

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: October 3, 2006

Consent Regular
 Workshop Public Hearing

Department:

Submitted By: Department of Airports

Submitted For:

I. EXECUTIVE BRIEF

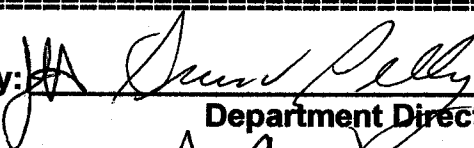
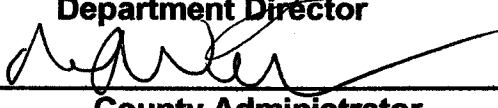
Motion and Title: Staff recommends motion to adopt: A resolution authorizing the County Administrator or his designee to execute applications for Airport Improvement Program (AIP) grants and standard form grant agreements with the Federal Aviation Administration (FAA).

Summary: On occasion, the FAA provides less than thirty (30) days to execute and return offers for AIP grant funding. Approval of this resolution by the Board of County Commissioners (BCC) authorizes the County Administrator or his designee to execute applications for AIP grant funds and standard form AIP grant agreements. This resolution repeals the form approved pursuant to Resolution R-93-801 and authorizes the execution of the modified FAA grant agreement forms. Approval of this resolution will eliminate delays caused by requiring such items to be brought before the BCC for approval and is consistent with the goal of the BCC to expedite the agenda process. **Countywide (LMB)**

Background and Justification: In 1993, Resolution No. R-93-801 authorized the County Administrator or his designee to execute a standard form "Acceptance of Grant Offer from the Federal Aviation Administration" ("FAA") on behalf of the BCC. The FAA's grant agreement forms for AIP projects have been modified pursuant to FAA Order 5100.38C. Approval of this resolution will authorize the County Administrator or his designee to execute applications for AIP grants and standard form AIP grant agreements, or such other FAA standard form grant agreement approved in accordance with FAA Order 5100.38C, as may be amended or superseded.

Attachments:

- 1. Resolution – (1 original)

Recommended By:		9/8/06
	Department Director	Date
Approved By:		9/8/06
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues (Grants)	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____
 Budget Account No: Fund _____ Department _____ Unit _____ Object _____
 Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no Fiscal Impact for this item.

C. Departmental Fiscal Review: CM Simmer

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

[Signature] 9.13.06
 OFMB
 9/17/06
 9.12.06
 9/11/06

[Signature] 9/14/06
 Contract Dev. and Control
 9/14/06

B. Legal Sufficiency:

Rama Burke 9/15/06
 Assistant County Attorney

C. Other Department Review:

 Department Director

RESOLUTION NO. R-2006-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO EXECUTE APPLICATIONS FOR AIRPORT IMPROVEMENT PROGRAM GRANTS; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO EXECUTE A STANDARD FORM GRANT AGREEMENTS WITH THE FEDERAL AVIATION ADMINISTRATION; REPLACING AND SUPERCEDING THE STANDARD FORM ACCEPTANCE OF GRANT OFFER FROM THE FEDERAL AVIATION ADMINISTRATION ADOPTED PURSUANT TO RESOLUTION NO. 93-801; REPEALING RESOLUTION NO. 93-801 TO THE EXTENT OF ANY CONFLICT WITH THIS RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County, by and through its Department of Airports, owns and operates the Palm Beach International Airport, Palm Beach County Glades Airport, Palm Beach County Park Airport and North Palm Beach County General Aviation Airport; and

WHEREAS, the Board of County Commissioners authorized the County Administrator or his designee on behalf of the Board of County Commissioners pursuant to Resolution No. R-93-801 to execute a standard form "Acceptance of Grant Offer from the Federal Aviation Administration" ("FAA"); and

WHEREAS, the FAA's grant agreement forms for Airport Improvement Program projects have been modified pursuant to FAA Order 5100.38C; and

WHEREAS, the FAA typically provides less than thirty (30) days to execute and return offers for Airport Improvement Program grant funding; and

WHEREAS, the delegation to the County Administrator or his designee of the authority to execute the standard form agreements will eliminate delays caused by requiring such items to be brought before the Board of County Commissioners for approval and would therefore be consistent with the goal of the Board of County Commissioners to streamline the agenda process; and

WHEREAS, the Board of County Commissioners desires to authorize the County Administrator or his designee to execute applications for Airport Improvement Program grant funds from the FAA and to execute grant agreements resulting from such applications.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are true and correct and are incorporated herein.
2. The Board of County Commissioners hereby authorizes the County Administrator or his designee to execute grant applications for Airport Improvement Program grant funding from the United States of America, acting through the FAA (the "Application"); provided that the Application does not automatically become a grant agreement upon approval by the FAA, unless the Application does not require a County match or sufficient funds have been budgeted to satisfy the County's obligations under the Application.

3. The Board of County Commissioners hereby authorizes the County Administrator or his designee to execute, on behalf of the Board of County Commissioners, the standard form Grant Agreements, attached hereto and incorporated herein as Exhibit "A", or such other FAA standard form grant agreement approved in accordance with FAA Order 5100.38C, as may be amended or superseded, (collectively referred to herein as the "Grant Agreements" or "Grant Agreement") with the United States of America, acting through the FAA; provided that the Grant Agreement does not require a County match or sufficient funds have been budgeted to satisfy the County's obligations under the Grant Agreement. The standard form "Acceptance of Grant Offer from the Federal Aviation Administration" adopted by the Board of County Commissioners pursuant to Resolution No. 93-801 is hereby replaced and superseded in its entirety by the standard form Grant Agreements attached hereto.

4. The County Administrator or his designee is hereby authorized to execute, on behalf of the Board of County Commissioners, Grant Agreements that include non-material changes and amendments to Grant Agreements to make non-material changes to such Grant Agreements. For purposes of this Resolution, "non-material changes" mean changes that do not modify the substantive obligations of the County under a Grant Agreement and includes amendments to correct scrivener's errors. Any Application executed or Grant Agreement entered into in accordance with the provisions of this Resolution prior the effective date of this Resolution is hereby approved and ratified by the Board of County Commissioners.

5. It is the intention of the Board of County Commissioners that this delegation of signature authority is strictly limited to the parameters set forth herein. In the event there is any material deviation from the approved standard terms and conditions of the Grant Agreements, which would constitute discretion of the County Administrator or his designee relative thereto, then the approval of the Board of County Commissioners shall be required. The County Administrator's designee for purposes of this Resolution shall include the Director of the Department of Airports.

6. Resolution No. R-93-801 is hereby repealed to the extent of any conflict with this Resolution; provided, however, this Resolution shall not have any affect on the validity of any agreements entered into pursuant to Resolution No. R-93-801.

7. If any section, sentence, clause, phrase, or word of this Resolution is held invalid or unconstitutional by a Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

8. This Resolution shall become effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

COMMISSIONER TONY MASILOTTI, CHAIRMAN -
COMMISSIONER ADDIE L. GREENE, VICE CHAIRPERSON -
COMMISSIONER BURT AARONSON -
COMMISSIONER JEFF KOONS -
COMMISSIONER KAREN T. MARCUS -
COMMISSIONER MARY MCCARTY -
COMMISSIONER WARREN H. NEWELL -

Then the Chair thereupon declared this Resolution duly passed and adopted this ____ day of _____, 20__.

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

Sharon R. Bock, Clerk & Comptroller

By: _____
Deputy Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: Laura Berke
County Attorney

EXHIBIT "A"
GRANT AGREEMENT FORMS

GRANT AGREEMENT

*U.S. Department
Of Transportation
Federal Aviation
Administration*

**Date of Offer:
Project Number:
Recipient:
Airport:**

OFFER

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay, as the United States' share, _____ percent (____%) of the allowable costs incurred in accomplishing the projects consisting of the following:

The maximum obligation of the United States payable under this Offer shall be _____.

This offer is made in accordance with and for the purpose of carrying out the provisions of Title 49, United States Code, herein called Title 49 U.S.C. Acceptance and execution of this offer shall comprise a Grant Agreement, as provided by Title 49 U.S.C., constituting the contractual obligations and rights of the United States and the Sponsor.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

Manager, Airports District Office

ACCEPTANCE

The Sponsor agrees to accomplish the project in compliance with the terms and conditions contained herein and in the document ["Terms and Conditions of Accepting Airport Improvement Program Grants" dated March 29, 2005 or (insert title of most recent grant assurance requirements)].

Executed this _____ day of _____, 20____
(Seal)

Name of Sponsor

Attest

Signature of Sponsor's Designated Official Representative

Title

Title

CERTIFICATION OF SPONSOR'S ATTORNEY

_____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Florida. Further, I have examined the foregoing Grant Agreement, and actions taken by said Sponsor relating thereto, and find that acceptance of thereof by said Sponsor and Sponsor's official representative has been duly authorized and that execution thereof is in all respects due and proper and in accordance with the laws of the said State and Title 49 U.S.C. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Signature of Sponsor's Attorney

Date



U.S. Department of Transportation
Federal Aviation Administration

GRANT AGREEMENT
PART I – OFFER

Date of Offer

Airport/Planning Area

Project No

Contract No

DUNS No

TO:

(herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated _____, for a grant of Federal funds for a project at or associated with the _____ Airport (or _____ Planning Area), which Project Application, as approved by the FAA, is hereby incorporated herein and made a part hereof; and

WHEREAS, the FAA has approved a project for the Airport (or Planning Area) (herein called the "Project") consisting of the following:

all as more particularly described in the Project Application.

(Add the following for a Multi-Year Grant)

WHEREAS, this project will not be completed during Fiscal Year _____; and the total United States' share of the estimated costs of the completion will be \$ _____

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, as amended, herein called "the Act," and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, **THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES** to pay, as the United States share of the allowable costs incurred in accomplishing the Project, _____ per centum thereof.

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

CONDITIONS

1. The maximum obligation of the United States payable under this Offer shall be \$ _____. For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of Section 47108(b) of the Act, the following amounts are being specified for this purpose:
 - \$ _____ for planning
 - \$ _____ for airport development or noise program implementation.
2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.
3. Payment of the United States' share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. The Sponsor shall carry out and complete the Project without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.
5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before *, or such subsequent date as may be prescribed in writing by the FAA.
7. The Sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.
8. The United States shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

(Signature)

(Typed Name)

(Title)

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Executed this _____ day of _____

(Name of Sponsor)

(SEAL)

(Signature of Sponsor's Designated Official Representative)

By:

(Typed Name of Sponsor's Designated Official Representative)

Title:

(Typed Title of Sponsor's Designated Official Representative)

Attest:

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of _____. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ this _____ day of _____

By _____
(Signature of Sponsor's Attorney)

Order 5100.38C

Appendix 6. Grant Agreement (FAA Form 5100-37)

June 28, 2005

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