

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: November 16, 2010 ☒ Consent ☐ Regular
☐ Workshop ☐ Public Hearing

Department:

Submitted By: Department of Airports

Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve:

(A) No Cost Land on Airport Memorandum of Agreement (MOA) with the Federal Aviation Administration (FAA), providing for the operation and maintenance of FAA-owned navigation, communication and weather aid facilities for the support of air traffic operations at the Palm Beach International Airport (PBIA), commencing October 1, 2010 and expiring September 30, 2030.

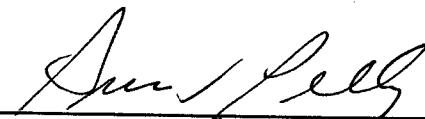
(B) Land Lease on Airport (Lease) with the FAA, providing for the lease of 4.37 acres associated with the construction, operation and maintenance of the new air traffic control tower on PBIA, commencing October 1, 2010 and expiring September 30, 2030, at no cost to the FAA.

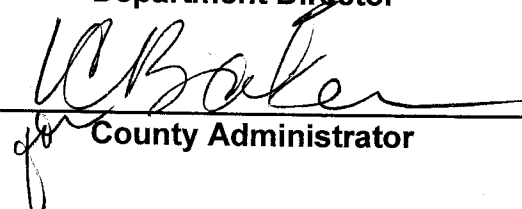
Summary: The MOA and Lease will replace the Master Ground Lease No. DTAF06-95-L-15144 (R95-1251D), as amended (Master Lease) with the FAA with the exception of Exhibit 3 to the Master Lease relating to the operation of the existing air traffic control tower located on the south side of PBIA. Exhibit 3 will remain in place until the new air traffic control tower is fully operational. The MOA provides for operation and maintenance of certain FAA-owned navigation, communication and weather aids on PBIA. The Lease details responsibilities of the parties relating to the operation and maintenance of the new air traffic control tower and associated facilities such as airfield lighting. The MOA and Lease are being provided at no cost to the FAA in consideration of the obligations assumed by the FAA to operate and maintain facilities necessary for the operation of PBIA. Countywide (AH)

Background and Justification: On September 19, 1995, the Board approved the Master Lease with the FAA for the operation and maintenance of various facilities necessary for its operations at PBIA. The Master Lease has been amended numerous times to include additional land and facilities, including land for the construction of the new air traffic control tower. The FAA has revised its standard leasing forms and requested the replacement of the Master Lease with the new form documents.

Attachments:

1. No Cost Land on Airport Memorandum of Agreement (4)
2. Land Lease on Airport (4)

Recommended By:  10/15/10
Department Director Date

Approved By:  11/1/10
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>~0~</u>	<u>*see below</u>	_____	_____	_____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

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

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

+ No fiscal impact.

C. Departmental Fiscal Review: cm Slum

III. REVIEW COMMENTS

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

Jim Dahl
OFMB

Dr. J. Jacob
Contract Dev. and Control

B. Legal Sufficiency:

This item complies with current
County policies.

Anne Delgant 10/29/10
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 9/03

ADM FORM 01

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

NO COST LAND ON AIRPORT MEMORANDUM OF AGREEMENT

Agreement Number DTFASO-10-L-00087

Dated: October 1, 2010

This No Cost Land on Airport Memorandum of Agreement (this "Agreement") is made and entered into by **Palm Beach County, a political subdivision of the State of Florida**, hereinafter referred to as "County", 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 one or more Airport Improvement Grant Agreements; and

WHEREAS, the parties listed above have entered into that certain Master Ground Lease, No. DTFA06-95-L-1544, dated September 19, 1995, as amended (hereinafter referred to as the "Lease"), providing for the construction, operation, and maintenance of FAA-owned navigation, communication and weather aids for the support of air traffic operations at the Palm Beach International Airport, located in Palm Beach County, Florida (the "Airport"); and

WHEREAS, the parties desire to terminate the Lease, in part; and

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

NOW, THEREFORE, the parties mutually agree as follows:

1. TERMS AND CONDITIONS (Jun-04):

It is mutually understood and agreed that the County requires FAA navigation aid facilities in order to operate the Airport, and that the FAA requires navigation, communication and weather aid facilities at the Airport in order to support air traffic operations. Thus, in the interest of both parties it is hereby agreed that the County will allow the FAA to operate and maintain the FAA-owned navigation, communication and weather aid facilities identified on the "List of FAA Facilities" attached hereto as Exhibit "A" and made a part hereof (hereinafter referred to as the "FAA Facilities"), in areas on the Airport that have been mutually determined and agreed upon, for the term commencing on **October 1, 2010**, and continuing through **September 30, 2030**. The County further agrees to allow the FAA to construct additional FAA-owned navigation, communication and weather aid facilities on the Airport, in locations agreed to by the

Federal Aviation Administration
MOA No: DTFASO-10-L-00087
KDM

Page 1

Attachment # 1

parties in writing in the form of an amendment hereto. The FAA can terminate this Agreement, in whole or part at any time by giving at least sixty (60) days prior written notice to County by certified or registered mail. The County hereby grants to the FAA the following rights at the Airport, all of which shall be non-exclusive. The County shall have the right to review and approve plans covering the rights-of-way and work provided for herein, which approval shall not be unreasonably withheld.

- (a) A right-of-way for: (i) ingress to and egress from the FAA Facilities; and (ii) establishing and maintaining pole lines or under ground lines for extending electrical power and/or telecommunications lines to and/or between the FAA Facilities, including a right-of-way for subsurface power, communication and/or water lines to the FAA Facilities.
- (b) The right of grading, conditioning, and installing drainage facilities, and seeding the soil of the FAA Facilities, and the removal of all obstructions from the FAA Facilities which may constitute a hindrance to the establishment and maintenance of navigational aid systems.
- (c) The right to make alterations, attach fixtures, and erect additions, structures or signs, in or upon the FAA Facilities in direct support of the Airport.
- (d) The right to park, without cost, all official and privately-owned vehicles used for the maintenance and operation of the FAA Facilities. This provision shall not be construed as authorizing the FAA or any of its officers or employees from parking at no cost in any of the Airport's commercial parking facilities.

2. CONSIDERATION (Aug-02):

The FAA shall pay the County 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 the FAA Facilities.

3. PURPOSE (Apr-05):

It is understood and agreed that the use of the herein described FAA Facilities 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 "List of FAA Facilities" attached hereto as Exhibit "A". Except as otherwise noted on Exhibit "A", the FAA Facilities covered by this Agreement and existing as of the date of commencement of this Agreement are depicted on the Palm Beach International Airport Airport Layout Plan (ALP), as shown on that certain drawing labeled "Existing Airport Layout Plan", bearing a revision date of November 14, 2007, which is hereby made part of this Agreement by reference.

5. TITLE TO IMPROVEMENTS (Apr-05):

Title to the improvements constructed by the FAA for use by the FAA during the term 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 County agrees to remediate or have remediated at its sole cost, any and all other hazardous substance contamination found on the FAA Facilities found to have occurred as a direct result of actions by the County. Without waiving the right of sovereign immunity, and to the extent permitted by law, the County 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 Facilities that are not directly attributable to the installation, operation and/or maintenance of the FAA Facilities.

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

The County 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 FAA Facilities, as it is not in the best interest of the County or the FAA.

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

The County agrees that any relocation, replacement, or modification of any existing or future FAA Facilities made necessary by Airport improvements or changes, which interfere with the technical and/or operational characteristics of the FAA Facilities, will be at the expense of the County, 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 County or the FAA, funding responsibility shall be determined by mutual agreement between the parties.

9. 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 upon which the FAA Facilities are located. It is further agreed that the FAA may abandon in place any or all of the structures and equipment comprising the FAA Facilities installed in or located upon said property by the FAA during its tenure. Such abandoned equipment shall become the property of the County.

10. NOTICES (Oct-96):

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

PALM BEACH COUNTY DEPARTMENT OF AIRPORTS
ATTN: DEPUTY DIRECTOR, AIRPORTS BUSINESS AFFAIRS
846 PALM BEACH INTERNATIONAL AIRPORT
WEST PALM BEACH, FL 33406

FEDERAL AVIATION ADMINISTRATION
ATTN: REAL ESTATE, ASO-53
P.O. BOX 20636
ATLANTA, GA 30320

11. PREVIOUS LEASE(S):

All exhibits to the Lease are hereby deleted in their entirety and shall be considered terminated, with the exception of Exhibit 3, including the Agreement dated December 12, 1995, and attached thereto, labeled "Operation of Air Traffic Control Tower Agreement" (hereinafter collectively referred to as "Exhibit 3"). The Lease shall be automatically terminated in its entirety one hundred twenty (120) days after completion of construction of the new Air Traffic Control Tower upon the property more particularly described in that certain Land Lease on Airport between the parties dated October 1, 2010, Lease No. DTFASO-10-L-00129. Upon termination of the Lease, the parties shall be released from all further obligations thereunder.

12. OFFICIALS NOT TO BENEFIT (10/96):

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

13. COVENANT AGAINST CONTINGENT FEES (8/02):

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

14. ANTI-KICKBACK (10/96):

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.

15. SPECIAL STIPULATIONS:

(a) Right to Conduct Borings and Install Underground Conduits.

The FAA is granted the right and privilege to conduct borings and install underground conduits to support FAA owned or maintained facilities on Airport property. The location and installation of such shall be subject to prior review and approval by the County, which approval shall not be unreasonably withheld.

(b) Right to Construct Poles.

The FAA is granted the right and privilege to install, operate and maintain four (4) antenna poles to be located on Airport property within 350 feet of the Airport boundary. The location and installation of the antenna poles shall be subject to prior review and approval of the County, which approval shall not be unreasonably withheld.

(c) Maintenance Responsibility of Access Roads.

In the event the existing FAA constructed and maintained access roads become frequently traveled by the County and/or other lessees on the Airport, it is hereby agreed that the County will assume maintenance responsibility for that portion of the access road to be used by others as well as the FAA.

(d) Annual Appropriation.

Nothing in this Agreement shall obligate the County, during any fiscal year, to expend money or incur any liability that involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. The County's obligations under this Agreement, which involve the expenditure of money, shall be subject to annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners in accordance with Chapter 129, Florida Statutes, as it may be amended.

(e) Palm Beach County Office of the Inspector General.

Palm Beach County has established the Office of the Inspector General, Ordinance R2009-049, as may be amended. The Inspector General's authority includes, but is not limited to, the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the FAA and U.S. Government and its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. All parties doing business with the County shall fully cooperate with the Inspector General, including providing access to records relating to this Agreement.

(f) Unit 1304 Storage Facility.

- (1) Subject to the terms and conditions of this Agreement, the FAA shall be entitled to the occupancy, use and possession of Unit 1304 at the Palm Beach International Airport Cargo Building #1300 (the "Cargo Building"), containing approximately 1,988 square feet, hereinafter referred to as "Unit 1304".
- (2) The FAA's use of Unit 1304 shall be related to the FAA's storage of materials, supplies and equipment in support of the FAA's Air Traffic Control operations at the Airport, and for no other purpose.
- (3) The FAA accepts Unit 1304 in its "As Is" condition, subject to all defects, latent or patent, if any.
- (4) The FAA shall be responsible for all electricity charges and shall have the account for existing electric meter Unit 1304 placed in the FAA's name. The County shall provide water and sewer utilities and trash disposal, and electric utilities for the Cargo Building exterior common areas, the costs of which shall be prorated and billed monthly by the County to all Cargo Building tenants, including the FAA. Charges shall be paid by the FAA to the County within thirty (30) days from the date of the County's invoice.
- (5) The FAA shall be responsible for the routine maintenance of Unit 1304.
- (6) Notwithstanding any provision of this Agreement to the contrary, if Unit 1304 or the Cargo Building is partially or totally destroyed or damaged by fire or other casualty, either party may terminate this Agreement, by giving ten (10) days prior written notice to the other party, whereupon the parties shall be released from all further liability hereunder as to Unit 1304 and the Cargo Building.
- (7) Notwithstanding any provision of this Agreement to the contrary, the FAA's use of Unit 1304 may be terminated by County upon one (1) year's advance written notice to the FAA, or may be terminated by the FAA upon thirty (30) days' advance written notice to the County.

- (8) Notwithstanding any provision of this Agreement to the contrary, the FAA shall surrender and return Unit 1304 to the County in substantially the same condition as Unit 1304 existed on October 20, 2009.
- (9) Notwithstanding any provision of this Agreement to the contrary, the FAA's use of Unit 1304 shall automatically expire September 30, 2015. The County shall have no obligation to provide the FAA with any replacement storage facility upon such expiration or earlier termination.

16. SIGNATURES (Apr-04):

The County 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 approval of the Palm Beach County Board of County Commissioners and the date of signature by the last party thereof.

**UNITED STATES OF AMERICA,
FEDERAL AVIATION
ADMINISTRATION**

By: _____

Title: _____

Date of Approval by FAA: _____

ATTEST:

**SHARON R. BOCK, Clerk
& Comptroller**

By: _____
Deputy Clerk

**PALM BEACH COUNTY, a political
subdivision of the State of Florida,
by its Board of County Commissioners**

By: _____
Chair

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

**APPROVED AS TO TERMS
AND CONDITIONS**

By:  _____
Director, Department of Airports

Date of Approval by County: _____

Exhibit "A"

LIST OF FAA FACILITIES

**MEMORANDUM OF AGREEMENT
DTFASO-10-L-00087**

PALM BEACH INTERNATIONAL AIRPORT

FAA Facility Number	Facility	Runway Number (See Note 1)	GSA Control Number	Shown on ALP dated 11/14/2007	Comments
1	PBI / PAPI	10L	12272	YES	Previously Exhibit 1 in Lease No. DTFA06-95-L-15144.
2	PBI/ MALSR	10L	12773	YES	Previously Exhibit 2 in Lease No. DTFA06-95-L-15144.
3	PWB / GS	28R	12800	YES	Previously Exhibit 6 in Lease No. DTFA06-95-L-15144.
4	PWB / LOC	28R	12799	YES	Previously Exhibit 7 in Lease No. DTFA06-95-L-15144.
5	PWB / PAPI	28R	12817	YES	Previously Exhibit 8 in Lease No. DTFA06-95-L-15144.
6	PBI / REIL	28R	12836	YES	Previously Exhibit 9 in Lease No. DTFA06-95-L-15144.
7	PBI / RTR (Receiver)	Non-runway specific	12443	YES	Previously Exhibit 10 in Lease No. DTFA06-95-L-15144.
8	PBI/ LOC	10L	12890	YES	Previously Exhibit 11 in Lease No. DTFA06-95-L-15144.
9	PBI / DASR-11	Non-runway specific	12898	YES	Previously Exhibit 12 in Lease No. DTFA06-95-L-15144.
10	PBI / LLWAS 1&6	Non-runway specific	12473	NO	Previously Exhibit 13 in Lease No. DTFA06-95-L-15144.
11	PBI / GS	10L		YES	Previously Exhibit 14 in Lease No. DTFA06-95-L-15144.
12	PBI / MM	10L		NO	Previously Exhibit 14 in Lease No. DTFA06-95-L-15144.
13	PBI / ALS	10L	12261	See Note 2	Previously Exhibit 14 in Lease No. DTFA06-95-L-15144. To be decommissioned pending Environmental report.
14	PBI / VORTAC	28R	12523	YES	Previously Exhibit 15 in Lease No. DTFA06-95-L-15144.

Federal Aviation Administration
MOA No: DTFASO-10-L-00087
KDM

List of Facilities

15	PBI/ PAPI	14		YES	Previously Exhibit 17 in Lease No. DTFA06-95-L-15144.
16	Storage Facility Unit 1304	N/A		NO	Located at the Cargo Building. Previously Exhibit 19 in Lease No. DTFA06-95-L-15144.
17	PBI / RVR	10L/28R		YES	Not previously included in any lease. Relocated when taxiway "L" was built. Located approx. 255'S of RW 10L/28R and 1800'E of 10L.
18	PBI / RTR (Transmitter)	Non-runway specific	12258	YES	Previously covered under Lease No. DTFA69SO-5074.
19	PBI/ VASI	Non-runway specific	12660	See Note 2	Previously covered under Lease No. DTFA06-90-L-11233 and superseded by DTFA06-95-L-15144 and replaced by PAPI. In Process of Decommissioning pending Environmental report.

NOTES:

- Effective 12-17-2009, Runway designations at PBI changed as follows:
Runway 9L designation changed to Runway 10L
Runway 27R designation changed to Runway 28R
Runway 9R designation changed to Runway 10R
Runway 27L designation changed to Runway 28L
Runway 13 designation changed to Runway 14
Runway 31 designation changed to Runway 32
- The FAA Facilities identified in Numbers (13) and (19) above are in the process of being decommissioned, pending environmental report. These FAA Facilities shall be automatically deleted from the List of FAA Facilities upon such decommissioning, or on September 30, 2012, whichever occurs first.

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

LAND LEASE ON AIRPORT

Lease No: DTFASO-10-L-00129

Geographical Location: West Palm Beach, FL 32901

Facility: ATCT

Date: October 1, 2010

THIS LAND LEASE ON AIRPORT (this "Lease") is hereby entered into by **Palm Beach County, a political subdivision of the State of Florida**, whose address is Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406, hereinafter referred to as the "**Lessor**", and the **United States of America**, acting by and through the Federal Aviation Administration ("**FAA**") hereinafter referred to as the "**Government**". This Lease shall become effective when it is fully executed by all parties. The terms and provisions of this Lease, and the conditions herein, bind the Lessor and the Lessor's administrators, successors, and assigns.

WHEREAS, pursuant to that certain Lease No. DTFA06-95-L-15144 between the Lessor and the Government, dated September 19, 1995, as amended (the "Master Lease"), the Government is constructing an air traffic control tower (the "ATCT") on a portion of the Palm Beach International Airport (the "Airport").

NOW, THEREFORE, The parties hereto, for the consideration hereinafter mentioned covenant and agree as follows:

1. PREMISES (AUG-02): The Lessor hereby leases to the Government the following described property, located on and being a portion of the Airport, and hereinafter referred to as the "Premises":

SEE LEGAL DESCRIPTION AND SKETCH ATTACHED AS EXHIBIT "A"

The Lessor hereby grants to the Government the following rights at the Airport, all of which shall be non-exclusive. The Lessor shall have the right to review and approve plans covering work and rights of way permitted under this paragraph, which approval shall not be unreasonably withheld.

(a) A right-of-way for: (i) ingress to and egress from the Premises; (ii) establishing and maintaining a pole line or pole lines for extending electric power and/or telecommunication lines to the Premises; and (iii) subsurface power, communication and/or water lines to the Premises.

(b) The right of 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 Government facilities.

(c) The right to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the Premises hereby leased, which alterations, fixtures, additions, structures or signs so placed in or upon, or attached to the Premises shall be and remain the property of the Government.

2. TERM (AUG-02): To have and to hold, for the term commencing on **October 1, 2010** and continuing through **September 30, 2030** inclusive, PROVIDED, that adequate appropriations are available from year to year.

3. CONSIDERATION (NO COST) (AUG-02): The Government shall pay the Lessor no monetary consideration in the form of rental, it being mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation and maintenance of facilities upon the Premises.

4. CANCELLATION (AUG-02): The Government may terminate this Lease, in whole or in part, if its Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate this Lease pursuant to this paragraph by delivering to the Lessor written notice by registered mail or certified mail, with return receipt requested, at least 90 days before the termination date specified in the written notice.

5. INTERFERENCE WITH GOVERNMENT OPERATIONS (OCT-96): The Lessor agrees not to erect or allow to be erected any structure or obstruction of whatsoever kind or nature on the Premises or adjoining land within the Airport boundaries that may interfere with the proper operation of the facilities installed by the Government under the terms of this Lease, unless consent hereto shall first be secured from the Government in writing.

6. FUNDING RESPONSIBILITY FOR GOVERNMENT FACILITIES (OCT-96): The Lessor agrees that any relocation, replacement, or modification of any existing or future Government facilities covered by this Lease during its term, or any renewal thereof, made necessary by Airport improvements, or changes which, in the Government's opinion, interfere with the technical and/or operational characteristics of the Government facilities, will be at the expense of the Lessor, with the exception of any such improvements or changes which are made at the request of the Government. In the event such relocations, replacements, or modifications are necessary due to causes not attributable to either the Lessor or the Government, funding responsibility shall be determined by mutual agreement between the parties.

7. QUIET ENJOYMENT (OCT-96): The Lessor warrants that that it has good right and lawful authority to grant this Lease, and rights of ingress and egress.

8. SUBORDINATION, NONDISTURBANCE AND ATTORNMENT (OCT-96): The Government agrees, in consideration of the warranties herein expressed, that this Lease is subject and subordinate to any and all recorded deeds of trust, mortgages, and other security instruments now or hereafter imposed upon the Premises, so long as such subordination shall not interfere with any right of the Government under this Lease. It is mutually agreed that this subordination shall be self operative and that no further instrument shall be required to effect said subordination. In the event of any sale of the Premises, or any portion thereof, or any such transfer of ownership, by foreclosure of the lien of any such security instrument, or deed provided in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, successor, assign, or transferee. The succeeding owner will be deemed to have assumed all rights and obligations of the Lessor under this Lease, establishing direct privity of estate and contract between the Government and said purchasers/transferees, with the same force, effect and relative priority in time and right as if this Lease had initially been entered into between such purchasers or transferees and the Government; provided that such transferees shall promptly provide, following such sale or transfer, appropriate documentation deemed necessary by the RECO, and shall promptly execute any instrument, or other writings, as shall be deemed necessary to document the change in ownership.

9. NOTIFICATION OF CHANGE OF LAND TITLE (AUG-02): If the Lessor sells or otherwise conveys to another party or parties any interest in the Premises, the Lessor shall notify the Government, in writing, of any such transfer or conveyance affecting the Premises within thirty (30) calendar days after completion of the transfer or conveyance. Concurrent with the written notification, the Lessor shall provide the Government copies of the legal document(s) (acceptable to local authorities) for transferring and/or conveying the property rights.

10. NOTICES (OCT-96): All notices/correspondence shall be in writing, reference the Lease number (Lease No. DTFASO-10-L-00129), and be addressed as follows:

TO LESSOR:

Attn: Deputy Director, Airports Business Affairs
Palm Beach County Department of Airports
846 Palm Beach International Airport
West Palm Beach, Florida 33406-1470

With a copy to:

Attn: Airport Real Estate Attorney
Palm Beach County Attorney's Office
301 North Olive Ave, Suite 601
West Palm Beach, FL 33401

TO GOVERNMENT:

Federal Aviation Administration
Real Estate Contracting Officer
Real Estate Group, ASO-53
1701 Columbia Avenue
College Park, GA 30337

11a. CONTRACT DISPUTES (Nov. 03)

(a) All contract disputes arising under or related to this Lease shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. The Lessor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

(b) All Contract Disputes shall be in writing and shall be filed at the following address:

Office of Dispute Resolution for Acquisition, AGC-70
Federal Aviation Administration
800 Independence Ave, S.W., Room 323
Washington, DC 20591
Telephone: (202) 267-3290
Facsimile: (202) 267-3720

(c) A contract dispute against the FAA shall be filed with the ODRA within two (2) years of the accrual of the Lease contract claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA. The full text of the Contract Dispute clause is incorporated by reference. Upon request, the full text will be provided by the RECO.

11b. PROTEST (Nov. 03)

(a) Protests concerning Federal Aviation Administration Screening Information Requests (SIRs) or awards of lease contracts shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 10 and 11, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A protestor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

(b) Offerors initially should attempt to resolve any issues concerning potential protests with the Real Estate Contracting Officer.

(c) Protests shall be in writing and shall be filed at:

(1) Office of Dispute Resolution for Acquisition, AGC-70
Federal Aviation Administration
800 Independence Ave, S.W., Room 323
Washington, DC 20591
Telephone: (202) 267-3290
Facsimile: (202) 267-3720

(2) At the same time as filing the protest with the ODRA, the protestor shall serve a copy of the protest on the Real Estate Contracting Officer (RECO).

(d) A protest is considered to be filed on the date it is received by the ODRA and shall be filed: (i) Not later than seven (7) business days after the date the protester knew or should have known of the grounds for the protest; or (ii) If the protester has requested a post-award debriefing from the RECO, not later than five (5) business days after the date on which the RECO holds that debriefing. The full text of the Protest clause is incorporated by reference. Upon request the full text will be provided by the RECO.

12. 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.

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

The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this Lease 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 Lease without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

14. 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 Lease, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this Lease is made with a corporation for the corporation's general benefit.

15. NON-RESTORATION (OCT-96):

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

16. HAZARDOUS SUBSTANCE CONTAMINATION (MAY-00):

The Government agrees to remediate, at its sole cost, all hazardous substance contamination on the Premises that is found to have occurred as a direct result of the installation, operation, and/or maintenance of the (type of facility) facility. The Lessor agrees to remediate at its sole cost, any and all other hazardous substance contamination found on the Premises found to have occurred as a direct result of actions by the Lessor. Without waiving the right of sovereign immunity, and to the extent permitted by law, Lessor also agrees to save and hold the Government harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the Premises not directly attributable to the installation, operation and/or maintenance of the ATCT.

17. EXAMINATION OF RECORDS (AUG-02):

The Comptroller General of the United States, the Administrator of FAA or a duly authorized representative from either shall, until three (3) years after final payment under this Lease, have access to and the right to examine any of the Lessor's directly pertinent books, documents, paper, or other records involving transactions related to this Lease.

18. LEASE SUCCESSION (AUG-02):

This Lease supersedes and replaces Exhibit 18 to the Master Lease.

19. SPECIAL STIPULATIONS:

This Lease is subject to additional provisions set forth below, which are made a part hereof, and identified as follows:

- (a) Annual Appropriation. Nothing in this Lease shall obligate the Lessor, during any fiscal year, to expend money or incur any liability that involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. The Lessor's obligations under this Lease, which involve the expenditure of money, shall be subject to annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners in accordance with Chapter 129, Florida Statutes, as it may be amended.

(b) Palm Beach County Office of the Inspector General. Palm Beach County has established the Office of the Inspector General, Ordinance R2009-049, as may be amended. The Inspector General's authority includes, but is not limited to, the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the FAA and U.S. Government and its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. All parties doing business with the County shall fully cooperate with the Inspector General, including providing access to records relating to this Lease.

(c) Operation Agreement of Airport Traffic Control Tower by FAA. Exhibit "B", containing the Operation Agreement of Airport Traffic Control Tower by FAA, is incorporated herein by reference.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.)

21. SIGNATURE BLOCK (AUG-02):

IN WITNESS WHEREOF, the parties hereto have signed their names:

LESSOR:

Date of Approval by Lessor: _____

ATTEST:
SHARON R. BOCK,
Clerk & Comptroller

PALM BEACH COUNTY,
a political subdivision of the
State of Florida
by its Board of County Commissioners


Deputy Clerk

Chair

APPROVED AS TO FORM
& LEGAL SUFFICIENCY

APPROVED AS TO TERMS &
CONDITIONS

By: _____
County Attorney

By:  _____
Director, Department of Airports

UNITED STATES OF AMERICA:

(Signature)

Chris Barnhill
(Real Estate Contracting Officer)

Date of Approval by Government: _____

Exhibit "A"
Legal Description and Sketch of the Premises

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 43 SOUTH, RANGE 43 EAST,
PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTH QUARTER (1/4) CORNER OF SAID SECTION 31;
THENCE S00°59'30"W ALONG THE NORTH-SOUTH QUARTER (1/4) SECTION LINE OF
SAID SECTION 31 FOR 417.67 FEET;
THENCE S89°00'30"W FOR 33.96 FEET TO THE POINT OF BEGINNING;

THENCE S00°00'00"W FOR 511.34 FEET;
THENCE S90°00'00"W FOR 379.93 FEET;
THENCE N01°36'55"E FOR 491.45 FEET;
THENCE N45°00'00"E FOR 28.40 FEET;
THENCE N90°00'00"E FOR 346.00 FEET TO THE SAID POINT OF BEGINNING.

CONTAINING 4.37 ACRES, MORE OR LESS.

BEARING BASIS: S00°59'30"W ALONG THE NORTH-SOUTH QUARTER (1/4) SECTION LINE
OF SECTION 31/43/43.

THE DESCRIPTION SKETCH AND THE DESCRIPTION TEXT
COMPRISE THE COMPLETE LEGAL DESCRIPTION.
THE LEGAL DESCRIPTION IS NOT VALID UNLESS BOTH
ACCOMPANY EACH OTHER.
REPRODUCTIONS OF THIS DOCUMENT ARE NOT VALID
WITHOUT THE ORIGINAL SIGNATURE AND THE ORIGINAL
RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND
MAPPER NOTED BELOW.

ABBREVIATIONS

P.O.B. - POINT OF BEGINNING
P.O.C. - POINT OF COMMENCEMENT
PBIA - PALM BEACH INTERNATIONAL AIRPORT

JOHN E. PHILLIPS III
PROFESSIONAL LAND SURVEYOR
STATE OF FLORIDA No. 4826
DATE: _____

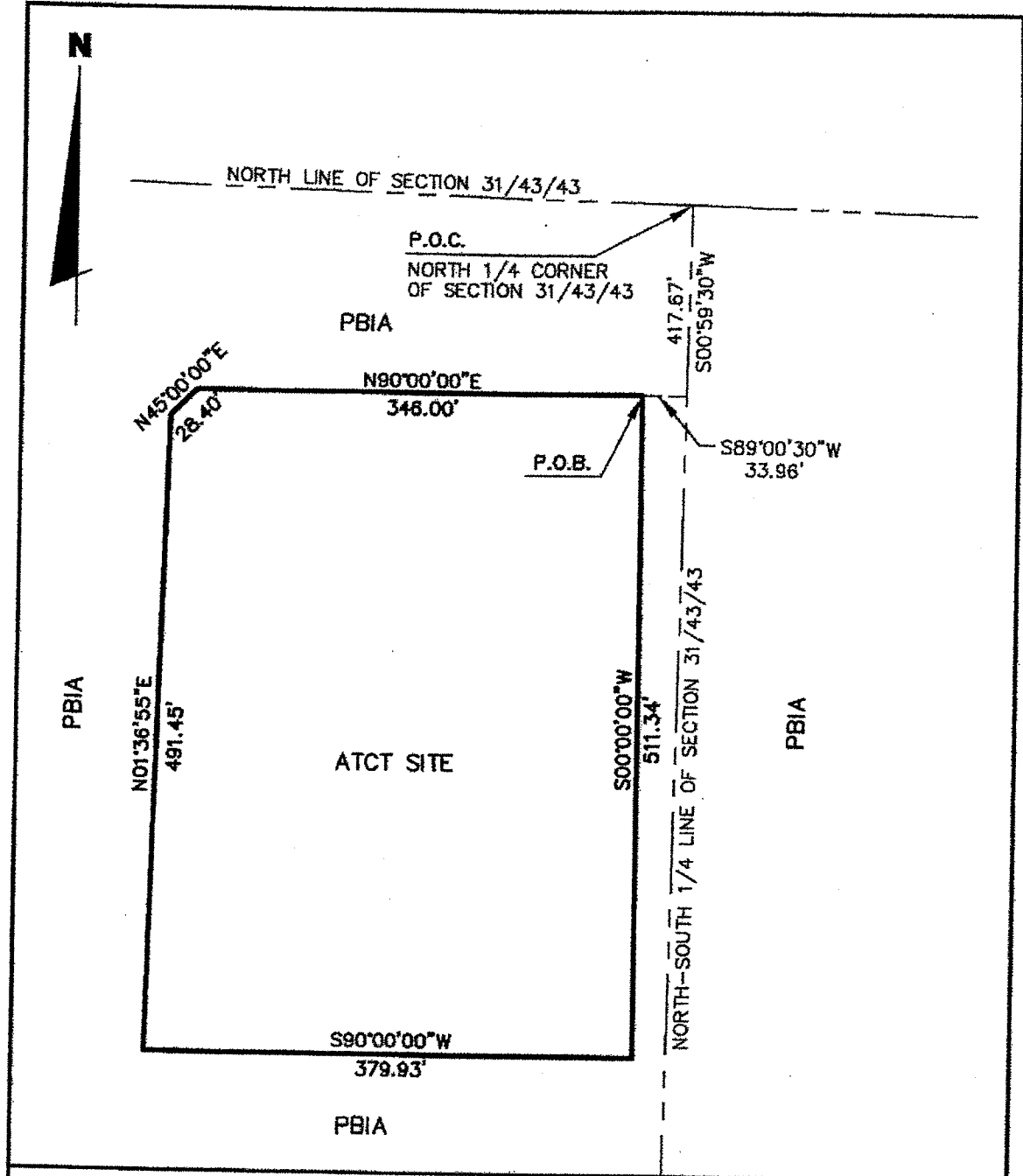


BROWN & PHILLIPS, INC.

PROFESSIONAL SURVEYING SERVICES
CERTIFICATE OF AUTHORIZATION # LB 6473
901 NORTHPOINT PKWY, SUITE 305, W.P.B. FLORIDA 33407
(561) 615-3988, (561) 615-3986 FAX

LEGAL DESCRIPTION

DRAWN: DKN	PROJ. No. 06-003E
CHECKED: TB	SCALE: NONE
LEASE BOUNDARY ATCT SITE AT PBIA	DATE: 2/12/08 SHEET 1 OF 2



BROWN & PHILLIPS, INC.
PROFESSIONAL SURVEYING SERVICES
CERTIFICATE OF AUTHORIZATION # LB 6473
901 NORTHPOINT PKWY, SUITE 305, W.P.B. FLORIDA 33407
(561) 615-3988, (561) 615-3986 FAX

SKETCH TO ACCOMPANY LEGAL DESCRIPTION	
THIS SKETCH IS NOT A SURVEY	
DRAWN: DKN	PROJ. No. 06-003E
CHECKED: TB	SCALE: 1" = 100'
LEASE BOUNDARY ATCT SITE AT PBIA	DATE: 2/12/08
	SHEET 2 OF 2

Exhibit "B"

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

OPERATION AGREEMENT FOR AIRPORT TRAFFIC CONTROL TOWER

THIS OPERATION AGREEMENT (this "Agreement") is to be attached to and made a part of that certain Land Lease No. DTFASO-10-L-00129 between the **UNITED STATES OF AMERICA** acting by and through the Federal Aviation Administration, hereinafter called "Government", and **PALM BEACH COUNTY, a political subdivision of the State of Florida**, located at 846 Palm Beach International Airport, West Palm Beach, Florida 33406, hereinafter known as "Lessor", dated _____, as amended, (the "Lease") and this Agreement shall be executed by the parties hereto independently of the Lease to which it is a part.

WHEREAS, an Airport Traffic Control Tower ("Tower") will be or has been erected on the real property more particularly described in the Lease, which is located within the boundaries of the Palm Beach International Airport ("Airport"), by and at the expense of the Government; and

WHEREAS, it is in the public interest that the Tower on the above Airport be operated by the Government, subject to the availability of funds, in accordance with standards established by the Government.

NOW, THEREFORE, the parties agree to the following conditions:

- (1) The Lessor shall, at no expense to the Government, provide the airfield lighting control panels in Tower; all Airport lighting which the Government determines is essential to aircraft operations; and all such air traffic control devices which are designated to be directly or remotely controlled from the Tower shall be operationally under the control of the Government's Air Traffic Controllers. Lessor shall be responsible for the proper and continued functioning of any locally-installed lights or other device placed under the Government's control.
- (2) The Lessor shall be responsible for the proper and continued functioning of all Airport controlled and maintained equipment, including cabling, conduit, and the airfield lighting control panel itself, and devices which the Government determines are necessary for air traffic control, but which cannot be placed in operation or controlled from the Tower, or are not otherwise operated by or under the control of the Government.
- (3) The Lessor shall promptly advise the Government's duly authorized representative(s) in the Tower of any conditions which render all, or any, area(s) of the Airport unsafe for normal utilization by aircraft and will, upon demand, appropriately mark any such area(s) in a manner approved by the Government which properly indicates the existing condition(s); the Lessor shall promptly give notice to the Government's

representative(s) prior to the time any maintenance or construction is begun on the Airport landing area unless such action is in accordance with a schedule which has been previously coordinated with the Tower; said notice shall be given not less than thirty (30) days prior to the commencement date (except in emergency situations) and said approved schedules shall be submitted for approval no less than thirty (30) days prior to the scheduled date for beginning the first item of construction and/or maintenance on the schedule.

(4) The Government shall have absolute control of the operation of the Tower and its associated facilities at all times and shall not be subject to direction from the Lessor.

(5) The Lessor, upon request from the Government, agrees to provide two-way ground control communication equipment in its maintenance and emergency vehicles scheduled to regularly operate in the airport landing area, and such equipment shall be capable of maintaining radio communications with the Tower on the Airport.

(6) The Lessor agrees to pay (and the Government shall not pay any part of such costs other than those provided by any existing Federal Aid to Airports Programs) for the relocation of the Tower and its associated facilities if such relocation is made necessary by Airport improvements or changes to the Airport, which impair the technical and/or operational characteristics of the Tower and its associated facilities.

(7) Nothing in this Agreement shall obligate the Lessor, during any fiscal year, to expend money or incur any liability that involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. The Lessor's obligations under this Lease, which involve the expenditure of money, shall be subject to annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners in accordance with Chapter 129, Florida Statutes, as it may be amended.

The parties acknowledge and agree that the Lessor has expended Federal Funds under a Federal Aid to Airports Program.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.)

IN WITNESS WHEREOF, the parties hereto have signed their names:

LESSOR:

Date of Approval by Lessor: _____

ATTEST:
SHARON R. BOCK,
Clerk & Comptroller

PALM BEACH COUNTY,
a political subdivision of the
State of Florida
by its Board of County Commissioners

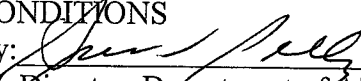
Deputy Clerk

Chair

APPROVED AS TO FORM
& LEGAL SUFFICIENCY

By: _____
County Attorney

APPROVED AS TO TERMS &
CONDITIONS

By:  _____
Director, Department of Airports

UNITED STATES OF AMERICA:

(Signature)

Chris Barnhill
(Real Estate Contracting Officer)

Date of Approval by Government: _____