

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: December 19, 2007

Division: Airports

Bulk Item: Yes No

Department: Florida Keys Marathon Airport

Staff Contact Person: James R. "Reggie" Paros/6002

AGENDA ITEM WORDING: Approval of Supplemental Agreement No. 1 for Federal Aviation Administration (FAA) Memorandum of Agreement No. DTFASO-06-L-00099

ITEM BACKGROUND: Space is currently leased to the FAA at no cost in order to maintain FAA-owned navigation, communication and weather aid facilities at the Florida Keys Marathon Airport. The National Weather Service (NWS) is now mandated to provide back-up generators/power supply to all ASOS facilities located in the hurricane relief areas, to prevent the loss of mission critical weather data that is vital to the protection of life and property during a power outage.

The purpose of this supplemental agreement is to incorporate a clause regarding back-up power supply for the Automated Surface Observing Service (ASOS) and to provide for reasonable access to allow for the Government or its contractor to provide maintenance of the standby power supply.

PREVIOUS RELEVANT BOCC ACTION: On May 16, 2006, Board approved Memorandum of Agreement No. DTFASO-06-L-00099 with FAA for navigation, communication and weather reporting areas and facilities at the Marathon Airport.

CONTRACT/AGREEMENT CHANGES: Supplemental Agreement No. 1 mandates that NWS provides standby power to the ASOS and that reasonable access be provided to allow for the maintenance of the standby power supply. All other terms and conditions remain the same.

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: _____

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes No

AMT MONTH _____ **Year** _____

APPROVED BY: County Atty YES OMB/Purchasing YES Risk Management YES

DOCUMENTATION: Included Not Required

DISPOSITION: _____

AGENDA ITEM # _____

CONTRACT SUMMARY

Contract with: USDOT-FAA Contract # DTFASO-O6-L-00099
 Effective Date: Upon Execution
 Expiration Date: 9/30/2026

Contract Purpose/Description:
Supplemental agreement regarding back-up power supply for the Automated Surface Observing System installed on airport property.

Contract Manager: James R. Paros 6002 Marathon Airport/Stop 15
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on 12/19/07 Agenda Deadline: 12/4/07

CONTRACT COSTS

Total Dollar Value of Contract: \$ n/a Current Year Portion: \$ _____
 Budgeted? Yes No Account Codes: _____
 Grant: \$ _____
 County Match: \$ _____

ADDITIONAL COSTS

Estimated Ongoing Costs: \$ _____/yr For: _____
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>11/14/2007</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>11/14/2007</u>
Risk Management	<u>11-5-07</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>M. Slivits</u>	<u>11-5-07</u>
O.M.B./Purchasing	<u>11-1-07</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>11/2/07</u>
County Attorney	<u>10/29/07</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Pedro Valencia</u>	<u>10/31/07</u>

Comments: _____

SUPPLEMENTAL AGREEMENT NO. 1
MEMORANDUM OF AGREEMENT
NO. DTFASO-06-L-00099

THIS SUPPLEMENTAL AGREEMENT, entered into this _____ day of _____; Two Thousand and Seven, between Marathon Airport hereinafter called the Lessor, and the United States of America, acting by and through the DEPARTMENT OF TRANSPORTATION, Federal Aviation Administration (FAA), Southern Region, P.O. Box 20636, College Park, Georgia 30320, hereinafter called the Government;

WHEREAS, it is the desire of the parties to amend FAA Memorandum of Agreement No. DTFASO-06-L-00099, dated June 6, 2006, whereby the Lessor leases to the Government land for all no-cost NAVAID facilities located on-airport at the Marathon Airport.

NOW, THEREFORE, the parties hereto covenant and agree that the said Lease is hereby amended as follows without change in the terms and conditions specified therein unless otherwise herein provided effective October 1, 2007:

Section 12 is hereby added as follows:

12A. WHEREAS: Pursuant to 49 U.S.C. 47107(a)(12), the GRANTOR is required to furnish to the UNITED STATES OF AMERICA, hereinafter referred to as the GOVERNMENT, property interests in land or water areas or buildings that the GOVERNMENT decides are desirable for, and that will be used for, facilities for carrying out activities related to air traffic control or navigation without charge;

WITNESSETH: That, in consideration of the benefits to the GRANTOR and to the GOVERNMENT, and of the covenants and agreements to be kept and performed by the GOVERNMENT, the GRANTOR, pursuant to 49 U.S.C. 47107(a)(12), does by these presents hereby grant to the GOVERNMENT, at no cost, a License for the use of the premises, services, and facilities hereinafter described, or those of other mutually acceptable locations for the installation, operation, maintenance, repair, replacement, fueling, and removal of Automated Surface Observing System (ASOS) equipment. Such equipment may include, but is not limited to: an Acquisition Control Unit (ACU), Data Collection Package (DCP) and combined sensor group(s), communications and peripheral equipment, antenna(s), connecting cables together with primary electrical power, stand-alone battery backup power, standby engine generator and fuel supply, standby fuel cell, and connections to an acceptable alternative standby power supply for operation of the GOVERNMENT-OWNED equipment; and

12B. The NATIONAL WEATHER SERVICE (NWS) is mandated by law to provide standby power for the Automated Surface Observing System (ASOS) to prevent the loss of mission critical weather data that is vital to the protection of life and property during a power outage. The Government's equipment shall include a standby power supply provided by a generator and liquid propane fuel supply, fuel cell, or acceptable alternative standby power source and necessary connections. The Government or its contractor shall be allowed reasonable access to install, operate, maintain, repair, replace, fuel, and remove the standby power supply.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first about written.

MARATHON AIRPORT

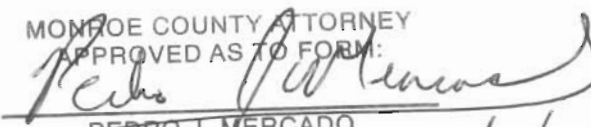
BY: _____ DATE: ___/___/___
(signature)

TITLE: MAYOR

U.S. DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

BY: _____ DATE: ___/___/___

TITLE: _____

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:


PEDRO J. MERCADO
ASSISTANT COUNTY ATTORNEY
Date 10/31/07

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

MEMORANDUM OF AGREEMENT

Agreement Number DTFASO-06-L-00099

MARATHON AIRPORT

This agreement is made and entered into by the MARATHON AIRPORT, hereinafter referred to as the AIRPORT, for itself, its successors and assigns, and the Federal Aviation Administration, hereinafter referred to as the FAA.

WITNESSETH

WHEREAS, the parties listed above have entered into an Airport Improvement Grant Agreement; and

WHEREAS, the parties listed above have entered into an agreement providing for the construction, operation, and maintenance of FAA owned navigation, communication and weather aids for the support of Air Traffic Operations; and

WHEREAS, the parties consider it desirable to work in cooperation with each other in the technical installation and operation of air navigational aids; and

WHEREAS, both parties agreed the establishment, operation, and maintenance of systems for air traffic control, navigation, communication, and weather reporting is in the primary interest of safety and direct support of the ongoing operation of the MARATHON AIRPORT, Marathon, Florida

NOW, THEREFORE, the parties mutually agree as follows:

1. TERMS AND CONDITIONS (Jun-04):

It is mutually understood and agreed that the AIRPORT requires FAA navigation aid facilities in order to operate their business and that the FAA requires navigation, communication and weather aid facilities at the MARATHON AIRPORT, in order to support Air Traffic Operations. Thus, in the interest of both parties it is hereby agreed that the AIRPORT will allow the FAA to construct, operate, relocate and maintain FAA owned navigation, communication and weather aid facilities in areas on the AIRPORT that have been mutually determined and agreed upon for the term commencing on 6 June, 2006 and continuing through September 30, 2026. The FAA may terminate this agreement, in whole or in part at any time by giving at least (60) days notice in writing. Said notice shall be sent by certified or registered mail.

(a) Together with a right-of-way for ingress to and egress from the premises: a right-of-way for establishing and maintaining pole lines or under ground lines for extending electrical power and/or telecommunications lines to the premises; including a right-of-way for subsurface power, communication and/or water lines to the premises; all right-of-ways to be over the area referred to as MARATHON AIRPORT to be routed as reasonably determined to be the most convenient to the FAA and as not to interfere with Airport operations. The AIRPORT shall have the right to review and comment on plans covering access and utility rights-of-way under this paragraph.

(b) And the right to grading, conditioning, and installing drainage facilities, and seeding the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of navigational aid systems. The AIRPORT shall have the right to review and comment on plans covering work permitted under this paragraph.

(c) And the rights to make alterations, attach fixtures, and erect additions, structures or signs, in direct support of the AIRPORT. The AIRPORT shall have the right to review and comment on plans covering work permitted under this paragraph.

(d) And the right to park, without cost, all official and privately owned vehicles used for the maintenance and operation of the air navigational facilities. Parking shall be provided adjacent to the navigational aid facility or as near as possible without interfering with the operation of the Airport.

2. CONSIDERATION (Aug- 02):

The FAA shall pay the AIRPORT no monetary consideration, it is mutually agreed that the rights extended to the FAA herein are in consideration of the obligations assumed by the FAA in its establishment, operation, and maintenance of navigational aid facilities upon the premises.

3. PURPOSE (Apr-05):

It is understood and agreed that the use of the herein described premises, known as the MARATHON AIRPORT, shall be related to the FAA's activities in support of Air Traffic operations.

4. FAA FACILITIES (Apr-05)

The FAA facilities covered by this agreement are identified on the most current approved Airport Layout Plan (ALP) and/or other pertinent drawings that is made part of this agreement by reference and shown on the attached FAA "List of Facilities".

5. TITLE TO IMPROVEMENTS (Apr-05):

Title to the improvements constructed for use by the FAA during the life of this agreement shall be in the name of the FAA.

6. HAZARDOUS SUBSTANCE CONTAMINATION (May-00):

The FAA agrees to remediate, at its sole cost, all hazardous substance contamination on the FAA facility premises that is found to have occurred as a direct result of the installation, operation, relocation and/or maintenance of the FAA's facilities covered by this agreement. The AIRPORT agrees to remediate or have remediated at its sole cost, any and all other hazardous substance contamination found on the FAA facility premises. The AIRPORT also agrees to save and hold the U.S. Government harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the FAA facility premises that are not directly attributable to the installation, operation and/or maintenance of the facilities on the attached FAA "List of Facilities."

7. INTERFERENCE WITH FAA OPERATIONS (Oct-96):

The AIRPORT agrees not to erect or allow to be erected any structure or obstruction of whatsoever kind or nature within the AIRPORT'S boundaries that may interfere with the proper operation of the navigational aid facilities installed by the FAA, as it is not in the best interest of the AIRPORT or the FAA.

8. FUNDING RESPONSIBILITY FOR FAA FACILITIES (Oct-96):

The AIRPORT agrees that any relocation, replacement, or modification of any existing or future FAA navigational aid systems made necessary by AIRPORT improvements or changes, which interferes with the technical and/or operational characteristics of the facility, will be at the expense of the AIRPORT, with the exception of any such improvements or changes which are made at the request of the FAA. In the event such relocations, replacements, or modifications are necessary due to causes not attributable to either the AIRPORT or the FAA, funding responsibility shall be determined by mutual agreement between the parties.

9. ANTI-KICKBACK (OCT-96):

The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States Government or in the contract price charged by a subcontractor to a prime contractor or higher tier subcontractor.

10. COVENANT AGAINST CONTINGENT FEES (AUG-02):

The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

11. OFFICIALS NOT TO BENEFIT (OCT-96):

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

12. NON-RESTORATION (Oct-96):

It is hereby agreed between the parties, that upon termination of its occupancy, the FAA shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property which is the subject matter of this agreement. It is further agreed that the FAA may abandon in place any or all of the structures and equipment installed in or located upon said property by the FAA during its tenure. Such abandoned equipment shall become the property of the AIRPORT.

13. NOTICES (Oct-96):

All notices/correspondence shall be in writing, reference the Agreement number, and be addressed as follows.

TO AIRPORT: Marathon Airport
9400 Overseas Highway
Marathon, Florida 33050

TO FAA: Federal Aviation Administration, Southern Region
Attn: Real Estate Branch, ASO-56
1701 Columbia Avenue
College Park, GA 30337

14. Previous Lease(s)/Agreement(s)


This agreement supersedes and hereby terminates the following Land Leases/Licenses as of the effective date of this agreement:

ASOS DTFASO-00-L-20250
RCO/H DTFASO-10204
REIL/Rwy.7 DTFASO-91-L-11867

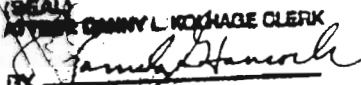
15. CONCURRENCES:

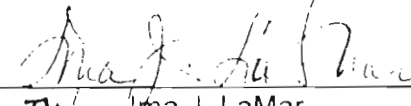
The AIRPORT and the FAA hereby agree to the provisions outlined in this agreement as indicated by the signatures herein below of their duly authorized representative (s). This agreement is effective upon the date of signature by the last party thereof.

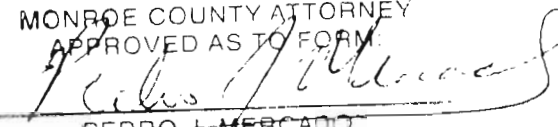
MARATHON AIRPORT

By  Mayor May 16, 2006
(signature) (official title) (date)

UNITED STATES OF AMERICA,
FEDERAL AVIATION ADMINISTRATION

DEALY
BY EMMY L. KOCHAGE CLERK

DEPUTY CLERK

By  Real Estate Contracting Officer 6/2/06
JW Ima J. LaMar (official title) (date)

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

PEDRO J. MERCADO
ASSISTANT COUNTY ATTORNEY
4/16/06

