

## AGENDA ITEM SUMMARY

**[x] Consent**

**[ ] Regular**

## [ ] Workshop

☐ Public Hearing

**Submitted For:**

**Department Director**

11/16/17

Date \_\_\_\_\_

**Approved By:**

**County Administrator**

12/6/17  
Date

Date \_\_\_\_\_

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____*	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget?

Yes X No \_\_\_\_\_

Does this item include the use of federal funds?

Yes \_\_\_\_\_ No X

Budget Account No: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
Reporting Category \_\_\_\_\_

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

\*There is no Fiscal Impact.

C. Departmental Fiscal Review:

*CM Sumner*

## III. REVIEW COMMENTS

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

*J. H. [Signature]* 11/21/17  
OFMB 11/20

*Ann S. Jacobson* 12/4/17  
Contract Dev. and Control  
12/4/17

### B. Legal Sufficiency:

*Anne Delgent* 12-5-17  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

REVISED 11/17

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

**MEMORANDUM OF AGREEMENT on NOTAM Manager System BETWEEN  
Aeronautical Services (AJM-336) of the  
Federal Aviation Administration (FAA)  
AND**

Palm Beach County, who owns and operates the following airports: Palm Beach International Airport, North Palm Beach County General Aviation Airport, Palm Beach County Park Airport and Palm Beach County Glades Airport.

**ARTICLE 1. PARTIES**

The parties to this Agreement are the Aeronautical Services group of the Federal Aviation Administration (FAA) and Palm Beach County, referred to as Airport hereafter.

**ARTICLE 2. SCOPE**

a. Purpose:

The purpose of this Agreement between the FAA and Airport is to improve the quality and timeliness of important flight information by deploying a new direct-entry digital Notice to Airmen (NOTAM) system for airport operators called the NOTAM Manager System.

b. Specific goals and objectives to be accomplished:

Airport direct-entry NOTAMs will be limited to the following airport surface area NOTAMs (the "D" NOTAMs) including the keywords: aerodrome/service, runway, taxiway, apron/ramp and obstruction, unless specifically expanded by a modification of this agreement.

The objectives of this project include:

- 1) The FAA will provide a web-based service, NOTAM Manager System, which allows the airport operator to submit airport surface area NOTAMs directly into the Federal NOTAM System (FNS) rather than going through Flight Service;
- 2) The airport operator will provide the FAA with feedback on the suitability of the NOTAM Manager System and suggestions on how to improve the system including input to the FAA's human factors consultants.
- 3) If applicable, the FAA will deactivate all eNOTAMs II accounts 60 days after the activation of NOTAM Manager System at the Airport.

c. Management of the project:

The management of this project will be done by the FAA's Aeronautical Services Team (AJM-336)

d. Roles and responsibilities:

Parties are bound by a duty of good faith and best effort in achieving the goals and objectives in Article 2 of this Agreement.

Airport will use its best efforts to protect password information to permit use of the FAA's NOTAM Manager System, and Airport will provide password information only on a need-to-know basis.

The FAA will use its best efforts to ensure the NOTAM Manager System operates at optimal performance level as designed.

e. Contributions of the Parties:

The FAA will provide:

- 1) a password function to the NOTAM Manager System which allows access to it by the airport operators;
- 2) the initial training of its personnel on how to use the system and a user manual;
- 3) a NOTAM subject matter expert (SME) during the initial phase of deployment to assist the airport personnel (direct-assist) with the new Airport NOTAM Manager System;
- 4) a point of contact person, (Customer Support Group), to respond to any questions which arise after deployment;
- 5) telephonic technical support to assist Airport during the term of this agreement; and
- 6) a completed Safety Risk Management Document on the NOTAM Manager System.

Airport will provide:

- 1) the personnel and web-accessible computers, Internet access, and any related and required equipment to allow operation of the NOTAM Manager System;
- 2) feedback on how the system is operating and how it might be improved;
- 3) the continuing ability to return to the existing legacy NOTAM system if the NOTAM Manager System is not operating as required to maintain the safety of the airport.
- 4) at least one airport training POC to receive a formal live or virtual training session prior to activation, provided by a designated FAA representative, on the NOTAM Manager System.

### **ARTICLE 3. EFFECTIVE DATE & TERM**

The effective date of this Agreement is from the date of deployment of NOTAM Manager at the airport ("Effective Date"). The term of this Agreement shall be for a period of one (1) year, commencing on the Effective Date and expiring one (1) year thereafter (the "Term"). This Agreement shall be automatically renewed for one (1) year intervals thereafter; provided, however, either party may elect not to renew this Agreement upon providing no less than thirty (30) days advance written notice to the other party prior to the expiration of the then current term.

### **ARTICLE 4. REPORTING REQUIREMENTS**

Airport shall report any suggestions on improvement of the NOTAM Manager System to the FAA through their Point of Contact and assist the FAA's human factors personnel with their research on improvements to the NOTAM Manager System.

### **ARTICLE 5. INTELLECTUAL PROPERTY**

#### **a. Rights in Data**

The Government retains Government Purpose Rights in all data developed under this agreement. Airport agrees not to reverse-engineer any of the software, forms, or databases, including those accessible through the password-protected system described above, but shall use its access only for the purposes set out herein.

"Data" means recorded information, regardless of form or method of recording, which includes but is not limited to, technical data, computer software, trade secrets, and mask works. The term does not include financial, administrative, cost, pricing or management information.

"Government Purpose Rights" means the rights to –

- (1) Use, modify, reproduce, release, perform, display, or disclose data within the government without restriction; and,
- (2) Release or disclose technical data outside the government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for government purposes.

"Government Purpose" means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive acquisition by or on behalf of the government, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose data for commercial purposes or authorize others to do so.

**ARTICLE 6. LEGAL AUTHORITY**

This Agreement is entered into under the authority of 49 U.S.C. 106(l) and (m), which authorizes agreements and other transactions on such terms and conditions as the Administrator determines necessary.

**ARTICLE 7. POINTS OF CONTACT**

FAA Program Office/Technical Officer

Robert McMullen, Manager, Aeronautical Services, AJM-336

Jeffrey C. Barnes, Aeronautical Information Specialist, AJM-336

Airport Party

Bruce Pelly, Director of Airports

Peter Labbe, Director of Operations, Department of Airports

Jeremy Perusse, Airport Operations Manager, Department of Airports

**ARTICLE 8. FUNDING AND PAYMENT**

There will be no exchange of moneys since each party shall bear their own costs to implement this project and meet the goals and objectives of it as outlined above.

**ARTICLE 9. APPROVAL OF SUBCONTRACTORS**

There shall be no airport subcontractors involved on this project.

**ARTICLE 10. CHANGES, MODIFICATIONS**

Changes and/or modifications to this Agreement shall be in writing and signed by Manager, Aeronautical Services and Airport Management. The modification shall cite the subject Agreement, and shall state the exact nature of the modification. No oral statement by any person shall be interpreted as modifying or otherwise affecting the terms of this Agreement.

**ARTICLE 11. TERMINATION**

In addition to any other termination rights provided by this Agreement, either party may terminate this Agreement at any time, with or without cause, and without incurring any liability or obligation to the terminated party (other than the performance of obligations accrued on or prior to the termination date) by giving the other party at least thirty (30) days prior written notice of termination. Upon receipt of a notice of termination, the receiving party shall take immediate steps to stop the accrual of any additional obligations.

Either party may terminate this agreement immediately if either party determines that the safety of the airport is affected and return immediately to the existing NOTAM entry process currently in use prior to the initial deployment of the NOTAM Manager System.

## **ARTICLE 12. CONSTRUCTION OF THE AGREEMENT**

This Agreement is an "other transaction" issued under 49 U.S.C 106 (l) and (m) is not a procurement contract, grant or cooperative agreement. Nothing in this Agreement shall be construed as incorporating by reference or implication any provision of Federal acquisition law or regulation.

Each party acknowledges that all parties hereto participated equally in the negotiation and drafting of this Agreement and any amendments thereto, and that, accordingly, this Agreement shall not be construed more stringently against one party than against the other.

## **ARTICLE 13. DISPUTES**

Where possible, disputes will be resolved by informal discussion between the parties. In the event the parties are unable to resolve any disagreement through good faith negotiations, the dispute will be resolved by Aeronautical Services management of the FAA.

## **ARTICLE 14. WARRANTIES**

The FAA makes no express or implied warranties as to any matter arising under this agreement, or as to the ownership, merchantability, or fitness for a particular purpose of any property, including any equipment, device, or software that may be provided under this Agreement.

## **ARTICLE 15. LIABILITY**

The FAA assumes no liability under this Agreement for any losses arising out of any action or inaction by airport, its employees, or contractors, or any third party acting on its behalf. Each party agrees to be responsible for injury, death or property damage arising out of or in connection with its own acts or omissions under this Agreement, however, neither party waives its rights to sovereign immunity.

## **ARTICLE 16. PROTECTION OF INFORMATION**

The parties agree that they shall take appropriate measures to protect proprietary, privileged, or otherwise confidential information that may come into their possession as a result of this Agreement.

**AGREED:**

**Federal Aviation Administration**

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Robert McMullen, Manager, Aeronautical Services, AJM-336

**AIRPORT**

**ATTEST:**

**PALM BEACH COUNTY, A POLITICAL  
SUBDIVISION OF THE STATE OF  
FLORIDA, BY ITS BOARD OF  
COUNTY COMMISSIONERS**

**SHARON R. BOCK  
CLERK AND COMTROLLER**

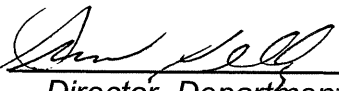
**By:** \_\_\_\_\_  
*Deputy Clerk*

**By:** \_\_\_\_\_  
*Mayor*

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND  
CONDITIONS**

**By:** \_\_\_\_\_  
*County Attorney*

**By:**  \_\_\_\_\_  
*Director, Department of Airports*