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

Memorandum

MIAMI-DADE COUNTY

Date: April 4, 2011

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

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

From: George M. Burgess
County Manager

Resolution No. R-226-11

Subject: Ratification of Acceptance and Execution of Federal Aviation Administration Supplemental Agreement No. 3 to Other Transaction Agreement for the transfer to the County of $882,128.00 in additional federal funds for the construction of and equipment for the new Airport Traffic Control Tower at Opa-locka Executive Airport

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RECOMMENDATION

It is recommended that, pursuant to the Expedite Ordinance in Section 2-285(6) of the Code of Miami-Dade County, the Board adopt the attached resolution ratifying the acceptance and execution by the Mayor's designee of Supplemental Agreement No. 3 to the Other Transaction Agreement ("OTA") between Miami-Dade County and the Federal Aviation Administration ("FAA") for the transfer to the County of additional federal funds for the construction of and equipment for the new Air Traffic Control Tower ("ATCT") at Opa-locka Executive Airport (OPF), in the amount of $882,128.00.

SCOPE

This project is located within Commissioner Barbara J. Jordan's, District One; however, the impact is countywide in nature as Opa-locka Executive Airport is a regional asset.

FISCAL IMPACT

This item approves additional federal funds for the County to be applied to a project already approved by the Board, thereby reducing the County's portion of funding for this project. The construction cost of the ATCT is $10,598,333. Supplemental Agreement No. 3 provides additional funding of $882,128.00 toward the construction and equipping of the tower.

Supplement No. 3 increases the total federal funding for the project to $8,553,494.86. The remaining non-federal balance of $2,044,838.00 is being funded by the Miami-Dade Aviation Department (MDAD) and the Florida Department of Transportation (FDOT), with FDOT providing grant funds covering 50 percent of the non-federal amount, and MDAD providing the remaining 50 percent through existing funding in its Improvement Fund.

Future costs associated with the new ATCT, such as utilities, maintenance, landscaping, and janitorial services, are estimated at $42,000 per year. These costs will be allocated from the Department's Operations and Maintenance (O&M) budget, and will be absorbed through MDAD's Maintenance operations and existing contracts.

TRACK RECORD/MONITOR

The original OTA and its associated supplements are being managed by MDAD Chief of Planning Jose A. Ramos. The grant reimbursement is managed by MDAD Chief of Grants Norma Mata.

BACKGROUND

On May 9, 2006, pursuant to Resolution No. R-496-06, the Board of County Commissioners (BCC) entered into an OTA with the FAA for the construction and equipping of a new ATCT at OPF to replace its outdated structure (an "Other Transaction Agreement" is the FAA's reference to an agreement with a party other than a federal agency.) The ATCT will be owned and operated by the

County through MDAD.

Under the original OTA, the FAA provided $2.5 million for the project, but transferred only $2.35 million of its share for the construction portion of the project, reserving the balance of $150,000 for the FAA's anticipated costs associated with the purchase and installation of telecommunications circuits, lines and equipment and related work, and other FAA-provided equipment. Of the $2.5 million appropriated for this project, $1.0 million was "congressionally designated," which is a form of funding available for these projects.

On November 6, 2007, pursuant to Resolution No. R-1205-07, the Board approved Amendment No. 1 to the OTA for an increase to the previous congressionally designated funding of $4.2 million, raising the funding limit for the construction portion to $6,550,000. On October 5, 2010, pursuant to Resolution No. R-969-10, the Board approved Amendment No. 2 to the OTA providing additional congressionally designated funding of $1,000,000 and releasing $121,366.86 previously held in reserve, thus bringing the construction funding to $7,671,366.86.

The FAA has now offered additional funding for the project in the amount of $882,128.00. The attached Amendment No. 3 to the OTA serves to add the amount of $882,128.00 for a new total federal not-to-exceed funding amount of $8,533,494.86 for the construction portion of the project.

It is therefore recommended that the Board ratify the actions of the Mayor's designee in accepting and executing this Supplement No. 3 to the OTA in the amount of $882,128.00.

Assistant County Manager

MEMORANDUM
(Revised)

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

DATE: April 4, 2011

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

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

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. 8(A)(1)(A)
4-4-11

RESOLUTION NO. R-226-11

RESOLUTION RELATING TO OPA-LOCKA EXECUTIVE AIRPORT; RATIFYING EXECUTION BY THE MAYOR'S DESIGNEE OF SUPPLEMENTAL AGREEMENT NO. 3 TO THE "OTHER TRANSACTION AGREEMENT" WITH THE FEDERAL AVIATION ADMINISTRATION TO INCREASE BY $882,128 THE AMOUNT OF FEDERAL FUNDING OF THE CONSTRUCTION PORTION OF THE AIRPORT'S AIR TRAFFIC CONTROL TOWER

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 ratifies, confirms, and approves the execution by the Mayor's designee of Supplemental Agreement No. 3 to the Other Transaction Agreement with the Federal Aviation Administration to increase by $882,128.00 the amount of federal funding of the construction of the air traffic control tower at Opa-Locka Executive Airport.

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

Joe A. Martinez, Chairman	aye		
Audrey M. Edmonson, Vice Chairwoman	aye		
Bruno A. Barreiro	aye	Lynda Bell	aye
Jose "Pepe" Diaz	aye	Carlos A. Gimenez	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	aye

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of April, 2011. 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. TPA

Thomas P. Abbott

SUPPLEMENTAL AGREEMENT NO. 3
TO THE
OTHER TRANSACTION AGREEMENT (OTA)
BETWEEN THE
FEDERAL AVIATION ADMINISTRATION (FAA)
AND
MIAMI-DADE COUNTY ("MDC," OR "SPONSOR"), BY AND THROUGH ITS AVIATION DEPARTMENT ("MDAD")

The parties desire in this Supplemental Agreement **No. 3** to amend the OTA to reflect additional funding through the American Recovery and Reinvestment Act of 2009 (ARRA), as such amendment is permitted by Article 13 of the OTA;

The parties agree to the following amendments to the OTA:

ARTICLE 8. FUNDING AND PAYMENT, is amended with the following changes:

a. The original total not to exceed (NTE) cost of this agreement was $2,350,000. Supplemental Agreement #1 to the OTA served to add $4,200,000 for a NTE cost of $6,550,000.00. Supplemental Agreement #2 to the OTA served to release funds held in reserve in the amount of $121,366.86 and add $1,000,000. **Supplemental Agreement #3 serves to add $882,128.00 for a new NTE cost of $8,553,494.86.** The Sponsor will enter into a separate reimbursable agreement with the FAA to purchase and install telecommunications circuits, lines, related work, and for other FAA-provided equipment. The Authority will reserve funds in the estimated amount of $470,000.00 to be used for these activities. FAA reserves the right to modify this amount after requirements are fully defined. The supplemental funds of $1,000,000 are provided pursuant to the ARRA of 2009, disbursement shall be made within 60 days. The FAA-reserved amount of $121,366.86 will be disbursed after BOD is declared.

ARTICLE 9. LIMITATION OF FUNDS, is hereby replaced in its entirety with the following:

The Government's liability to make payments to the Authority is limited to **$8,553,494.86.** This includes stimulus funds pursuant to the ARRA Act of 2009 as set forth in ARTICLE 8, including written modifications to this Agreement. The Government's total share in this project including the stimulus funds is limited to **$8,553,494.86.**

ARTICLE 24. OTHER TERMS AND CONDITIONS

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

AGREED:

Miami-Dade Aviation Department (MDAD)

By: _____
Jose Abreu
Aviation Director

1/19/11
Date

Federal Aviation Administration (FAA)

By: _____
Robert Valdes
Contracting Officer

_____
Date

Approved as to form and legal sufficiency

Assistant County Attorney

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item:	**8(A)1(A)**
File Number:	**110277**
Committee(s) of Reference:	**Board of County Commissioners**
Date of Analysis:	**March 21, 2011**
Type of Item:	**Ratification**

Summary

This resolution ratifies the acceptance and execution by the Mayor's designee of Supplemental Agreement No. 3 to the Other Transaction Agreement (OTA) between Miami-Dade County the Federal Aviation Administration (FAA) for the transfer of additional federal funds for the construction of and equipment for the Air Traffic Control Tower (ATCT) at Opa-Locka Executive Airport (OPF), in the amount of $882,128. Adoption of this resolution would increase the federal funding for this project to $8,533,494.86. The construction cost for this project is $10,598,333. The remaining funding for the construction of the ATCT will be funded through a 50/50 split between the Florida Department of Transportation and the Miami-Dade Aviation Department.

- *This proposed item does not reflect the new total amount of the project as adopted in R-695-10.*

Background and Relevant Legislation

On May 9, 2006, the Board of County Commissioners (BCC) adopted R-496-06, authorizing the execution of an OTA between the County and the FAA to develop specifications, design, construct and equip a new ATCT at OPF. The County's contribution towards the project was expected to be approximately $4.9 million; the FAA contributed $2.35 million of their total share of $2.5 million appropriated for the project, reserving $150,000 for costs associated with the project. FDOT funding was anticipated at the maximum level of $3,463,181. The remaining funding of approximately $4,962,489 was to be provided by Aviation Improvement Funds.

On November 6, 2007, the BCC adopted R-1205-07, approving the Supplemental Agreement No. 1 to the OTA between the County and the FAA for additional, Congressionally designated funds in the amount of $4.2 million bringing the total federal funding for the project to $6.7 million. FDOT funding was anticipated at the maximum level of $3,871,000. The remaining funding of approximately $354,000 was to be provided by Aviation Improvement Funds. Construction completion and occupancy was set for 2009.

On July 17, 2008, the BCC adopted R-834-08, ratifying the execution of a Joint Participation Agreement (JPA) with FDOT in the amount of $3,871,000.

On January 22, 2009, the BCC adopted R-22-09, approving the contract award recommendation to TGSV Enterprises Inc. for the construction of the OPF ATCT in an amount not to exceed $10,598,332 with a contract term of 18 months and a 16% ($1,328,452) DBE contract measure and a 10% ($961,300) CWP contract measure. The estimated cost of the ATCT was $10,925,000 and construction completion and occupancy was expected in 2009.

On June 15, 2010, the BCC adopted R-695-10, approving Change Order no. 1 to the TGSV contract increasing the total contract amount by $783,583.07, for a new total of $11,381,915.57, and extending the contract term by 128 days.

- *At the 6/10/10 ASC meeting the Assistant County Attorney read the resolution into the record and asked that a scrivener's error under "Change Order Funding Source" be corrected to reflect $2,024,166.25 as the unfunded balance for the FDOT grant and the MDAD Airport Improvement Fund; and to reflect the total amount as $11,381,915.57. However, the item was waived on to the 6/15/10 BCC and was ultimately adopted as R-695-10 without the corrections being reflected in the resolution.*

On January 20, 2011, the BCC adopted R-10-11, ratifying the County Mayor's designee of a Reimbursable Agreement with the FAA in the amount of $459,195 for the FAA's costs associated with relocating FAA equipment from the temporary ATCT at OPF to the newly constructed ATCT. Under the agreement the County would be eligible to be reimbursed once all work on the Tower is complete.

Relevant Legislation

5/11/2004	R-543-04	Authorized PSA with Kimley-Horn and Associates for MIA Airfield Security Project No. E02-MDAD-04 at Miami International Airport in a contract amount of up to $2,005,000 with an **18% DBE goal** and a contract term of five (5) years or until all service orders had been completed.
5/5/2009	R-480-09	First Amendment to Project Specific Services Agreement (PSA) with Kimley-Horn and Associates, increases contract amount by $300,000 for a new total of $2,305,000 and corrects a scrivener's error in the scope of work description. The PSA awarded through R-543-04 did not include General Aviation Airports (GAA) in the scope of work description in the final agreement. ***This first amendment corrects the scrivener's error by including GAA in the scope of work description and by including the Air Traffic Control Tower Project L-085A, this amendment allowed for Kimley-Horn to meet the 18% DBE goal that was established when the PSA was originally awarded in 2004 as they had only met 4.88%.***
5/5/2009	*Prior to adopting R-480-09, the BCC requested the MDAD Director to provide monthly reports regarding Kimley-Horn's efforts to achieve the 18% DBE goal.* • *The County Manager provided a Kimley-Horn DBE Achievement Report in a Memorandum dated February 12, 2010 stating that 11% of the 18% goal had been met;* ***the DBE Achievement Report Memorandum dated September 7, 2010 stated that as of July 31, 2010, 12% of the 18% goal had been met,*** *Minority Affairs would continue monitoring the project; and that the project is 90% complete.*	

Prepared by: Bia Marsellos & Jason T. Smith