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

Memorandum

MIAMI-DADE COUNTY

Agenda Item No. 3(B)(1)

Date: June 4, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Approving an Economic Development Transportation Project Fund Agreement with the Florida Department of Transportation in the amount of $1,168,263.00 for the Construction of an Aircraft Parking Apron to be used by LAN Chile at Miami International Airport

Resolution No. R-409-13

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) adopt the attached resolution approving the Economic Development Transportation Project Fund (EDTPF) Agreement No. 429264-2-54-01 with the Florida Department of Transportation (FDOT) in the amount of $1,168,263.00.

SCOPE

Miami International Airport (MIA) is located primarily within Commission District 6 (Chairwoman Sosa). However, the impact of this agenda item is countywide as MIA is a regional asset.

FISCAL IMPACT

The Westside Additional Air Cargo Apron Project at MIA includes the construction of a preferential-use aircraft parking apron, a common-use aircraft parking apron, and a taxiway connector. This EDTPF Agreement will provide FDOT funds of $1,168,263.00, or 50%, of the estimated cost of $2,336,526.00, for the construction of the preferential-use aircraft parking apron. The remaining 50% will be provided under an FDOT Joint Participation Agreement that will be brought separately to the Board for approval. Miami-Dade Aviation Department's (MDAD) Capital Improvement Program will fund any costs that may exceed the funds received from FDOT.

PROJECT MONITOR

The project is managed by MDAD Project Manager Franklin Stirrup. The grant will be managed by MDAD Chief of Aviation Grants Norma Mata.

BACKGROUND

MDAD and LAN Chile are finalizing a development lease agreement for the construction by LAN Chile's subsidiary of an aircraft maintenance hangar facility on the site formerly occupied by the US Postal Service. The LAN Chile project is part of the MIA Westside Additional Air Cargo Apron Project that calls for the construction of two aircraft parking aprons, one being the preferential-use apron partially funded by the attached EDTPF Grant and the other being the common-use apron funded through a combination of FDOT, Federal Aviation Administration, and MDAD funding.

The apron is a critical element to LAN Chile's use of its proposed maintenance hangar facility. Without the apron, LAN Chile will not be able to access the facility from the new taxiway connector that MDAD is also constructing. In addition, the apron provides a temporary aircraft parking and maneuvering area in front of the hangar for LAN Chile's aircraft while accessing the facility.

Jack Osterholt, Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: June 4, 2013

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

SUBJECT: Agenda Item No. 3(B)(1)

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 Mayor'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. 3(B)(1)
6-4-13

RESOLUTION NO. R-409-13

RESOLUTION RELATING TO MIAMI INTERNATIONAL AIRPORT; APPROVING AN ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION UNDER FINANCIAL PROJECT NUMBER 429264-2-54-01 FOR FUNDING IN THE AMOUNT OF $1,168,263.00 FOR CONSTRUCTION OF AN AIRCRAFT APRON AT THE AIRPORT

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 Economic Development Transportation Project Fund (EDTPF) Agreement Number 429264-2-54-01 between Miami-Dade County and the State of Florida Department of Transportation (FDOT), under which FDOT will provide funding in the amount of $1,168,263.00 to offset the County's costs of construction of an aircraft apron at Miami International Airport, in substantially the form attached hereto and made part hereof; and authorizes the Mayor or Mayor's designee to execute such agreement and exercise any termination provisions therein.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Esteban L. Bovo, Jr.** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman	**aye**		
Lynda Bell, Vice Chair	**absent**		
Bruno A. Barreiro	**absent**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**absent**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**absent**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of June, 2013. 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: **Christopher Agrippa**
Deputy Clerk

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

Thomas P. Abbott

Financial Management No. 429264-2-54-01 Contract No. _____ CSFA No.: 55.032

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND AGREEMENT (OFF-SYSTEM)

This Economic Development Transportation Project Fund Agreement (Off-System) ("Agreement") is entered into this _____ day of _____, between the State of Florida, Department of Transportation ("FDOT") and **Miami-Dade County through its Aviation Department** ("Agency"). FDOT and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

A. The Agency has submitted an application for a grant from FDOT's Economic Development Transportation Project Fund ("EDTPF") on behalf of **LAN Cargo Repair Station** ("Business Entity")

B. FDOT has determined that the transportation project described in Exhibit "A" attached and incorporated in this Agreement ("Project"), is necessary to facilitate the economic development and growth of the State and FDOT is authorized by Section 339.2821, Florida Statutes, to approve an expenditure to the Agency for the direct costs of the Project.

C. The Agency by Resolution No. _____ dated the ____ day of_____ _____, 20____, a copy of which is attached as Exhibit "C" and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.

D. The Project is for the construction of a new or expanding business, by the Business Entity and construction of an associated apron by the Agency, and 102 full-time permanent jobs will result from the Project.

E. The Agency is prepared to complete the Project at an estimated total cost of $ 2,336,526.

F. FDOT is prepared to provide $ 1,168,263.00 toward the total cost of construction of the Agency's Project as more fully described in Section 6.0.

AGREEMENT

In consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

1.0 RECITALS: The recitals above are true and correct and are made a part of this Agreement.

2.0 TERM: The term of this Agreement shall commence upon full execution by both Parties ("Effective Date") and continue through **December 31, 2014**, unless terminated at an earlier date as provided in this Agreement. If the Agency does not complete the Project within the time period allotted, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by FDOT prior to the expiration of the Agreement. Expiration of this Agreement will be considered termination of the Project. Only Project costs incurred on or after the Commencement Date of this Agreement (as defined in paragraph 3.0 below) and on or prior to the termination date of the Agreement are eligible.

3.0 COMMENCEMENT: Unless terminated earlier, work on the Project shall commence no later than: the _____ day of _____, 20____ or the issuance of the Notice to Proceed, whichever date is earlier ("Commencement Date"), and shall be completed on or before **December 31, 2014**. FDOT shall have the immediate option to terminate this Agreement should the Agency fail to meet either of the above-required dates.

4.0 PROJECT DESCRIPTION: The Agency shall provide quantifiable, measurable and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project, identified as Project Number **429264-2-54-01**, and the quantifiable, measurable and verifiable units of deliverables by both the Business Entity and the Agency are described more fully in Exhibit "A" which is incorporated in this Agreement, and is in connection with the location of facilities by the Business Entity.

5.0 NOTICES AND APPROVALS: All notices pertaining to this Agreement are in effect upon receipt by either Party, shall be in writing, and shall be transmitted either by personal hand delivery; United States Post Office, return receipt requested; or, overnight express mail delivery. E-mail and facsimile may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses and the

Agreement Administrators set forth below for the respective parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

FDOT:

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
DISTRICT 6 ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND COORDINATOR
VICKI GATANIS
1000 NW 111 AVENUE, MIAMI, FL 33172
PHONE: (305) 470-5485
FAX: (305) 470-5179

AGENCY:

JOSE RAMOS
MIAMI-DADE COUNTY - AVIATION DEPARTMENT
P.O. BOX 025504
MIAMI, FL 33102-5504
PHONE: (305) 876-8080
FAX: (305) 869-7630

All approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

6.0 RELEASE OF FUNDS: Project funds made available by FDOT shall not be released until the following have been satisfied:

(a) The Agency has agreed by resolution to accept future maintenance and other attendant costs occurring after completion of the Project for the portion of the Agency's apron Project on the Agency's system and such resolution is attached and incorporated in this Agreement as Exhibit "C";

(b) The Agency shall certify to FDOT that the Business Entity, or the Agency's design consultant and/or construction contractor has secured the necessary permits, including but not limited to, building permits, and the Business Entity has initiated vertical construction of the Business Entity's hangar building project described in this Agreement. If the Agency fails to provide such certification to FDOT by _____, FDOT may, at its discretion, terminate this Agreement;

(c) The Agency shall invoice FDOT quarterly for actual costs incurred. The Agency shall review and approve all invoices, statements, or other related documents duly submitted to the Agency

by the Agency's design consultant or construction contractor. Invoices shall be submitted by the Agency to FDOT in detail sufficient for a proper pre-audit and post audit thereof, based on the quantifiable, measurable, and verifiable units of deliverables as established in Paragraph 4.0 above and Exhibit "A". Deliverables must be received and accepted in writing by the pre-audit and approval by the Agency;

(d) Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Paragraph 4.0 and Exhibit "A" has been met;

(e) FDOT will pay to the Agency, after receipt of a detailed invoice, an amount equal to the invoice received by the Agency from the Agency's consultant or contractor. The Agency must certify on the invoice that the costs from the consultant or contractor are valid, reasonable, necessary, and allowable and the costs have been incurred by the consultant or contractor prior to the date of the invoices. All invoices submitted to the Department must provide complete documentation, including a copy of the consultant's or contractor's invoice(s), to substantiate the cost on the invoice. Each quarterly invoice subsequent to the first invoice from the Agency must contain a statement from the Agency that the previous quarterly costs incurred by the consultant or contractor have been paid by the Agency to the consultant or contractor;

(f) In the event the Agency proceeds with any phase the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead);

(g) The Agency shall provide to FDOT certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project have been obtained; and

(h) Provide FDOT with written notification of either its intent to:

(i) Award the construction of the Project to a contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations. The Agency shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or

(ii) Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame in Section 3.0 of this Agreement.

6.1 TRANSFER OF FUNDS:

Entities providing goods and services to FDOT should be aware of the following time frames. Upon receipt, FDOT has 20 days to inspect and approve the goods and services. FDOT 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, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to the Agency because of Agency 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 FDOT.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for entities who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or by calling the Division of Consumer Services at 1-877-693-5236.

6.2 USE OF FUNDS: Funds made available by FDOT pursuant to this Agreement shall be expended in a timely manner and solely for the purpose of the approved Project. No such funds shall be used for the purchase of any landscaping, mitigation planting, water and sewer lines, for any legal action against FDOT, or costs associated with preparation of the application for use of Economic Development Transportation funding.

6.3 ASSURANCES: As an inducement to the transfer of funds referred to in Section 6.1 above, the Agency certifies that, if initiated, the Project will be carried through to its completion and will not require the expenditure of any additional funds from FDOT. The Agency is liable for all cost overruns on the Project.

7.0 DESIGN AND CONSTRUCTION STANDARDS AND REQUIRED APPROVALS:

(a) The Agency agrees to undertake the design, construction, and Consultant Construction Engineering Inspection ("CCEI") of the Agency's apron Project in accordance with all

applicable federal, state and local statutes, rules and regulations, including Agency standards and specifications. A professional engineer, registered in Florida, shall provide the certification that all design and construction for the Project meets the minimum construction standards established by the Agency.

(b) The Agency understands that it is responsible for the preparation of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project using the Agency's normal procurement procedures to perform the design services for the Project.

(c) Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase of the Project. Any work performed prior to the execution of this Agreement is not subject to reimbursement.

(d) The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to FDOT's Construction Project Manager prior to commencing construction of the Project.

(e) The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project.

(f) Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from FDOT's Construction Project Manager, **Dionne G. Richardson**, at **(305) 470-5292** or from an appointed designee. Any construction work performed prior to the issuance of the Notice to Proceed for construction is not subject to reimbursement.

(g) The Agency shall hire a qualified CCEI to perform construction oversight including the obligation to assure that any and all verification testing is performed in accordance with the 2010 Standard Specifications for Road and Bridge Construction, as amended from time to time. FDOT shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. The CCEI firm shall not be the same firm as that of the Engineer of Record for the Project.

(h) The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with Section 337.18(1), Florida Statutes.

(i) The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Agency standards.

(j) Upon completion of the work authorized by this Agreement, the Agency shall notify FDOT in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto as Exhibit "D". The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

(k) The Agency must submit the final invoice to FDOT within one hundred eighty (180) days after the final acceptance of the Project.

(l) Upon completion of the Project, the Agency shall be responsible for the perpetual maintenance of the facilities on its system that are constructed under this Agreement. The terms of this provision shall survive the termination of this Agreement.

8.0 <u>AVAILABILITY OF FUNDS:</u> The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. 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 incorporated:

> "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."

9.0 TERMINATION OF AGREEMENT: FDOT may terminate this Agreement upon no less than thirty (30) days notice in writing delivered in accordance with the Notices and Approvals provisions of Paragraph 5.0. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall return funds in accordance with Section 10.0 of this Agreement within thirty (30) days of the termination of this Agreement.

9.1 TERMINATION REPORT: Upon termination prior to the expiration of this Agreement, the Agency will provide the following:

(a) Certification that the portion of the Project that has been completed is in compliance with the terms and conditions of this Agreement and meets minimum construction standards established in accordance with Section 336.045, Florida Statutes.

(b) A report which shall specify the following: (i) the total direct Project costs paid from funds made available by FDOT pursuant to this Agreement; (ii) the balance of any unexpended Project funds; (iii) the actual amount of the Business Entity's capital investment; and (iv) the actual number of permanent, full-time jobs created by the Business Entity.

10.0 EXPENDITURES IN VIOLATION OF AGREEMENT: Any Project funds made available by FDOT pursuant to this Agreement which are determined by FDOT to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to FDOT. Acceptance by FDOT of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of FDOT's rights as the funding agency to verify all information at a later date by audit or investigation.

11.0 LEGAL REQUIREMENTS:

(a) This Agreement is executed and entered into in the State of Florida and will be construed, performed, and enforced in all respects in strict conformity with local, state, and federal laws, rules, and regulations. Any and all litigation arising under this Agreement shall be brought in the appropriate court in Leon County, Florida, applying Florida law.

(b) If any term or provision of the Agreement is found to be illegal and unenforceable, the remainder of the Agreement will remain in full force and effect and such term or provision will be deemed stricken.

(c) The Agency shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Agency in conjunction with this Agreement. Failure by the Agency to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by FDOT.

(d) The Agency shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof.

(e) The Agency and FDOT agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of FDOT as a result of this Agreement.

12.0 PUBLIC ENTITY CRIME: The Agency affirms that it is aware of the provisions of Section 287.133(2)(a), Florida Statutes. 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 Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. The Agency agrees that it shall not violate Section 287.133(2)(a), Florida Statutes, and further acknowledges and agrees that any conviction during the term of this Agreement may result in the termination of this Agreement.

13.0 UNAUTHORIZED ALIENS: FDOT will consider the employment of unauthorized aliens, by any contractor or subcontractor, as described by Section 274A(e) of the Immigration and Nationalization Act, cause for termination of this Agreement.

14.0 NON-DISCRIMINATION: The Agency will not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex. The Agency shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management. The Agency shall insert similar provisions in all contracts and subcontracts for services by this Agreement.

The Agency affirms that it is aware of the provisions of Section 287.134(2)(a), Florida Statutes. 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. The Agency further agrees that it shall not violate Section 287.134(2)(a), Florida Statutes, and acknowledges and agrees that placement on the list during the term of this Agreement may result in the termination of this Agreement.

15.0 ATTORNEY FEES: Unless authorized by law and agreed to in writing by FDOT, FDOT will not be liable to pay attorney fees, interest, or cost of collection.

16.0 TRAVEL: There shall be no reimbursement for travel expenses under this Agreement.

17.0 PRESERVATION OF REMEDIES: No delay or omission to exercise any right, power, or remedy accruing to either Party upon breach or default by either Party under this Agreement, will impair any such right, power or remedy of either Party; nor will such delay or omission be construed as a waiver of any breach or default or any similar breach or default.

18.0 AUDIT AND MONITORING REQUIREMENTS:

(a) The administration of resources awarded by FDOT to the Agency may be subject to audits and/or monitoring by FDOT, as described in this section. In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised, and Section 215.97, Florida Statutes, monitoring procedures may include, but not be limited to, on-site visits by FDOT staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the Agency

agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the FDOT. In the event the FDOT determines that a limited scope audit of the Agency is appropriate, the Agency agrees to comply with any additional instructions provided by FDOT staff regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the state Chief Financial Officer (CFO) or Auditor General.

(b) The Agency, as a non-state entity as defined by Section 215.97(2)(m), Florida Statutes, is required to have audits performed annually using the following criteria:

i. In the event that the Agency expends a total amount of state financial assistance equal to or in excess of $500,000 in any fiscal year of the Agency, the Agency 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 Executive Office of the Governor and the state CFO; and Chapters 10.550 (Agency entities) or 10.650 (non-profit and for-profit organizations), Rules of the Auditor General. Exhibit "E" to this Agreement indicates state financial assistance awarded through FDOT by this Agreement. In determining the state financial assistance expended in its fiscal year, the Agency shall consider all sources of state financial assistance received from FDOT, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements.

ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (Agency entities) or 10.650 (non-profit and for-profit organizations), Rules of the Auditor General.

iii. If the Agency expends less than $500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the Agency expends less than $500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from non-state entity's resources (i.e., the cost of such an audit

must be paid from Agency's resources obtained from other than State entities).

iv. 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.

v. 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.

vi. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved. Access to project records and audit work papers shall be given to FDOT, the state CFO, and the Auditor General. This section does not limit the authority of FDOT 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.

vii. Copies of financial reporting packages, reports, or management letters required by this Agreement shall be submitted by or on behalf of the Agency directly to the following offices:

Florida Department of Transportation
District 6 Economic Development Transportation Project Fund Coordinator
Vicki Gatanis
1000 NW 111 Avenue, Miami, FL 33172

and

State of Florida Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1450

viii. Any reports, management letter, or other information required to be submitted to FDOT pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local government entities) or 10.650 (non-profit or for-profit organizations), Rules of the Auditor General, as applicable.

ix. The Agency, when submitting financial reporting packages to FDOT for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local government entities) or

10.650 (non-profit or 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.

x. 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 FDOT, or its designee, the state 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 FDOT, or its designee, the state 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 FDOT.

(c) The Agency must include the audit and record keeping requirements in this Section 19.0 in contracts and subcontracts entered into by the Agency with any party for work required in the performance of this Agreement.

(d) The Agency shall, three (3) months after the date of execution of this Agreement and every three (3) months thereafter, provide FDOT with quarterly progress reports. Each quarterly report shall contain a narrative description of the work completed and whether the work is proceeding according to the project schedule; a description of any change orders executed by the Agency; a budget summary detailing planned expenditures compared to actual expenditures; and identification of each small or minority business enterprise used as contractors or subcontractors. Records of all progress payments made for work in connection with such transportation projects, and any change orders executed by the Agency and payments made pursuant to such orders, shall be maintained by the Agency in accordance with accepted governmental accounting principles and practices and shall be subject to financial audit as required by law.

(e) Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to FDOT at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to FDOT upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the contractor and all subcontractors performing work on

the Project, and all other records of the contractor and subcontractors considered necessary by FDOT for a proper audit of costs.

19.0 LOBBYING: Funds may not be used for the purpose of lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

20.0 MINORITY VENDORS: The Agency is encouraged to use small businesses, including minority and women-owned businesses as subcontractors or sub-vendors under this Agreement. The directory of certified minority and women-owned businesses can be accessed from the website of the Department of Management Services, Office of Supplier Diversity. The Agency shall report on a quarterly basis its expenditures with minority and women-owned businesses. The report shall contain the names and addresses of the minority and women-owned businesses; the aggregate dollar figure disbursed that quarter for each business; the time period; type of goods or services; and the applicable code. If no expenditures were made to minority or women-owned businesses, the Agency shall submit a statement to this effect.

21.0 INDEMNITY AND INSURANCE:

(a) The Agency agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, and subconsultants, who perform work in connection with this Agreement:

> "The contractor/subcontractor/consultant/subconsultant shall indemnify, defend, save and hold harmless the State of Florida, Department of Transportation and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the contractor/subcontractor/ consultant/subconsultant, its officers, agents or employees."

(b) The Agency shall carry or require its contractor/subcontractor/consultant/ subconsultant to carry and keep in force during the period of this Agreement a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least $100,000 per person and $300,000 each occurrence, and property damage insurance of at least $100,000 each occurrence, for the services to be rendered in accordance with this Agreement. In addition to any other forms of insurance or bonds required under the terms of the Agreement, when it includes construction within the limits of a railroad right-of-way,

the Agency must provide or cause its contractor to provide insurance coverage in accordance with Section 7-13 of FDOT's Standard Specifications for Road and Bridge Construction (2010), as amended.

(c) The Agency shall also carry or cause its contractor/subcontractor/consultant/subconsultant to carry and keep in force Worker's Compensation insurance as required for the State of Florida under the Worker's Compensation Law.

22.0 FOLLOW-UP REPORT: Two (2) years after the Business Entity has completed the construction associated with this Project, the Agency will provide FDOT with the actual number of new, permanent, full-time jobs created by the Business Entity.

23.0 MODIFICATION OF AGREEMENT: In the event the Agency desires to modify any of the terms and conditions of this Agreement, the Agency shall make such request for modification in writing to FDOT at any time during the term of this Agreement. However, if the request for modification relates to changes in the Project commencement and/or Project completion dates, such request must be received by FDOT prior to the expiration of the current commencement or Project completion date. If such a request is made after the expiration of the above referenced date, FDOT shall have the option to terminate this Agreement.

24.0 E-VERIFY: The Agency:

(a) shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and

(b) shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

25.0 NON-ASSIGNMENT: The Agency shall not assign, sublicense, or otherwise transfer its rights, duties, or obligations under this Agreement without the prior written consent of FDOT, which consent will not be unreasonably withheld. Any assignment, sublicense, or transfer occurring without the required

giving prior written notice to the Agency. In the event that FDOT approves transfer of the Agency's obligations, the Agency remains responsible for all work performed and all expenses incurred in connection with this Agreement.

26.0 ENTIRE AGREEMENT: This instrument embodies the entire Agreement of the parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement. This Agreement supersedes all previous communications, representations, or agreements, either verbal or written, between the parties. No amendment will be effective unless reduced to writing and signed by an authorized officer of the Agency and the authorized officer of FDOT or his/her delegate.

27.0 DUPLICATE ORIGINALS: This Agreement may be executed in duplicate originals.

28.0 ADDENDUM: This contract is subject to the addendum that is attached to and incorporated in this contract by this reference.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) below.

FDOT

State of Florida, Department of Transportation
District Six

By: _____

Print Name: **Harold Desdunes**

Title: Director of Transportation Development

Date: _____

Legal Review:

_____

See attached Encumbrance Form for date of funding approval by Comptroller

AGENCY

Miami-Dade Aviation Department

By: _____

Print Name: Jose Abreu

Title: Director Miami-Dade Aviation Dept.

As approved by the Board on:

_____

Attest: _____

Legal Review:

_____

County Attorney

EXHIBIT "A"

SCOPE OF SERVICES

Financial Management Number:

The project consists of construction of the 73,200 sq. ft. (1.68 acres) rigid pavement common use (preferential) access/entrance apron and 62,000 sq. ft. flexible pavement taxiway connecting stub.

Construction is necessary for successful development and operation of LAN's Air Cargo repair hangar. Without this apron, aircraft access to the hangar is not possible. In addition, the apron provides a temporary aircraft parking and maneuvering area in front of the hangar for aircraft while accessing the facility.

EXHIBIT "B"
SCHEDULE OF FUNDING
Financial Management Number:

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:

State Program Number	Funding Source	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
429264-2-54-01	STTF	2013	55.032	Economic Development Transportation Projects – Road Fund	$1,168,263	088865
				Total Award	$1,168,263	

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of State Financial Assistance (CSFA) [https://apps.fldfs.com/fsaa/catalog.aspx]. The services/purposes for which the funds are to be used are included in the Agreement scope of services/work. Any match required by the recipient is clearly indicated in the Agreement.

EXHIBIT "C"
AGENCY RESOLUTION

EXHIBIT "D"
NOTICE OF COMPLETION AND ENGINEER'S CERTIFICATION OF COMPLIANCE

NOTICE OF COMPLETION

ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND AGREEMENT
Between
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and _____

PROJECT DESCRIPTION: _____

FINANCIAL MANAGEMENT ID#_____

In accordance with the Terms and Conditions of the Economic Development Transportation Project Fund Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of _____, 20___.

By: _____

Name: _____

Title: _____

_____

ENGINEER'S CERTIFICATION OF COMPLIANCE

In accordance with the Terms and Conditions of the Economic Development Transportation Project Fund Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish FDOT a set of "as-built" plans certified by the Engineer of Record/CEI.

By: _____, P.E.

SEAL:

Name: _____

Date: _____

Exhibit "E"

STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 339.2821, FLORIDA STATUTES:

State Project: Economic Development Transportation Projects – Road Fund

State Awarding Agency: Florida Department of Transportation

Catalog of State Financial Assistance (CSFA) Number: 55-032

Grant Amount: $

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

Objectives of the Project: Alleviate transportation problems that adversely affect the decision of a specific company to locate or expand in the State of Florida.

Project Restrictions:
Eligibility for Economic Development Transportation Projects funding is limited to the direct cost of transportation projects that:

1. Attract new employment opportunities to the State or expand or retain employment in existing companies operating within the State; or
2. Allow for the construction or expansion of a state or federal correctional facility that creates, expands or retains employment in a county with a population of 75,000 or less.

Eligible transportation projects are reviewed for funding by considering the following:

1. Cost per job created or retained considering the amount of transportation funds requested;
2. Average hourly wages of the jobs created;
3. Reliance on programs as an inducement to determine the project's location;
4. Amount of capital investment to be made by a business;
5. Demonstrated local commitment;
6. Location of the project in an enterprise;
7. Location of the project in a spaceport territory;
8. Unemployment rate of the surrounding area; and
9. Poverty rate of the area.

Eligible Applicant:

An instrumentality of the state, or a county, municipality, district, authority, board, or commission, or an agency thereof, within whose jurisdiction the eligible transportation project is located.

Equipment and Real Property Management:

If the transportation project is constructed on a county or municipal system, the governing board must adopt a resolution accepting responsibility for maintenance and related costs when the transportation project is complete.

Reporting:

Governmental bodies that receive Economic Development Transportation Projects funding must:

1) Provide FDOT with quarterly progress reports that contain:
   - A narrative description of the work completed and whether the work is proceeding according to the transportation project schedule;
   - A description of each change order executed by the governmental body;
   - A budget summary detailing planned expenditures compared to actual expenditures; and
   - The identity of each small or minority business used as a contractor or subcontractor.

2) Maintain records in accordance with accepted governmental accounting principles and practices for:
   - Each progress payment made for work performed in connection with the transportation project;
   - Each change order executed by the governmental body, and;
   - Each payment made pursuant to a change order.

3) Provide FDOT with a financial audit of the governmental body conducted by an independent certified public accountant.

Sub-recipient Monitoring:

The construction or building site for each transportation project that receives Economic Development Transportation Projects funding will be monitored to ensure compliance with Section 339.2821, Florida Statutes, and contractual requirements, which includes but is not limited to the construction of the business facility.

Financial Management No. 429264-2-54-01 Contract No. AOX14 CSFA No.: 55.032

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND AGREEMENT (OFF-SYSTEM) ADDENDUM

The following terms and conditions are incorporated into and form a part of the State of Florida, Department of Transportation Economic Development Transportation Project Fund Agreement for Off-System Projects, ("Agreement") dated _____, between the State of Florida, Department of Transportation ("FDOT") and Miami-Dade County through its Aviation Department ("Agency"). FDOT and the Agency are sometimes referred to in this Addendum as a "Party" and collectively as the "Parties

This Addendum modifies and supplements the Agreement. The Addendum is hereby incorporated into and made part of the Agreement, and is to be signed simultaneously with the Agreement. The Parties agree as follows:

1. **ADDENDUM CONTROLLING:** In the event there is a conflict between the terms and conditions of the Agreement or any attachments, exhibits or addenda thereto and this Addendum, this Addendum shall control.

2. **MODIFICATIONS TO PARAGRAPH 6.0:**

Paragraph 6.0, subsection b is stricken and replaced with the following language:

(b) The Agency shall certify to FDOT that the Business Entity, or the Agency's design consultant and/or construction contractor has secured the necessary permits, including but not limited to, building permits. If the Agency fails to provide such certification to FDOT within 90 days, FDOT may, at its discretion, terminate this Agreement;

Paragraph 6.0, subsection g is stricken and replaced with the following language:

(g) The Agency shall provide to FDOT certification and a copy of appropriate documentation substantiating that all rights-of-way necessary for the Project have been obtained.

3. **MODIFICATIONS TO PARAGRAPH 7.0:**

Paragraph 7.0, subsection a, is stricken and replaced with the following language:

(a) The Agency agrees to undertake the design, construction, and Consultant Construction Engineering Inspection ("CCEI") of the Project in accordance with all applicable federal, state and local statutes, rules and regulations. A professional engineer, registered in Florida, shall provide the certification that all design and construction for the Project meets all applicable minimum construction standards.

Paragraph 7.0, subsection i, is stricken and replaced with the following language:

(i) The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Local, State and Federal standards.

Paragraph 7.0, subsection j, is stricken and replaced with the following language:

(j) Upon completion of the work authorized by this Agreement, the Agency shall notify FDOT in writing of the completion of the Project. For all design work that requires certification by a Professional Engineer (as set forth in this Agreement), this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto as Exhibit "D". The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

Paragraph 7.0, subsection l, is stricken and replaced with the following language:

(l) Upon completion of the Project, the Agency shall be responsible for the perpetual maintenance of the facilities that are constructed under this Agreement. The terms of this provision shall survive the termination of this Agreement.

4. **MODIFICATIONS TO PARAGRAPH 9.1:**

Paragraph 9.1, is stricken and replaced with the following language:

9.1 TERMINATION REPORT: In the event that this Agreement is terminated, the Agency will provide the following:

(a) Certification that the portion of the Project that has been completed is in compliance with the terms and conditions of this Agreement and meets minimum construction standards established in accordance with Section 336.045, Florida Statutes.

(b) A report which shall specify the following: (i) the total direct Project costs paid from funds made available by FDOT pursuant to this Agreement; (ii) the balance of any unexpended Project funds; (iii) the actual amount of the Business Entity's capital investment; and (iv) the actual number of permanent, full-time jobs created by the Business Entity.

5. **MODIFICATIONS TO PARAGRAPH 18.0:**

Paragraph 18.0, subsection b.iii., is stricken and replaced with the following language:

i. If the Agency expends less than $500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the Agency expends less than $500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida

Statutes, the cost of the audit must be paid from non-state entity's resources (i.e., the cost of such an audit must be paid from Agency's resources obtained from sources other than State entities).

Paragraph 18.0, subsection b.v., is stricken and replaced with the following language:

v. 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. If an audit discloses any audit findings, including material noncompliance with project 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 corrective action to any audit findings, recommendations and corrective action plans.

6. **MODIFICATIONS TO PARAGRAPH 23.0:**

Paragraph 23.0, is stricken and replaced with the following language:

23.0 MODIFICATION OF AGREEMENT: In the event the Agency desires to modify any of the terms and conditions of this Agreement, the Agency shall make such request for modification in writing to FDOT at any time during the term of this Agreement. However, if the request for modification relates to changes in the Project commencement and/or Project completion dates, such request must be received by FDOT prior to the expiration of the current commencement or Project completion date. If such a request is made after the expiration of the above referenced dates, FDOT shall have the option to terminate this Agreement.

7. **DUPLICATE ORIGINALS:** This Addendum may be executed in duplicate originals.

8. **CONSTRUCTION**: The section headings contained in this Addendum are for reference purposes only and shall not affect the meaning or interpretation of this Addendum.

IN WITNESS WHEREOF, the Parties have executed this Addendum on the date(s) below.

FDOT

State of Florida, Department of Transportation

By: _____

Print name: Harold Desdunes

Title: Director of Transportation Development

Date: _____

Legal Review:

_____

See attached Encumbrance Form for date of

Funding approval by Comptroller

AGENCY

Jose Abrew

By: _____

Print Name: _____

Title: Director, Miami-Dade Aviation Dept

As approved by the Board on:

_____

Attest: _____

Legal Review:

_____