managed by MDAD Chief of Aviation Planning José A. Ramos.

Background
As reflected in the attached sketch, the property is currently part of a development lease agreement of 171± acres of undeveloped land on the west side of OPF, assigned to AVE under Resolution No. R-131-07 on February 6, 2007., Under the Agreement, the County is responsible for making the parcel available to AVE which, in turn, requires the County to relocate various NAVAIDs equipment located on the property at the intersection of Miami Lakes Drive and NW 57th Avenue. This signalized intersection and the adjacent land is crucial to the successful implementation of AVE's planned development in order to meet lease obligations.

Under this RA, the FAA will provide design services for the relocation of the Medium-Intensity Approach Lighting System (MALSR) power and control equipment for Runway 9L, the Remote Transmitter

Antennas, a Florida Power & Light (FPL) Electrical Vault and related shelters that the County requires relocated. In order to assure that the critically important NAVAIDs are relocated correctly, the FAA requires that the County enter into an RA for engineering related services to be provided by the FAA, and to pre-pay the FAA $29,601.00 for their services. In addition, MDAD will be responsible for payment of any additional engineering costs associated with the relocation work and will likewise be entitled to a return of any pre-paid amounts that are in excess of actual costs.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: July 20, 2010

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

SUBJECT: Agenda Item No. 14(A)(17)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous_____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(17)
7-20-10

RESOLUTION NO. R-834-10

RESOLUTION RELATING TO OPA-LOCKA EXECUTIVE AIRPORT; APPROVING PRELIMINARY DESIGN REIMBURSABLE AGREEMENT AJW-FA-ESA-10-7019 WITH THE FEDERAL AVIATION ADMINISTRATION FOR RELOCATION OF NAVIGATIONAL AIDS SYSTEMS FOR RUNWAY 9 LEFT AT THE AIRPORT IN ORDER TO COMPLY WITH COUNTY'S OBLIGATIONS UNDER ITS DEVELOPMENT LEASE AGREEMENT WITH AVE, LLC; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SUCH AGREEMENT

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 the attached Preliminary Design Reimbursable Agreement AJW-FA-ESA-10-7019 with the Federal Aviation Administration (FAA) for the FAA's design, engineering, and construction-related services to be provided by the FAA in conjunction with the relocation of navigational aids systems for Runway 9 Left at the Airport in order to comply with the County's obligations under its Development Lease Agreement with Ave, LLC by making the underlying property available to AVE, LLC, for its development; authorizing the County Mayor or County Mayor's designee to execute such Preliminary Design Reimbursable Agreement on behalf of the County.

The foregoing resolution was offered by Commissioner **Katy Sorenson** , who moved its adoption. The motion was seconded by Commissioner **Dennis C. Moss** and upon being put to a vote, the vote was as follows:

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

Bruno A. Barreiro	**aye**	Audrey M. Edmonson	**aye**
Carlos A. Gimenez	**aye**	Sally A. Heyman	**absent**
Barbara J. Jordan	**aye**	Joe A. Martinez	**aye**
Dorrin D. Rolle	**aye**	Natacha Seijas	**aye**
Katy Sorenson	**aye**	Rebeca Sosa	**absent**
Sen. Javier D. Souto	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of July, 2010. 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: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency

Thomas P. Abbott

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
EXHIBIT "A"

Sheet 1 of 2
Date: May 10, 2010

Portions of MIAMI GARDENS, according to the plat thereof, as recorded in Plat Book 2 at Page 96, lying in Section 19, Township 52 South, Range 41 East, Miami-Dade County, Florida and portions of Lots 6, 7 and 8, BLAIN ACRES, according to the Plat thereof, as recorded in Plat Book 24, at Page 9, all of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

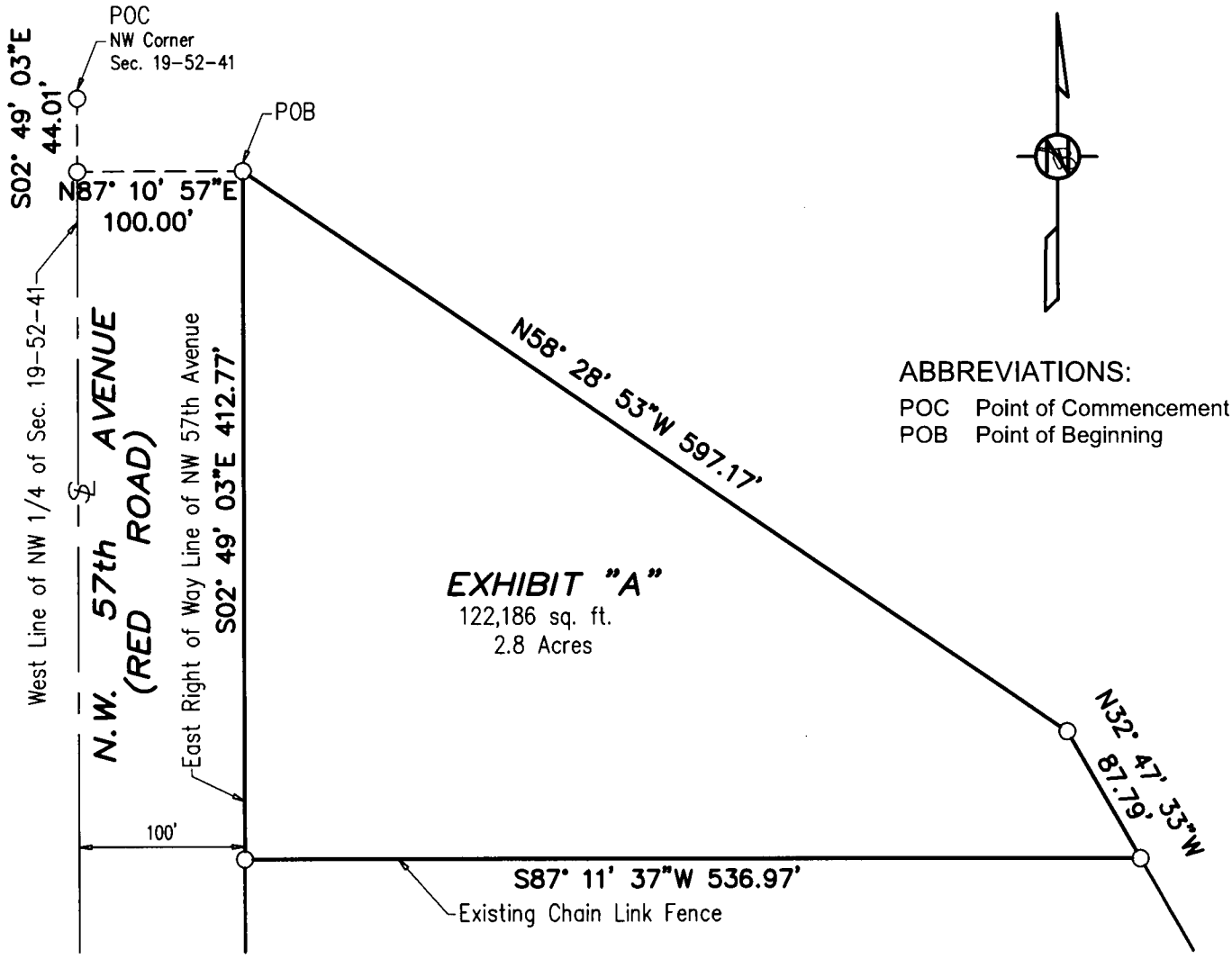
Commence at the Northwest corner of Section 19, Township 52 South, Range 41 East, Miami-Dade County, Florida; thence run South 02°49'03" East along the West Line of the Northwest ¼ of said Section 19 for a distance of 44.01 feet; thence run North 87°10'57" East for a distance of 100.00 feet to a point on the East Right of Way Line of NW 57th Avenue (Red Road) as shown on the State of Florida State Road Department Right of Way Map, Section 87630-2602, as recorded in Road Plat Book 112 at Page 7 of the Public Records of Miami-Dade County, Florida; the same being a Point of Beginning of the follows described parcel; thence run South 02°49'03" East, along the East Right of Way Line of N.W. 57th Avenue, for a distance of 412.77 feet to a point of intersection with the westerly prolongation of the Existing Chain Link Fence; thence run North 87°11'37" East, along the Existing Chain Link Fence, for a distance of 536.97 feet to a point; thence run North 32°47'33" West for a distance of 87.79 feet a found rebar with cap LB No. 5183, thence run North 58°28'53" West for a distance of 597.17 feet to the POINT OF BEGINNING; said Parcel containing 122,186 square feet more or less, (2.8 Acres more or less).

E.R. BROWNELL & ASSOCIATES, INC

This Description and the accompanying Sketch are not valid without the signature and raised seal of a Florida Licensed Surveyor and Mapper. This Description and the accompanying Sketch are not valis one without the other.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT "A"



ABBREVIATIONS:

POC Point of Commencement
POB Point of Beginning

NOTE:
Bearings and Coordinates shown are based on the State Plane Coordinates System, Florida East Zone NAD 83 (1993 Adjustment) were the East Right of Way Line of NW 57th Avenue, bears South 02°49'03" East, and based on reference Monuments provided by Miami Dade Water and Sewer Department shown as follows:

NAD 83 (1993 Adjustment)
Name: SPRING 1971
Mon Grid Coordinates (Feet)
North: 580005.152
East: 872875.515

NAD (1993 Adjustment)
Name: WEIDENER
Mon Grid Coordinates (Feet)
North: 569425.790
East: 904644.821

Date: May 10, 2010
THIS IS NOT A BOUNDARY SURVEY

Prepared By: Thomas Brownell

MIAMI DADE AVIATION DEPARTMENT			E.R. BROWNELL & ASSOC., INC. CONSULTING ENGINEERS LAND SURVEYORS 2434 SW 28th LANE Miami, Florida, 33133 PH: 305.860.3866 FAX: 305.860.3870
	Draw By: ALR	Date: 05/10/10	
Sheet 2 of 2	Job #: 56817V	Scale: 1"=100'	Certificate of Autorization No: LB 761 Sk No.: SM-2404

Agreement Number
AJW-FN-ESA-10-7019

PRELIMINARY DESIGN REIMBURSABLE AGREEMENT

BETWEEN

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AND

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

RECEIVED
APR 19 2010
AVIATION PLANNING

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

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

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

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

ARTICLE 1. Parties

The Parties to this Preliminary Design Reimbursable Agreement (Agreement) are the FAA and the Miami-Dade Aviation Department.

ARTICLE 2. Type of Agreement

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

ARTICLE 3. Scope

Preliminary Design Reimbursable Agreement for the Relocation of the MALSR Power & Control Equipment, Runway 09L at Opa-Locka Executive Airport.

This Agreement provides funding for FAA services limited to labor, travel, and expenses required perform preliminary engineering for future implementation of the Sponsor's project identified above. Preliminary engineering includes technical consultation, site visits, feasibility assessments, project planning, scope definition, and development of cost estimate(s). No government furnished equipment, engineering design, or implementation services will be provided under this Agreement. If required, the FAA and the Sponsor will enter into a separate agreement to cover the implementation of the costs included in the estimate developed under this Agreement.

ARTICLE 4. Points of Contact

A. FAA Points of Contact:

1. The FAA Eastern Service Area, Atlanta NAVAIDS EngineeringCenter)] will perform the Scope of Work included in this Agreement. Mr. Anthony Sims is the NAVAIDS Engineering Center Manager)] and liaison with the Sponsor and can be reached at (404) 389-8531. This liaison is not authorized to make any commitment, or otherwise obligate the FAA, or authorize any changes which affect the estimated cost, period of performance, or other terms and conditions of this Agreement.

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

B. Sponsor Point(s) of Contact

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

ARTICLE 5. Reserved

ARTICLE 6. Reserved

ARTICLE 7. Estimated Costs

The fully-loaded estimated FAA cost associated with this preliminary agreement is $29,601.00.

ARTICLE 8. Period of Agreement and Effective Date

This Agreement supersedes and nullifies any previous agreements between the parties on the subject matter. The effective date of this Agreement is the date of the last signature. This Agreement is considered complete when the final invoice is provided to the Sponsor and a refund is sent or payment is received as provided for in Article 9, Section A of this Agreement. Under no circumstances will this Agreement extend 18 months beyond its effective date.

ARTICLE 9. Reimbursement and Accounting Arrangements

A. The Sponsor agrees to prepay the entire estimated cost of the Agreement. The Sponsor will send a copy of the executed Agreement and full advance payment in the amount stated in Article 7 to the Accounting Division listed in Section C of this Article. The advance payment will be held as a non-interest bearing deposit. Such advance payment by the Sponsor must be received before the FAA incurs any obligation to implement this Agreement. In addition, in the event that a contractor performing work pursuant to the scope of this Agreement brings a claim against the FAA and the FAA incurs additional costs as a result of the claim, the sponsor agrees to reimburse the FAA for the additional costs incurred whether or not a final bill or a refund has been sent.

B. The Sponsor certifies that arrangements for sufficient funding have been made to cover the estimated costs of the Agreement.

C. The Accounting Division is identified by the FAA as the billing office for this Agreement. The Sponsor will send a copy of the executed Agreement and the full advance payment to the Accounting Division shown below. All payments must include the Agreement number, Agreement name, Sponsor name, and project location.

The mailing address is:
FAA – Mike Monroney Aeronautical Center
ATTN: AMZ-330, Reimbursable Project Team
P.O. Box 25082
Oklahoma City OK 73125
Telephone (405) 954-6724

The overnight mailing address is:
DOT/FAA/Mike Monroney Aeronautical Center
AMZ-330 Reimbursable Project Team
6500 S. MacArthur Blvd.
Oklahoma City OK 73169

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

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

D. The FAA will provide updates at least quarterly of costs incurred against the advance payment. A Reimbursable Bill Support List (a summary of cost by object class) will accompany all updates.

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

ARTICLE 10. Changes and Modifications

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

ARTICLE 11. Termination

In addition to any other termination rights provided by this Agreement, either party may terminate this Agreement at any time prior to its expiration date, with or without cause, and without incurring any liability or obligation to the terminated party other than payment of amounts due and owing and performance of obligations accrued, in each case on or prior to the termination date, by giving the other party at least thirty (30) days prior written notice of termination. Payment of amounts due and owing may include all costs reimbursable under this Agreement, not previously paid, for the performance of this Agreement before the effective date of the termination; the total cost of terminating and

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settling contracts entered into by the FAA for the purpose of this Agreement; and any other costs necessary to terminate this Agreement. Upon receipt of a notice of termination, the receiving party will take immediate steps to stop the accrual of any additional obligations which might require payment. All funds due after termination will be netted against the advance payment and, as appropriate, a refund or bill will be issued.

ARTICLE 12. Order of Precedence

If attachments are included in this Agreement and in the event of any inconsistency between the attachments and the terms of this Agreement, the inconsistency will be resolved by giving preference in the following order:

A. This Agreement

B. The attachments

ARTICLE 13. Legal Authority

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

ARTICLE 14. Disputes

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

ARTICLE 15. Reserved

ARTICLE 16. Insurance

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

ARTICLE 17. Limitation of Liability

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

ARTICLE 18. Civil Rights Act

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

ARTICLE 19. Protection of Information

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

ARTICLE 20. Security

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

ARTICLE 21. Entire Agreement

This document is the entire Agreement of the parties, who accept the terms of this Agreement as shown by their signatures below. In the event the parties duly execute any amendment to this Agreement, the terms of such amendment will supersede the terms of this Agreement to the extent of any inconsistency. Each party acknowledges participation in the negotiations and drafting of this Agreement and any amendments thereto, and that, accordingly, this Agreement will not be construed more stringently against one party than against the other. If this Agreement is not executed by the Sponsor within 100 calendar days after the FAA transmits it to the Sponsor, the terms contained and set forth in this Agreement shall be null and void.

AGREED:

Agreement Number
AJW-FN-ESA-10-7019

FEDERAL AVIATION ADMINISTRATION		**MIAMI-DADE AVIATION DEPARTMENT**	
SIGNATURE	Bertha Russell	SIGNATURE	
NAME	Bertha Russell	NAME	
TITLE	Contracting Officer	TITLE	
DATE	4/13/2010	DATE	