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

Memorandum

MIAMI-DADE COUNTY

Date: October 22, 2013

Agenda Item No. 3(B)(3)

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

From: Carlos A. Gimenez
Mayor

Subject: Ratification of the Non-Exclusive Emergency Management Agreement with Allied Aviation Fueling of Miami, Inc. for Emergency Repairs and Purchases at the Miami International Airport Fuel Farm Facility in the amount of $27,000,000.00

Resolution No. R-839-13

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) adopt the attached resolution ratifying the actions of the County Mayor's designee approving the Non-Exclusive Emergency Management Agreement in the amount of $27,000,000.00 with Allied Aviation Fueling of Miami, Inc. for jet fuel operations at Miami International Airport (MIA).

SCOPE

Miami International Airport is located primarily within Chairwoman Rebeca Sosa's District Six; however the impact of this item is countywide as MIA is a regional asset.

FISCAL IMPACT/FUNDING SOURCE

The estimated amount authorized under the emergency Agreement totals $27,000,000.00 and will be paid from the Miami-Dade Aviation Department (MDAD) Reserve Maintenance Fund.

TRACK RECORD/MONITOR

Allied is current in all its obligations with MIA and respective stakeholders. The MDAD Project Manager is Gustavo Leal, Engineer III, Civil Environmental Engineering Division.

COMPLIANCE DATA

Inquiries through MDAD Minority Affairs and the County's Small Business Development (SBD) Division revealed no violations for this firm.

BACKGROUND

A March 23, 2011 fire at the MIA Jet Fuel Storage Facility completely destroyed the existent fire suppression capabilities of the north bank of pumps. MIA was not able to supply fuel to aircraft for six (6) days, causing a severe disruption to this critical operation. MDAD restored delivery of jet fuel to the fuel hydrant via a temporary bank of six (6) pumps and two (2) filters. Due to the destruction of the fire suppression system, Miami-Dade Fire Rescue Department (MDFR) was required to maintain staff and pump tracks at the site around the clock to allow use of this temporary fueling system. This temporary system lacked appropriate fire protection and all other fueling components to make it fully reliable and safe, and was not a permanent solution to the fueling needs at MIA.

The County is permitted to engage in emergency repairs of an existing facility without competitive bidding. In this instance, it was determined that the temporary pumps presented unacceptable risks to safety and the environment. MDAD therefore authorized Allied to commence reconstruction of the fuel facility on an emergency basis and issued the attached Non-Exclusive Emergency Management Agreement to Allied for repairs to the MIA Fuel Farm. Allied currently performs management services to

MIA's fuel farm pursuant to the existing Fuel Facilities Management Agreement at MIA, Project No. MDAD-05-03. The emergency Agreement with Allied requires that services requested by MDAD be in accordance with Tenant Airport Construction Reimbursable guidelines, but did not require Allied to engage in competitive solicitation of bids. The airline community, MDFR, other local, state, and federal agencies, and MIA's bond engineer supported the decision to move forward under emergency conditions to mitigate safety and environmental concerns, and disruption to MIA operations.

Work on the North Pump Rack Replacement Facility was completed in June 2012 and the South Pump Rack, which needed to be upgraded to meet Miami-Dade Fire Rescue Department requirements, was completed in October 2012. The commissioning and close-out phases were accomplished in November 2012, and the facility has been in service since February 2013. Pursuant to Implementing Order 3-38, this contract is being presented to the Board of County Commissioners for ratification.

PROJECT:	Non-Exclusive Emergency Management Agreement
PROJECT NO.:	R-126-A
PROJECT LOCATION:	Miami International Airport
SCOPE:	Procure and manage all necessary construction services, purchase of materials, and all related work needed to rebuild the fuel farm; arrange for the continuance of the work to allow full operations of the existing temporary fuel farm in the interim, and liaise with all authorities having jurisdiction.
COMPANY NAME:	Allied Aviation Fueling of Miami, Inc.
TERM OF AGREEMENT:	Such work was completed and the repairs permitted for full operations by January 31, 2013
CONTRACT MEASURES:	No measures due to the specificity of the work to be performed
COMPANY PRINCIPAL:	Robert L. Rose, President
GENDER, ETHNICITY & OWNERSHIP BREAKDOWN:	Owned by Allied Fueling of Miami, Inc.
COMPANY LOCATION:	Miami International Airport
PREVIOUS AGREEMENTS WITH THE COUNTY WITHIN THE PAST FIVE (5) YEARS:	Current Fuel Facilities Management Agreement at MIA Project No. MDAD-05-03
LIVING WAGE:	Not Applicable
INSPECTOR GENERAL:	Provisions included in the agreement
USER AGENCY:	Miami-Dade Aviation Department

Jack Osterholt, Deputy Mayor

Photo by Joe Artanis,
Miami-Dade Fire Department

Photo by Joe Artanis,
Miami-Dade Fire Department

Photo by Joe Artanis,
Miami-Dade Fire Department

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Miami-Dade Fire Department

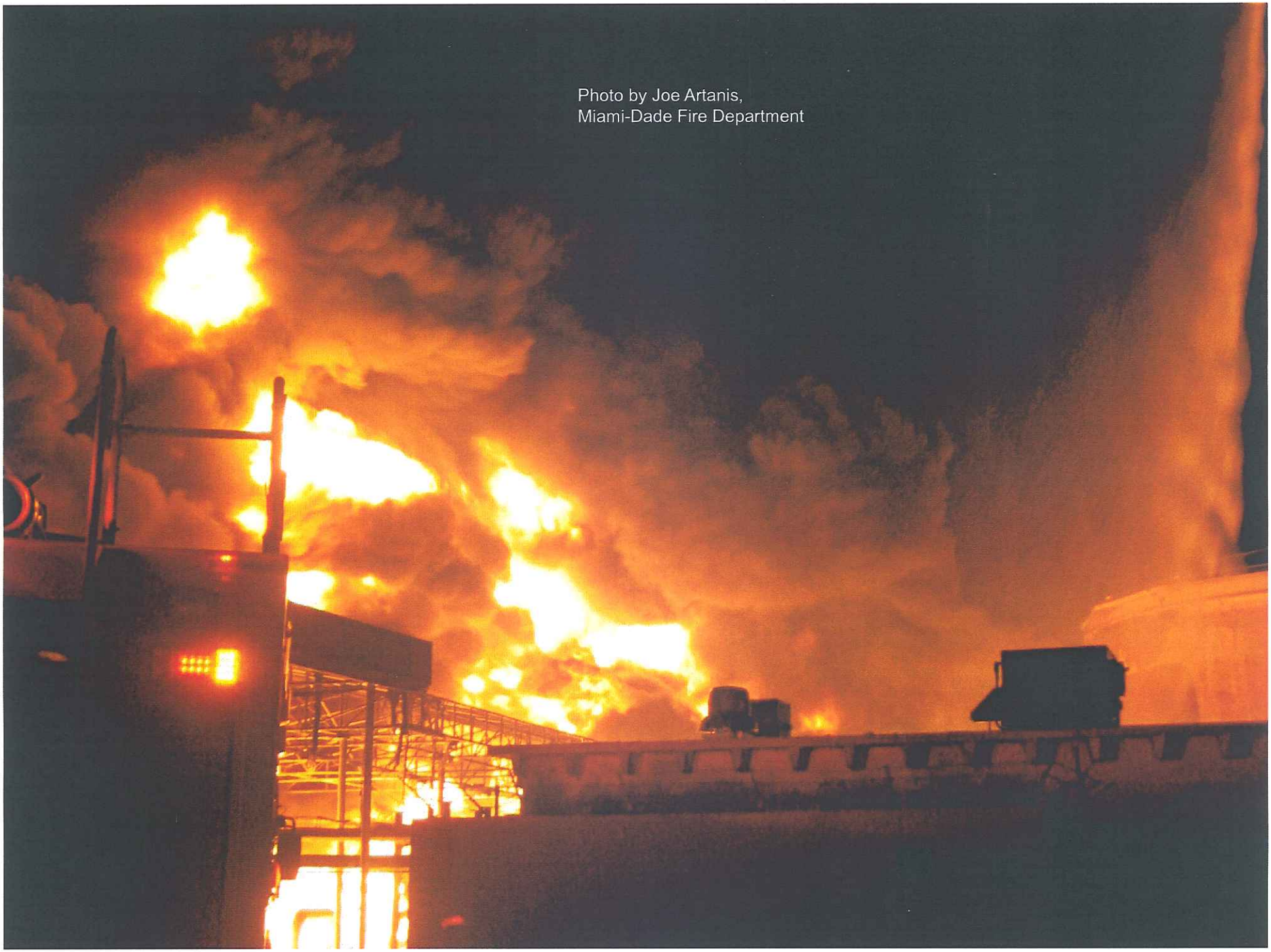
Photo by Joe Artanis,
Miami-Dade Fire Department

MEMORANDUM

(Revised)

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

DATE: October 22, 2013

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

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

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)(3)
10-22-13

RESOLUTION NO. R-839-13

RESOLUTION RATIFYING THE ACTIONS OF MAYOR'S DESIGNEE IN APPROVING AWARD OF EMERGENCY PURCHASES FOR THE JET FUEL STORAGE FACILITY NEW HYDRANT SYSTEM PUMP STATIONS AT MIAMI INTERNATIONAL AIRPORT

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and documents, 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 hereby ratifies the actions of the Mayor's designee approving the award of the Non-Exclusive Emergency Management Agreement ("Emergency Agreement") with Allied Aviation Fueling of Miami Inc. ("Allied") for jet fuel operations at MIA. More specifically, this item will ratify the emergency purchase of services required to address the disruption of jet fuel operations at MIA, as a result of a fire that occurred on March 23, 2011, and authorizes the reimbursable amount required for these respective services under the Emergency Agreement to Allied which totals $27,000,000.

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

Rebeca Sosa, Chairwoman	**aye**		
Lynda Bell, Vice Chair	**aye**		
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	**absent**	Dennis C. Moss	**absent**
Sen. Javier D. Souto	**absent**	Xavier L. Suarez	**aye**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 22nd day of October, 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.

David M. Murray

Memorandum

Date: May 1, 2012

To: Lester Sola
Director - Internal Services Department

From: José Abreu, P.E.
Aviation Director

Subject: Non-Exclusive Emergency Management Agreement for Repairs of the Miami International Airport (MIA) Fuel Farm

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The attached Non-Exclusive Emergency Management Agreement (the "Agreement") with Allied Aviation Fueling of Miami Inc. ("Allied") is being routed for your review and execution pursuant to Administrative Order 3-38.

The Miami-Dade Aviation Department ("MDAD") will be recommending that the Board of County Commissioners ("Board") ratify the emergency purchase of services required to address the disruption of jet fuel operations at MIA, as a result of a fire that occurred on March 23, 2011.

BACKGROUND

The fire that occurred on March 23, 2011, destroyed the north bank pumps along with other fire suppression capabilities at the MIA Jet Fuel Storage Facility ("FSF"). Due to MIA's inability to supply fuel to the aircrafts for six (6) days, creating a severe disruption to this critical operation, MDAD restored delivery of jet fuel to the Fuel Hydrant via a temporary bank of six (6) pumps and two filters to reestablish and support the MIA fueling operations.

The temporary lacked appropriate fire protection and other fueling components to make it fully reliable, safe, and is not a permanent solution to the fueling needs at MIA. In order to mitigate the disruption, safety and environmental concerns, the airline community, MDAD, Miami-Dade Fire Department ("MDFD") and other local, State and Federal agencies decided to move forward under 'emergency' conditions and issued the Non-Exclusive Emergency Management Agreement for Repairs of the MIA Airport Fuel Farm to Allied, instructing Allied to commence immediately on the design and reconstruction of the permanent pumping facilities.

FISCAL IMPACT/FUNDING SOURCE

Allied ("Management") agrees that its fee under the existing Management Agreement dated May 3, 2004 shall be full and sufficient payment for all Management's overhead and profit related to this Agreement. The reimbursable amount authorized for these respective services under the emergency Agreement for the design and reconstruction of the permanent pumping facilities shall not exceed $27,000,000.

PROJECT:	Non-Exclusive Emergency Management Agreement
PROJECT NO.	R-126-A
PROJECT LOCATION:	Miami International Airport
COMPANY NAME:	Allied Aviation Fueling of Miami Inc.
TERM OF AGREEMENT:	Such work will be complete, and the repairs permitted for full operations, by no later than September 30, 2012.

CONTRACT MEASURES:	No measures
COMPANY LOCATION:	Miami International Airport
PREVIOUS AGREEMENTS WITH THE COUNTY WITHIN THE PAST FIVE (5) YEARS:	Fuel Facilities Management Agreement at MIA Project No. MDAD-05-03
LIVING WAGE:	Not Applicable
INSPECTOR GENERAL:	Provisions included in the agreement
FUNDING SOURCE:	Airport Funds
USER AGENCY:	Miami-Dade Aviation Department

C: Ken Pyatt, MDAD
Carlos José, MDAD
Pedro Hernandez, MDAD
David Murray, CAO
Marie Clark-Vincent, MDAD

Approved by Lester Sola, Director
Internal Services Department

NON-EXCLUSIVE EMERGENCY MANAGEMENT AGREEMENT FOR REPAIRS OF THE MIAMI INTERNATIONAL AIRPORT FUEL FARM AT MIAMI INTERNATIONAL AIRPORT

THIS EMERGENCY MANAGEMENT AGREEMENT, made and entered into as of the 11th day of May, 20 12 by and

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

And

Management Company: **Allied Aviation Fueling of Miami, Inc.**, a Florida Corporation (Management or Management Company) authorized to do business in the State of Florida; which term shall include its officers, partners, employees, successors, legal representatives, and assigns.

Description of the Project: **The Management Company currently performs management services at Miami International Airport's (MIA) fuel farm pursuant to the Fuel Facilities Management Agreement dated May 3, 2004 between the County and the Management Company. As a result of a fire which occurred on March 23, 2011, the County must repair this existing fuel farm, including pumping capacity, fire protection systems, and other appurtenant work. The Management Company shall coordinate this repair work such that its work under Fuel Facilities Management Agreement is not interrupted.**

NON-EXCLUSIVE EMERGENCY MANAGEMENT AGREEMENT
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DEFINITIONS

- **AGREEMENT:** This Emergency Management Agreement and all attachments hereto and a part hereof entered into by the County and the Management company, including all of its terms and conditions, attachments, exhibits, and amendments.

- **CODE:** The Code of Miami-Dade County, Florida.

- **COUNTY:** Miami-Dade County owns the Miami International Airport (MIA) and operates the Airport through the Miami-Dade Aviation Department.

- **DEPARTMENT:** Miami-Dade Aviation Department ("MDAD"), which is a department of Miami-Dade County and represented by and acting through its Director or his/her designee(s).

- **DIRECTOR:** The Director of the Miami-Dade Aviation Department or authorized representative(s) designated in writing with respect to a specific matter(s) concerning the Services.

- **EFFECTIVE DATE:** The date that appears in the first paragraph of the Management Agreement.

- **FUEL FARM FACILITIES** or **FACILITIES**: The Fuel Farm Facilities as described in the Management Agreement dated May 3, 2004 between the County and the Management Company.

- **MONTHLY MANAGEMENT FEE:** The fee paid to the Management Company for performing the Services relating to the repair of the Facilities.

- **PROJECT MANAGER:** The person designated by the Department to administer the terms and conditions of this Agreement documents on behalf of the County.

- **SERVICES:** Those services that Management shall perform in accordance with the terms and conditions of this Agreement as directed and authorized in writing by the County.

EMERGENCY NON-EXCLUSIVE MANAGEMENT AGREEMENT FOR THE REPAIRS OF THE FUEL FARM AT MIAMI INTERNATIONAL AIRPORT

THIS EMERGENCY MANAGEMENT AGREEMENT (the "Agreement") is made and entered into as of this 11th day of May, 2012 ("Effective Date"), by and between Miami-Dade County, Florida (the "County"), a political subdivision of the State of Florida and Allied Aviation Fueling of Miami, Inc., ("Management" or "Management Company"), a Florida Corporation, authorized to do business in the State of Florida.

WITNESSETH:

WHEREAS, the County owns Miami International Airport (MIA), and operates the Airport through the Miami-Dade Aviation Department;

WHEREAS, the Management Company operates and maintains the Fuel Farm Facilities at MIA pursuant to R-492-04; and

WHEREAS, the North Pump Rack at the Fuel Farm Facilities was destroyed in a fire which occurred on March 23, 2011; and

WHEREAS, since that date, there has been no fire protection system for the pumps at the Fuel Farm, and, as a result, the Fire Department must maintain around the clock fire watch on the facility to avoid risk; and

WHEREAS, the destruction rendered by the fire has resulted in a current condition at the Fuel Farm Facilities that poses potential risks to human health, the environment, and the local economy; and

WHEREAS, it is in the best interests of Miami-Dade County to authorize the Management Company to manage the reconstruction of the Fel Farm Facilities on an emergency basis,

NOW, THEREFORE, in consideration of the premises, agreement, and the mutual covenants herein contained, the parties agree as follows:

ARTICLE 1
Term and Facilities

1.01 Term:

The County hereby engages Management and Management hereby perform the work described on the attached Exhibit A. Such work will be complete, and the repairs permitted for full operations, by no later than September 30, 2012.

ARTICLE 2
Scope of Services

2.01 Services:

Management shall procure and manage all necessary construction services, the purchase of materials, and all related work needed to rebuild the fuel farm in accordance, but not limited to, the attached Exhibit A. Management shall arrange for the prosecution of this work so as to allow full operations of the existing temporary fuel farm in the interim. Management shall liaise with all authorities having jurisdiction regarding the work.

2.02 Award of Construction Contracts:

Management shall, following approval by the Department and Management of plans and specifications, solicit a not- to exceed price for construction of the repairs Repair Work called for by approved plans and specifications and bid documents ("Repair Work"). The construction contracts for the Repair Work let by Management shall be subject to prior approval by the Department before they are executed by Management, and shall incorporate the MDAD General Covenants and Conditions attached hereto as Exhibit B. If the not-to-exceed price of work is excessive, in the opinion of the Department, the proposed contract shall be rejected, and new pricing solicited. If directed by the Department, Management shall solicit sealed competitive bids for any or all of the repair work.

2.03 Certain Construction Contract Terms:

All contracts entered into by Management for the construction of the Repair Work shall require completion of the Repair Work within a specified time period following the award of the bid and shall contain reasonable and lawful provisions for the payment of actual or liquidated damages and the retention of up to ten percent of construction costs until completion of the contracted work. Management agrees that it will use its best efforts to take all necessary action available under such construction contracts to enforce the timely completion of the work covered thereby.

2.04 Repair Work Free and Clear:

The Repair Work, upon completion, shall immediately become the property of the County, free and clear of any liens or encumbrances whatsoever. Management agrees that any contract for construction, alteration or repairing of Facilities, or for the purchase of material to be used, or for work and labor to be performed shall be in writing and shall contain provision to protect the County from the claims of any laborers, subcontractors or material men against the Facilities or Repair Work.

2.05 Right to Audit:

The County, through its auditors, internal, external or special, shall have the right to audit the costs of construction of the Repair Work, which shall include any Department-approved changes.

2.06 Capital Outlay Account:

At the sole discretion of the County, it may establish, in its name and to its credit, an Capital Outlay Account to be used exclusively for payment by Management by check of the costs related to the construction of Repair Work and the acquisition of equipment, pursuant to this Article 2, such payments to be processed in accordance with the procedures described in Exhibit C hereto. The Capital Outlay Account shall be funded by the County in such amount as shall be necessary to pay the costs of design and construction of Repair Work when due. The Department shall designate authorized signatures for the Capital Outlay Account, including such County, Department, and Management representatives as the Department shall deem appropriate and authorize, in writing, from time to time. Bank statements and cancelled checks pertaining to the Capital Outlay Account shall be sent directly to the Department, with a microfilm copy of the said documents to be sent by the bank to Management. Costs of design and construction shall be paid by the Department as provided herein.. The cost of non-fixed capital operating equipment acquired as a part of the construction of any Repair Work shall be paid as provided in this Article 2.06.

2.07 Contracts Assignable:

All design and construction contracts entered into by Management shall be assignable by Management to the County or others as designated by the Department, upon the request of the Department. Upon such assignment, Management shall be relieved from any further responsibility to the County under such design and construction contracts.

ARTICLE 3
Cost Reimbursements

3.01 Reimbursable Operating Expenses:

Management shall cause all obligations arising from the work of this agreement to be paid when due. To the extent that such costs are readily discernible as attributable to the operation of Management hereunder, the County shall reimburse Management for all direct costs of operation hereunder, including material costs, payroll and related expenses, variable and fixed controllable and uncontrollable expenses, utilities, audits, capital operating equipment, maintenance and such other operating expenses approved by the Department or described in the approved Annual Operating Budget. It is the intent of this Agreement and specifically this Article 3.01 that Management shall be reimbursed for all reasonable and appropriate expenditures made pursuant to this Agreement not inconsistent with the terms contained herein.

3.02 Not Used

3.03 Not Used

3.04 Imprest Checking Account:

The County shall establish and fund from, in its name and to its credit, an Imprest Checking Account to be used exclusively for the payment by check for purchases and expenses, which must be paid for on delivery. The balance of such Account shall be in such amount as is deemed adequate by the Department. The Department, upon the recommendation of Management, shall designate those persons authorized to sign checks against the Imprest Checking Account on behalf of Management.

The Imprest Checking Account shall also be used to pay expenses on approved construction projects.

3.05 Not Used

3.06 Invoices for Reimbursable Operating Expenses:

Invoices for Reimbursable Operating Expenses, other than those subject to the reimbursement procedures contained in Article 3 herein, shall be recorded daily, or such other frequency as the Department may authorize. Information shall be recorded separately for each transaction and shall include vendor name, invoice number, invoice date, invoice amount, net of maximum available purchase discounts, invoice due date, and expense classification in accordance with the Chart of Accounts customarily used by Management and approved by the Department. As soon as practical, but no later than the next working day or such

other frequency as the Department may authorize, the Check Register Report and supporting invoices, duly approved by Management, shall be delivered to the Department for preliminary review and approval. The Department reserves the right to solicit additional information pertaining to any invoices which appear to be unrelated to operations controlled by Management or otherwise deemed by the Department worthy of investigation. Except as otherwise specifically provided herein, Management shall not pay any invoices listed on a check register, until same, are preliminarily approved by the Department. In the event that Management has paid any invoices listed on a Check Register Report which are not previously approved for good cause by the Department on a Request for Replenishment as defined in Article 3, herein, Management shall pay the amount of such non-approved invoices into the appropriate account. If such payment is not made within ten days of the date such payments are disapproved, the Department shall either deduct such amount from the Monthly Management Fee or invoice Management for such costs and such failure to pay may be deemed by the Department to be a breach or default hereof.

Services obtained from outside vendors should be obtained through sealed bidding, of at least three cost proposals which provides the detailed service, cost per hour/unit, time for completion and a grand total for job. Quotes should include verification by Management of a true business location and license before approval. The Department must approve all contracted services by Management prior to Management entering into a contract. Copies of all new and renewed contracts must be provided to the Department so expenditures against those contracts are verified. Also, copies of all quotes should be submitted to the Department in the initial replenishment package for our records.

3.07 Payment of Invoices:

Following preliminary approval by the Department, pursuant to Article 3.06 above, a check register, along with original supporting invoices, shall be processed by Management for payment in accordance with the normal procedures of Management. Payments shall be made by check drawn on the Imprest Checking Account, paying only approved invoices reflected on the preliminarily approved check register. Management shall maintain separate paid invoices files for operations covered by this Agreement, and said paid invoices files, including supporting documents, such as, but not limited to, purchase orders, shipping and receiving slips and the like, shall be County property, held in fiduciary possession by Management. At the request of the Department, but no less often than quarterly, Management shall deliver to the Department all paid invoices files related to operations pursuant to this Agreement, not previously provided to the Department pursuant to other provisions hereof.

Except as authorized by Section 2.02 above, Services obtained from outside vendors should be obtained through sealed bidding, of at least three cost proposals which provides the detailed service, cost per hour/unit, time for completion and a

grand total for job. Quotes should include verification by Management of a true business location and license before approval. The Department must approve all contracted services by Management prior to Management entering into a contract. Copies of all new and renewed contracts must be provided to the Department so expenditures against those contracts are verified. Also, copies of all quotes should be submitted to the Department in the initial replenishment package.

3.08 Not Used

3.09 Account Replenishment:

The Imprest Checking Account shall be maintained in advance of County funds for County purposes.. Disbursements from the Imprest Checking Account shall be listed on Management letterhead indicating check number, date issued, payee, amount, and expense classification, with original copies of invoices, delivery slips and like documents attached. Management shall similarly prepare separate listings of reimbursable disbursements from the Petty Cash Fund, if so authorized, which shall be paid to Management by the County, upon approval by the Department, from the appropriate account. Replenishment of the Imprest Checking Account by the County shall be made when necessary by check or wire transfer, with the respective disbursement listings supported by individual invoices.

3.10 Not Used

3.11 Not Used

3.12 Special Requests for Reimbursement-Other Costs:

Certain Reimbursable Operating Expenses may be incurred by Management and not processed through Daily Invoice Reports or payroll and related expense records. Reimbursement of such costs shall be made by processing special requests for reimbursement, as necessary, accompanied by evidence of payment, supporting third party documents, supporting calculations, and any other information the Department may deem necessary. Management and the Department shall agree as to the types of expenses to be reimbursed using this procedure.

3.13 Non-Reimbursable Expenses:

Without limiting or modifying any other provision of this Agreement which may pertain to reimbursement of fees, Management shall not be reimbursed for its expenses as a corporation, partnership or individual, of the following and similar in nature, including but not limited to:

(a) Any component of the Management Fee,

(b) Management's overhead and cost allocations.

(c) Management's legal and accounting fees;

(d) Charitable and political contributions.

(e) Employee Travel, including hotel and per diem expenses.

(f) Entertainment, including entertainment for the purposes of business development or client retention.

(g) Public relations, gifts, dues and memberships and entertainment.

(h) Salary and benefits of the General Manager, such as, but not limited to, salary, fringe benefits, pension contributions, automotive allowances, insurance and payroll related taxes and continuing professional education programs.

(i) Any penalties, assessments or fines issued by any court or authorized government entity or agency.

(j) Employee social functions.

(k) Employee severance pay, and the cost of fringe benefits not earned or accrued during the time of the Agreement or while the employee has worked for Management other than at the Facilities.

(l) Charge-backs which resulted from the failure to apply controls as described in Article 3, Cost Reimbursements.

(m) Any other expenses which are for services which do not provide a direct benefit to the MDAD operations of the Lounges.

(n) Insurance premiums including general liability, workers compensation, health/life Insurance, and auto insurance: Certificates of insurance must be submitted in accordance with Article 11, Insurance.

3.14 Cash Losses:

All cash losses, except losses arising out of the criminal acts of employees of Management or third parties, shall be the responsibility of and reimbursed by Management. The exclusion of criminal act losses must be supported by copies of filed police reports.

3.15 Prompt Payment:

Management shall be fully responsible for making prompt and timely payment of all obligations arising out of this Agreement, so as to maximize the potential for available discounts and commissions. All discounts, allowances, premiums and commissions paid or received hereunder shall be to the credit and benefit of the County. Management shall pay from its own funds any penalty, fine or like assessment resulting from any late or delayed payment of an obligation hereunder; provided, Management has not been unduly delayed in making payment of such obligation by action or inaction of the County.

ARTICLE 4
Compensation to Management

4.01 Management Fee:

Management agrees that its fee under that existing Management Agreement dated May 3, 2004 shall be full and sufficient payment for all Management's overhead and profit related to this Agreement.

ARTICLE 5
Personnel

5.01 Personnel Standards:

Management shall properly control its employees, who shall present a clean, neat, well-groomed and professional appearance at all times, and discharge their duties in a cooperative, courteous and efficient manner. Satisfactory maintenance of these requirements shall be the basis for the continued employment of all employees of Management hereunder. Management shall require all personnel, except non-public contact and managerial employees, to wear visibly on their person, at all times while on duty, a distinctive name tag identifying the individual by name, as an employee of Management and, if appropriate, displaying an employee number or title.

5.02 Restricted Area Access – Identification Badges:

Management shall be responsible for requesting the Department to issue identification badges to all employees and other personnel under its control who require access to restricted areas on the Airport as a part of their regularly assigned duties, and shall return the identification badges of all personnel transferred or terminated from the employ of Management or Airport assignment and upon termination of this Agreement. Management shall promptly report to the Department the names of all persons who were employed by Management

from whom they were unable to obtain the return of Department issued identification badges. In the event that an identification badge is not returned because of a failure by Management, Management shall pay, from its own funds, the Department's established charge for lost or stolen identification badges. The Department shall have the right to require Management to conduct background investigations, criminal history checks and to furnish certain data on such employees before the issuance of such identification badges, to include the fingerprinting of employee applicants for such badges.

5.03 AOA – Right to Search:

It is understood that the Department has a strong interest in maintaining good Airport security and intends to implement increased security measures for companies having access to the Air Operations Area ("AOA") of the Airport. Management agrees that its vehicles, cargo, goods and other personal property are subject to being searched when entering or leaving the AOA. Management further agrees, when required by the Department, that it shall not authorize any employee requiring regular access to the AOA as part of his/her regular duties, to enter the AOA unless and until such employee has executed a written consent to search form acceptable to the Department. Persons not executing such consent to search form shall not be employed by Management pursuant to this Agreement.

It is further agreed that the Department has the right to prohibit an individual, agent or employee of Management from entering the AOA, based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage, or other unlawful activities. Any person denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a hearing before a designated management representative of the Department within a reasonable time. Prior to such hearing, the person denied access to the AOA shall be advised, in writing, of the reasons for such denial. Persons denied such access shall not be employed by Management hereunder.

Management acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of thefts, cargo tampering, aircraft sabotage and other unlawful activities.

5.04 AOA – Driver Training:

Before Management shall permit any employee to operate a motor vehicle on the AOA, Management shall require such employee to have a current, valid, appropriate Florida driver's license and to attend and successfully complete the AOA Driver Training Course conducted periodically by the Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department because of violation of AOA driving rules or loss of Florida driver's license.

5.05 Federal Agencies Right to Consent:

Management understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies and any bonding requirements as may be imposed by such agencies. Persons not approved or consented to by the Federal Inspection Services agencies may not be employed by Management on the Airport. These expenses are reimbursable subject to prior Department Approval.

5.06 Employment Related Examinations:

The Department shall have the right to require Management to use properly validated and lawful tests and procedures as a pre-employment screening mechanism for all or designated classifications of employees to assist Management in determining the accuracy of employment applications and the integrity of employment applicants. The Department may likewise require the use of shopping services, undercover operatives and other investigatory techniques for determining the honesty of employees. In addition, the Department may require Management to have polygraph examinations administered in individual instances, fully in compliance with the requirements and limitations of Federal law.

5.07 Not Used

5.08 Relationship of Parties:

Officers, agents, and employees of Management shall not be deemed to be employees of the County for any purpose whatsoever.

5.09 Wage Rates:

All employees of Management shall be paid at rates not to exceed those established in the Annual Operating Budget approved by the Department.

5.10 Employee Relations Expenses:

Management shall not be reimbursed by the Department for any legal or other services with respect to employee relations matters applicable to employees of Management, unless prior written approval is granted by the Department.

5.11 Language Requirements:

Management shall ensure that all employees in regular contact with the public, as part of their regular duties, are able to understand and communicate in clearly

understandable spoken English. English and Spanish must be spoken at least one employee at each of the Facilities, unless otherwise approved by the Department.

Management shall utilize such tests or procedures satisfactory to the Department to ensure compliance with this provision.

5.12 Not Used

5.13 Other Agreements:

Management shall not, without the specific advance written approval of the Department, which approval may be withheld without stated cause, enter into any contract, agreement or arrangement of any kind, which would or could in any way serve to increase Reimbursable Operating Expenses for wages or fringe benefits, to modify or change the duties, work rules, working hours or responsibilities of reimbursable employees of Management hereunder or any other matter dealt within the Employment Procedures Manual or to delegate or assign to any other party the right to make decisions as to such matters.

5.14 Employment Eligibility Verification (E-Verify):

Management is required to enroll in the United States Citizenship and Immigration Services E-Verify system, and to utilize that system to verify the employment eligibility of all persons performing work for Management under this Agreement. Management shall incorporate this requirement into all of its subcontracts as well.

5.15 Alcohol and Drug Testing:

Management acknowledges that the County has the obligation to establish a drug free workplace, and to establish policies and programs to ensure Airport safety and security. Management acknowledges that the Department has the right to require users of the Airport, including but not limited to lessees, permitees, licensees, and management companies, to establish reasonable programs to further the achievement of the obligations described herein. Accordingly, Management shall establish programs for pre-employment alcohol and drug screening for all candidates for employment at the Airport and for the same or similar screening, based upon reasonable suspicion that an employee, while on duty at the Airport, may be under the influence of alcohol or drugs. Further, to the extent permitted by law, Management shall establish a program for the random alcohol and drug screening of all employees who are authorized, pursuant to this Agreement, to operate any type or kind of vehicle on the airfield operations area ("AOA"). Management shall make good faith efforts to negotiate amendments to any existing contract(s), which may serve as a bar to Management's implementation of its obligations hereunder. Notwithstanding the

above, Management specifically acknowledges that the Department has the right and obligation to deny access to the AOA and to withdraw AOA driving privileges from any person whom it has a reasonable suspicion to believe is under the influence of alcohol or drugs.

5.16 Employee Training:

Management shall, on an ongoing basis, provide effective customer service training programs for all personnel having public contact.

5.17 Not Used

5.18 Passenger Referrals:

Management shall not permit its employees to enter into any agreements, understanding, arrangements or contracts, whether written or oral, relative to the referral of passengers and other Airport users to hotels, restaurant, shops or services off the Airport. The acceptance by an employee of any form of compensation, whether in cash or in kind, from airport employees and business and the possession of referral cards for such business shall be *prima facie* evidence of a violation of this provision.

5.19 Employee Covenants Violations:

In the event Management violates the covenants in Sub-Article 5.18 above for failure to properly control its employees or by permitting its employees to improperly use facilities provided by the County for the use and convenience of the traveling public, the Department shall have the right to (i) confiscate the employee's Airport identification, (ii) require Management to terminate from employment at the Airport those employees who have individually violated the covenants of Sub-Article 5.18, and (iii) take action pursuant to Article 14 thereof.

5.20 Other Business Activity:

Management and its employees shall conduct no other business activity within the Facilities of the Airport, except as specifically authorized herein.

5.21 Injury or Damage:

In the event of any injury to any person or loss or damage to any property in the Facilities, Management shall immediately notify the Department and promptly furnish copies of relevant reports in connection therewith. Management shall indemnify and defend the County against any claims arising out of any injury or damage, in conformance with the provisions of this Agreement.

5.22 **Complaints:**

Management shall respond promptly and courteously to all complaints received and shall provide the Department with copies of all written complaints and Management's response thereto. Partial or full refunds, in response to complaints, shall only be made in accordance with Department approved policies and procedures.

5.23 **Right to Audit:**

The Department and the auditors of the County (internal and external) shall have the right, without limitation, at anytime, to audit, check, inspect and review all operating procedures of Management hereunder and all books of account, records, financial reports, financial statements, operating statements, inventory records, copies of Federal income and State sales tax returns, work papers and supporting documents relating to operations of Management hereunder, and other pertinent information as may be determined to be needed or desirable by the Department.

5.24 **Contracts/Agreements:**

Any and all contracts or agreements to be entered into by Management solely to support operations, hereunder shall be approved in advance by the Department and shall contain a provision that any such contracts or agreements shall be assignable, upon notice from the Department, to the County or to another party as designated by the Department.

ARTICLE 6
Rights Reserved to the County

6.01 **Rights Reserved to County:**

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

6.02 **Rights of County at Airport:**

The County shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and facilities at the Airport. The County shall, in the exercise of such right, be free from any, and all liability to Management for business damages occasioned during the making of such repairs, alterations and additions except those occasioned by the sole active negligence of the County, its employees, or agents.

6.03 Rights to be Exercised by Department:

Wherever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

6.04 Right to Regulate:

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

6.05 Other County Rights:

Management shall be liable for any physical damage caused to the Facilities by Management, its employees, agents, contractors, subcontractors, vendors, or suppliers. The liability shall encompass: (i) Management's repair of the Facilities, or if the Facilities cannot be repaired, payment to the County of the fair market value replacement cost of the Facilities; and (ii) any other such damages to the County or the Airport arising from the physical damage caused by Management. The County may also initiate an action for specific performance, injunctive relief, or any other cause(s) of action pursuant to applicable law.

ARTICLE 7
Maintenance by Management

7.01 Repair of Damage:

Management shall repair all damage to the Facilities caused by Management, its employees, agents, independent contractors or patrons. Unless such damage is due to the negligence or misconduct of Management or its employees, the cost of repairs shall be considered a Reimbursable Operating Expense. The Department may, at its option, choose to do the work with its own forces or by contract or to require Management to perform or contract the work.

7.02 Garbage and Trash Disposal:

Management shall remove from the Facilities all garbage, trash and refuse of any nature whatsoever which might accumulate and arise from any operations hereunder. Such garbage, trash refuse shall be stored and disposed of only in the manner approved by the Department.

7.03 Maintenance of Utilities:

Management shall operate and maintain all the components of the electrical distribution, air conditioning, ventilating, fire protection, hot and cold water, and

industrial and sanitary sewerage systems and facilities within the boundaries of the Facilities, unless otherwise directed by the Department. The Department reserves the right to make arrangements for emergency maintenance and repair of said systems and facilities, using its own or contract employees, during nights, weekends and holidays, the costs of which shall be considered operating expenses paid directly.

7.04 Maintenance and Repair:

Management shall maintain and repair the interior of the Facilities, and shall make all repairs as required in and about the Facilities, including, but not limited to, painting, doors, windows, fixtures, furnishings, appurtenances, replacement of light bulbs, ballasts and tubes and the replacement of all broken glass, which repairs shall be in quality and class equal to or better than the original work to preserve the same in good order and condition, subject to ordinary wear and tear.

ARTICLE 8
No Assignment, Subletting or Sale of Controlling Interest

8.01 No Assignment:

Management shall neither assign, transfer, pledge, or otherwise, encumber this Agreement, nor allow others to use the Facilities without the prior written consent of the Department.

8.02 Ownership Structure of Management:

Management shall take no actions which shall serve to transfer or sell majority ownership, or change the management or control of the business entity of Management without the prior written consent of the Department.

8.03 Change of Control:

If Management is a corporation, the issuance or sale, transfer or other disposition of a sufficient number of shares of stock in Management which results in a change of control Management, shall be deemed an assignment of this Agreement for purposes of this Article 8. If Management is a partnership, transfer of any interest in the partnership, which results in a change in control of Management, shall be deemed an assignment of this Agreement for purposes of this Article 8.

8.04 Authority:

If Management signs as a corporation, a limited liability company, or a partnership, each of the persons executing this Agreement on behalf Management does hereby covenant and warrant that (i) Management is a duly authorized and

existing entity, (ii) Management has and is duly qualified to do business in State of Florida, (iii) Management has full right and authority to enter into this Agreement, and (iv) each and all of the persons signing on behalf of Management are authorized to do so. Upon the Department's request, Management shall provide the Department evidence reasonably satisfactory to the Department confirming the foregoing representations and warranties.

8.05 Franchising:

The Facilities may not be branded nor franchised without the specific prior written approval of the Department, which approval may be withheld or denied without stated cause. Before such approval can be considered, the terms, conditions and fees of any franchise agreement shall be subject to advance review and written approval of the Department.

ARTICLE 9
Bonds

9.01 Performance Bond:

Within twenty (20) calendar days of the Effective Date of this Agreement, Management shall provide the County with a performance bond which shall be kept in full force and effect during the terms and conditions of this Agreement and, thereafter, until all financial obligations, reports or other requirements of the Agreement thereunder are satisfied, a performance and payment bond or an irrevocable letter of credit, or other form of security acceptable to the Department and so endorsed as to be readily negotiable by the County for the payments required hereunder, in an amount no greater than the cost of the Repair Work plus any state sales taxes as may be applicable and required by law. Such performance bond shall be kept in full force throughout the term of this Agreement and any Extension Periods. The Department, without prior notice to Management, may draw upon such performance bond, given's failure to perform or breach of this Agreement. The Department may require the Management to increase or decrease the amount of the performance bond during the term of this Agreement or any Extension Periods. To the extent that the Management Company has previously provided a bond pursuant to the conditions of the Management Agreement dated May 3, 2004, then the value of that bond may be credited towards the bond obligation imposed herein; notwithstanding, to the extent that the such bond is not sufficient to cover the cost of the repair work, plus sales taxes, Management Company shall remain obligated to cover such insufficiency with an additional bond.

Notwithstanding anything else herein, costs associated with procurement or maintenance of the bond shall be deemed reimbursable expenses.

9.02 Not Used

9.03 Surety Bonds:

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

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

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

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

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

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

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

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

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

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

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

The bonds shall be delivered to the Department upon execution of the contract between the Management and the County.

9.04 Cancellation of Bonds:

Cancellation of any bonds or non-payment of any premiums for any bonds required by this Agreement shall constitute a breach of this Agreement.

ARTICLE 10
Indemnification

Management shall indemnify, defend, and hold harmless the County, including its successors and assigns, and its officers, employees, consultants, sub-consultants, agents, bond trustees, and instrumentalities (collectively the "Indemnitees"), from any and all liability, loss, claim, damage or cost, including attorney's and expert fees and cost of defense, which the County or its officers, employees, consultants, sub-consultants, agents, bond trustees, or instrumentalities may incur in whole or in part (i) out of any injury, loss, theft, damage or cost to any person or property while on or about the Facilities, or out of any condition on the Facilities, or out of any breach of any Agreement covenant, warranty or representation by Management or persons acting under Management or from any act or omission anywhere by Management or persons acting under Management, or (ii) as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the Management or its employees, agents, servants, partners, principals, contractors, vendors or suppliers, except to the extent caused directly by the negligent act or willful misconduct of County. Management shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's and expert's fees which may issued thereon. This provision shall survive termination of this Agreement.

ARTICLE 11
Insurance

11.01 Insurance Required:

Unless the Management Company has not previously satisfied the conditions of this Article 11 pursuant to the Management Agreement dated May 3, 2004, then within twenty (20) calendar days of the Effective Date of this Agreement, Management shall obtain all insurance required under this Article and submit it for approval to:

Miami-Dade Aviation Department
c/o Risk Management
P.O. Box 025504
Miami, Florida 33102-5504

All insurance shall be maintained throughout the term of the Agreement and any Extensions thereof.

The limits for each type of insurance may be revised upon MDAD Risk Management's review and approval of the Management's operations. Additional types of insurance coverage or increased limits may be required if, upon review of the operations, the Department determines that such coverage is necessary or desirable. Also note: The Department will not accept self-insurance and all policies must be separate policies insuring the Facilities at Miami International Airport alone.

Certificate(s) of insurance from Management must show coverage has been obtained that meets the requirements as outlined below during the provision of Services at the Facilities:

A. Workers' Compensation as required by Chapter 440, Florida Statutes.

B. Commercial General Liability Insurance on a comprehensive basis including Contractual Liability, Board Form Property Damage and Products and Completed Operations in an amount not less than $5,000,000 per occurrence for Bodily Injury and Property Damage combined. This policy shall include Miami-Dade County as an additional insured with respect to this coverage.

   The Commercial General Liability Insurance coverage shall include those classifications, as listed in Standard Liability Insurance Manuals, which are applicable to the operations of the Management Company in the performances of this Agreement.

C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with this agreement in an amount not less than $500,000* per occurrence for bodily injury and property damage combined.

*Under no circumstances is Management allowed on the Airside Operation Area (AOA) without increasing automobile coverage to $5,000,000 as approved by the Risk Management Office.

11.02 Certificates of Insurance:

Management shall furnish certificates of insurance to the County prior to commencing any operations under this Agreement, which certificates shall clearly indicate:

a) the Management has obtained insurance in the type, amount and classifications as required for strict compliance with this Sub-Article;

b) the County is named as an additional insured; and

c) no material change or cancellation of said insurance shall be effective without thirty (30) days prior written notice to the County. The County reserves the right to require Management to provide such reasonably amended insurance coverage as it deems necessary or desirable upon issuance of notice in writing to Management.

11.03 Certificates of Renewal:

Management shall furnish certificates evidencing renewal or replacement of required insurance coverage, thirty (30) days prior to expiration or cancellation. The Department reserves the right to reasonably amend the insurance requirements or to assume direct responsibility for carrying all or any of the required insurance coverage by the issuance of notice in writing to Management. In the event the Department exercises its right to assume direct responsibility for any of the required insurance coverage, Management shall be named as an additional insured, where applicable provided the Department does not self-insure. Compliance with the foregoing requirements shall not relieve Management of its liability and obligation under any other portion of this Agreement.

11.04 Certificates of Continuity:

Management shall be responsible for assuring that the insurance certificates required in conjunction with Article 11, "Insurance" remain in force for the duration of the Agreement, including any and all Extensions, if applicable. If insurance certificates are scheduled to expire during the Agreement period, Management shall be responsible for submitting new or renewed insurance certificates to the MDAD Risk Management Office at a minimum of thirty (30) calendar days before such expiration.

11.05 Insurance Company Rating Requirements

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

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

Certificates will show that no modification or change in insurance shall be made without thirty (30) calendar days written advance notice to the certificate holder.

11.06 Cancellation of Insurance:

Cancellation of any insurance or non-payment of any premiums for any insurance policies required by this Agreement shall constitute a breach of this Agreement.

11.07 Other Insurance Indemnification:

Management represents and warrants that any insurance protection required by this Agreement or otherwise provided by its contractors and subcontractors shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, consultants, agents and instrumentalities as herein provided.

11.08 Management Liable:

Compliance with the requirements of this Article 11 "Insurance" shall not relieve Management from its liability under any other portion of this Agreement.

11.09 Right to Examine:

The Department reserves the right, and upon reasonable notice, to examine the original policies of insurance (including, but not limited to binders, amendments, exclusions, riders and applications) to determine the true extent of coverage. Management agrees to permit such inspection at the offices of the Department.

11.10 Personal Property:

Any personal property of Management, or of others, placed in the Facilities shall be at the sole risk of Management or the owners thereof, and the Management shall not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage.

11.11 Survival of Provisions:

The provisions of this Article 11, "Insurance" shall survive the expiration or earlier termination of this Agreement.

ARTICLE 12
Trademarks and Licenses

The County may, from time to time, permit Management to utilize certain patents, copyrights, trademarks, trade names, logos, computer software and other intellectual property owned by the County in the Performance of this Agreement, which patents, copyrights, trademarks, trade names, logs computer software and intellectual property may have been created pursuant to the terms of this Agreement. Such permission, when granted, shall be evidenced by a nonexclusive license executed by Management and the Department, on behalf of the County, granting Management the right, license and privilege to use a specific patent, copyright, trademark, trade name, logo, computer software or other intellectual property without requiring payment of fees therefore. The County may likewise license from Management the use of certain trademarks which Management has previously created, without a requirement for the payment of any additional fees or compensation to Management for such license. Failure of the parties to execute a formal license agreement shall not vest, neither title, nor interest in such patent, copyright, trademark, trade name, logo, computer software or intellectual property shall vest in the using party.

ARTICLE 13
Force Majeure

Strictly in relation to the obligations of each party to the other under this Agreement and not for any other purpose or for any benefit of a third party, each party shall be excused from the timely performance of their respective obligations or undertakings provided in this Agreement, if the performance of such obligations or undertakings is prevented or delayed, retarded or hindered by: (i) strikes, lockouts, boycotts, actions of labor unions, labor disputes, labor disruptions, acts of God, work stoppages or slowdowns, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, provided however, this clause (i) does not apply to such actions related to employees, temporaries, contractors, subcontractors or suppliers of Management; or (ii) embargo's, general shortages of labor, equipment, facilities, materials or supplies in the open market, acts of God, acts of a public enemy, acts of governmental authority, including, without limitation, the Federal Aviation Administration ("FAA"), Department of Transportation ("DOT"), Transportation Safety Administration ("TSA"), Environmental Protection Agency ("EPA"), civil and defense authorities, war (declared or undeclared), invasion, insurrection, terrorism, riots, rebellion or sabotage.

ARTICLE 14
Default and Termination by the County

14.01 Events of Default:

A default shall mean a breach of this Agreement by Management (an "Event of Default"). Without limitation, a default shall include, but shall not be limited to, those defaults defined in Sub-Article 14.02, Sub-Article 14.03, and Sub-Article 14.04, an Event of Default, and may also include one (1) or more of the following occurrences:

(A) Management has violated the terms and conditions of this Nonexclusive Agreement;

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

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

(D) Management has failed to provide reports, records, book of accounts, summaries, or audits as required by this Agreement;

(E) Management has failed to perform any covenant of this Agreement;

(F) Management has failed to provide adequate assurances as required under Sub-Article 14.04;

(G) Management has failed to comply with any provision of Article 14;

(H) Management has failed in a representation or warranty stated herein; or

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

The specification of the preceding as instances of default shall not be deemed to be an exhaustive list of all potential events of default under this Agreement, and the specification of the preceding shall not be interpreted as excluding by implication any other potential event of default.

14.02 Other Defaults:

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

(A) Failure of Management to comply with covenants of this Agreement other than those that constitute default pursuant to Sub-Article 14.02.

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

(C) The entering by Management into any agreement, understanding, arrangement, or contract, whether written or oral, for the referral of customers or potential customers to off-Airport facilities.

(D) The occurrence of any illegal act within the Facilities of which Management: (i) had prior knowledge, or could reasonably have been expected to have prior knowledge of; (ii) failed to correct; and (iii) failed to notify the Department and responsible authority(ies).

14.03 Habitual Default:

Notwithstanding the foregoing, in the event that Management has frequently, regularly or repetitively defaulted in the performance of or breach any of the terms, covenants and conditions required herein, to be kept and performed by Management, on five (5) occasions regardless of whether Management has cured each individual condition of breach or default as provided for in Sub-Article 14.01 and Sub-Article 14.02 above, Management shall be determined by the Director to be an "habitual violator". At the time that such determination is made the Department shall issue to Management a written notice, advising of such determination and citing the circumstances thereof. Such notice shall also advise Management that there shall be no further notice or grace periods to correct any subsequent breach(s) or default(s) and that any subsequent breach or default, of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of non-curable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the County may terminate this Agreement upon the giving of written notice of termination to Management, such termination to be effective upon the seventh (7th) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and Management shall have no further rights hereunder. Immediately upon receipt of said termination, Management shall discontinue its operations at the Airport and proceed to remove all its personal property.

14.04 Notice of Default and Opportunity to Cure:

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

the Agreement. The Department may extend the Cure Period and grant an additional period of such duration as the Department shall deem appropriate without waiver of any of the County's rights hereunder. The Default Notice shall specify the date by when Management shall discontinue the services under the initial term period (the "Termination Date").

14.05 Adequate Assurances:

When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to Management's ability to perform the work or any portion thereof, the County may request that Management, within the time frame set forth in the County's request, provide adequate assurances to the County, in writing, of Management ability to perform in accordance with terms and conditions of this Agreement. In the event that Management fails to provide to the County the requested assurances within the prescribed time frame, the County may:

(A) treat such failure as a repudiation of this Agreement; and

(B) resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the work or any part

(C) thereof either by itself or through others.

14.06 Termination For Abandonment:

Except as allowed pursuant to Article 14, this Agreement shall be automatically terminated in its entirety upon the abandonment by Management of the Facilities or the voluntary discontinuance of operations at the Airport for any period of time exceeding twenty four (24) hours, unless such abandonment or discontinuance has been caused by civil disturbance, governmental order, or Act of God that prevents Management's use of the Facilities for the purposes authorized in Article 2. Such termination shall be considered Termination for Cause, and shall entitle the County to all remedies specified in Sub-article 14.08 herein.

14.07 Termination For Cause:

The County may terminate this Agreement, effective immediately if: (i) Management fails to cure an Event of Default during the Cure Period; (ii) an individual, firm, corporation, joint venture, or other entity attempts to meet its contractual obligation(s) with the County through fraud, misrepresentation or material misstatement; or (iii) a principal of Management is convicted of a felony during the term of this Agreement or any Extension Period, or (iv) if Management is found to have submitted a false certification or to have been, or is subsequently during the term of this Agreement, placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

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

The foregoing notwithstanding, any individual, firm, corporation, joint venture, or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be disbarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Management may be subject to debarment for failure to perform, and all other reasons set forth in § 10-38 of the Code.

14.08 Termination Without Cause:

TERMINATION FOR CONVENIENCE: The Department, in addition to the rights and options to terminate for cause, or any other provisions set forth in this Agreement, retains the right to terminate this Agreement upon thirty (30) days written notice at its sole option at any time for convenience, without cause, when in its sole discretion it deems such termination is in the best interest of the Department. In such circumstance, the County will solely be responsible for paying all costs for the Repair Work which are the subject of this Agreement, including any fees or expenses to cancel, terminate, or suspend work in progress (as directed by the County) and the amortized costs of any Repair Work constructed by Management, but the County shall not be responsible for any other costs or damages, including but not limited to lost profits, loss of opportunity, borrowing costs, carrying costs, damage to reputation, loss of goodwill, or loss of income.

14.09 Actions at Termination:

Management shall, upon receipt of such Termination Notice, and as directed by the Department:

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

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

(C) cancel orders, provided however, that the County shall reimburse Management for all costs and expenses of such cancellation, provided that Management has, within thirty (30) business days, advised MDAD in writing that there may be cancellation costs, and to the extent known, an estimate of amount of these costs;

(D) assign to the County and deliver to any location designated by the County any non-cancelable orders not incorporated in the work, provided

however, that Management will be compensated for such deliverables that have been specifically developed for the sole purpose of this Agreement;

(E) vacate, quit and surrender, and account for the Facilities, support space, all furnishings, fixtures, equipment, software, vehicles, records, funds, inventories, commodities, supplies and other property of the County, on or before the Termination Date, with such items to be in as good order and condition as they were upon the Term of this Agreement or date of subsequent acquisition, reasonable and normal wear and tear excepted; and

(F) remove all of its personal property from the Facilities, support space, on or before the Termination Date. Any personal property of Management not removed in accordance with this Sub-Article may be removed by the Department for storage at the cost of Management. Failure on the part of Management to reclaim its personal property within thirty (30) days from the Termination Date shall constitute a gratuitous transfer of title thereof to the County for whatever use and disposition is deemed to be in the best interests of the County.

NOTE: Any compensation paid pursuant to this Sub-Article is subject to audit.

14.10 Remedies For County:

Upon the termination of the Agreement based upon this Article 14, Management shall make a payment on the Termination Date, to the Department of the amount(s) equal to any monies due the Department under the Agreement. This payment is independent of and in addition to any payments, fees, and remedies available to the County under applicable law or this Agreement. Management shall indemnify and reimburse the Department within forty-five (45) days after the date of such termination, an amount equal to Department's costs for any property damages to the Facilities, for failure to perform, or any other breach of the Agreement by Management, provided however, Management shall not be liable to the County for any special, indirect, consequential or punitive damages, including loss of revenue, profits or income, or use of the Facilities, unless same are caused by the gross negligence, recklessness, or bad faith conduct of Management. In the event the County exercises its termination right as provided hereunder, the County shall not be subject to any liability and shall have no further obligations under this Nonexclusive Agreement. Management shall also be liable to such other relief as the County may be entitled.

14.11 Holdover Tenant:

If Management (or anyone claiming through Management) shall remain in possession of the Facilities or any part thereof after the termination of this Nonexclusive Agreement, without a written agreement executed by the County, then without limiting the County's other rights and remedies, the person or entity remaining in possession shall be deemed a tenant at sufferance otherwise subject

to all of the provisions of this Agreement, and Management shall thereafter pay on account of its holdover use and occupancy of the Facilities a sum, at a rate equal to two times (2x) the amount payable monthly as Monthly Management Fee (the "Holdover Charges"). The Holdover Charges shall be payable weekly in advance. Notwithstanding the above, Management shall remain liable to the County for all damages resulting from such breach, with the amount of any Holdover Charges accepted by the County on account of the holdover considered as mitigation of such damages. The covenant in this Sub-Article shall survive the Term and any exercised extensions.

ARTICLE 15
Termination by Management

15.01 Termination by Management:

Management shall have the right, upon thirty (30) calendar days written notice to the Department to terminate this Agreement (note: The Department must acknowledge receipt of the notice), without liability to the County, at any time after the occurrence of one (1) or more of the following events:

(A) Issuance by any court of competent jurisdiction of any injunction substantially restricting the use of the Airport for airport purposes, and the remaining in force of said injunction for a period of more than one hundred eighty (180) calendar days.

(B) A breach by the County of any of the material terms, covenants or conditions contained in this Agreement required to be kept by the County and failure of the County to remedy such breach for a period of three hundred sixty five (365) calendar days after receipt of written notice from Management of the existence of such breach.

(C) The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control or use of the Airport premises or any substantial part, or parts thereof, in such a manner as substantially to restrict the Management's operations for a period of one hundred eighty (180) calendar days.

(D) Suspension of all scheduled passenger flight operations, whether such suspension is due to governmental action, an act of God, the public enemy, or other circumstances for a period of one hundred eighty (180) calendar days.

(E) If the Facilities are rendered unfit for the use and purpose for which this Agreement is granted, without fault on the part of Management, its employees, agents, contractors, subcontractors, vendors, or suppliers for a period of ninety (90) days.

ARTICLE 16

Equal Employment Opportunity, Nondiscrimination and Affirmative Action

16.01 Equal Employment Opportunity:

In accordance with Title 14 Code of Federal Regulation (CFR) Part 152 (Affirmative Action Employment Program), Management shall not discriminate against any employee or applicant for employment because of age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, in accordance with the Americans with Disabilities Act, discriminate against any otherwise qualified employees or applicants for employment with disabilities who can perform the essential functions of the job with or without reasonable accommodation. Management shall take affirmative actions' to ensure that applicants are employed and that employees are treated during their employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, or disability. Such actions include, but not limited to, the following: Employment, upgrading, transfer or demotion, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training including apprenticeship.

Management agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County setting forth the provisions of this Equal Employment Opportunity clause. Management shall comply with all applicable provisions of the Civil Rights Act of 1964, Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, revised order No. 4 issued December 1, 1951, as amended, and the Americans with Disabilities Act. The Age Discrimination in Employment Act effective June 12, 1968, Executive Order 13166 issued August 11, 2000, Improving Access to Services for persons with Limited English Proficient (LEP), the rules, regulations and relevant orders of the Secretary of Labor, Florida Statues §112.041, §112.042, §112.043 and Sections 11A1 through 13A1 Articles 3 and 4 of the Miami-Dade County Code.

Management shall assign responsibility to one of its officials to develop procedures that will assure that the policies of Equal Employment Opportunity and Affirmative Action are understood and implemented.

16.02 Nondiscriminatory Access to Premises:

Management, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant that: (1) no person on the grounds of race, color, sex, national origin or ancestry shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (2) that Management shall use the Premises in compliance with all other requirements imposed by or pursuant to the enforceable regulations of the Department of Transportation, as amended from time to time.

16.03 Breach of Nondiscrimination Covenants:

In the event it has been determined that Management has breached any enforceable nondiscrimination covenants contained in Sub-article 16.01 Equal Employment Opportunity and Sub-article 16.02 Nondiscriminatory Access to Premises above, pursuant to the complaint procedures contained in the applicable Federal Regulations, and Management fails to comply with the sanctions and/or remedies which have been prescribed, the County shall have the right to terminate this Agreement pursuant to the Termination of the Agreement section hereof.

16.04 Nondiscrimination:

During the performance of this Agreement, Management agrees as follows: Management shall, in all solicitations or advertisements for employees placed by or on behalf of Management, state that all qualified applicants will receive consideration for employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, physical handicap or disability. Management shall furnish all information and reports required by Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to Management's books, records, accounts by the County and Compliance Review Agencies for purposes of investigation to ascertain by the compliance with such rules, regulations, and orders. In the event of Management's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, and orders, this Agreement may be canceled, terminated, or suspended in whole or in part in accordance with the Termination of Agreement section hereof and Management may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 113155 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 113155 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 as amended or by rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

16.05 Disability Non-discrimination Affidavit:

By entering into this Agreement with the County and signing the Disability Nondiscrimination Affidavit, Management attests that this is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If Management or any owner, subsidiary or other firm affiliated with or related to Management is found by the responsible enforcement officer of the Courts or the County to be in violation of the Act or the Resolution, such violation shall render this Contract terminable in accordance with the Termination of Agreement section hereof. This Contract shall be void if Management submits a false affidavit pursuant to this Resolution or Management

violated the Act or the Resolution during the term of this Contract, even if Management was not in violation at the time it submitted its affidavit.

Management will include Sub-article 16.01 Equal Employment Opportunity and Sub-article 16.02 Nondiscriminatory Access to Premises of this Article in the Management sub-contracts in excess of $10,000.00, unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, so that such provisions will be binding upon each sub-consultant. Management shall take such action with respect to any sub-contract as the County may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Management becomes involved in, or is threatened with, litigation with a sub-consultant as the result of such direction by the County or by the United States, Management may request the United States to enter into such litigation to protect the interests of the United States.

16.06 Affirmative Action/Nondiscrimination of Employment Promotion and Procurement Practices:

(County Code Section 2-8.1.5): In accordance with the requirements of County Code Section 2-8.1.5, all firms with annual gross revenues in excess of $5 million seeking to contract with Miami-Dade County shall, as a condition of award, have a written Affirmative Action Plan and Procurement Policy on file with the County's Department of Procurement Management. Said firms must also submit, as a part of their Agreement to be filed with the Clerk of the Board, an appropriately completed and signed Affirmative Action Plan/Procurement Policy Affidavit.

Firms whose Boards of Directors are representative of the population make-up of the nation are exempt from this requirement and must submit, in writing, a detailed listing of their Boards of Directors, showing the race or ethnicity of each board member, to the County's Department of Procurement Management. Firms claiming exemption must submit, as part of their Agreement to be filed with the Clerk of the Board, an appropriately completed and signed Exemption Affidavit in accordance with County Code Section 2-8.1.5. These submittals shall be subject to periodic reviews to assure that the entities do not discriminate in their employment and procurement practices against minorities and women/owned businesses.

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

ARTICLE 17
Damage or Destruction to Facilities

If the Facilities or a substantial portion thereof are rendered, unfit, or unusable for the use and purpose for which this Agreement is granted, without fault on the part of Management, its employees, agents, or independent contractors, either party shall have the option, without liability to the other party, upon five days notice in writing, to terminate this Agreement.

ARTICLE 18
Rules and Regulations and Permits

18.01 Rules and Regulations:

Management shall comply with: (i) the ordinances of the County including the rules and regulations of the Department; (ii) Chapter 25 of the Code; (iii) operational directives issued hereunder; (iv) all additional laws, statutes, ordinances, regulations and rules of the federal, state and local governments, and any and all plans and programs developed in compliance therewith; (v) any County administrative orders and resolutions of the Board of County Commissioners which may be applicable to its operations or activities under this Agreement; (vi) federal air and safety laws and regulations; and (vii) federal, state, and County environmental, hazardous wastes and materials, and natural resources laws and regulations. Management shall comply with the requirements of Resolution No. R-148-07, Labor Peace; and this Agreement itself is subject to the Independent Private Sector Inspector General Review provisions of Administrative Order 3-20, as such Administrative order may be amended from time to time.

18.02 Violations of Rules and Regulations:

Management represents and agrees to pay, on behalf of the County, any penalty assessment or fine issued against the County, or to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the federal, state or local governments based in whole or substantial part upon a claim or allegation that Management, its agents, employees, contractors, subcontractors, suppliers, or invitees, have violated any law, ordinance, regulation or rule described in Sub-Article 18.01 or any plan or program developed in compliance therewith. Any such penalty, assessment, or fine shall not be a Reimbursable Expense. Management further represents that the substance of Sub-Article 18.02 and Sub-Article 18.01 shall be included in every contract and other agreements, which Management may enter into related to its operations and activities under this Agreement and that any such contract and other agreement shall specifically provide that "Miami-Dade County, Florida is a third party beneficiary, of this and related provisions." This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments, subletting or subleasing.

18.03 Permits and Licenses:

Management covenants, represents, and warrants that it shall be strictly liable and responsible to obtain, pay for, maintain current, fully comply with, and make available to the Department upon request, all permits, licenses, and governmental authorizations and approvals, however designated and as may be required by any federal, state, or County governmental entity or judicial body having jurisdiction over Management or its operations and activities, for any activity of Management on the Facilities and for any actions of Management at the Airport, including ensuring that all legal requirements, permits, and licenses necessary for or resulting, directly or indirectly, from Management's operations and activities on the Facilities and Airport have been obtained and are in compliance. The cost for Permits and License(s) are reimbursable by the Department as set forth in Exhibit D.

ARTICLE 19
Civil Actions

19.01 Governing Law-Venue:

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

19.02 Registered Office/Agent Jurisdiction:

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

ARTICLE 20
Actions at Termination

20.01 Surrender of Facilities:

On or before the termination date of this Agreement and any exercised extensions, whether by lapse of time or otherwise, in accordance with the provisions contained herein, Management shall vacate, quit and surrender and shall account for the Facilities, all furnishings, fixtures, equipment, vehicles, records, funds, inventories, commodities, supplies and other property of the County in as good

order and condition as they were upon the Effective date of this Agreement or date of subsequent acquisition, reasonable and normal wear and tear excepted.

20.02 Amounts Due and Payable:

Upon termination of this Agreement and any exercised extensions, all amounts due and owing between the parties shall become immediately due and payable and any outstanding orders or contracts for goods and services, which cannot be cancelled, shall be assigned by Management to the County or such other party as the Department shall designate.

20.03 Removal of Personal Property:

On or before the termination date of this Agreement and any exercised extensions, except in instances of termination pursuant to Article 14 hereof, in which event Management shall be allowed up to five calendar days, Management shall remove all of its personal property from the Facilities. Any personal property of Management not removed in accordance with this Article may be removed by the Department for storage at the cost of Management. Failure on the part of Management to reclaim or to make arrangements for the transfer of its personal property within thirty days from the date of termination shall constitute a gratuitous transfer of title thereof to the County for whatever use and disposition is deemed to be the best interests of the County.

ARTICLE 21
Other Provisions

21.01 Payment of Taxes:

Management shall pay any taxes lawfully assessed against Management arising out of its operations hereunder; provided, however, that Management shall not be deemed to be in default of its obligations under this Agreement for failure to pay such taxes pending the outcome of any administrative review before the taxing authority or any legal proceedings instituted in courts of competent jurisdiction to determine the validity of such taxes. Failure to pay same after the ultimate adverse conclusion of such contest shall constitute a default, pursuant to Article 14.

21.02 No Possessory Interests:

No clause, phrase, sentence, paragraph or article of this Agreement shall vest any possessory or leasehold interest in any real property, the Facilities, the Repair Work or the personal property of the County described herein in Management nor shall such be construed as creating any landlord and tenant or partnership or joint venture relationship between the County and Management.

21.03 Rights to be Exercised by Department:

Wherever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

21.04 Administrative Modifications:

It is understood and agreed that the Department, upon written notice to Management, shall have the right to modify administratively and to revise the budget, revenue processing, reimbursement, replenishment and payment procedures, contained in Article 3, other technical requirements hereof, and the exhibits hereto; provided, however, such revisions shall not have a materially adverse effect on the right of Management to be reimbursed for costs and expenses incurred on a timely basis or to receive reasonable compensation for its services hereunder or on the security of the funds and assets of the County.

21.05 Approvals:

Wherever in this Agreement approval by the County or Department is required, the County or the Department may approve or disapprove same without providing a stated cause for such action.

21.06 Security:

Subject to recommendation from Management as to reasonable and prudent security measures needed and approved by the Department, Management shall be responsible for the security and protection of the Facilities, and the equipment, furnishings, commodities and supplies provided herein during the course of the Repair Work.

21.07 Rights of County at Airport:

The County shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and facilities at the Airport. The County shall, in the exercise of such right, be free from any and all liability to Management.

21.08 Federal Subordination:

This Agreement shall be subordinate to the provisions of any existing or future agreements between the County and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. All provisions of this Agreement shall be subordinate to the right of the United States of America to lease or otherwise assume control over the Airport, or any part thereof, during time of war or national emergency for

military or naval use and any provisions of this Agreement inconsistent with the provisions of such lease to the United States of America shall be suspended.

21.09 Severability:

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

21.10 Authorized Uses Only:

Notwithstanding anything to the contrary herein, Management shall not use or permit the use of the Facilities or the Airport for any illegal or unauthorized purpose nor for any purpose which would invalidate any insurance policies of the County or any policies of insurance written on behalf of Management under this Agreement.

21.11 No Waiver:

There shall be no waiver of the right of the County to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there by any waiver of any breach, default or non-performance hereof by Management, unless such waiver is explicitly made in writing by the Department. Any previous waiver or course of dealing shall not affect the right of the County to demand strict performance of the provisions, terms and covenants of this Agreement with respect to any subsequent event or occurrence or of any subsequent breach, default or non-performance hereof by Management.

21.12 Right to Regulate:

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

21.13 Entirety of Agreement:

This Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and any prior agreements, representations or statements made with respect to such subject matter, whether oral or written, and any contemporaneous oral agreements, representations or statements with respect to such subject matter, are merged herein; provided, however, that Management hereby affirms the completeness and accuracy of the information submitted by Management to the Department in connection with the award of this Agreement.

21.14 Inspections:

The authorized employees and representatives of the County and of any applicable Federal or State agencies having jurisdiction hereof shall have the right of access to the Facilities at all reasonable times for the purposes of inspection and audit to determine compliance with the provisions of this Agreement. This right of inspection and audit shall impose no duty on the County to inspect and audit and shall impart no liability upon the County should it not make any such inspections or audits.

21.15 Headings:

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

21.16 Binding Effect:

The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns.

21.17 Performance:

The parties expressly agree that time is of the essence in the performance of this Agreement and that the failure by Management to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the County of any obligation to accept such performance.

21.18 Not Used

21.19 Notices:

Any notices given under the provisions of this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested to:

TO THE COUNTY:
Director
Miami-Dade Aviation Department
Post Office Box 022504
Miami, Florida 33102-5504

To Management, in care of the General Manager, to:

ALLIED AVIATION FUELING OF MIAMI, INC
Miami International Airport
4450 NW 20th Street
Miami, Florida 33122

With a copy to

Allied Aviation Fueling Services, Inc.
462 Seventh Ave. 17th Fl.
New York, NY 10018
Attn Stan Czaplicki, V. President Sales & Marketing

or to such other respective addresses as the parties may designate to each other in writing from time to time. Notices by registered or certified mail shall be deemed given on the delivery date indicated on the return receipt from the United States Postal Service.

IN WITNESS WHEREOF, the County has hereto caused this Agreement to be issued and executed by its appropriate officials, which, the Agreement by its execution by its appropriate officials hereby accepts, as of the date first above written.

BOARD OF COUNTY COMMISSIONERS
OF MIAMI-DADE COUNTY, FLORIDA

By: _____
Mayor

Approved for Form
and Legal Sufficiency

_____
Assistant County Attorney

Attest: Harvey Ruvin, Clerk

By: _____
Deputy Clerk

5/14/12

(COUNTY SEAL)

COUNTY COMMISSIONERS DADE COUNTY FLORIDA

ALLIED AVIATION FUELING OF MIAMI, INC

Name: _____

By: Robert L. Rose
Signature

Robert L Rose

Title: President

Name: _____

By: Alice R. Nicholas
Treasurer

Alice R. Nicholas

Attest: Robert L. Rose
Corporate Secretary

Robert L Rose

WITNESSES TO ABOVE SIGNATURE:

Robert L. Rose
Signature

Robert L Rose

Alice R. Nicholas
Signature

Alice R. Nicholas

(CORPORATE SEAL)

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT A
MIAMI INTERNATIONAL AIRPORT JET FUEL STORAGE FACILITY
NEW HYDRANT SYSTEM PUMP STATIONS
SCOPE OF WORK

Allied Aviation Inc. of Miami to provide a Construction Management for the Design, Work site, Work related services, Construction and commission of the project described below:

A. Description of the Project

Construct two new jet fuel pumping stations in Dike Areas 2 and 5 at the Miami International Airport Jet Fuel Storage Facility. The new pump station in Dike Area 5 will be named the "North Pump Station" and the pump station at the South Pump Station will be named the "South Pump Station". The project elements to be provided are described below.

B. Project elements to be provided:

1. Ten new 1200 gallons per minute (gpm), 200-horsepower, horizontal centrifugal pumps. Five pumps will be located at the North Pump Station and provisions will be made to add one more pump in the future at this pump station, for a total of six pumps at this pump station. Five pumps will be located at the South Pump Station and provisions will be made to add one pump in the future, for a total of six pumps at this pump station.

2. Eight new 2500 gpm vertical filter separators with access platforms to change filter elements. Four will be located at the North Pump Station and four at the South Pump Station.

3. New isolation valves and strainers for the new pumps, and new isolation valves, strainers and control valves for the new filters.

4. Three new concrete pump houses and two new concrete filter houses to enclose the new and future pumps and filters at the North Pump Station. Three new concrete pump houses and two new concrete filter houses will be provided to enclose the new and future pumps and filters at the South Pump Station.

5. Two new FPL vault buildings, one at the North Pump Station and one at the South Pump Station.

6. Two new power centers, one at the North Pump Station and one at the South Pump Station, consisting of new switchgear, variable frequency drives for the new pumps and load centers for the new and existing electrical loads.

7. Two new emergency power generators, one at the North Pump Station and one at the South Pump Station, for operating the new pumps during power outages. The generators will be sized to operate the five new pumps at the North Pump Station and the five new pumps at the South Pump Station. Each generator will have its own diesel fuel tanks and related fuel piping.

EXHIBIT A
MIAMI INTERNATIONAL AIRPORT JET FUEL STORAGE FACILITY
NEW HYDRANT SYSTEM PUMP STATIONS
SCOPE OF WORK

8. New underground double wall pump suction and discharge piping systems at the North and South Pump Stations to connect to existing storage tanks piping and existing hydrant system piping.

9. New fail safe valves on the new piping at the North and South Pump Stations to close automatically in event of loss of power.

10. New pipe supports to replace existing supports for existing 20-inch pipe from Dike Area 4 to Dike Area 1.

11. New electrical system to operate the new pump stations.

12. New site utilities, lighting, grading, paving and drainage for the sites.

13. New cathodic protection system for all new underground jet fuel piping.

14. Expanded Emergency Fuel Shut-Off System (EFSO) to shutdown the new pumps and close valves in case of emergency.

15. Expanded aviation fueling automation system to control the operation of the new pump stations.

16. New fire protection system for the new pump stations.

17. Additional AFFF foam concentrate storage at fuel facility.

18. Remove existing 8-inch jet fuel pipe penetrations through the existing Dike Area 4 dike wall and repair dike wall.

19. Two new surge suppressors and piping modifications at the West Cargo Truck Loading Rack.

20. West cargo load rack upgrades to accommodate the new pumping systems.

21. Any restoration and miscellaneous activities that this project required to be function.

EXHIBIT B
TAC-R GENERAL CONDITIONS V10-11
(Attached CD)

EXHIBIT C
ACCOUNTING & INTERNAL CONTROL PROCEDURES

ACCOUNTING AND INTERNAL CONTROL PROCEDURES

Management shall be required to maintain, proper procedures and adequate internal control called for in their procedures manuals and in accordance with Subarticles 5.13, 7 04, and 8.03 of this Agreement. Specific controls and procedures which must be continually maintained include but are not limited to the following:

REVENUE

Deposits

- Deposits shall be summarized on the Deposit Form (Exhibit B) and delivered to the Department with accompanying documentation to include a copy of the customer check paid to management, the composition of deposit, and a validated deposit slip properly certified by a cashier or officer of the depository bank, and/or proof of wire transfer to the credit of the County's Revenue Depository Account

- Revenue Reports - Exhibit D shall be delivered to the Department in accordance with Subarticle 3 03 of this Agreement.

- Sales taxes and net revenue shall be isolated by the appropriate reporting mechanism

- Revenues, receivables, and cash deposits shall be summarized and accumulated in accordance with Subarticle 4 05 of this Agreement.

Accounts Receivable

- Develop system of fees and charges for use of transmission and hydrant system Review and bill such charges to users of applicable services

- Deposits shall be processed in accordance with Subarticles 3 02, and 3.04 of this Agreement.

- Management shall provide a month-end, aged trial balance of Accounts Receivable in accordance with Subarticle 3.04 of this Agreement.

- Management shall actively pursue collection of all Accounts Receivable and have supporting documentation (i.e., Telephone Log, copies of past due notices, demand letters, etc.) available for review upon request.

- Late payment and/or delinquency charges shall accrue in accordance with Subarticle 3 04 of this Agreement.

- Management shall be and remain responsible for accounts receivable until such time as the Department approves a write-off in accordance with Subarticle 3.04 of this Agreement.

PURCHASING, RECEIVING AND STORAGE, AND ISSUING

Management shall be required to maintain procedures and controls by the County as developed from time to time including, but not limited to, the following:

A. Physical Inventory Procedures

B. Accounts Payable System

C. Internal Control Procedures

Specific controls and procedures which must be continuously maintained are summarized below.

- Responsibilities for purchasing, receiving and storage shall be segregated in at least three separate employees.
- Specifications for all major supplies/products used in the operations shall be maintained in Management's department
- All purchases must be budgeted and included in the Annual Operating Budget required in Article 4 of this Agreement prior to ordering
- Management shall solicit bids or quotes for all purchases of goods and services in accordance with Subarticle 8 11 of this Agreement
- Purchase Orders, or some other method will be used to document authorized order quantities, prices and delivery dates for all purchases.
- Vendor price lists shall be maintained by Management, and updated as necessary to reflect vendor price changes.
- All purchases received shall be verified by counting or weighing as appropriate. Prices, quantities and specifications shall be compared with purchase orders or other document authorizing the purchases Said purchase authorization shall be attached to corresponding invoices. All extensions and additions reflected on invoices shall be verified. Said verification procedures shall be evidenced by signature and date of the receiving clerk

- All invoices processed for payment shall bear signature of management as authorization for payment, acknowledgement of budgeted items, accuracy and cost incurrence, approval of quantities, prices and specifications

- All parts, supplies, and equipment shall be stored in secured locations, the keys to which shall be controlled and logged by the General Manager.

- The issuance of inventoried items shall be based on requisitions approved by the responsible supervisors of Management

- Monthly physical inventories shall be taken under the supervision of Management and the Department shall be provided with an Inventory Report in accordance with Exhibit E, and Subarticle 4 07 of this Agreement. Said inventories shall include all storage locations Inventories shall be costed under the supervision of management at the most recent invoiced cost.

- Perpetual inventory records shall be maintained. Perpetual records shall be updated each time supplies and materials are received and issued Each day, prior to closing operations, all inventoried items controlled by perpetual inventory records shall be counted and compared to such records. Any discrepancies shall be investigated immediately Variances must be explained in accordance with Subarticle 4.07 of this Agreement.

- Management shall maintain a current and up-to-date capital inventory listing Management shall provide the Department for review and approval, operating procedures and appropriate controls in order to prevent pilferage, theft and disappearances or losses of property from inventory

PAYROLL

Management shall be required to maintain procedures and controls called for in their Procedures Manuals Specific procedures and controls which shall be continuously maintained are summarized below.

- Time Cards shall be used to record hours worked for all hourly employees. Time clocks shall be used to record start and finish times for such employees, including start and finish for lunch periods A log sheet shall be used for management employees.

- On a daily basis, supervisors shall calculate hours worked and note their initials in approval of time-clock posting for all employees under their supervision.

- Accounting personnel shall perform audits of time cards of various supervisors Audit procedures shall include, but not necessarily be limited to:
  - Verification of computation of hours worked based on time-clock posting.
  - Verification of supervisory approvals.
  - Comparison of prescribed employee schedules with time cards to ensure that postings do not exist for employees off-duty.
- Supervisors shall provide management with an explanation in writing justifying any overtime hours worked by employees under their supervision
- Personnel files shall be kept on premises and shall contain evidence of the following information:
  - Adherence to Federal Hiring Practices with regard to proof of legal status
  - Management approval for hiring.
  - Management approval of classification and wage rate
  - Employee designation of withholding status (W-4 Form).
  - Employee authorization for voluntary withholdings
- All changes in employment status, including hirings, terminations, promotions, wage or salary changes, shall be documented on Personnel Action Forms and approved by management.
- Paychecks shall be distributed by an employee not involved in preparation or approval of Personnel Action Forms, and not involved in payroll input preparation or approval All employees shall sign a staffing roster adjacent to their name and write their employee Airport I DNumber in recognition of receipt of their paycheck

GENERAL

Management shall continuously apply the following procedures and controls for bank accounts and other areas.

- All unissued checks for all bank accounts shall be stored in a secured location. Checks shall be used in numerical sequence/ and said sequence shall be accounted for. Signing of blank checks shall be forbidden.

- All bank accounts shall be reconciled on a monthly basis by an employee independent of bank deposit preparation, check disbursements, and check signing, on an Imprest basis. Bank Reconciliations with documentation attached shall be delivered to the Department within five (5) working days thereafter.

- Responsibility of cash funds shall be vested in specific persons of authority, who shall be adequately bonded

- Management shall maintain adequate insurance coverage, including Worker's Compensation Insurance, and any other type of insurance required

- Access to all premises under management control shall be locked when not in use

EXHIBIT D
REIMBURSABLE OPERATING EXPENSES

MIAMI-DADE COUNTY AVIATION DEPARTMENT

REIMBURSABLE OPERATING EXPENSES

- All payroll-related expenses
- Health Insurance
- Life Insurance
- Worker's compensation
- Liability insurance
- Performance Bond
- Customs Bond
- Fidelity Bond
- Management Fee
- Payroll processing fees
- Employee physicals including alcohol and drug testing
- Employee fingerprinting
- Employee IDs (except when lost)
- Employee uniforms including safety shoes
- Employee training/materials
- Employee handbooks
- Equipment maintenance
- Employee parking
- Office supplies/equipment
- Communications (telephone, electronic pagers)
- Employment advertising
- Postage
- Safety gear/equipment
- Capital equipment
- Expenses incurred by Management in connection with MDAD-implemented programs, as provided for in Subarticle 8 02, "Revision of Operating Programs"
- Permits and Licenses
- Garbage and trash removal
- Maintenance and repair of facilities
- Cleaning of Facilities
- Expendable commodities and supplies including spill response supplies
- Any other costs determined by Management to be required for the operation and approved by the Department including emergency expenditures