

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**ORIGINAL**

In re: Complaint by BellSouth Tele- )  
Communications, Inc., Regarding )  
The Operation of a Telecommunications )  
Company by Miami-Dade County in )  
Violation of Florida Statutes and )  
Commission Rules )

DOCKET NO. 050257-TL

**DEPOSITION OF GEORGE HILL  
DATED DECEMBER 3, 2004**

**FINAL EXHIBIT NO. 23**

**12 of 29**

DOCUMENT NUMBER-DATE

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1 IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
2 CIRCUIT IN AND FOR DADE COUNTY, FLORIDA  
3 GENERAL JURISDICTION DIVISION

4 CASE NO. 02-28688 CA 03

5 BELLSOUTH TELECOMMUNICATIONS,  
6 INC.,

7 Plaintiff,

8 -vs-

9 MIAMI-DADE COUNTY, a political  
10 subdivision of the State of  
11 Florida,

12 Defendant.

COPY

13  
14 DEPOSITION

15 OF

16 GEORGE HILL

17  
18  
19 Miami International Airport  
20 Terminal Building, Concourse A  
21 Fourth Floor

22 Miami, Florida

23 Friday, December 3, 2004  
24 1:00 p.m. - 4:00 p.m.  
25

KRESSE & ASSOCIATES, INC.  
(305) 371-7692

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APPEARANCES

For the Plaintiff:

MARTIN B. GOLDBERG, ESQ.  
Lash & Goldberg, LLP  
100 Southeast 2nd Street  
Suite 1200  
Miami, Florida 33131

SHARON LIEBMAN, ESQ.  
Bellsouth Telecommunications, Inc.  
150 West Flagler Street  
Suite 1910  
Miami, Florida 33130

For the Defendant:

DAVID S. HOPE, ESQ.  
Miami-Dade County Attorney's Office  
Aviation Division  
P.O. Box 592075 AMF  
Miami, Florida 33159

I N D E X

Witness	Direct	Cross
George Hill		
(By Mr. Hope)	4, 88, 101	
(By Mr. Goldberg)		75, 97

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KRESSE & ASSOCIATES, INC.  
(305) 371-7692

1 THEREUPON:

2                                   GEORGE HILL,  
3 was called as a witness on behalf of the  
4 Defendant, and having been first duly sworn, was  
5 examined and testified as follows:

6                                   DIRECT EXAMINATION

7 BY MR. HOPE:

8           Q.    Please state your name.

9           A.    My name is George F. Hill, Jr.

10          Q.    And your work address?

11          A.    9101 Southwest 24th Street, Miami,  
12 Florida 33165.

13          Q.    Mr. Hill, I'm showing you what's been  
14 previously marked as Defendant's 1, which is a  
15 Re-Notice of Taking Deposition. Are you here  
16 today pursuant to that Re-Notice?

17          A.    Yes, I am.

18          Q.    That Re-Notice lists 10 subject areas.  
19 Which area are you here today to speak on?

20          A.    I'm here to speak on the County's item  
21 number --

22          Q.    vii?

23          A.    Bellsouth's allegation in paragraph 38  
24 of its Complaint that "Bellsouth provides similar  
25 telecommunications service to MIA and other

1 airports, and has been providing such services at  
2 all times relevant."

3 Q. Is that subject area vii on the  
4 Re-Notice of Taking Deposition?

5 A. Yes, it is.

6 Q. Have you been designated as the  
7 corporate representative with the most knowledge  
8 for that subject area?

9 A. Yes, I have.

10 Q. Who designated you as the corporate  
11 representative with the motion knowledge of that?

12 A. I was notified by the attorneys.

13 Q. When you say the attorneys, are you  
14 talking about your in-house counsel, your outside  
15 counsel, or --

16 A. Initially, it was in-house counsel.  
17 Both, actually.

18 Q. Are you represented today by both your  
19 outside counsel and your in-house counsel?

20 A. Yes, I am.

21 Q. Did you speak with your counsel in  
22 preparation for this deposition?

23 A. Yes, I did.

24 Q. Both sets of counsel?

25 A. Yes.

1 Q. Did you speak with anyone other than  
2 your attorneys about this deposition?

3 A. In preparation for it?

4 Q. Correct.

5 A. My boss, to let her know where I was  
6 going to be.

7 Q. What's your boss's name?

8 A. Rosa Perez.

9 Q. Is that the extent of your conversation  
10 with Miss Perez?

11 A. Yes.

12 Q. Did you speak with anyone else about  
13 your deposition today?

14 A. I let people know where I was going to  
15 be. I let a person named Steve Massey know, a  
16 person named Roberto Salgado.

17 Q. Who is Mr. Steve Massey?

18 A. He's an employee of BellSouth.

19 Q. Is he a subordinate of yours?

20 A. He's a peer.

21 Q. And who is Mr. Salgado?

22 A. Also a peer.

23 And Gene Cleveland, who is also a peer.

24 Q. With reference to either Mr. Massey,  
25 Mr. Salgado, or Mr. Cleveland, were your

1 conversations just for them to know where you were  
2 going to be during this afternoon?

3 A. Yes.

4 Q. Did you review any documents in  
5 preparation for your deposition today?

6 A. Yes, I did. The documents contained in  
7 this binder.

8 Q. Are you going to be using those  
9 documents?

10 A. Yes, I will.

11 MR. HOPE: Are you going to want to  
12 mark that as an exhibit?

13 MR. GOLDBERG: Yes, sir, please.

14 MR. HOPE: We'll mark his binder as  
15 Plaintiff's Exhibit C.

16 MR. GOLDBERG: I may have an extra  
17 one that you can use, you can mark.

18 Just for the record, it's a composite  
19 exhibit. It's a white notebook. Thank  
20 you.

21 (Thereupon, Support Binder was marked as  
22 Plaintiff's Exhibit C for Identification.)

23 Q. Besides the documents contained in  
24 what's now been marked as Plaintiff's Exhibit C,  
25 did you look at any other documents or materials

1 in preparation for your deposition today?

2 A. I did some additional research on the  
3 internet for CUTE systems.

4 Q. Did you find anything?

5 A. Yes, I did.

6 Q. Do you remember the website?

7 A. I don't remember it right offhand.

8 Q. Besides Plaintiff's Exhibit C and your  
9 web search, any other materials that you reviewed  
10 in preparation for your deposition?

11 A. No. That was it.

12 Q. Let me just state some ground rules.

13 I'm going to ask you a series of  
14 questions. Answer them to the best of your  
15 knowledge. If I either am speaking too quickly or  
16 unclearly, just state can you either repeat the  
17 question or clarify your question.

18 You're under oath, obviously.

19 Your counsel has the ability to object.  
20 The majority of the objections will probably be  
21 objections to form.

22 If you hear an objection to form and  
23 some sort of explanation response with that, you  
24 still have to answer the question. If you hear an  
25 objection, privilege objection, then listen and

1 your counsel will instruct you whether or not you  
2 need to respond or not respond.

3 Do you understand that?

4 A. Yes, I do.

5 Q. Can you please tell me your current  
6 title?

7 A. I'm a Loop Capacity Manager.

8 Q. As a Loop Capacity Manager, what are  
9 your responsibilities?

10 A. My responsibilities are to make sure  
11 that there are enough facilities for subscribers  
12 at the airport and for the outlying areas of the  
13 airport at a wire center called Poinciana.

14 Q. Now, when you say the airport, do you  
15 mean Miami International Airport?

16 A. Yes, I do.

17 Q. Do you also have responsibility for any  
18 of the County's general aviation airports?

19 A. No, I do not.

20 Q. Is there a loop capacity manager or  
21 managers with responsibility for the County's  
22 general aviation airports?

23 A. Yes, there are.

24 Q. Who would be the loop capacity manager  
25 or managers for the respective general aviation

1 airports?

2 A. I believe for -- well, we're talking  
3 about Opa Locka. That would be a person named  
4 Glassio Pessoa, P-E-S-S-O-A.

5 Q. Do you have a telephone number for  
6 Mr. Pessoa?

7 A. No. I do not have his telephone number.  
8 The other airports?

9 Q. Kendall Tamiami?

10 A. Kendall Tamiami would be Ralph Alagret.

11 Q. Homestead?

12 A. Homestead would be Manny Rodriguez.

13 Q. Do you have loop capacity managers that  
14 also cover the training airport, or are these the  
15 general aviation airports that you have capacity  
16 managers?

17 A. I'm not familiar with the location of  
18 the training airport.

19 Q. Opa Locka West.

20 A. It would probably fall also under  
21 Glassio.

22 Q. How long have you been in the position  
23 of loop capacity manager?

24 A. Since 1999.

25 Q. Do you know how long the current loop

1 capacity manager was in place at Opa Locka?  
2 A. I do not know.  
3 Q. And how about Kendall or Homestead?  
4 A. No. I don't know those either.  
5 Q. Previous to your position as the Loop  
6 Capacity Manager for Miami International Airport,  
7 what position did you hold?  
8 A. I was a project manager.  
9 Q. How long were you project manager?  
10 A. I was a project manager three years, I  
11 believe.  
12 Q. Also with BellSouth Telecommunications?  
13 A. Yes.  
14 Q. As a project manager, what were your  
15 major job responsibilities?  
16 A. To monitor the quality and the job  
17 orders issued for the airport at a wire center  
18 called Allapattah. And probably Poinciana, too.  
19 I really can't remember.  
20 Q. Previous to your position as a project  
21 manager?  
22 A. I was an engineer.  
23 Q. For what period of time?  
24 A. From 1988 to 1997.  
25 Q. Also with BellSouth Telecommunications?

1 Q. Oh, okay. So what does it mean when you  
2 say to make sure there are enough subscriber  
3 facilities?

4 A. We try to make -- we try to insure that  
5 we have enough facilities to provide services for  
6 the subscribers that call in for the different  
7 services that we offer.

8 Q. What would be the various types of  
9 subscriber facilities that you're speaking of?

10 A. We place fiber cables, copper cables,  
11 electronic equipment. Cable termination  
12 equipment. That would pretty much encompass it.

13 Q. The placement of these facilities, is  
14 that done on BellSouth's own initiation, or is  
15 that something that is ordered by a customer?

16 A. It can be both.

17 Q. Is there any mechanism that determines  
18 when BellSouth is doing it on its own versus a  
19 customer ordering it?

20 A. There are service inquiries that are  
21 written for some services.

22 Q. What was the word?

23 A. Service inquiries to notify us.

24 There are firm service orders and there  
25 are databases that we use that monitor the number

1 A. Yes.

2 Q. Also located in Miami?

3 A. Yes.

4 Q. What were your responsibilities as an  
5 engineer?

6 A. To engineer jobs for the placement of  
7 telecommunications facilities.

8 Q. Were these telecommunications facilities  
9 facilities that would be located on Miami  
10 International Airport property?

11 A. For a time, yes.

12 Q. What about the period when it wasn't for  
13 facilities that were to be located on Miami  
14 International Airport property, where were those  
15 facilities to be located?

16 A. During the other times, I had wired the  
17 wire centers. I'll give you the wire center  
18 names. I had Golden Glades. I had Oleta.  
19 Brentwood.

20 Q. Any others?

21 A. No. That's it.

22 And Allapattah.

23 Q. What is your educational background?

24 A. I graduated from Broward Community  
25 College with an associate's degree. Went on to

1 Florida International University with an  
2 electrical engineering degree.

3 Q. When did you get your EE?

4 A. I got my EE in 1988.

5 Q. Do you have any certifications?

6 A. I do have an engineering intern. I'm  
7 certified as an engineering intern.

8 Q. What does that mean?

9 A. It's one step before the professional  
10 engineering examination.

11 Q. Do you hold any licenses?

12 A. No, I do not.

13 Q. Are you a member of any board or trade  
14 associations?

15 A. No, I am not.

16 Q. Member of any organizations related to  
17 your line of work?

18 A. No, I am not.

19 Q. Now, you stated as loop capacity manager  
20 you make sure there are enough subscribers for the  
21 airport, and then you said outside the airport.  
22 And you mentioned Poinciana as a wire center?

23 A. Um-hum.

24 Q. What is a wire center?

25 A. A wire center is a geographical area

1 served by the cables that originate at a central  
2 location.

3 Q. Is Miami International Airport  
4 considered a wire center?

5 A. It's considered part of a wire center.

6 Q. What is the wire center of which Miami  
7 International Airport is a part of?

8 A. It's called airport. It's called simply  
9 airport.

10 Q. In addition to Miami International  
11 Airport, what other areas of Miami-Dade County are  
12 encompassed by the central airport wire center?

13 A. The airport wire center handles -- it's  
14 bounded by, let me give you the boundaries, 836 on  
15 the south, State Road 836. It's bounded by pretty  
16 much 36th Street on the north.

17 Q. That would be Northwest 36th?

18 A. Northwest 36th Street.

19 Northwest 67th Avenue on the west and  
20 Northwest 39th Avenue or 38th Court on the east.

21 Q. You also stated that as a loop capacity  
22 manager, one of your job responsibilities was to  
23 make sure there were enough subscribers. What  
24 does that mean?

25 A. No. Enough subscriber facilities.

1 Q. Oh, okay. So what does it mean when you  
2 say to make sure there are enough subscriber  
3 facilities?

4 A. We try to make -- we try to insure that  
5 we have enough facilities to provide services for  
6 the subscribers that call in for the different  
7 services that we offer.

8 Q. What would be the various types of  
9 subscriber facilities that you're speaking of?

10 A. We place fiber cables, copper cables,  
11 electronic equipment. Cable termination  
12 equipment. That would pretty much encompass it.

13 Q. The placement of these facilities, is  
14 that done on BellSouth's own initiation, or is  
15 that something that is ordered by a customer?

16 A. It can be both.

17 Q. Is there any mechanism that determines  
18 when BellSouth is doing it on its own versus a  
19 customer ordering it?

20 A. There are service inquiries that are  
21 written for some services.

22 Q. What was the word?

23 A. Service inquiries to notify us.

24 There are firm service orders and there  
25 are databases that we use that monitor the number

1 of facilities that we have.

2 Q. Service inquiries, is that an internal  
3 BellSouth process, or does that involve a customer  
4 asking for something?

5 A. It can be either. It can be an inquiry  
6 generated by somebody that is going to approach a  
7 customer, or it could be a customer generated  
8 activity.

9 Q. Firm service orders, internal or  
10 customer generated?

11 A. Generally customer.

12 Q. And is it fair to say the database  
13 monitoring is internal BellSouth?

14 A. Yes, um-hum.

15 Q. What telecommunications service does  
16 BellSouth provide in the State of Florida?

17 A. In the State of Florida, they are  
18 generally set forth by the BellSouth tariffs.

19 Q. Are there a group of services? Is it  
20 quantifiable? Is there a laundry list?

21 A. I believe there are lists, yes. Some of  
22 the services -- I mean, I can give you some of the  
23 services that I'm familiar with.

24 Q. Okay.

25 A. I'll give you voice services, data

1 services, high speed data services, such as  
2 megalinks or DS1s. Higher speed services than  
3 that, DS3s. Smart rings. Smart rings come in an  
4 OC-3, OC-12, OC-48 and OC-192 capacity. We also  
5 offer video fiber.

6 Q. Let me go through this.

7 A. There are some more.

8 Dark fiber. Dry fiber. Video fiber. I  
9 don't know if I mentioned that. ADSL services.

10 Q. What is that?

11 A. Internet access. ADSL.

12 That's not a complete list.

13 Q. Just a subset?

14 A. Subset.

15 Q. Going over this really quickly. When  
16 you talk about voice services, what does that  
17 mean?

18 A. It means there's dial tone on the line.

19 Q. Data?

20 A. Data. They're using it to pass some  
21 type of data over. A customer is using it.

22 Q. The two high speed datas would just be  
23 passing the data information at a faster --

24 A. At a greater rate, right.

25 Q. Smart rings?

1           A.    Smart rings.  We're offering them huge  
2 bands which we provide the equipment and the  
3 customer gets the control of what goes on those  
4 rings on that band.

5           Q.    Video fiber?

6           A.    Video fiber is we're handing off fibers  
7 for the customer to attach his equipment to for  
8 that use.

9           Q.    Does that mean video fiber would be the  
10 fiber connection that someone would connect, let's  
11 say, a video monitor to so they're passing a video  
12 feed?

13          A.    It's usually used for the transmission  
14 of video feeds, yes.  Whether it be not so much to  
15 a monitor as to some transmission device.

16          Q.    What about dark fiber?

17          A.    Dark fiber is simply that.  It's fiber  
18 that we hand off for their use.

19                Dry fiber is very similar to dark fiber.

20          Q.    And internet is internet access?

21          A.    That's correct.

22          Q.    Would this be BellSouth being an  
23 internet service provider?

24          A.    Yes.  In this case, it would be.

25          Q.    You stated that this is a subset of all

1 of the services that BellSouth offers in the State  
2 of Florida. The complete list would be found in  
3 the BellSouth tariff?

4 A. That's correct.

5 Q. Where would someone find a copy of the  
6 BellSouth tariff?

7 A. There is a website where you can access  
8 the general subscriber tariff. That's what I'm  
9 most familiar with.

10 Q. Do you have their web address?

11 A. I don't have it on me, no.

12 Q. Can you get to the general subscriber  
13 tariff through the Florida Public Service  
14 Commission's website?

15 A. I don't believe you can get through that  
16 way. You used to be able to, but I think they  
17 changed that. It is accessible by the public.

18 Q. Does BellSouth offer the same subset of  
19 services in Miami-Dade County?

20 A. Yes, they do.

21 Q. Does BellSouth offer this same subset of  
22 services at Miami International Airport?

23 A. Yes, we do.

24 Q. How about the general aviation airports?

25 A. I believe yes, also.

1 Q. Data services that you explained, would  
2 those be considered data network services?

3 MR. GOLDBERG: Objection to the form  
4 of the question. But you could answer it.

5 A. As I understand it, yes.

6 Q. What is your understanding of a data  
7 network service?

8 A. As to that, it's the facility that you  
9 could use to provide the median between whoever is  
10 using it. I mean, the end equipment. It's not  
11 the end equipment, it's the facility between them.

12 Q. Now, in that situation, is the end  
13 equipment something that either generates or  
14 receives data, as opposed to voice?

15 A. Yes.

16 Q. What is shared tenant services? Does  
17 BellSouth provide shared tenant services in the  
18 State of Florida?

19 A. I would think that under the way the PSC  
20 defines it, it would be all of those services.

21 Q. Does BellSouth provide the same shared  
22 tenant services that you just mentioned for  
23 Florida in Miami-Dade County?

24 MR. GOLDBERG: Objection to the form.

25 A. Yes.

1 Q. How about at Miami International  
2 Airport?

3 A. Yes.

4 Q. And the general aviation airports?

5 A. Yes.

6 Q. Are there other local exchange companies  
7 which provide telecommunications services in  
8 Miami-Dade County?

9 A. Yes, there are.

10 MR. GOLDBERG: Let me just object.  
11 One, it's going beyond the Notice of  
12 Deposition.

13 And two, let me just say, I'm going  
14 to make a record of going beyond what  
15 you've noticed him for, asking him about  
16 what other local providers --

17 MR. HOPE: Let me remind you we went  
18 through this with your corporate  
19 representative. She said she didn't know  
20 and she said that George Hill might be the  
21 person that knew. And I asked you --

22 MR. GOLDBERG: About what other local  
23 providers provide?

24 MR. HOPE: This is the whole section  
25 I went through, and I have it noted here.

1           So I said to you earlier, yes, I have  
2           a set of questions, because you're  
3           presenting him on similar service. But  
4           I'm also going to ask him if he indeed is  
5           the proper person that knows these things.

6           If he's not -- because your previous  
7           corporate rep said that she doesn't know  
8           and he might be the one.

9           MR. GOLDBERG: Well, why don't you  
10          ask your question again so I make sure  
11          it's clear about whose services you're  
12          asking about.

13          MR. HOPE: I am asking -- this  
14          question was in reference to and this was  
15          part of a series of questions that I had  
16          about other LECs, what they provided here.

17          And vis-a-vis BellSouth, your  
18          corporate representative, Nancy Sims, said  
19          she wasn't the person and maybe George  
20          Hill knew. Now, if he doesn't know, then  
21          I'll ask him.

22          MR. GOLDBERG: Why don't you ask him  
23          if he has a base of knowledge.

24          And let me add on foundation  
25          purposes, you haven't laid a foundation to

1 establish that he has knowledge to answer  
2 the question. If he has knowledge, then  
3 we'll see about the questions.

4 Q. Would you be the proper person to ask  
5 about telecommunications services provided by  
6 other local exchange companies in Miami-Dade  
7 County?

8 A. No, I would not.

9 Q. Who at BellSouth would be the person to  
10 ask, or would have that type of information?

11 A. I don't know what the title of that  
12 person would be. I don't know what department  
13 that person would work in.

14 Q. You just stated that you don't know who  
15 the person at BellSouth is that would have  
16 information or would be able to answer questions  
17 as to the provision of telecommunications services  
18 by other local exchanges --

19 A. That's correct.

20 Q. -- in Miami-Dade County?

21 A. That's correct.

22 Q. Is that answer also the same for the  
23 provision by other local exchange companies of  
24 data network and shared tenant services?

25 A. Yes, that's correct.

1 MR. GOLDBERG: Thank you.

2 MR. HOPE: You're welcome.

3 Q. What is the complete list of  
4 telecommunications services BellSouth provides to  
5 Miami-Dade County?

6 MR. GOLDBERG: Objection to the form  
7 of the question.

8 Do you understand the question? If  
9 you do, answer it. If not --

10 A. I don't have the knowledge of all the  
11 types of services that Dade County subscribes to  
12 from BellSouth.

13 Q. Who would be someone at BellSouth who  
14 would that have that knowledge?

15 A. Someone in the marketing department.

16 Q. Is that a guess, or you're certain that  
17 someone in the marketing department would have  
18 that information?

19 A. It's my best guess.

20 Q. Do you know who the head of the  
21 marketing department is?

22 A. I don't know, no. I don't know who the  
23 head of the marketing department is.

24 Q. Do you know where the marketing  
25 department is located?

1 A. Yes, I do.

2 Q. Can you give me the location?

3 A. They're located in one of the Aldon  
4 buildings, John Aldon buildings.

5 Q. Where approximately is that?

6 A. The Palmetto Expressway on the east side  
7 around Northwest 19th Street.

8 Q. Is it fair to say that you also aren't  
9 the proper person to tell me the complete list of  
10 data network services BellSouth provides to  
11 Miami-Dade County?

12 A. That's correct.

13 Q. Do you know the complete list of  
14 telecommunications services that BellSouth  
15 provides to the Miami-Dade Aviation Department?

16 A. I don't know, no. I actually don't know  
17 the numbers or types, no.

18 Q. Would that also be something your best  
19 guess would be the marketing department would have  
20 that information?

21 A. Yes.

22 Q. Is that answer the same for shared  
23 airport tenant services provided either to  
24 Miami-Dade County, if it's applicable, or the  
25 Miami-Dade Aviation Department?

1           A.    I'm not sure of the question.  Can  
2    you --

3           Q.    You answered previously to two questions  
4    dealing with the services that BellSouth  
5    Telecommunications provides to either the County  
6    or Miami-Dade Aviation Department, and for both  
7    telecommunications services and data network  
8    services you stated that you weren't the best  
9    person, but maybe someone in marketing would have  
10   those answers.

11                    So my question is, is that answer also  
12   the same for the provision of shared tenant  
13   services to the County, if the County receives  
14   shared tenant services, or the Miami-Dade Aviation  
15   Department, if the department receives shared  
16   tenant services?

17           A.    Yes.  That's true.

18           Q.    Do you know the telecommunications  
19   services that BellSouth provides to other local  
20   exchange companies, either in Florida or  
21   Miami-Dade County?

22           A.    Specifically, no.

23           Q.    Do you know who the person would be that  
24   would have that information?

25           A.    No, that I do not know.

1 Q. And is your answer the same for  
2 BellSouth's provision of data network services or  
3 shared tenant services to other local exchange  
4 companies?

5 MR. GOLDBERG: Before you answer the  
6 question, I want to lodge on the record a  
7 standing objection to all the prior  
8 questions and this one, that again they're  
9 outside the noticed deposition.

10 The noticed deposition, again,  
11 requires Mr. Hill appear to answer  
12 questions about BellSouth's provision of  
13 similar telecommunications services to  
14 commercial tenants at MIA and other  
15 airports. Not to County, not to other  
16 local exchange providers and the like.

17 So to that degree, we want to reserve  
18 all our rights with respect to the  
19 questions and answers.

20 MR. HOPE: That's fine. Like I  
21 previously stated, you have decided that  
22 Mr. Hill would appear to answer that  
23 subset of the 10 subject areas which the  
24 County noticed in its Re-Notice of Taking  
25 Deposition.

1 Pursuant to the statements of your  
2 first corporate rep who handled  
3 nine-tenths of the subject areas, Mr. Hill  
4 was identified as someone who might have  
5 this information.

6 I have gone and I've heeded your  
7 request and I'm asking him whether or not  
8 he's the proper person. And if not, if he  
9 knows who the proper person is.

10 MR. GOLDBERG: I think there was a  
11 question pending that I stopped you from  
12 answering. If you recall the question,  
13 you can answer.

14 (Thereupon, the requested portion of the  
15 record was re-read by the Court Reporter.)

16 A. Yes, it is.

17 Q. That answer being that you are not the  
18 person that has information of that and you don't  
19 know who the proper person would be in BellSouth  
20 who would have that information?

21 A. That's correct.

22 Q. Does the County have telecommunications  
23 facilities located at Miami International Airport?

24 A. Yes, they do.

25 Q. Does it have telecommunications

1 facilities located at the general aviation  
2 airports?

3 A. I wouldn't know anything about those.

4 Q. Can you identify someone at BellSouth  
5 who would know whether or not the County has  
6 telecommunications facilities located at its  
7 general aviation airports?

8 A. I don't know of a single person. I can  
9 think of departments I would go to for that  
10 information.

11 Q. What are those departments?

12 A. The engineering department. The special  
13 circuits installation department.

14 Q. Any others?

15 A. And the installation and maintenance,  
16 installation and repair.

17 Q. Who is in charge of the engineering  
18 department?

19 A. The person for the Dade County area  
20 would be Bernie Mecias.

21 Q. Do you know the spelling of his last  
22 name?

23 A. M-E-C-I-A-S.

24 Q. Do you have an address?

25 A. Same address as mine, 9101 Southwest

1 24th Street.

2 Q. Do you know who is the person in charge  
3 of the special circuits installation department?

4 A. It would be Roger Puerta.

5 Q. What's the address of the special  
6 circuits installation department?

7 A. Headquarters is located at 600 Northwest  
8 79th Avenue.

9 Q. And who is the person in charge of the  
10 installation and repair department?

11 A. Same.

12 Q. Roger Puerta?

13 A. Roger Puerta.

14 Q. In addition to the engineering  
15 department, the special circuits installation  
16 department, and the installation and repair  
17 department, might the various loop capacity  
18 managers for the general aviation airports have  
19 that information?

20 A. They may.

21 Q. Please describe, to the extent of your  
22 knowledge, the County's telecommunications  
23 facilities at MIA, Miami International Airport.

24 A. I know that the County owns copper  
25 cables, fiber cables, two switches that I know of.

1 Network terminating wire. Termination equipment  
2 for fiber cables and copper cables. That's what I  
3 know about.

4 Q. Is there anyone else at BellSouth who  
5 might know of additional telecommunications?

6 A. I don't know of anyone, no.

7 MR. GOLDBERG: Could I just ask,  
8 David, was your question to him about the  
9 facilities at the present time?

10 MR. HOPE: Yes.

11 MR. GOLDBERG: Just so we're clear.  
12 Was your answer at the present  
13 time?

14 THE WITNESS: Yes, it was.

15 MR. GOLDBERG: Thank you.

16 Q. You don't have knowledge of what  
17 telecommunications facilities the County may own  
18 at other places in the County?

19 A. No, I do not.

20 Q. And besides the other departments, or  
21 besides the other departments that you've  
22 mentioned, there's not anyone else that you could  
23 think of at BellSouth that would know about  
24 telecommunications facilities that the County may  
25 own throughout Miami-Dade County?

1           A.    No.  Perhaps the marketing department.  
2           Q.    At the earlier deposition of Nancy Sims,  
3 who was also designated as a corporate  
4 representative, there was a series of questions  
5 that dealt with the provision of  
6 telecommunications services at Miami International  
7 Airport prior to 1982.  Do you have any  
8 information in terms of who the provider was, or  
9 the extent of the services provided?  
10          A.    No.  I would not.  
11          Q.    Do you have any information about who  
12 the provider of telecommunications services was,  
13 or the extent of the services provided for the  
14 period of 1982 to 1988?  
15          A.    No, I do not.  
16          Q.    Do you know who at BellSouth might know  
17 those answers for those periods of time?  
18          A.    No.  That I don't know.  
19          Q.    Let me present to you what's been marked  
20 as Defendant's 2, which is BellSouth's Second  
21 Amended Complaint in this matter.  Have you  
22 previously seen that document?  
23          A.    I have.  If it's the same document  
24 that --  
25               MR. GOLDBERG:  It is.

1 THE WITNESS: Then, yes.

2 Q. Let me ask you to turn to page 10, which  
3 starts with paragraph 38.

4 Would you be able to tell me what are  
5 the similar services that BellSouth provides which  
6 support paragraph 38 of the Second Amended  
7 Complaint?

8 A. Can I go back to the list that we drew  
9 up at the beginning?

10 Q. Sure. You want me to read it off for  
11 you?

12 A. Voice is something -- well, actually, we  
13 provide everything at MIA except for the dark  
14 fibers and dry fibers and the video fibers.

15 Q. What documents exist which support  
16 BellSouth's allegation that it "provides similar  
17 telecommunications services to commercial tenants  
18 at MIA and the other airports"?

19 A. There would be billing invoices for the  
20 services.

21 Q. Any other documents besides billing  
22 invoices?

23 A. Some databases. It would be in several  
24 different databases.

25 Q. BellSouth databases?

1 A. Yes.

2 Q. Anything else that you can think of?

3 A. No. Those would be the two places.

4 Q. What documents support BellSouth's  
5 allegation that it "has been providing such  
6 services at all times relevant subject to  
7 regulation by the FPSC"?

8 MR. GOLDBERG: Objection to the form  
9 of the question.

10 A. At all times relevant? I need a  
11 clarification.

12 Q. Look at paragraph 38. Just read the  
13 entire paragraph.

14 I'm asking you the question based upon  
15 what BellSouth has alleged.

16 A. I'm just -- I just didn't grasp the  
17 question.

18 Q. I got you.

19 So what I asked you is based on this  
20 paragraph, what documents are there, just like you  
21 told me documents which can show you the similar  
22 services to commercial tenants at MIA and the  
23 other airports, which you said were billing  
24 invoices and some internal databases --

25 A. Right.

1 Q. -- are there any documents that support  
2 the rest of that statement that the similar  
3 services have been provided at all times relevant  
4 subject to Florida Public Service Commission  
5 regulation?

6 A. The same documents.

7 I'm just having trouble with this  
8 question for some reason.

9 Q. Okay. So is your answer that you would  
10 think it would be the same documents?

11 A. The same documents.

12 Q. You just have to go far enough back to  
13 see if indeed you have, let's say, supporting  
14 billing information that goes back far enough to  
15 show the periods that are under dispute here?

16 A. Right. Some of the services may not  
17 have been always offered. That's what is kind of  
18 throwing me.

19 For the duration that the services have  
20 been offered, or that a subscriber has had them,  
21 yes, we've offered them here for the length of  
22 time that they have been tariffed.

23 I don't know if that answers the  
24 question.

25 Q. Okay.

1           A.    I'm having trouble with this.

2           Q.    Let me ask you this.  Can you state with  
3 any certainty that the County and BellSouth have  
4 offered similar services for the same period of  
5 time?

6                   MR. GOLDBERG:  Objection to the form  
7 of the question.

8                   Read the question back.

9                   (Thereupon, the requested portion of the  
10 record was re-read by the Court Reporter.)

11                   MR. GOLDBERG:  I'm going to object to  
12 the form of the question, and also object  
13 to the lack of foundation.

14                   You asked him about BellSouth  
15 services.  You haven't asked him about  
16 County services, so we can get to what's  
17 similar.

18                   That may be the issue, for the  
19 record.

20                   If you understand the question, you  
21 can certainly answer.  Unless you want to  
22 withdraw it.

23           Q.    No.  If you can answer it, I'd like an  
24 answer.

25                   THE WITNESS:  Can we have a break for

1 a second?

2 MR. GOLDBERG: If you want to talk to  
3 me, we can have a break, sure.

4 MR. HOPE: That's fine.

5 (Recess in the proceedings.)

6 MR. GOLDBERG: Without waiver of  
7 attorney/client communication and the  
8 like, if I could just request of you going  
9 forward -- and this is not a criticism at  
10 all, but maybe just to facilitate the  
11 questioning -- in your questioning of him,  
12 it may help him if you try and define  
13 better in your question a time period that  
14 your questions pertain to.

15 And when you talk about services, if  
16 you're asking about services, who you're  
17 asking about, whether it be the County or  
18 BellSouth.

19 Because I think some of that is a  
20 little, in his mind, just confusing. And  
21 he has not been deposed very often in the  
22 past, so it's understandable.

23 MR. HOPE: That's fair. I'll try and  
24 do a better job of that going forward.

25 The problem is with this specific

1 paragraph, I'm just using the terminology  
2 that BellSouth has alleged. And here they  
3 have just said at all times relevant, so  
4 there's been no time period. So that  
5 being said --

6 MR. GOLDBERG: I think we can go  
7 forward and maybe be more productive.

8 Q. Do you have an answer to the question,  
9 or do you need it to be restated?

10 A. If you can just state it again, because  
11 it was -- there was one point in there that I had  
12 with it, one problem.

13 MR. HOPE: Read it back, please.

14 (Thereupon, the requested portion of the  
15 record was re-read by the Court Reporter.)

16 A. Yes. I know from working out here for  
17 the last so many years that, especially in the  
18 last several years, that we provided similar  
19 services.

20 Q. When you say the last several years, can  
21 you give me the starting point that you are  
22 talking of?

23 A. Right. You're talking about Dade County  
24 offering the services, which happened when they  
25 bought the switch.

1 Q. So you're talking about --

2 A. The purchase of the switch and the  
3 equipment.

4 Q. So your answer is based upon Dade County  
5 being a service provider from 2002 to present?

6 A. Yes. That's correct.

7 Q. Prior to 2002 -- it's BellSouth's  
8 assessment that the County only became a shared  
9 tenant service provider after 2002.

10 If that assessment is incorrect and the  
11 County was a shared tenant service provider prior  
12 to 2002, can you state with certainty that  
13 BellSouth and the County provided the same  
14 services?

15 MR. GOLDBERG: Before you answer,  
16 objection to the form of the question.  
17 But you can answer, if you understand.

18 A. It's my understanding, yes.

19 But it's my understanding that the  
20 cables and the equipment were not owned by Dade  
21 County before that period of time.

22 Q. Okay. That's understandable.

23 Now, I can, just for the comfort of your  
24 counsel, I can go through and I can show you  
25 documents that we've entered previously that might

1 contradict that and state that the County was a  
2 provider in 1993 or 1994 and 1995. If you want,  
3 I'll do that for you, and then I can specifically  
4 ask you based upon those statements and assuming  
5 those statements are true, because you would have  
6 to assume that, can you state with certainty that  
7 BellSouth and the County provided the same  
8 services throughout that period.

9 So would you like me to show you the  
10 documents?

11 MR. GOLDBERG: Let me object to the  
12 form.

13 Can you just ask him to assume  
14 hypothetically that the County was  
15 offering it? Even though it contradicts  
16 his knowledge, but assume with me that the  
17 County was offering it, would your answer  
18 be the same?

19 MR. HOPE: That's fine.

20 Q. Assuming that the County was a shared  
21 tenant service provider from 1990 to 2002, can you  
22 state with a certainty that BellSouth  
23 Telecommunications was offering the same services  
24 that the County was providing as a shared tenant  
25 service provider?

1           A.    Yes.  And we provide more services than  
2 what the County offers.

3           Q.    Okay.  An now, based upon that  
4 statement, what would be the support for you being  
5 able to say yes, BellSouth provided the same  
6 services and in fact it provided even more  
7 services?

8           A.    Based -- if we go back to the list that  
9 we generated in the beginning.

10          Q.    Okay.

11          A.    The voice was the very first thing.  
12 Both of us have provided voice.  The next on the  
13 list was data.  Both of us have provided data  
14 services at the airport.

15          Q.    High speed data?

16          A.    High speed data.  I know that we have  
17 offered it.  There have been problems in the past  
18 that I've been associated with in trying to get  
19 that service to a particular location.  So I don't  
20 know that the County offers that service.

21          Q.    Higher speed data, DS3?

22          A.    To the best of my knowledge, the County  
23 does not offer this even though we do.

24          Q.    Smart ring?

25          A.    The County does not offer smart ring.

1 We do.

2 Q. Video fiber?

3 MR. GOLDBERG: Let the record reflect

4 that he's actually writing down and making

5 a chart, which we'll mark as an exhibit.

6 MR. HOPE: Sure.

7 A. Video fiber, it's offered to the

8 airport. It's offered as a service, but I do not

9 know of anybody using the service. So we offer

10 it, but it's not used. I don't know what the

11 County offers in that case.

12 Q. Dark fiber?

13 A. Dark fiber, again, we offer it, but I

14 don't know of anybody who is using dark fiber from

15 us.

16 Q. Dry fiber?

17 A. Dry fiber is offered. And I could put

18 down offered. But I don't know of anybody who

19 actually is using dry fiber out here.

20 Q. And internet services?

21 A. We do offer internet services and

22 subscribers are using ADSL or internet services.

23 I don't know that the County can offer that right

24 now.

25 Q. Okay.

1           A.    They haven't been able to, because I've  
2    been contacted in the past to be told that it  
3    wasn't available.

4           Q.    Now, for each of those services that  
5    you've listed in there, can you tell me by service  
6    if it is considered a shared tenant service? And  
7    if they are all shared tenant services, you can  
8    tell me they are all shared tenant services.

9           MR. GOLDBERG:  Objection to the form  
10   of the question, number one.

11                  Number two, calls for a legal  
12   conclusion to the extent that shared  
13   tenant service is a defined term under the  
14   Florida statute.

15                  Three, there's a lack of foundation  
16   laid that he has knowledge to answer that  
17   question.

18                  And four, again, it's outside the  
19   scope of the Notice of Deposition.  You  
20   can ask about similar services, but not  
21   what the similar services constitute under  
22   the law.

23                  You fully exhausted shared tenant  
24   services with Miss Sims.

25           Q.    You can answer.

1           A. To the extent of saying that they're  
2 services that are offered by BellSouth?

3           Q. No. To the extent of can you identify,  
4 since you've now laid out for me all the services  
5 that BellSouth offers and you've now stated in  
6 your chart whether or not the County offers it, or  
7 you don't know if the County offers it, I'm asking  
8 you for each of those services, because they came  
9 under the initial heading when you laid them out  
10 as telecommunications services, I'm asking you for  
11 each service, would that service also be  
12 considered a shared tenant service?

13           MR. GOLDBERG: Same objection. You  
14 can answer.

15           A. Yes. I believe that they are.

16           Q. All of them?

17           A. All of them.

18           Q. You've also stated earlier in the  
19 deposition that certain services were provided by  
20 BellSouth at different periods of time for each  
21 service.

22           If you know, can you provide me with the  
23 date, approximately what year that service was  
24 being provided, commenced to be provided at the  
25 airport?

1           A.    That I would only know by looking at the  
2 tariffs.

3           MR. HOPE:  Let me take that and mark  
4 that.  We'll mark this as Plaintiff's  
5 Exhibit D, which is a handwritten chart of  
6 similar services provided by BellSouth and  
7 Miami-Dade Aviation Department, as known  
8 to George Hill.

9           MR. GOLDBERG:  Fair enough.  
10           (Thereupon, Similar Services Chart was marked  
11 as Plaintiff's Exhibit D for Identification.)

12          A.    Can I add one more to the list?

13          Q.    Sure.

14          A.    It's Metro Ethernet.  We do offer it.  I  
15 don't know that the County offers it.

16          MR. GOLDBERG:  Have you gone down the  
17 County's side?  He may have skipped over  
18 some.  Just for a complete record.

19          THE WITNESS:  I know both of us, just  
20 the MDAD, I know that we both offer voice.  
21 I know that we both offer data services.  
22 I don't know that the County offers high  
23 speed, what we determine to be the higher  
24 speed services, smart rings, video fiber,  
25 dark fiber, dry fiber, ADSL, internet, or

1 Metro Ethernet services.

2 Q. So you don't know whether or not the  
3 County offers those services?

4 A. I'm fairly certain that they do not  
5 offer smart rings and the higher speed services.  
6 They may offer the high speed. Although, like I  
7 said, I've been contacted in the past about that.  
8 And the fiber I'm not certain of.

9 Q. Now, this list which is made up,  
10 Plaintiff's Exhibit D, consists of services that  
11 you know of that are offered at Miami  
12 International Airport?

13 A. Yes.

14 Q. Do you know whether or not this list is  
15 also the list of services, at least from  
16 BellSouth's perspective, that are offered at the  
17 general aviation networks?

18 A. Yes.

19 Q. So is it fair to say that these services  
20 that you have here are provided by BellSouth at  
21 both Miami International Airport and the County's  
22 general aviation airports?

23 A. Yes.

24 Q. And the statements that you've made as  
25 to which services you're not sure the County

1 provides, is it fair to say that that is true for  
2 their provision of the services at both Miami  
3 International Airport and the general aviation  
4 airports?

5 A. I can only speak about the Miami  
6 Airport. I don't have knowledge of the other  
7 airports.

8 Q. Okay.

9 MR. GOLDBERG: I hate to interrupt  
10 again, but do you mind if he signed and  
11 dated that before it gets marked? Thank  
12 you.

13 Q. Just to close the loop on at least this  
14 subset of questions, is it fair to say that in  
15 answer to the question of documents which support  
16 the part of the allegation that states "has been  
17 providing such service at all times relevant  
18 subject to regulation by the Florida Public  
19 Service Commission," you're still referring to  
20 either billing invoices for services or internal  
21 BellSouth databases?

22 A. Yes.

23 Q. Let me present to you what's going to be  
24 marked as Defendant's 11, which is request for  
25 proposals for the non-exclusive telecommunications

1 and network management services agreement, RFP  
2 MDAD 04-01.

3 (Thereupon, Request for Proposals, RFP MDAD  
4 04-01, was marked as Plaintiff's Exhibit  
5 11 for Identification.)

6 Q. Let me also present to you what's going  
7 to be marked as Defendant's 12, which is just the  
8 executive summary portion of the response to the  
9 request for proposal RFP MDAD 04-01 provided by  
10 SITA.

11 (Thereupon, Executive Summary Report was  
12 marked as Plaintiff's Exhibit 12 for  
13 Identification.)

14 Q. The last thing I'll hand to you is  
15 what's going to be marked as Defendant's 13, which  
16 is Resolution R-33-04, which is a resolution  
17 relating to telecommunications data network and  
18 shared airport tenant services at Miami-Dade  
19 County Airport System Facilities and award in  
20 execution of non-exclusive management agreement  
21 with NexteraOne, LLC, for a five year period. And  
22 it states that this resolution was the resolution  
23 awarding the successful proposer under RFP MDAD  
24 04-01.

25 (Thereupon, Resolution R-33-04 was marked as

1 Defendant's Exhibit 13 for Identification.)

2 MR. GOLDBERG: Who was the successful  
3 proposer?

4 MR. HOPE: NexteraOne.

5 Q. Have you previously seen Defendant's  
6 Exhibit 11?

7 A. Which is the request for proposals?

8 Q. Correct.

9 A. I have seen part of it, I believe.

10 Q. Do you remember offhand which part of it  
11 you saw?

12 A. If it's in the book, I saw it.

13 No. I haven't seen the request for  
14 proposals before.

15 Q. I'm not going to ask you to go through  
16 and analyze it --

17 MR. GOLDBERG: Thank you.

18 Q. -- it's probably about a 50 page  
19 document.

20 But I am going to ask you to turn to  
21 Section 2.0, general scope of services, which is  
22 on what's been marked at ITP page 19.

23 A. Um-hum.

24 Q. Then I'm going to ask you to turn in  
25 Defendant's 20, which is the executive summary of

1 SITA's proposal, to the second page, which starts  
2 number three, executive summary.

3 MR. GOLDBERG: That's Exhibit 12, I  
4 believe, instead of 20, which I believe  
5 you referenced.

6 MR. HOPE: Exhibit 12.

7 Q. Now, if you look at the executive  
8 summary, this proposal was put together by SITA.  
9 It's a French company. I forgot what the acronym  
10 stands for. Under SITA's proposal, it had  
11 BellSouth, Cisco Systems, H&D Electric, IBM,  
12 Nortel Networks and Rockefeller Group  
13 Telecommunications Services as either co-bidders  
14 or subcontractors under SITA's bid.

15 And in this executive summary page, it  
16 lays out in the middle of the page the  
17 responsibilities of all of the participants.

18 A. Um-hum.

19 Q. Based upon the section two, general  
20 scope of services, and comparing that to the  
21 responsibilities of the various team members in  
22 the executive summary, why is BellSouth only  
23 providing a portion of the required services if  
24 indeed, as you have stated, BellSouth provides as  
25 many shared tenant services, and in fact more

1 services than the County currently provides?

2 A. I can't answer what decision drove the  
3 partnership between these companies. What I do  
4 know of the RFP is that in the beginning of the  
5 RFP proposal -- and again, I have limited  
6 involvement with this because I'm on the regulated  
7 side of the house and this is a non-regulated  
8 issue. So I had an arm's length distance from  
9 this proposal. But what I was told from the  
10 beginning was that our company was pursuing it as  
11 a sole entity.

12 And then I didn't hear much about it  
13 until the very end. And in the very end, I was  
14 told that we were partnering. I mean, I even  
15 found out the bid submitted after the RFP had been  
16 submitted. So I don't know what decisions went  
17 into it.

18 We certainly can do -- we can do all  
19 this, to the best of my knowledge. I don't know,  
20 you know. To the best of my knowledge we could do  
21 it all, as far as I know. And I know that we  
22 entered into it as a single entity. That's what I  
23 know. What decisions were made, whether they were  
24 political or economical, I don't know.

25 Q. You just stated that you're on the

1 regulated side. I think you used the term  
2 regulated side of the house. And this was a  
3 non-regulated issue. What do you mean by that?

4 A. Certain services are tariffed and  
5 regulated by the Florida Public Service  
6 Commission.

7 Other services, maintaining equipment,  
8 maintaining customer equipment, or providing  
9 customer equipment, is on the non-regulated --  
10 it's on the non-regulated side of the house.

11 Q. Are you saying that the provision of  
12 these general scope of services under RFP MDAD  
13 04-01 are non-regulated services?

14 MR. GOLDBERG: Object to form. Lack  
15 of foundation.

16 A. What I'm saying is the work as it was  
17 laid out, since it is a maintenance contract on  
18 customers' equipment, it does not fall within the  
19 regulated side of the house.

20 Q. The second paragraph, which explains the  
21 work on page 19, lays out from A to P in terms of  
22 responsibility. Under G it speaks of managing the  
23 existing voice and data network infrastructure.  
24 Would that also be considered, as you just said,  
25 maintenance?

1 MR. GOLDBERG: Objection, form. Lack  
2 of foundation. And document speaks for  
3 itself.

4 But you can answer, if you understand  
5 the question.

6 A. I believe that it does, yes.

7 Q. How about I, which speaks to managing  
8 the turnkey installation of new voice key data and  
9 network service, user training on equipment,  
10 appropriate billing, and --

11 A. It's not maintenance. But again, it  
12 calls for the installation of customer owned  
13 equipment.

14 Q. How about L, system design?

15 A. That would also be design of customer  
16 owned equipment.

17 Q. How about P, any other functions  
18 relating to the provisioning of the services?

19 A. That would also lie -- it would also  
20 have to do with customer based equipment.

21 Q. Okay.

22 A. Customer owned equipment.

23 Q. Okay. Who at BellSouth, if you know,  
24 could speak to the business decision as to why  
25 BellSouth under this RFP decided to be a

1 subcontractor instead of the sole bidder?

2 A. I would think it would be the marketing  
3 department.

4 Q. What position did you hold around 1994,  
5 1995?

6 A. Engineer.

7 Q. As an engineer, would you have been  
8 involved with any discussion as to the provision  
9 of services at MIA, or the County's provision of  
10 services at MIA?

11 A. I would have been involved in providing  
12 the facilities.

13 Q. I'm going to walk you through some  
14 documents. First, I'll ask you whether or not  
15 you've seen it to determine whether or not we even  
16 need to proceed.

17 So before I even go through the process  
18 of marking, let me show you that letter and ask  
19 you whether or not you've either seen it or have  
20 any knowledge of the discussion in the letter. If  
21 not, then --

22 A. No. I have no knowledge and I've never  
23 seen this letter.

24 MR. GOLDBERG: Do you think we can  
25 still mark them, just so there's a record?

1 MR. HOPE: I just want to mark what  
2 we're going to discuss.

3 MR. GOLDBERG: But if you're going to  
4 show him a document, it's part of his  
5 testimony under oath as to whether he has  
6 knowledge or not knowledge in order to  
7 have a complete record.

8 MR. HOPE: You're absolutely right.

9 We're up to 14. Defendant's 14 is  
10 going to be a letter dated September 20th,  
11 1994, from J. Phillip Carver, who is  
12 general attorney for BellSouth  
13 Telecommunications, Inc. to Dan Paul, Esq.  
14 (Thereupon, September 20, 1994 Letter was  
15 marked as Defendant's Exhibit 14 for  
16 Identification.)

17 A. I have --

18 Q. Go ahead.

19 A. I have seen this document.

20 Q. You have seen the letter?

21 A. I have seen the letter earlier.

22 Q. When you say earlier, what do you mean?

23 A. Earlier today.

24 No, not this one. I don't remember this  
25 document. I'll just leave it at that.

1 Q. I'm confused. Have you seen it or have  
2 you not seen it?

3 A. I don't think I have seen this document.

4 Q. Do you know whether or not Mr. Carver is  
5 still with BellSouth?

6 A. I have not heard his name in a long  
7 time.

8 Q. Do you know anyone in BellSouth who  
9 might have knowledge of this document?

10 A. I do not personally, no.

11 Q. Let me show you what is going to be  
12 marked as Defendant's Exhibit 15, which is a  
13 letter dated March 28, 1994, from J. Phillip  
14 Carver, General Attorney of BellSouth  
15 Telecommunications, Inc., to Thomas P. Abbott,  
16 Assistant County Attorney at the aviation  
17 department.

18 (Thereupon, March 28, 1994 Letter was marked  
19 as Defendant's Exhibit 15 for  
20 Identification.)

21 Q. Can you read that letter and tell me  
22 whether or not you've ever seen this letter?

23 A. I haven't ever seen this letter.

24 Q. Although you haven't seen this letter,  
25 can you turn to page two, please?

1 A. Um-hum.

2 Q. And read the first sentence, which is  
3 five lines long, of that first paragraph on page  
4 two. Read it allowed.

5 A. The first sentence?

6 Q. Yes.

7 A. "As you are well aware, BellSouth has  
8 consistently taken the position that it is the  
9 responsibility of DCAD, as a provider of shared  
10 tenant type services, to provide to BellSouth at  
11 no charge support structures that are adequate to  
12 allow us to place our cable to have direct access  
13 to our customers."

14 Q. Given that you've never seen this letter  
15 before --

16 A. No, I have not.

17 Q. -- does the statement from BellSouth's  
18 former general attorney that you just read change  
19 your position that the County has only been  
20 offering shared tenant services since it purchased  
21 the equipment in 2002?

22 MR. GOLDBERG: Objection to the form  
23 of the question. Lack of foundation.

24 A. It's one letter. And I don't know what  
25 was going on at the time, so I can't answer. I

1 mean, to me, no.

2 Q. Okay.

3 A. From my knowledge.

4 Q. All right. Are you also stating that,  
5 based upon just reading that statement from  
6 BellSouth's former general attorney, that you  
7 can't make a determination?

8 MR. GOLDBERG: Objection. Asked and  
9 answered. Mischaracterizes his prior  
10 answer.

11 Q. There's still a pending question.

12 A. I'm sorry. The question is?

13 MR. HOPE: Read it back, please.

14 (Thereupon, the requested portion of the  
15 record was re-read by the Court Reporter.)

16 MR. GOLDBERG: Same objection.

17 A. I don't know what the circumstances were  
18 back then at that time.

19 Q. Does BellSouth provide  
20 telecommunications services to the Miami-Dade  
21 Aviation Department?

22 A. Yes, we do.

23 Q. What telecommunications services does  
24 BellSouth provide to the Miami-Dade Aviation  
25 Department?

1 MR. GOLDBERG: Objection. Outside  
2 the scope of the noticed deposition.

3 A. I'm not sure. A list could be obtained  
4 from marketing. I don't know of the exact  
5 services.

6 Q. Do you have any knowledge of whether or  
7 not the Miami-Dade Aviation Department pays for  
8 these services from BellSouth?

9 A. Yes, I believe they do.

10 Q. Does BellSouth provide dial tone to the  
11 Miami-Dade Aviation Department?

12 A. I know that they provide trunking lines  
13 for the switch. I know that we provide smart ring  
14 to the County. But as to whether or not we  
15 provide direct dial tone, I can't answer that.

16 Q. Who at BellSouth would know whether or  
17 not BellSouth Telecommunications provides direct  
18 dial tone to Miami-Dade Aviation Department?

19 A. That would go back to the marketing  
20 department. Types of services.

21 Q. Is the Miami-Dade Aviation Department a  
22 customer of BellSouth?

23 A. Yes, it is.

24 Q. Would you happen to know how long the  
25 Miami-Dade Aviation Department has been a customer

1 of BellSouth?

2 A. No, I do not.

3 Q. Would that also be something that  
4 someone in marketing might be able to tell us?

5 A. They might have the records on that.

6 Q. Would you know whether or not Miami-Dade  
7 County, not the Aviation Department, but  
8 Miami-Dade County is a customer of BellSouth?

9 A. I believe that they are.

10 Q. You stated before that you know that  
11 BellSouth provides trunking lines for the switch  
12 to Miami-Dade County?

13 A. Um-hum.

14 Q. What does that mean?

15 A. It's a path to get services from the  
16 switch back to our central office.

17 Q. By central office, is that the airport  
18 office that you were speaking of?

19 A. Yes, that's correct.

20 Q. Just so I understand, once the services  
21 come back, come from the switch back to the  
22 airport office, what happens then? Then it can go  
23 out to access the public network?

24 A. It can get passed on to another central  
25 office, or it can get switched within the airport

1 wire center.

2 Q. Let me show you what's going to be  
3 marked as Defendant's Exhibit 16, which is an  
4 e-mail from Elena Cordal to Tito Gomez dated  
5 Wednesday, July 31st, 2002. And the subject is  
6 Miami-Dade Aviation North Terminal Bid.

7 (Thereupon, July 31st, 2002 E-Mail was marked  
8 as Defendant's Exhibit 16 for  
9 Identification.)

10 Q. Have you ever seen this e-mail before?

11 A. No, I have not.

12 Q. Let me show you what's going to be  
13 marked as Defendant's 17. It is a document dated  
14 April 12, 2002, which consists of minutes, and the  
15 subject is discuss BellSouth participation in POP  
16 at MIA.

17 (Thereupon, April 12, 2002 Minutes were  
18 marked as Defendant's Exhibit 17 for  
19 Identification.)

20 Q. Ready?

21 A. Um-hum.

22 Q. Have you seen these minutes previously?

23 A. Yes, I have.

24 Q. In fact, you were one of the attendees  
25 at this meeting?

1 A. That's correct, um-hum.

2 Q. Under the minutes item number three it  
3 states "BellSouth stated that the potential issue  
4 with the County Charter is whether or not MDAD can  
5 provide dial tone."

6 Can you tell me what was discussed at  
7 this meeting about item number three?

8 A. It was discussed -- I mean, the issue  
9 was whether they could provide dial tone off the  
10 switch and compete with us providing dial tone to  
11 customers.

12 Q. Was there any resolution to this at this  
13 meeting?

14 MR. GOLDBERG: Objection. Document  
15 speaks for itself.

16 A. It was brought up that there was a  
17 conflict between the County charter and the County  
18 providing dial tone.

19 Q. Who brought up the issue?

20 A. I'm not sure who at the meeting actually  
21 raised it. I can't remember who actually raised  
22 the issue. I just know it was brought up at the  
23 meeting.

24 Q. If you know, either from this meeting or  
25 subsequent meetings, was there any further

1 discussion amongst BellSouth as to the potential  
2 violation of the County charter if MDAD provided  
3 dial tone?

4 MR. GOLDBERG: Let me instruct you,  
5 George, that you can answer that question  
6 only to the extent if you have knowledge  
7 of any of the discussions, please tell  
8 him. But do not disclose any discussions  
9 that you had with any of BellSouth's  
10 attorneys.

11 So with that instruction, I'd like  
12 you to answer the question.

13 A. There were discussions.

14 Q. Outside of these, there were discussions  
15 with people other than your attorneys?

16 A. No.

17 Q. The discussions that you're speaking of  
18 were just with your counsel?

19 A. Um-hum.

20 Q. Okay. Are you aware of any discussions  
21 not with your counsel which specifically laid out  
22 why the provision of dial tone would violate the  
23 County charter?

24 MR. GOLDBERG: Objection to the form  
25 of the question.

1 A. I don't remember at this point.

2 Q. Would there be anyone else who is listed  
3 as an attendee from the BellSouth side who might  
4 have information about this issue?

5 A. I don't know. Maybe Tito Gomez would be  
6 the one on the list that I would think.

7 Q. If you know, do you remember the  
8 discussions outlined under item four where it  
9 says, "Mr. Gomez stated that the April 5th letter  
10 says that if MDAD charges the same as it would  
11 cost BellSouth to provide the conductivity, there  
12 is no issue"?

13 A. That was in regard to using the POP  
14 cabling. That is what that directly had to do  
15 with. Which falls within the PSC mandate. We  
16 could be charged no more than it would cost for us  
17 to make it ourselves.

18 Q. And under issue eight, "Mr. Gomez stated  
19 that there's another issue pertaining to MDAD  
20 providing dial tone to other than County  
21 personnel." Is that basically the same issue as  
22 issue five?

23 A. Well, let me go back to issue five.

24 MR. GOLDBERG: Five or four?

25 Q. I'm sorry. Actually, I'm referring to

1 item three.

2 A. I believe that had to do -- well, let me  
3 read it again.

4 You're asking me which one?

5 Q. Eight is really relating to three?

6 MR. GOLDBERG: Objection to lack of  
7 foundation and document speaks for itself.

8 You can still answer.

9 A. I'm not sure whether it had to do with  
10 the POP, or whether it had to do with number  
11 three. I'm assuming it's number three.

12 Q. Let me present to you what's going to be  
13 marked as Defendant's Exhibit 18, which is an  
14 e-mail dated August 4th, 1999, from Brett Shinn to  
15 Tito Gomez, Dave Daucanski, John Zimmer, Manne  
16 Strand and Eduardo Gonzalez. The subject is  
17 Miami-Dade Aviation.

18 MR. GOLDBERG: Let me just make a  
19 record here, an objection, but a  
20 representation.

21 One, the document you presented,  
22 Exhibit 18, is a composite. It appears to  
23 be two or three unrelated -- at least two  
24 unrelated documents, possibly three, but  
25 they're stapled together.

1 I just want to make the record clear.  
2 The first is from a time frame of 1999.  
3 The second is from a time frame of 1999,  
4 two weeks later. And the third document  
5 is from 2002.

6 MR. HOPE: Actually, you can pull off  
7 the third because that's not supposed to  
8 be part of this.

9 If you can look at the Bates stamp  
10 sequence, it's not related to these two.

11 So the exhibit should just be the  
12 first two e-mails with the dates that  
13 Mr. Goldberg just stated.

14 (Thereupon, 8/4/99 and 8/23/99 E-Mails were  
15 marked as Defendant's Exhibit 18 for  
16 Identification.)

17 Q. Ready?

18 A. Um-hum.

19 MR. GOLDBERG: Let me just make a  
20 record.

21 The document that was just taken off  
22 after the exhibit was marked was PST  
23 19739. E-mail from Nancy Sims to Tito  
24 Gomez dated September 18, 2002.

25 I'll leave it at that. Thank you.

1 Sorry to interrupt.

2 MR. HOPE: Not a problem. You helped  
3 me.

4 Q. Have you previously seen this chain of  
5 e-mails?

6 A. No, I have not.

7 Q. Who is Brett Shinn?

8 A. I don't even know who Brett Shinn is. I  
9 haven't heard that name before.

10 Q. Let me present to you what's going to be  
11 marked as Defendant's 19, which is a cover e-mail  
12 from George Hill, dated Friday, September 26,  
13 2003, to Pedro Garcia who is the Chief of  
14 Telecommunications at Miami-Dade Aviation  
15 Department. And attached to it is the printout of  
16 the e-mail attached document, which was a term  
17 sheet consisting of seven pages.

18 (Thereupon, September 26, 2003 E-Mail was  
19 marked as Defendant's Exhibit 19 for  
20 Identification.)

21 Q. Ready?

22 A. Ready.

23 Q. Have you seen this document?

24 A. I've seen this document.

25 Q. Can you please tell me what this

1 document is and what it relates to?

2 A. This is a document that was drawn up to  
3 be entered into between BellSouth and MCAD to use  
4 the MDAD cabling system as our own, basically as  
5 our own, from the POP location, the main  
6 distribution frame, all the way out to the  
7 customer demarcation point.

8 Q. Was this proposed term sheet eventually  
9 executed?

10 A. No, it was not. It still has not been.

11 Q. Are there still discussions between  
12 BellSouth and Miami-Dade Aviation Department?

13 A. Yes, there are.

14 Q. Over this issue?

15 A. Yes, there are.

16 Q. Is there a later version or more current  
17 version of this term sheet that was attached dated  
18 July, 2003?

19 A. Yes, there is.

20 Q. Do you happen to know the most current  
21 version of the term sheet?

22 A. I don't remember right off the top of my  
23 head.

24 Q. This underlying agreement, when and if  
25 executed between Miami-Dade Aviation Department

1 and BellSouth, does that fall back to the whole  
2 pricing and BellSouth not being able to be charged  
3 more by the County than what it would cost them to  
4 run its own cable?

5 A. That's correct.

6 Q. Do you know what's holding up the  
7 execution of this agreement?

8 A. Right now there are discussions about  
9 not going down this route, not executing the  
10 agreement, and having business as usual.

11 Q. Are those discussions County generated,  
12 meaning the County is saying business as usual; or  
13 BellSouth generated, meaning BellSouth is saying  
14 continue with business as usual?

15 A. Based on a meeting held several weeks  
16 back, the County had decided that maybe this was  
17 not what they wanted to do.

18 Q. How often does BellSouth have meetings  
19 with the County pertaining to terminal issues?

20 A. There were weekly meetings with the  
21 engineers for quite a while.

22 Q. Are there also regular meetings that  
23 BellSouth has with Miami-Dade aviation personnel  
24 for other projects going on at Miami International  
25 Airport?

1           A.    It's on an as-needed basis.  It depends.  
2           Depends on the project.

3           Q.    When you are talking about the various  
4           projects that might exist at Miami International  
5           Airport, are these projects things that if there's  
6           an agreement, the County would pay BellSouth to  
7           install some facilities or build some type of  
8           facilities based on the project?

9           A.    Could you -- I didn't follow your  
10          question.

11          MR. GOLDBERG:  Before you answer the  
12          question, a couple of objections.

13          Number one, I object to the form of  
14          the question.  But more importantly, with  
15          due respect, I don't see how this area,  
16          again, is within the Notice of Deposition  
17          of similar services.

18          You're asking about projects between  
19          BellSouth and the County that have nothing  
20          to do with commercial tenants at MIA,  
21          which is actually the subject of the  
22          Notice of Deposition.

23          MR. HOPE:  But I don't know if they  
24          do, because the facilities are what supply  
25          the service to commercial tenants.

1           So if BellSouth or the County is the  
2           one that builds the facility, that tells  
3           me whether that's a similar service. The  
4           building of the facility, the pulling of  
5           the cable, the installation of the  
6           conduit. That's why I'm asking the  
7           question.

8           MR. GOLDBERG: My objection still  
9           stands. It's outside the scope.

10          You can answer the question.

11          A. This agreement addressed north terminal  
12          development. That was the only project that the  
13          agreement covered.

14          Every outlying area, every other area  
15          other than the footprint of the north terminal  
16          development was to be cabled out by BellSouth for  
17          the facilities that BellSouth required. And MDAD  
18          would likewise place their own facilities for  
19          their needs.

20          Q. When you say that it would be cabled out  
21          for BellSouth, who would pay for that? Is that a  
22          charge that would be incurred by the County  
23          because it's going on on County property?

24          A. If it is a new area being built at the  
25          airport, there was nothing there before, then

1 BellSouth pays for that as --

2 Q. Cost of doing business?

3 A. More or less.

4 In order to have the facilities there to  
5 provide it to the subscribers.

6 Q. What if it's an existing facility?

7 A. If it's an existing facility that we've  
8 been requested by the County to modify those, then  
9 we do bill based on special construction charges  
10 based on the PSC.

11 Q. Thank you.

12 Let me show you what's going to be  
13 marked as Plaintiff's 20, which is BellSouth  
14 feedback relative to Miami-Dade County Aviation  
15 Department proposal regarding Miami International  
16 Airport, dated April 5th 2002.

17 (Thereupon, April 5, 2002 Memo was marked as  
18 Plaintiff's Exhibit 20 for Identification.)

19 MR. GOLDBERG: Objection. This  
20 document is outside the scope of anything  
21 provided by -- this is the construction of  
22 the north terminal.

23 MR. HOPE: You don't think it is  
24 services provided in the north terminal?

25 MR. GOLDBERG: It's far removed from

1 any issue in this case about the provision  
2 of services, either by BellSouth and other  
3 local providers, or the County to the end  
4 user, being the commercial tenants in MIA.

5 Look at the Notice of Deposition.  
6 It's commercial tenants of MIA and other  
7 tenants.

8 MR. HOPE: Are there commercial  
9 tenants in north terminal? There are  
10 commercial tenants in north terminal. And  
11 commercial tenants that -- my question was  
12 going to be what was this document and  
13 whether or not it relates. You're jumping  
14 the gun.

15 MR. GOLDBERG: Fair enough. Go  
16 ahead.

17 Q. Have you seen this document?

18 A. Yes.

19 Q. Is this document one of the documents  
20 that goes back to the point of presence and  
21 whether or not BellSouth can pull its cables?

22 A. Yes.

23 Q. During the earlier deposition of Nancy  
24 Sims, the question was raised as to other airports  
25 in the State of Florida which are shared tenant

1 service providers. Would you have any information  
2 as to other airports in the State of Florida which  
3 are shared tenant service providers?

4 A. I have limited information of Orlando  
5 Airport.

6 Q. Who would be the person at BellSouth who  
7 could speak about Orlando International Airport?

8 A. I don't know who that one person would  
9 be.

10 Q. I'm not trying to exhaust your knowledge  
11 of Orlando, because you already said it's limited.  
12 Briefly, can you just paint for me what it is?

13 Do you know their telecommunications  
14 setup, or what's the extent of your limited  
15 knowledge?

16 A. I know that it is a lot of the -- it's a  
17 lot like what MIA is. You have a service provider  
18 within the airport and you have a non-regulated  
19 entity in the airport, and you have the regulated  
20 services of BellSouth side-by-side. Similar to  
21 Dade County down here and BellSouth being  
22 side-by-side.

23 Q. That's the extent? You don't know to  
24 whom Orlando might provide --

25 A. No.

1 Q. Or the services they get?

2 A. No. I was simply going up there to see  
3 what the physical layout of the facilities looked  
4 like.

5 Q. Did you actually go?

6 A. Yes, I did.

7 MR. HOPE: Have I no further  
8 questions.

9 CROSS-EXAMINATION

10 BY MR. GOLDBERG:

11 Q. Mr. Hill, let me just ask you a couple  
12 of follow-up questions. At least that I know of  
13 now, and I'll probably take a quick break and make  
14 sure I don't have any others.

15 Mr. Hope, during his questioning, asked  
16 you a series of questions about a bid process that  
17 occurred in 2004 to take over management of the  
18 STS operations being provided by the County in  
19 2004. Do you recall those questions?

20 A. Yes.

21 Q. He showed you some documents. He showed  
22 you some documents, particularly Exhibit 12, which  
23 was the Executive Summary, and laid out for you at  
24 the end of the day when the bid was made BellSouth  
25 was but one of a number of partners that came

1 together to bid to manage the operation; is that  
2 correct?

3 A. That's correct.

4 Q. Now, you testified that you had actual  
5 personal knowledge that during a good portion of  
6 time before the bid was actually made, BellSouth  
7 was contemplating bidding on this project as a  
8 sole entity without any other partners. Did I  
9 understand your testimony correctly?

10 A. That's correct.

11 MR. HOPE: Objection to form.

12 Q. Is that correct?

13 A. That is correct.

14 Q. As it relates to the provision of  
15 telecommunications services at this airport that  
16 the County is providing, does BellSouth have the  
17 experience and do they provide the same services  
18 in order to manage the County's operations in  
19 2004?

20 A. Yes, they do.

21 Q. To your knowledge, is that why BellSouth  
22 was contemplating bidding on this management  
23 project alone?

24 A. That was my understanding.

25 Q. Now, at the end of the day, we know that

1 there was a decision made, as you testified, to  
2 partner up with a number of other entities?

3 A. That's correct.

4 Q. Were you involved in that decision  
5 making process?

6 A. No, I was not.

7 Q. Can you testify as to why that decision  
8 was made to partner up with other entities?

9 A. No, I cannot.

10 Q. Would it be appropriate for one to argue  
11 or assume that because BellSouth, at the end of  
12 the day, was one of a number of partners who made  
13 the bid, that BellSouth does not provide similar  
14 services, or does not provide similar services to  
15 which the County is currently providing?

16 MR. HOPE: Objection to form.

17 Q. Do you understand the question, or do  
18 you want me to rephrase it?

19 A. Could you rephrase it.

20 Q. Is it appropriate or not appropriate for  
21 one to assume that just because BellSouth at the  
22 end of the day was one of a number of partners who  
23 made the bid, that they do not provide the same  
24 services or similar services that the County is  
25 currently providing out at the airport?

1 MR. HOPE: Objection to form.

2 A. It's not appropriate to make that  
3 assumption.

4 Q. And when Mr. Hope showed you what's  
5 marked as Exhibit 11, which is actually the RFP,  
6 or Request For Proposals, and pointed you to the  
7 scope of work at section 2.0 of that document, do  
8 you recall he asked a number of questions about  
9 the various sub-paragraphs of Section 2.0?

10 A. Yes, I do.

11 Q. Let me let you get there before I ask  
12 you any further questions.

13 Notwithstanding everything else we  
14 talked about on this issue, is it fair to say that  
15 the scope of work contemplated by this RFP was for  
16 management and maintenance of existing services  
17 being provided, rather than the provision of  
18 telecommunications services?

19 MR. HOPE: Objection to form.

20 A. Yes. That is correct.

21 Q. So am I correct in stating that this is  
22 not a request by the County to offer  
23 telecommunications services at the airport?

24 A. That is correct. It's my understanding  
25 this was for the maintenance agreement.

1 Q. Now, also in this deposition today  
2 Mr. Hope asked you a question about what documents  
3 support BellSouth's position that, as stated in  
4 the amended Complaint at paragraph 38, that  
5 BellSouth provides similar telecommunication  
6 services to commercial tenants at MIA and has been  
7 providing such services at all time relevant. Do  
8 you remember him asking you about what documents  
9 support that position?

10 A. Yes, I do.

11 Q. When you answered the question, were you  
12 interpreting the word documents to mean just  
13 BellSouth internal documents, or all documents in  
14 the world?

15 A. BellSouth documents.

16 Q. And when you interpret it as being  
17 BellSouth documents, is that why you answered -- I  
18 think can you refresh me -- was it billing  
19 invoices and something else?

20 A. And internal databases.

21 Q. Now, if I asked you to answer the same  
22 question again, but think about documents in a  
23 broad sense, not just BellSouth produced  
24 documents, are you aware of other documents that  
25 support BellSouth's position as it relates to

1 paragraph 38?

2 A. Yes, I do.

3 Q. In fact, in preparation for this  
4 deposition today, did you bring some of those  
5 documents and were they contained and marked in  
6 what has been identified as Plaintiff's Exhibit C?

7 A. Yes, they are.

8 Q. Do you have Plaintiff's Exhibit C in  
9 front of you?

10 A. Yes, I do.

11 Q. Let me ask you to turn to one of those  
12 documents. And obviously, the exhibit will be  
13 entered into the record.

14 But if I could ask you to turn to one of  
15 the documents that you brought, the deposition of  
16 Pedro Garcia.

17 A. Yes. That is correct.

18 Q. Dated May 21, 2003.

19 A. Yes.

20 Q. If I could ask you to turn to page 53 --

21 A. Yes.

22 Q. -- of that transcript.

23 First off, do you know who Pedro Garcia  
24 is?

25 A. Yes, I do. He's the Chief of

1 Telecommunications at Miami-Dade Aviation  
2 Department.

3 Q. He is actually a County employee,  
4 correct?

5 A. That's correct.

6 Q. This was a deposition taken under oath  
7 of Mr. Garcia in this case; is that correct?

8 A. That's correct.

9 Q. And on page 53, beginning at line 18,  
10 was the following question -- I'm going to read  
11 this to you and ask you if I read correctly from  
12 his deposition the questions being posed to  
13 Mr. Garcia and the answers given by him.

14 Question: Correct me if I'm wrong,  
15 we've already gone through the fact that  
16 apparently it may not be the exact same service,  
17 but BellSouth, for example, offers similar  
18 services to tenants at the airport?

19 Answer: We provide services to the  
20 tenants of the airport, which is the County owned  
21 facility.

22 Question: I'm just asking if BellSouth  
23 offers similar services to those tenants?

24 Answer: Yes, they do.

25 Did I read Mr. Garcia's testimony under

1 oath correctly?

2 A. Yes, you did.

3 Q. Does Mr. Garcia's testimony under oath  
4 in this case support BellSouth's allegation in the  
5 Second Amended Complaint contained at paragraph  
6 38?

7 A. Yes, it does.

8 Q. Let me next ask you to turn to another  
9 document that you brought with you and included in  
10 Plaintiff's Exhibit C. That is the non-exclusive  
11 telecommunications, data network, and shared  
12 airport tenant services agreement, dated February  
13 1st of 2002.

14 A. Yes.

15 Q. On the second page -- actually, page  
16 five of that document, which is 98 pages but we  
17 have just page five in the notebook, does it  
18 define shared airport tenant services in the  
19 agreement between the County and NextiraOne?

20 A. Yes, it does.

21 Q. And can you read that definition for me  
22 please?

23 A. Sure. It says shared airport tenant  
24 service, SATS. And it says, "The provision of  
25 service which duplicates or competes with local

1 service provided by an existing local exchange  
2 telecommunications company and is furnished  
3 through a common switching or billing arrangement  
4 to tenants by an entity other than an existing  
5 local exchange telecommunications company."

6 Q. So this is a definition contained within  
7 an agreement that was signed off and executed by  
8 the County, correct?

9 A. That's correct.

10 Q. So in the County's own documents, does  
11 it say that if they were providing shared airport  
12 tenant services, they are duplicating services  
13 provided by other local exchange  
14 telecommunications companies?

15 A. That's correct.

16 Q. Are you aware that further back in this  
17 lawsuit the County has admitted that they are a  
18 shared airport tenant service provider?

19 A. Yes. That is correct.

20 Q. Did you actually bring with you the  
21 answer that the County provided in this case --  
22 that is Tab C -- where they admit that they are  
23 STS providers?

24 A. Yes, I do.

25 Q. Now, let me ask you to turn to the work

1 orders contained in the notebook.

2 A. Okay.

3 Q. And ask you, can you explain what this  
4 document is?

5 A. This is a work detail, or a subscriber  
6 request for telecommunications.

7 Q. Is this a County document or BellSouth  
8 document?

9 A. This is a County document.

10 Q. Does it contain notes that the County  
11 put on this document related to one of their  
12 customers?

13 A. Yes, it does.

14 Q. And what, in summary, does the note say?

15 A. It says that the order was cancelled  
16 because the customer opted to use BellSouth.

17 Q. So can you conclude from reading this  
18 document, and based on your knowledge, that  
19 because a customer opted to use BellSouth, that  
20 BellSouth was offering and/or providing similar  
21 services to those the County was providing at the  
22 time this document was created?

23 MR. HOPE: Objection to form.

24 A. That would be my conclusion.

25 Q. Let me also ask you to turn to the next

1 document contained in that notebook, and again to  
2 discuss documents that support the position in  
3 paragraph 38 of the Amended Complaint.

4 Is this document an operational  
5 directive formulated by the County as it relates  
6 to the provision of shared tenant services here at  
7 the Miami International Airport?

8 A. Yes, it is.

9 Q. And in 1C, the background section of the  
10 policy directive, does the aviation department --  
11 does the County state what its overall goal  
12 is with respect to providing telecommunication  
13 services here at the Miami International Airport?

14 A. Yes, it does.

15 Q. Can you read into the record at C what  
16 their goal is with respect to that issue?

17 A. It says, "The MDAD management goal is to  
18 provide better service at lower rates than the  
19 existing provider, or any other commercial  
20 service provider."

21 Q. If it's MDAD management's goal to  
22 provide better service than the existing provider,  
23 can every reasonable person conclude that MDAD is  
24 providing similar services to those services  
25 either BellSouth or other any other local exchange

1 carrier is providing here at the airport?

2 MR. HOPE: Objection to form.

3 A. That would be my conclusion.

4 Q. Since there was an objection to form,  
5 let me just ask you, do you conclude that because  
6 it's MDAD's goal to provide better service than  
7 the existing providers, that they are offering  
8 similar services to BellSouth or any other  
9 providers here at the airport?

10 A. That would be my conclusion.

11 Q. Let me also go to the second page of  
12 that document. If you look at IV, where it says  
13 policy, can you read the first sentence there,  
14 please.

15 A. It says policy. "Tenants may elect to  
16 use MDAD services provided at comparable service  
17 commercial rate."

18 Q. When it says tenant may elect to use  
19 MDAD services --

20 MR. HOPE: I think you left out the  
21 word below.

22 THE WITNESS: Oh.

23 Q. So let me ask you, does it state  
24 "Tenants may elect to use MDAD services at below  
25 comparable service commercial rates"?

1 A. Yes, it does.

2 Q. Does that statement further support the  
3 position that MDAD is offering services similar to  
4 those services being offered by BellSouth or any  
5 other telecommunication providers?

6 A. Yes.

7 MR. HOPE: Objection to form.

8 Q. And when I've used the word offer in my  
9 question, would you also agree that offer could be  
10 synonymous with the word supplied, services that  
11 are being supplied here at the airport?

12 MR. HOPE: Objection to form.

13 A. Yes.

14 Q. Now, I haven't gone through all the  
15 documents in this notebook, correct, that you  
16 brought with you?

17 A. That's correct.

18 Q. Was it your intention by bringing this  
19 notebook that the documents contained in the  
20 notebook would also be incorporated into your  
21 testimony and offered at this deposition in  
22 support of BellSouth's allegation at paragraph 38,  
23 the Second Amended Complaint?

24 A. Yes. That's correct.

25 MR. GOLDBERG: Do you think I could

1 have a five minute break?

2 MR. HOPE: Sure.

3 (Recess in the proceedings.)

4 MR. GOLDBERG: Thank you for the  
5 opportunity to break so I could check my  
6 notes, David. I do not have any further  
7 questions at this time.

8 REDIRECT EXAMINATION

9 BY MR. HOPE:

10 Q. I just have a couple.

11 Let me show you what's been marked as  
12 Defendant's Exhibit 9, which is a copy of the  
13 Amended Home Rule Charter. Did I already give  
14 that to you earlier?

15 A. I don't think so.

16 Q. I'm going to turn you to, since there  
17 are discussions about similar service, it refers  
18 to the Homeland Charter.

19 I'm directing you to page 18,  
20 sub-paragraph B, which is basically the clause  
21 that is at issue in the lawsuit. Can you go ahead  
22 and just read the first sentence?

23 A. Sure.

24 MR. GOLDBERG: Before he does that,  
25 to the extent that this is a new area on a

1 new document that was not the subject of  
2 my cross-examination, I'm going to put an  
3 objection on the record. It's outside the  
4 scope and should not be allowed.

5 MR. HOPE: Just to respond, it's a  
6 document that has already been entered and  
7 I can refer back to a document if you on  
8 your cross have referred to it. I'm  
9 talking about similar services, which is  
10 referred to in the charter, which is why  
11 he's here today.

12 MR. GOLDBERG: Maybe you can help  
13 refresh my memory. Did you show him  
14 previously in his deposition Exhibit 9,  
15 the charter?

16 MR. HOPE: I don't remember whether I  
17 previously showed him Exhibit 9. But  
18 since he's one of the corporate reps that  
19 I have already entered this document to  
20 talk about the charter, and you've been  
21 talking about it, he's specifically  
22 talking about similar services, and you  
23 brought it up just now, I should be able  
24 to point to the charter section and go  
25 back to the transcript.

1           And that's why I'm bringing this in  
2           of what you referred him to, which deals  
3           with similar services and the section of  
4           the charter.

5           MR. GOLDBERG: My objection still  
6           stands. You stated your position. Let's  
7           just go forward.

8           Q. Can you just read the first sentence of  
9           Sub-Section B.

10          A. "The County shall not operate a light,  
11          power, or telephone utility to serve any territory  
12          in the County which is being supplied with similar  
13          service, except by a majority vote of those  
14          qualified electors voting in an election held not  
15          less than six months after the Board has passed an  
16          ordinance to that effect by a two-third vote of  
17          the members of the Board present."

18          Q. And then there's the second sentence,  
19          which talks about what the parameters are of what  
20          should be in that ordinance.

21                 Now, you're here today talking about  
22          similar services based upon the overall allegation  
23          that BellSouth provides similar services in the  
24          territory served by the County; is that correct?

25          A. Yes. That's correct.

1 Q. And you were asked by your counsel to  
2 refer to the deposition of Pedro Garcia. And it  
3 was read to you from page 53 to 54, where  
4 Mr. Garcia was asked some questions about similar  
5 services. And you agreed that that is what the  
6 transcript said and that you had reviewed that  
7 document previous to this deposition; is that  
8 correct?

9 A. That is correct.

10 Q. Now, let me continue what was the line  
11 of questioning, so that there is a complete  
12 question and answer, and ask you if that is also  
13 what you read.

14 Does it not continue after the last  
15 portion which your counsel read, which was yes,  
16 they do, Question: And is the airport a territory  
17 in the County?

18 Answer: The airport is a County owned  
19 facility. That is a legal interpretation. I  
20 don't believe we can consider the airport to be a  
21 territory. It's a County owned building or  
22 facility.

23 I'm not an attorney. But if you ask me  
24 my opinion, I would consider territory is a  
25 neighborhood, West Miami, Coral Gables; those are

1 territories. A County owned facility, I don't  
2 consider to be a territory. But that's my  
3 interpretation.

4 Question: Why not?

5 Answer: Why not? It's just the  
6 definition that -- the meaning that I attach to  
7 the word.

8 Question: What meaning do you attach to  
9 the word territory?

10 Answer: A territory is a more -- it's  
11 not something that you own. It's something that  
12 is owned collectively by other folks, collectively  
13 or independently, and there are certain amounts of  
14 legal control over that territory. But that  
15 is -- the Miami International Airport is an owned  
16 facility by the County. We don't own Coral  
17 Gables. The County doesn't own West Miami. But  
18 they own the Miami International Airport.

19 And if I could go further, I would  
20 probably say the intent of this was basically to  
21 reassure the utilities that we would not complete,  
22 we meaning Miami-Dade County, would not complete  
23 with them to provide services to neighborhoods and  
24 other neighborhoods that would be competing with  
25 them.

1 Does that correctly repeat what was in  
2 the deposition excerpt?

3 A. Yes. That's correct.

4 Q. Is this what you also reviewed and one  
5 of the documents that you said you considered when  
6 saying that BellSouth offers similar services that  
7 the County offers?

8 A. Yes. That's correct.

9 Q. Now, along the lines of --

10 MR. GOLDBERG: I'm sorry to  
11 interrupt.

12 Can I make a record that the lines  
13 you read were on page 54 and 55 of that  
14 deposition. Page 54, line three, through  
15 and including page 55, line 10.

16 MR. HOPE: That's fine.

17 Q. Now, you've also laid out and you've  
18 provided an exhibit -- I think it ended up being  
19 Plaintiff's Exhibit D, which was a handwritten  
20 matrix of services that BellSouth provides at  
21 Miami International Airport, and also the general  
22 aviation airports, and services that you believe  
23 the County supplied at Miami International  
24 Airport. And you stated you weren't sure whether  
25 they supplied those same services at the general

1 aviation airport. Do you remember that?

2 A. Yes. That's correct.

3 Q. Along the lines of those services, can  
4 you tell me whether or not BellSouth provides  
5 flight information display system services to show  
6 flight arrival and departure information?

7 A. We would not do that because that's not  
8 a telephone facility. We would provide the data  
9 lines which would carry those signals.

10 Q. Can you tell me whether or not BellSouth  
11 provides common use terminal equipment?

12 A. No, we do not. Because CUTE, as I  
13 understand it from looking on those websites that  
14 I looked up, is a hardware and software and  
15 peripheral computer system. It's not a  
16 telecommunications facility or service.

17 Q. Can you tell me whether or not BellSouth  
18 provides airport vision displays, which would be a  
19 system of dynamic signage used to display airport  
20 logos or any other type of logo or information?

21 A. We may provide lines to carry some of  
22 that. That would be the telephone facility part  
23 of that. But we would not provide those. They  
24 aren't telephone facilities or services.

25 Q. Were you complete?

1 A. Yes.

2 Q. I interrupted you.

3 A. I'm complete.

4 Q. Can you tell me whether or not BellSouth  
5 provides audible information systems which could  
6 be used for elevators or parking garages?

7 A. No. We don't provide those.

8 Q. Okay.

9 A. But again, I don't consider that to be a  
10 telephone facility.

11 Q. Could you tell me whether or not  
12 BellSouth provides communication mobile command  
13 vehicles, which would be mobile type vehicle  
14 equipment with landline telephones, satellite  
15 telephones, personal computers, radios, fax  
16 machines and equipment with a power generator to  
17 have to use in emergency communication situations?

18 A. We may provide some of the telephone  
19 facilities for that, such as the landline, but the  
20 vehicle itself would not be considered a  
21 telecommunications facility or equipment or  
22 service.

23 Q. Okay. Can you tell me whether or not  
24 BellSouth provides communication switching consuls  
25 which would be used as an interface between the

1 various radios and aviation department telephone  
2 switches to provide communications for either the  
3 landside operations or the Miami International  
4 Airport operation control room?

5 A. That might be provided by the  
6 non-regulated side of BellSouth.

7 Q. And last, can you tell me whether or not  
8 BellSouth could provide access to the Miami-Dade  
9 Aviation Department's security network?

10 A. Can you rephrase the question?

11 (Thereupon, the requested portion of the  
12 record was re-read by the Court Reporter.)

13 A. When you say provide access to, we may  
14 provide signals to or from some part of the  
15 airport for that. But I'm not sure that I  
16 understand the question.

17 Q. Can BellSouth provide -- there's an  
18 existing security network that Miami-Dade Aviation  
19 Department has. We can give people pass codes for  
20 them to access so the card reads they can enter,  
21 they can pull down information. Is that the type  
22 of thing that BellSouth can also provide access  
23 to?

24 A. We have provided facilities to go out to  
25 matrix card readers in the past.

1 Q. But how about specifically the  
2 Miami-Dade Aviation Department security network  
3 Net and Net 2?

4 MR. GOLDBERG: Objection to form.  
5 Asked and answered.

6 A. I'm not familiar with the exact system.  
7 I know we have been asked to get to locations to  
8 provide paths to provide those services. That  
9 would be access to it.

10 MR. HOPE: That's all the questions  
11 that I have.

12 Your counsel will give you the option  
13 of either to read your deposition or to  
14 waive reading.

15 MR. GOLDBERG: I have one follow-up  
16 question for you.

17 MR. HOPE: Do you actually get a  
18 follow-up?

19 MR. GOLDBERG: Yes. I objected that  
20 it's outside the scope and it's a hanging  
21 issue. I'm going to resolve the hanging  
22 issue so we don't have to litigate it.

23 RECROSS EXAMINATION

24 BY MR. GOLDBERG:

25 Q. Mr. Hope just read for you a number of

1 "products or services" and asked you if those are  
2 products or services that BellSouth provides,  
3 correct?

4 A. That's correct.

5 Q. And in the answer to a majority of those  
6 questions -- the record speaks for itself -- you  
7 said BellSouth doesn't provide it because they're  
8 not a "telecommunication service or facility;" is  
9 that correct?

10 A. That's correct.

11 MR. HOPE: Object to form.

12 Q. When you look at paragraph 38 of the  
13 Second Amended Complaint in this matter, which is  
14 why you're here for deposition and the issue that  
15 presents itself in this case, does it not say that  
16 BellSouth provides similar telecommunications  
17 services to commercial tenants at MIA and other  
18 airports? Is that correct?

19 A. That's correct.

20 Q. So all the products or items that  
21 Mr. Hope just reviewed with you are outside of  
22 what your testimony is and what BellSouth alleges  
23 as being telecommunications services; is that  
24 correct or not correct?

25 A. That is correct.

1 MR. HOPE: Objection to form.

2 Q. So from your standpoint, knowledge and  
3 experience, would those products, which included  
4 actually some cars, be considered in an analysis  
5 as to whether or not the County is providing  
6 similar telecommunications services to those  
7 supplied by BellSouth or any other providers here  
8 at the airport?

9 MR. HOPE: Objection to form.

10 A. No. They would not be considered.

11 MR. GOLDBERG: No further questions.

12 MR. HOPE: I just have one quick  
13 question and it's going to be over.

14 MR. GOLDBERG: For the record, I'm  
15 going to object to re-redirect.

16 MR. HOPE: Well, actually, if you get  
17 to -- it ends with me. So if you get to,  
18 based upon your outstanding objection, if  
19 you get to question him again, I get to  
20 question him again. Because you don't get  
21 to terminate the deposition when it's my  
22 deposition, and vice-versa.

23 MR. GOLDBERG: I completely disagree  
24 with your interpretation of the rules.  
25 Absolutely disagree.

1           This was an issue that I just  
2 followed up in questions that you asked  
3 that were beyond the scope of my original  
4 cross.

5           Just, the law does not allow you an  
6 additional opportunity to question a  
7 witness at a deposition simply because  
8 it's your deposition. You don't get to --

9           MR. HOPE: The law does allow me to  
10 requestion him after you question him.  
11 Just like when you first questioned him, I  
12 got to question him again.

13           Normally, the deposition would end  
14 then. You objected. You asked him a new  
15 series of questions. I get to ask him  
16 another question, if I choose, based upon  
17 that.

18           MR. GOLDBERG: The rules say you only  
19 get to ask him additional questions if I  
20 raise new areas or issues that you did not  
21 direct him on, question him on.

22           MR. HOPE: You just did.

23           MR. GOLDBERG: I did?

24           MR. HOPE: You raised the issue that  
25 the items that I asked him about, whether

1 or not those are considered shared tenant  
2 services. That's a new issue. And my  
3 question is going to be based upon that.

4 MR. GOLDBERG: That mischaracterizes  
5 what I said.

6 And I don't think I even used the  
7 term shared tenant services, quite  
8 frankly. I used the term he used in his  
9 testimony, which is telecommunications  
10 services or facilities or equipment. I  
11 did not, and the record will reflect this,  
12 use the term shared tenant services.

13 So if you are going to ask anything  
14 about shared tenant services, that further  
15 supports my objection and motion to strike  
16 that your questions are inadmissible.

17 MR. HOPE: That's fine.

18 REDIRECT EXAMINATION

19 BY MR. HOPE:

20 Q. My question is: Why do you consider a  
21 service such as common use terminal equipment for  
22 airlines to set up and relocate at different gates  
23 and access their specific information a  
24 non-telecommunications service?

25 A. You're talking CUTE?

1 Q. Yes.

2 A. CUTE is a hardware/software peripheral  
3 system. It's a computer system that is used by  
4 the airport for their arrivals and departures and  
5 other information. Check-in baggage. None of  
6 which has anything to do with telecommunications.

7 Now, the facilities that it may use to  
8 deliver the signal from one point to the other  
9 could use telecommunications facilities to do  
10 that. But the equipment itself is not a  
11 telecommunications system. It is a computer  
12 system.

13 Q. So your focus is that the end product,  
14 the CUTE itself, that termination point, isn't  
15 telecommunications. But what gets to that  
16 termination point, or what provides the  
17 information could be something that is  
18 telecommunications related?

19 Am I saying that correctly?

20 A. Yes. The path, yes. Which either one,  
21 either BellSouth or MDAD could provide.

22 Q. That was my question.

23 MR. GOLDBERG: Before we terminate  
24 the deposition, he asked to talk to me.  
25 So can I step outside one second and ask

1 what he wants?

2 MR. HOPE: Sure.

3 (Recess in the proceedings.)

4 MR. GOLDBERG: If we could go back on  
5 the record.

6 Thank you for the opportunity to step  
7 out.

8 Mr. Hill asked to speak to me.  
9 Without waiving any attorney/client  
10 privilege communications, he's asked if he  
11 could supplement or further expand upon a  
12 question that was asked previously and I  
13 told him you would have no problem with  
14 him doing that, if that's okay?

15 MR. HOPE: Which question?

16 THE WITNESS: The very first question  
17 about who I talk to or had mentioned about  
18 the deposition.

19 MR. HOPE: Oh, okay.

20 THE WITNESS: There were other  
21 people, but it was only about where I was  
22 going to be today.

23 MR. HOPE: That's fine. You actually  
24 had stated that. Thank you.

25 I stated before that now that the

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deposition has been completed you have the right to either read your testimony or waive reading. Your attorney will instruct you as to what you're going to do.

MR. GOLDBERG: I advise you to read, so let's read the deposition to make sure it's accurate and there's no typo errors. Not that she would make any, but we'll read and sign it.

MR. HOPE: Thank you.

(Thereupon, having not been waived, the proceedings were concluded.)

---

George Hill

Sworn to and subscribed before  
me this day of , 2005.

---

Notary Public in and for the  
State of Florida at Large.

1 STATE OF FLORIDA )  
 2 ) ss  
 3 COUNTY OF DADE )

4 I, Beverly Lisa Rabatie, Certified Shorthand  
 5 Reporter in and for the County of Dade, State of  
 6 Florida, do hereby certify:

7 That prior to being examined, the witness  
 8 named in the forgoing deposition, GEORGE HILL, was  
 9 by me duly sworn to testify the truth, the whole  
 10 truth, and nothing but the truth.

11 That said deposition was taken before me at  
 12 the time and place set forth and was taken down by  
 13 me in shorthand and thereafter reduced to  
 14 computerized transcription under my direction and  
 15 supervision, and I hereby certify the foregoing  
 16 deposition is a full, true and correct transcript  
 17 of my shorthand notes so taken.

18 I further certify that I am neither counsel  
 19 for nor related to any party to said action nor in  
 20 anyway interested in the outcome thereof.

21 IN WITNESS WHEREOF, I have hereunto  
 22 subscribed my name this 31st day of December,  
 23 2004.

*Beverly Rabatie*

24 \_\_\_\_\_  
 25 Beverly L. Rabatie, Court Reporter  
 DD# 095884  
 Expires March 23, 2006

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Abbott 56:15	advise 104:6	allow 57:12 100:5.9	approximately 25:5	30:8
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**REQUEST FOR PROPOSALS  
FOR THE  
NON-EXCLUSIVE TELECOMMUNICATIONS  
AND NETWORK MANAGEMENT SERVICES AGREEMENT  
RFP No. MDAD-04-01**

**PROJECT BRIEFING TO BE HELD ON  
Thursday, March 20, 2003 at 10:00 A.M. (Local Time)  
at  
4200 NW 36<sup>th</sup> Street, Miami, Florida 33122, Building 5A  
4<sup>th</sup> Floor, Contracts Administration, Conference Room 'F'**

**ISSUING DEPARTMENT:  
MIAMI-DADE AVIATION DEPARTMENT  
CONTRACTS ADMINISTRATION DIVISION**

**Contracting Officer. Susan H. Pascul  
Telephone: (305) 876-7815**

**PROPOSALS ARE DUE AT THE ADDRESS SHOWN BELOW  
NO LATER THAN  
Thursday, April 17, 2003 at 2:00 PM (Local Time)**

**at  
CLERK OF THE BOARD  
STEPHEN P. CLARK CENTER  
111 NW 1st STREET, 17<sup>TH</sup> FLOOR, SUITE 202  
MIAMI, FLORIDA 33128-1983**

**PROPOSALS WILL BE OPENED PROMPTLY AT THE TIME AND PLACE SPECIFIED. PROPOSALS RECEIVED AFTER THE FIRST PROPOSAL HAS BEEN OPENED WILL NOT BE OPENED AND WILL NOT BE CONSIDERED. THE RESPONSIBILITY FOR SUBMITTING A PROPOSAL TO THE CLERK OF THE BOARD ON OR BEFORE THE STATED TIME AND DATE IS SOLELY AND STRICTLY THE RESPONSIBILITY OF THE PROPOSER. MIAMI-DADE COUNTY IS NOT RESPONSIBLE FOR DELAYS CAUSED BY ANY MAIL, PACKAGE OR COURIER SERVICE, INCLUDING THE U.S. MAIL, OR CAUSED BY ANY OTHER OCCURRENCE EXTERNAL TO MIAMI-DADE COUNTY.**

**MIAMI-DADE COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER AND DOES NOT DISCRIMINATE BASED ON AGE, GENDER, RACE OR DISABILITY.**



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Miami-Dade County Responsible Wages & Benefits	<b>SP-2</b>

**EXHIBITS TO THE AGREEMENT:**

- Exhibit A: Telecommunications and Network Management Services Specification
- Exhibit B: Equipment, Systems and Subsystems Plans and Diagrams
- Exhibit C: Job Descriptions and Qualifications
- Exhibit D: Performance and Payment Bond
- Exhibit E: Airport Customs Security Area Bond
- Exhibit F: Preliminary Budget Estimate

**FORMS FOR THE AGREEMENT:**

- Contractor Affidavit and Release of All Claims Subcontractor Affidavit
- Contractor Affidavit in Compliance with Florida Trench Safety Act
- Miami-Dade County Clearinghouse Procedures for Placing Job Opportunities
- Sign-off Sheet for Underground Utilities Clearance
- Shut Down Request Form
- Hot Work Permit

**REVISED ADVERTISEMENT FOR  
REQUEST FOR PROPOSALS  
NON-EXCLUSIVE TELECOMMUNICATIONS AND NETWORK  
MANAGEMENT SERVICES AGREEMENT FOR THE  
MIAMI-DADE AVIATION DEPARTMENT  
RFP NO. MDAD-04-01**

1. Miami-Dade County (the "County") seeks to enter into a non-exclusive agreement (the "Agreement") for the provision of telecommunications and network management services at Miami International Airport ("MIA"), the general aviation airports, and other County facilities that may be added in the future (collectively, the "Airport"). The term of the Agreement will be for five (5) years; the County reserves the right to extend the Agreement for up to an additional two (2) years, in one (1) year increments, on the same terms and conditions contained therein, unless terminated under provisions contained in the Agreement. For the avoidance of doubt, the maximum term of the Agreement with extensions is not to exceed seven (7) years.
  
2. **General Scope of Services:** The proposer ("Proposer") to whom this contract is awarded (the "Contractor") shall: (i) furnish all labor, new materials, tools, supplies and other items required for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for the Miami-Dade Aviation Department ("MDAD"), its users and tenants; and (ii) the management of shared airport tenant services ("SATS") for the County to tenants and users at the Airport (collectively, the "Work").

The Work includes, but is not limited to: (a) provisioning of voice and data network services; (b) maintaining existing and future voice and data networks infrastructure equipment including operation, maintenance, repair, monitoring, and support of network devices such as routers, switches, and servers, (c) supporting of circuits, including vendor resolutions and support of environmentals including UPS devices for all switches and routers at all sites; (d) daily analysis of network performance to research trending and troubleshooting from end point to end point to enable quick resolution of system degradation; (e) providing capacity planning for all network links, PBX switches and trunk groups; (f) providing an on-site Help Desk and Network Operation Center dedicated to providing uninterrupted service to Airport operations; (g) managing the existing voice and data network infrastructure; (h) maintaining records as required by MDAD, including but not limited to, equipment and cable plant, record keeping of work order activity, equipment inventory, telephone number inventory, number dialing plan, key sheets, and cable management to the Intermediate Distribution Frame level and jack level for existing and new structure; (i) managing the turn-key installation of new voice, data and network services such as user training on equipment,

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Dated: 3/6/2003

project scheduling, appropriate billing to MDAD and SATS customers; (j) billing user customers for services, and also for the specified equipment, including when specifically requested by appropriate work order; (k) needs assessment; (l) system design; (m) procurement of equipment and parts; (n) documentation; (o) record keeping and inventory; and (p) any other functions related to the provisioning of these services.

The Contractor shall also be responsible to provide, install and maintain technical systems hardware and software associated with the management of all telecommunications Asynchronous Transfer Mode ("ATM") Gigabit Ethernet & ATM infrastructure. In addition, the Contractor shall maintain computer hardware and software and the database associated with the cable record systems, the New Security System Cable Management System (after the initial contract expires with that system's provider), and any billing system the Contractor chooses to employ subject to approval by MDAD. These software applications shall be maintained and operated at such a level that is suitable to maintain the quality of service or additional requirements outlined in the Agreement or other sections of the Specification. Back-ups shall be performed and maintained off-site by the Contractor for all key technical systems to ensure data integrity and disaster recovery.

3. The County will receive sealed proposals from qualified, interested parties based upon the terms, covenants and provisions of the advertisement and the Request for Proposals ("RFP"). An unbound one-sided original and ten (10) bound copies (a total of 11 sets) of Parts A and B of the proposal, and an unbound one-sided original and one copy (a total of 2 sets) of Part C of the proposal must be received by the deadline for receipt of proposals specified in the advertisement for this RFP. The proposals shall be in three (3) separate bound/sealed parts. The "Part A Proposal" shall include the Proposer's Technical Proposal and all other required documentation as noted in the Instructions to Proposers. The "Part B Proposal" shall include the Proposer's Fee for their Services. The "Part C Proposal" shall include the Schedule of Intent Affidavit for the Community Small Business Enterprise ("CSBE") program. A Schedule of Intent Affidavit is required for each certified CSBE subcontractor meeting the goal for this RFP. The affidavit(s) shall be submitted in a sealed white envelope. The Part C Proposal will be opened on the Proposal Due Date specified in Section 4 of this advertisement, and reviewed by the Department of Business Development ("DBD"). Upon notification by the DBD, Proposers may correct defects on the Schedule of Intent Affidavit(s) within forty-eight (48) hours after the proposal submission due date. Only the Part A Proposals, containing the Proposer's Technical Proposal, that have been determined to be responsive will be opened publicly and the names of those responsive proposers will be read aloud forty-eight (48) hours after the proposal submission date. Part A and Part B Proposals of a non-responsive Part C Proposal will not be opened. Proposers are

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Dated: 3/6/2003

invited to be present at each opening Part B Proposals which include the Proposer's Fee for their Services will be opened at a later date.

4. The originals and all copies for Parts A, B and C shall be separately sealed in an envelope and placed in a container stating on the outside the Proposer's name, address, telephone number, RFP number, RFP title, and Proposal Due Date (RFP No. MDAD-04-01, entitled "Request for Proposals for Telecommunications And Network Management Services Agreement" for the Miami-Dade Aviation Department). Proposals will be received by the Board of County Commissioners of Miami-Dade County, Florida, at the Office of the Clerk of the Board, Stephen P. Clark Center, 111 NW 1st Street, 17th floor, Suite 202, Miami, Florida 33128 until **2:00 P.M., Thursday, April 17, 2003**, or as modified by addendum. MDAD reserves the right to postpone or cancel the proposal's opening at any time prior to the scheduled opening of the proposal. Proposers are invited to be present. Proposals received after the time and date specified will not be considered, and will be returned unopened.
  
5. RFP documents may be obtained at MDAD's Contracts Administration Division, 4200 NW 36th Street, Building 5A, Suite 400, Miami, Florida, telephone (305) 876-7815, between 8 a.m. 5 p.m., on or after **Monday, March 10, 2003**, by payment of Fifty dollars (\$50.00) (non-refundable) check or money order, made payable to the Miami-Dade Aviation Department. Each Proposer shall furnish an address, telephone and fax number for the purpose of contact during the RFP process.

RFP Documents will also be available for public inspection on and after Monday, March 10, 2003 at the offices of the Vendor Information Center, Stephen P. Clark Center, 111 NW 1<sup>st</sup> Street, Suite 112, Ground Floor, Miami, Florida 33128.

The solicitation document does not include the Equipment, Systems and Subsystems Exhibit to the Telecommunications and Network Management Services Specification because it contains information relating to the Airport's telecommunications system. In accordance with Florida Statutes § 119.07(3)(ee), "Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, ... or other structure owned and operated by an agency as defined in Florida Statutes § 119.011 are exempt ..." from public records to ensure the safety of government infrastructures and to ensure public safety.

MDAD will make the Equipment, Systems and Subsystems Exhibit available for review by Proposers from March 13, 2003 to March 27, 2003, Monday – Friday, during the hours of 9:00 a.m. to 5:00 p.m. at the offices of the Telecommunications Division, Building 3030, First Floor, Room No.

B102 Proposers are advised that in order to schedule an appointment to review this exhibit to contact MDAD's Telecommunications Division at (305) 869-3862. ONLY THOSE PROPOSERS THAT HAVE OBTAINED THE RFP FROM MDAD's CONTRACTS ADMINISTRATION DIVISION CAN SCHEDULE AN APPOINTMENT TO REVIEW THE EXHIBIT. The duration of each appointment will not exceed two (2) hours. However, after allowing all interested proposal holders to view the exhibit, the Department may schedule additional time slots (not to run consecutively with the original appointment), if available. At the time of the appointment, Proposers will be required to present current, valid identification (e.g., Driver's License, United States Passport) and the completed and notarized Confidentiality Affidavit, which is included in the RFP documents, certifying that the company and each employee agrees that in accordance with Florida Statutes § 119.07(3)(ee) to maintain the exempt status of the information contained in the exhibit prior to reviewing the exhibit. In addition, Proposers are advised that individuals will be monitored and video-taped while reviewing these documents. Proposers may take notes, *however, no photographs and/or copying of the exhibit will be allowed.*

6. All proposals must be submitted as set forth in the RFP.
7. MDAD reserves the right to reject any or all proposals to waive informalities and irregularities, or to re-advertise for proposals. MDAD, by choosing to exercise its right of rejection, does so without the imposition of any liability against the MDAD by any and all Proposers.
8. A Project Briefing will be held on **Thursday, March 20, 2003, at 10:00 A.M.**, at the Miami-Dade Aviation Department, 4200 NW 36th Street, Building 5A, Conference Room F, 4th Floor, Miami, Florida, for all interested parties and attendance is recommended, but not mandatory. Any changes to this RFP will be by written addendum.
9. **Contract Measures:** A four percent (4%) goal in the CSBE program will be applied. All Proposers are directed to the RFP, "Miami-Dade County Florida CSBE Participation Provisions," which delineate the requirements of this County program.
10. **Responsible Wages and Benefits:** The Agreement shall be subject to the provisions of Miami-Dade County Ordinance No. 90-143 (Responsible Wages and Benefits Ordinance). The minimum wage rates and corresponding benefits schedule are included in the RFP documents.
11. **RFP Application Fee and Proposal Guaranty:** Each Proposer's proposal must be accompanied by a RFP Application Fee of not less than Fifty Thousand U.S. Dollars (\$50,000.00) in the manner required by the

Instructions to Proposers. The contractors short-listed by the evaluation and selection committee and recommended by the County Manager for negotiations (according to overall ranking) will be required to post a Proposal Guaranty of not less than Two Million U.S. Dollars (\$2,000,000.00) in the manner required by the Instructions to Proposers. The Contractor selected for this Agreement must maintain a minimum \$5 Million Dollar Performance and Payment Bond as provided in the Form of Agreement contained in the RFP Documents.

12. **Cone Of Silence:** Pursuant to Section 2-11.1(t) of the Code of Miami-Dade County and Administrative Order No. 3-27 (Cone of Silence Provisions), a "Cone of Silence" is imposed upon RFPs, request for qualifications ("RFQs"), or bids after advertisement and terminates at the time the County Manager issues a written recommendation to the Board of County Commissioners. The Cone of Silence prohibits communication regarding RFPs, RFQs, or bids between: A) potential vendors, service providers, bidders, lobbyists or consultants and the County's professional staff including, but not limited to, the County Manager and the County Manager's staff; B) a potential vendor, service provider, bidder, lobbyist, or consultant, and the Mayor, County Commissioners or their respective staffs; C) the Mayor, County Commissioners or their respective staffs, and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff, D) a potential vendor, service provider, bidder, lobbyist, or consultant, and any member of the selection committee therefore; E) the Mayor, County Commissioners or their respective staffs, and member of the selection committee; or F) any member of the County's professional staff, and any member of the selection committee.

Section 2.11.1(t) of the Code of Miami-Dade County and Administrative Order No. 3-27, permit oral communications regarding this RFP between any person and the County's Vendor Information Center staff or the procurement officer responsible for this RFP, provided that the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.

The Cone of Silence provisions do not apply to oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meetings, public presentations made to the Board of County Commissioners during any duly noticed public meeting, or communications in writing at any time unless specifically prohibited by the applicable RFP, RFQ, or bid document. Proposers must file a copy of any written communications with the Clerk of the Board, which shall be made available to any person upon request. Written communications may be submitted via e-mail to the Clerk of the Board at [CLERKBCC@MIAMIDADE.GOV](mailto:CLERKBCC@MIAMIDADE.GOV). The County shall

respond in writing and file a copy with the Clerk of the Board, which shall be made available to any person upon request.

In addition to any other penalties provided by law, violation of the Cone of Silence provisions by any proposer and bidder shall render any RFP award, RFQ award, or bid award voidable. Any person having personal knowledge of a violation of the Cone of Silence provisions shall report such violation to the Office of the State Attorney and/or may file a complaint with the Ethics Commission. Proposers should reference the actual Cone of Silence provisions for further clarification.

Failure of the Proposer to comply with Miami-Dade County Ordinance Nos. 98-106 and 02-3, may result in the disqualification of the Proposer.

The Contracting Officer for this RFP is:

Name and Title. Susan H. Pascul  
Aviation Senior Procurement Contract Officer  
Name of Agency: Miami Dade Aviation Department  
Mailing Address: PO Box 592075, Miami, Florida 33159  
Physical Location: 4200 NW 36<sup>th</sup> Street, Bldg. 5A, Suite 400,  
Miami, Florida 33122  
Facsimile: (305) 876-8068

MIAMI-DADE COUNTY, FLORIDA  
HARVEY RUVIN, CLERK

BY: \_\_\_\_\_

KAY SULLIVAN  
DEPUTY CLERK

**DEFINITIONS**

The following words and expressions used in this solicitation shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The words "Agreement", "Contract" or "Contract Documents" to mean a non-exclusive telecommunications, data network, and shared airport tenant services management agreement between the County and the successful Contractor, including all of its terms and conditions, associated addenda, attachments, exhibits, amendments, and work orders issued by the County.
- b) The words "Contractor", "Operator", or "Consultant" to mean the Proposer that receives an award of an Agreement from the County as a result of this Solicitation
- c) The word "County" to mean Miami-Dade County, a political subdivision of the State of Florida.
- d) The word "Department" to mean the Miami-Dade Aviation Department ("MDAD")
- e) The words "Proposal Due Date" refers to the deadline for receipt of the Proposal identified in the advertisement of this Solicitation.
- f) The words "Proposer", "Submitter", or "Respondent" to mean the person, firm, entity, joint venture, or organization submitting a response to this Solicitation.
- g) The words "Scope of Services" or "Work" refers to Section 2.0 of this Solicitation, which details the services to be performed by the Contractor.
- h) The word "shall", "should", and "will" refer to items that are REQUIRED to be met by the Contractor or the Proposer.
- i) The word "Solicitation" to mean this Request for Proposals ("RFP") or Request for Qualifications ("RFQ") or Request for Information ("RFI") document, and all associated addenda and attachments.
- j) The words "Specification" or "Technical Specification" to mean the Telecommunications and Network Management Services Specification included as Exhibit 1 to the Agreement.
- k) The words "Subcontractor" or "Subconsultant" to mean any person, firm, entity or organization, other than the employees of the Contractor or Consultant, who subcontracts with the Contractor or Consultant to furnish labor, or labor and materials, in connection with the Work or Services to the County, whether directly or indirectly, on behalf of the Contractor or Consultant.
- l) The words "Work Order" to mean a document that defines and describes the parameters of individual projects assigned or awarded by the County to the Contractor or Consultant in accordance to the terms of the Agreement.

## SECTION 1.0 - RFP OVERVIEW AND PROPOSAL PROCEDURES

### 1.1 INTRODUCTION/BACKGROUND

Miami-Dade County (the "County"), intends to enter into a management agreement (the "Agreement") with a qualified firm for the provision of telecommunications and network management services at Miami International Airport ("MIA"), the general aviation airports, and other County facilities that may be added in the future (collectively, the "Airport").

### 1.2 NOT USED

### 1.3 TERM

The term of the Agreement will be five (5) years; the County reserves the right to extend this Agreement for up to an additional two (2) years, in one (1) year increments, on the same terms and conditions contained herein. For the avoidance of doubt, the maximum term of the Agreement with extensions is not to exceed seven (7) years.

### 1.4 RFP AVAILABILITY

Copies of this solicitation package can be obtained through the MDAD, Contracts Administration Division, 4200 NW 36<sup>th</sup> Street, Building 5A, 4<sup>th</sup> Floor, Miami, Florida 33122 at a cost of **\$50.00 check or money order** for each solicitation package payable to: **Miami-Dade Aviation Department**

The Solicitation document does not include the "Equipment, Systems and Subsystems" Exhibit to the Telecommunications and Network Management Services Specification because it contains information relating to the Airport's telecommunications system. In accordance with Florida Statutes § 119.07(3)(ee), "Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, ... or other structure owned and operated by an agency as defined in s. 119.011 are exempt . . ." from public records to ensure the safety of government infrastructures and to ensure public safety.

The Miami-Dade Aviation Department ("MDAD") will make the Equipment, Systems and Subsystems Exhibit available for review by potential proposers from March 13, 2003 to March 27, 2003, Monday – Friday, during the hours of 9:00 a.m. to 5:00 p.m. at the offices of the Telecommunications Division, Building 3030, First Floor, Room No. B102. Proposers are advised to schedule an appointment to review this exhibit by contacting the MDAD Telecommunications Division at (305) 869-3862. The duration of each appointment will not exceed two (2) hours. **ONLY THOSE PROPOSERS THAT HAVE OBTAINED THE RFP FROM MDAD'S CONTRACTS ADMINISTRATION DIVISION CAN SCHEDULE AN APPOINTMENT TO REVIEW THE EXHIBIT.** However, after allowing all

interested proposal holders to view the exhibit, the Department may schedule additional time slots (not to run consecutively with the original appointment), if available. At the time of the appointment, Proposers will be required to present current, valid identification (e.g., Driver's License, United States Passport) and the completed and notarized Confidentiality Affidavit, which is included in the Request for Proposal documents, certifying that the company and each employee agrees, that in accordance with Florida Statutes § 119.07(3)(ee) to maintain the exempt status of the information contained in the exhibit prior to reviewing the exhibit. In addition, Proposers are advised that firms will be monitored and video-taped while reviewing these documents. Proposers may take notes, *however, no photographs and/or copying of the exhibit will be allowed.*

Proposers or Respondents who obtain copies of this Solicitation from sources other than the MDAD's Contracts Administration Division risk the potential of not receiving addenda, since their names will not be included on the list of firms participating in the process for this particular Solicitation. Such Proposers or Respondents are solely responsible for those risks (see Section 1.9).

#### 1.5 PROPOSAL SUBMISSION

All proposals must be submitted on 8 1/2" X 11" paper, neatly typed on one side only, with one inch (1") margins, and minimum 12 point font. The original document package must not be bound and the document package copies should be individually bound. **An unbound one-sided original and ten (10) bound copies** (a total of 11 sets) of the complete proposal (both the Part A technical and Part B price proposals), and an unbound one-sided original and one copy (a total of 2 sets) of Part C of the proposal, **must be received by the deadline for receipt of proposal as specified in the advertisement for this RFP. The original, copies, and the separate sealed price/cost envelope, must be submitted (technical proposal and the CSBE Schedule of Intent Affidavit shall be packaged separately from the price proposal) in a sealed envelope or container stating on the outside the Proposer's name, address, telephone number, the RFP number, RFP title, and Proposal Due Date to:**

**Clerk of the Board  
Stephen P. Clark Center  
111 NW 1st Street, 17th Floor, Suite 202  
Miami, Florida 33128-1983**

Hand-carried proposals may be delivered to the above address **ONLY** between the hours of 8:00 a.m. and 4:30 p.m., Mondays through Fridays (however, please note that proposals are due at the Clerk of the Board (the "Clerk") on the date and at the time indicated in the advertisement for this RFP. Additionally, the Clerk is closed on holidays observed by the County. Proposers are responsible for informing any commercial delivery service, if used, of all delivery

requirements and for ensuring that the required address information appears on the outer wrapper or envelope used by such service.

The Technical Proposal, CSBE Schedule of Intent Affidavit (additionally signed by the CSBE Subcontractor), and the Price Proposal must be signed by an authorized officer of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer. The submittal of a proposal by a Proposer will be considered by the County as constituting an offer by the Proposer to perform the required services at the stated prices.

#### **1.6 PRE-PROPOSAL CONFERENCE/EXAMINATION OF SITE**

A pre-proposal conference has been scheduled for the date, time and place specified in the advertisement for this RFP. Attendance is recommended but not mandatory. Proposers are requested to inform the RFP Contracting Officer of the number of persons expected to attend no later than twenty-four (24) hours before the scheduled date. Proposers are encouraged to submit any questions in writing to the RFP Contracting Officer (see Section 1.7) in advance of the pre-proposal conference.

Upon request, a site visit may be scheduled at the date and time of the pre-proposal conference. Attendance is recommended but not mandatory. Proposers are requested to inform the RFP Contracting Officer (see Section 1.7) of the number of persons expected to attend no later than twenty-four (24) hours before the scheduled date.

#### **1.7 CONE OF SILENCE/CONTRACTING OFFICER**

Pursuant to Section 2-11.1(t) of the Code of Miami-Dade County (the "Code") and Administrative Order No. 3-27 (Cone of Silence Provisions), a "Cone of Silence" is imposed upon RFPs, RFQs, or bids after advertisement and terminates at the time the County Manager issues a written recommendation to the Board of County Commissioners (the "Board"). The Cone of Silence prohibits communication regarding RFPs, RFQs, or bids between: A) potential vendors, service providers, bidders, lobbyists or consultants and the County's professional staff including, but not limited to, the County Manager and the County Manager's staff; B) a potential vendor, service provider, bidder, lobbyist, or consultant, and the Mayor, Board, or their respective staffs; C) the Mayor, Board, their respective staffs, and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; D) a potential vendor, service provider, bidder, lobbyist, or consultant, and any member of the selection committee; E) the Mayor, Board or their respective staffs, and member of the selection committee; or F) any member of the County's professional staff, and any member of the selection committee.

The provisions of Miami-Dade County Ordinance Nos. 98-106 and 02-3 do not apply to oral communications at pre-proposal conferences, oral presentations

before selection committees, oral communications with the Contracting Officer published by the Department of Business Development ("DBD") in their weekly Cone of Silence Project Information Report, for administering the procurement process, provided the communication is limited strictly to matters of process or procedures, contract negotiations during any duly noticed public meetings, public presentations made to the Board during any duly noticed public meeting or communications in writing at any time unless specifically prohibited by the applicable RFP, RFQ, or bid document. Bidders or proposers must file a copy of any written communication with the Clerk, which shall be made available to any person upon request. The County shall respond in writing and file a copy with the Clerk, which shall be made available to any person upon request.

In addition to any other penalties provided by law, violation of Ordinance 98-106 by any bidder or proposer shall render any RFP award, RFQ award, or bid award voidable. Any person having personal knowledge of a violation of this ordinance shall report such violation to the Office of the State Attorney and/or may file a complaint with the Ethics Commission. Bidders or proposers should reference the actual ordinance for further clarification.

Failure of Proposer to comply with Ordinance Nos. 98-106 and 02-3, may result in the disqualification of the Proposer.

All Proposers will be notified in writing when the County Manager makes an award recommendation to the Board.

**The Contracting Officer for this RFP is:**

Name and Title: Susan H. Pascul, Contracting Officer  
Name of Agency: MDAD – Contracts Administration Division  
Location Address: 4200 NW 36<sup>th</sup> St. Building 5A, 4<sup>th</sup> Floor,  
Miami, Florida 33122  
Mailing Address: P.O. Box 592075, Miami, Florida 33159  
Fax Number: (305) 876-8068

**1.8 CONTRACT MEASURES**

1.8.1 The Agreement will adhere to all Miami-Dade County ordinances with special attention to all ordinances that relate to the Community Small Business Enterprise ("CSBE") Participation program.

1.8.2 The following has been established according to the CSBE Program:

**Contract Measure: Four Percent (4%) Goal**

All Proposers are **directed and required to adhere to** the attached "REVISED OCTOBER 2001, Miami-Dade County Florida, Department of Business Development (DBD), CSBE (Ordinance No. 97-52 & Administrative Order No. 3-22, as amended) Participation Provisions," included within these RFP documents

which delineates the requirements of this County program and the requirements for attaining the CSBE contract measure of a four percent (4%) goal, all in accordance with applicable federal and state laws, and County ordinances.

- 1.8.3 A CSBE certification list is included as an appendix in the "CSBE Participation Provisions" to assist Proposer compliance with the established subcontractor goal. The certification list is maintained and published at least every other week. Proposers must utilize the most current certification list in complying with these provisions. A current certification list may be obtained by contacting DBD at Courthouse Center, 175 NW 1<sup>st</sup> Avenue, 28<sup>th</sup> Floor, Miami, Florida 33128; by telephone at (305) 349-5960; by facsimile at (305) 349-5915; or by website at [www.co.miami-dade.fl.us/dbd/reports](http://www.co.miami-dade.fl.us/dbd/reports). The SIC/NAICS category and the specialty trade will identify the firms on the certification list. DBD shall certify each CSBE by the predominant type of construction they perform in accordance with the two-digit SIC or six-digit NAICS code applicable to such type of construction for which the CSBE is licensed. CSBEs certified in the SIC 17 (Specialty Trade Contractors) shall also be classified by trade category or categories in which they are licensed. Each CSBE will also be certified in a specific Contracting Participation Level based on the firm's bonding capacity.

In order to participate as a CSBE on this Agreement, a CSBE must have a valid certification in effect at time of proposal submittal. The successful CSBE proposer must maintain certification from the time of proposal submittal throughout the duration of the Agreement.

Joint Ventures. Only joint ventures approved by DBD in accordance with the Miami-Dade County CSBE Administrative Order No. 3-22 are eligible to participate as joint ventures in the CSBE program. All members of the joint venture must be certified as CSBEs before the joint venture can be approved.

- 1.8.4 For questions regarding Miami-Dade County's CSBE Contract Measure requirements, please contact Ms. Betty Alexander of the Department of Business Development at 175 NW 1<sup>st</sup> Avenue, Courthouse Center, 28<sup>th</sup> Floor, Miami, Florida 33128, or by telephone at (305) 349-5960 or facsimile at (305) 349-5915.
- 1.8.5 **NOTE:** In every instance where the words "bids," "bidder," or "dollar," may appear in the CSBE Participation Provisions, please substitute those words with "submittal", "submitter", or "percentage", respectively.

## 1.9 ADDITIONAL INFORMATION/ADDENDA

Requests for additional information or clarifications must be made in writing and received by the County's Contracting Officer for this RFP, in accordance with Section 1.7 above, and must be received at least seven (7) calendar days prior to the date established for the Proposal Due Date. The request must contain the RFP number and title, Proposer's name, name of Proposer's contact person, address, telephone number, and facsimile number.

Electronic facsimile requesting additional information will be received by the RFP Contracting Officer at the fax number specified in Section 1.7 above. Facsimiles must have a cover sheet which includes, at a minimum, the Proposer's name, name of Proposer's contact person, address, number of pages transmitted, telephone number, facsimile number, and RFP number and title.

MDAD will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Proposal Due Date. Proposers should not rely on any representations, statements or explanations other than those made in this RFP or in any written addendum to this RFP. Where there appears to be conflict between the RFP and any addenda issued, the last addendum issued shall prevail.

It is the Proposer's responsibility to assure receipt of all addenda. The Proposer should verify with the designated RFP Contracting Officer prior to submitting a proposal that all addenda have been received. If any Proposer fails to acknowledge the receipt of such Addenda in the space provided in the Proposal Form, the Proposal will nevertheless be construed as though the receipt of each Addendum has been acknowledged. Proposers are required to acknowledge the number of addenda received as part of their proposals (see the attached Acknowledgement of Addenda Form, Appendix C).

Proposers who obtain copies of this RFP from sources other than MDAD's Contracts Administration Division risk the potential of not receiving addenda, since their names will not be included on the Vendor List for this particular RFP. Such Proposers are solely responsible for those risks.

#### 1.10 RFP APPLICATION FEE AND PROPOSAL GUARANTY DEPOSIT

Each proposal must be accompanied by a RFP application fee of not less than Fifty Thousand Dollars (US\$ 50,000.00) (the "Application Fee") in the manner required by this subarticle. Contractors short-listed by the evaluation and selection committee and recommended by the County Manager for negotiations (according to overall ranking) will be required to post a proposal guaranty of not less than Two Million Dollars (US\$ 2,000,000) (the "Proposal Guaranty Deposit").

Both the RFP Application Fee and the Proposal Guaranty Deposit shall be in the form of a cashier's check, treasurer's check, irrevocable letter of credit, or bank draft drawn on any state or national bank ONLY, payable to Miami-Dade County, Florida. A bond (the "Proposal Bond Guaranty") may be substituted for the Proposal Guaranty Deposit. The form of the bond and the requirements of the surety issuing same are included in the proposal documents as Appendix D. No other form of deposit will be accepted.

The RFP Application Fee will be deposited by the County into an appropriate County account and will be held by the County, without interest to the Proposer,

until the evaluation and selection committee (i) evaluates the proposals, and (ii) makes its recommendation to the County Manager, and the County Manager concurs. Upon County Manager concurrence, the principal amount of the RFP Application Fee, excluding the short-listed Proposers, will be returned to the nonshort-listed Proposers. Within seven (7) days of notification, the short-listed Proposers will be required to submit the Proposal Guaranty Deposit as a condition precedent to potential award and negotiations with the County. The RFP Application Fee will be returned, without interest, to the short-listed firm(s) once the Proposal Guaranty Deposit or Proposal Bond Guaranty is received and accepted as to form. If a short-listed Proposer fails to submit this Proposal Guaranty Deposit or Proposal Bond Guaranty timely, then the RFP Application Fee will be forfeited to the County to compensate the County for the delay and administrative services resulting from such failure and the Proposer will be eliminated from further consideration.

The Proposal Guaranty Deposit will be deposited by the County into an appropriate County account and will be held by the County, without interest to the Proposer, until the selected short-listed Proposer has been awarded, after which the principal amount of the Proposal Guaranty Deposits, without interest, excluding the selected Proposer, will be returned to the non-selected short-listed Proposers.

After award to the selected Proposer, the Proposal Guaranty Deposit of such Proposer will be held pending receipt of the executed Agreement and evidence of insurance as required by the Agreement. If a selected Proposer fails to (a) provide evidence of insurance within twenty (20) calendar days after notice of the award, or (b) fails to negotiate in good faith to execute the Agreement, or (c) fails to execute timely all forms as required by the Agreement, or (d) fails to begin operation(s) as required by the Agreement, or (e) fails to provide a performance and payment bond as required by Article 29 of the Agreement, then the Proposal Guaranty Deposit will be forfeited to the County to compensate the County for the delay and administrative services resulting from such failure. The County shall also be entitled, to award any other Proposer, as determined to be in the best interest of the County.

Any proposal that is not accompanied by the required RFP Application Fee, as of the Proposal Due Date, shall be considered non-responsive and ineligible for award.

#### **1.11 MODIFIED PROPOSALS**

A Proposer may submit a modified proposal to replace all or any portion of a previously submitted proposal up until the Proposal Due Date. The evaluation and selection committee (the "Evaluation/Selection Committee") will only consider the latest version of the proposal.

#### **1.12 WITHDRAWAL OF PROPOSALS**

Proposals shall be irrevocable unless the proposal is withdrawn. A proposal may be withdrawn in writing only, addressed to the MDAD Contacting Officer for this RFP (in accordance with **Section 1.7**), prior to the Proposal Due Date.

#### **1.13 LATE PROPOSALS, LATE MODIFICATIONS AND LATE WITHDRAWALS**

Proposals or modifications received after the Proposal Due Date are late and will not be considered. Letters of withdrawal received either after the Proposal Due Date (for Proposers) or after contract award (for the selected Proposer), whichever is applicable, are late and will not be considered.

Proposals will be opened promptly at the time and place specified. Proposals received after the first proposal has been opened will not be opened and will not be considered. The responsibility for submitting a proposal to the Clerk on or before the stated time and date is solely and strictly the responsibility of the Proposer. Miami-Dade County is not responsible for delays caused by any mail, package or couriers service, including the U S. mail, or caused by any other occurrence external to Miami-Dade County.

#### **1.14 RFP POSTPONEMENT/CANCELLATION**

MDAD at its sole and absolute discretion, may: (a) reject any and all proposals, or parts of any and all proposals; (b) re-advertise this RFP; (c) postpone or cancel, at any time, this RFP process; or (d) waive any irregularities in this RFP or in the proposals received as a result of this RFP.

#### **1.15 COSTS INCURRED BY PROPOSERS**

All expenses involved with the preparation and submission of proposals to the County, or any work performed in connection therewith, shall be borne by the Proposer(s). No payment will be made for any responses received, nor for any other effort required of or made by the Proposer(s) prior to commencement of work as defined by a contract approved by the Board.

#### **1.16 NON-EXCLUSIVITY**

It is the intent of the County to enter into an Agreement with the successful Proposer that will satisfy its needs as described herein. The County reserves the right to perform or cause to be performed, the work and services or any portion thereof, herein described in any manner it sees fit, including but not limited to: award of other contracts, use of any contractor, or perform the work with its own employees.

### 1.17 ORAL PRESENTATIONS

The Evaluation/Selection Committee may require Proposers to give oral presentations in accordance with the Code in support of their proposals or to exhibit or otherwise demonstrate the information contained therein.

### 1.18 PROPOSER REGISTRATION AFFIDAVIT

Proposers are advised that in accordance with Section 2-11.1(s) of the Code of Miami-Dade County, the attached Proposer Registration for Oral Presentation Affidavit (see attached Registration Form, Appendix B) must be completed, notarized, and included with the proposal submission. Lobbyists specifically include the principal, as well as any agent, officer, or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer, or employee.

Individuals substituted for or added to the presentation team after submittal of the proposal and filing by staff, **MUST** register with the Clerk and pay all applicable fees.

**NOTE:** Other than for the oral presentation, Proposers who wish to address the Board, or a County board or committee concerning any actions, decisions or recommendations of County personnel regarding this RFP, must also register with the Clerk (Form BCCFORM2DOC) and pay all applicable fees. In accordance with Miami-Dade County Ordinance No. 01-162, prior to conducting any lobbying, all principals must file a form with the Clerk, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal. Failure of a principal to file the form required by the preceding sentence may be considered in the evaluation of a bid or proposal as evidence that a Proposer or bidder is not a responsible contractor. Each principal shall also file a form with the Clerk at the point in time at which a lobbyist is no longer authorized to represent the principal.

### 1.19 CONFLICTS WITHIN THE PROPOSAL SOLICITATION

Where there appears to be a conflict between the "General Terms and Conditions", "Special Conditions", the "Technical Specifications", the "Proposal Section", or any addendum issued, the order of precedence shall be: (a) the last addendum issued, (b) the Proposal Section, (c) the Technical Specifications, (d) the Special Conditions, and then (e) the General Terms and Conditions.

### 1.20 PROPRIETARY/CONFIDENTIAL INFORMATION

Proposers are hereby notified that all information submitted as part of, or in support of proposals will be available for public inspection after opening of proposals in compliance with Chapter 119 of the Florida Statutes. The Proposer shall not submit any information in response to this Solicitation which the Proposer considers to be a trade secret, proprietary or confidential. The

submission of any information to the County in connection with this solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to Proposer. In the event that the proposer submits information to the County in violation of this restriction which clearly identifies that information in the proposal as protected or confidential, the County shall endeavor to redact and return that information to the Proposer as quickly as possible, and if appropriate, evaluate the balance of the proposal. The redaction or return of information pursuant to this clause may render a proposal nonresponsive.

1.21 NOT USED

1.22 RIGHTS OF PROTEST

A recommendation for contract award or rejection of award may be protested by a bidder or proposer in accordance with the procedures contained in Sections 2-8.3 and 2-8.4 of the Code, and as established in Administrative Order No. 3-21.

As a condition of initiating any bid or proposal protest, the protester shall present to the Clerk a non-refundable filing fee payable to the Clerk of the Board in accordance with the schedule provided below.

<u>Award Amount</u>	<u>Filing Fee</u>
\$25,001- \$100,000.....	\$500
\$100,001- \$500,000.....	\$1,000
\$500,001- \$5 million.....	\$3,000
over \$5 million.....	\$5,000

Any question, issue, objection or disagreement concerning, generated by, or arising from the published requirements, terms, conditions or processes contained or described in the solicitation document shall be deemed waived by the protester and shall be rejected as a basis for a bid or proposal protest unless it was brought by that bidder or proposer to the attention, in writing, of the procurement agent, buyer, contracting officer or other contact person in the County department that issued the solicitation document, at least two (2) working days (not less than forty-eight (48) hours) prior to the hour of bid opening or proposal submission.

All protests shall be submitted in writing to the Clerk and shall state with particularity the specific facts and grounds on which it is based, and shall include all pertinent documents and evidence and shall be accompanied by the corresponding filing fee. This shall form the basis for review of the protest and no other facts, grounds, documentation or evidence not contained in the protester's submission to the Clerk at the time of filing the protest shall be permitted in the consideration of the protest, except for such additional evidence as is allowed during the course of the protest proceedings.

A. Award Recommendations Over \$100,000

Award recommendations for contracts and purchases involving the expenditure of over \$100,000 will be in writing, signed by the issuing department to each competing bidder or proposer announcing the proposed award, and a copy shall be deposited with the Clerk on the same day it is mailed. The bidder or proposer must file a protest with the Clerk within ten (10) working days of the date of the award recommendation letter. Within two (2) working days of that filing, the protester shall supply the Office of the County Attorney and each bidder or proposer in the competitive process with a true copy of each document that was filed with the protest. A hearing examiner shall be appointed to hear the protest and submit a written report and recommendation to the County Manager within twenty (20) working days of the filing of the protest (maximum twenty-five (25) working days if hearing examiner consents to extension request).

Failure to timely file the written protest shall constitute a waiver of the right to protest the award recommendation.

B. Award Recommendations Over \$25,000 and up to \$100,000

Award recommendations for contracts and purchases involving the expenditure of over \$25,000 up to and including \$100,000 shall be posted by 9:00 a.m., every Monday in the lobby of the Stephen P. Clark Center, 111 NW 1<sup>st</sup> Street, Miami, Florida 33128. Such recommendations shall be in writing and shall identify the bidder or proposer to whom the award is being recommended and the basis therefore. It is the responsibility of the bidder or proposer to monitor such bulletins after bid opening or proposal submission to ascertain that a recommendation for award has been made. Participants can call the Awards Line at 305-375-4724 or (800) 510-4724, or contact the person identified on the cover page of the solicitation.

**The bidder or proposer must file a protest with the Clerk within five (5) working days of the posting of the award recommendation, together with the \$500 nonrefundable filing fee. Award recommendations for which a protest is not received within the five (5) working day period shall be awarded in accordance with the department's recommendation. Not later than twenty (20) working days from the filing of the protest, the Director of the issuing department shall review the written recommendation for award and the written protest, and after consultation with the Office of the County Attorney, issue a recommendation to the County Manager for final disposition of the protest.**

The department shall provide an opportunity to settle the protest by mutual agreement within five (5) working days of the filing of the protest.

C. Award Recommendations \$25,000 and Less

Award recommendations for contracts and purchases involving the expenditure of \$25,000 or less are considered final and may not be protested.

**1.23 LOCAL PREFERENCE**

Pursuant to Section 2-8.5 of the Code of Miami-Dade County, the local preference is provided in accordance with the revised Ordinance No. 01-21.

- a) Request for proposals, qualifications or other submittals and competitive negotiation and selection. If, following the completion of final rankings (technical and price combined, if applicable) by the selection committee, a non-local business is the highest ranked proposer, and the ranking of a local proposer is within five percent (5%) of the ranking obtained by the non-local proposer, then the highest ranked local proposer shall have the opportunity to proceed to negotiations with the County under the applicable sections of this Code.
- b) If a tie occurs between two (2) or more local businesses, then contract award on the basis of best and final bids (paragraph 2(a) of the ordinance), or the opportunity to proceed to negotiations (paragraph (a), above), shall be made to such local business having the greatest number of its employees that are Miami-Dade County residents.
- c) The application of local preference to a particular purchase or contract may be waived upon written recommendation of the County Manager and approval of the Board.
- d) The preferences established herein in no way prohibit the right of the Board to compare quality of materials proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals. Further, the preferences established herein in no way prohibit the right of the Board from giving any other preference permitted by law instead of the preferences granted herein.
- e) In the event Broward County, Palm Beach County, or Monroe County extend preferences to local businesses as defined herein, Miami-Dade County may enter into an interlocal agreement with such other county wherein the preferences of this section may be extended and made available to vendors that have a valid occupational license issued by Broward County, Palm Beach County, or Monroe County to do business in that respective county.

that authorizes the business to provide the goods, services or construction to be purchased. The vendors must have a physical business address located within the limits of that county. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address. **Note:** An interlocal agreement has been entered into with Broward County.

The Proposer should complete, sign and submit the attached form, see Appendix E, with the proposal, in order to be considered for local preference.

#### 1.24 RULES, REGULATIONS AND LICENSING REQUIREMENTS

The successful Proposer shall comply with the (a) ordinances of the County, (b) rules and regulations of the Department, (c) Chapter 25 of the Code, (d) operational directives issued thereunder, (e) all laws, statutes, ordinances, regulations, and rules of the federal, state and County governments, and (f) any and all plans developed in compliance therewith, which may be applicable to its operations or activities under these request for proposal documents. Proposers are presumed to be familiar with all federal, state and local laws, statutes, ordinances, codes, rules and regulations that may in any way affect the goods or services offered, especially Executive Order No. 11246 entitled "Equal Employment Opportunity" and as amended by Executive Order No. 11375, as supplemented by the Department of Labor Regulations (41 CFR, Part 60), the Americans with Disabilities Act of 1990 and implementing regulations, the Rehabilitation Act of 1973, Chapter 553 of Florida Statutes and any and all other local, state and federal directives, ordinances, rules, orders, statutes, and laws relating to people with disabilities.

#### 1.25 REVIEW OF PROPOSALS FOR RESPONSIVENESS

Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in the RFP. A responsive proposal is one which: (a) follows the requirements of the RFP; (b) includes all documentation; (c) is submitted in the format outlined in the RFP; (d) is submitted timely; and (e) has the appropriate signatures as required on each document. Failure to comply with these requirements may result in a proposal being deemed non-responsive.

- a) Responsiveness Review of Proposals: Each proposal will be reviewed to determine if the proposal is responsive to the RFP. The proposals shall be in three (3) separate bound/sealed parts. The "Part A Proposal" shall include the Proposer's Technical Proposal and all other required documentation as noted in the Instructions to Proposers. The "Part B Proposal" shall include the Proposer's Fee for their Services. The "Part C Proposal" shall include the Schedule of Intent Affidavit for the Community Small Business Enterprise program. **THE REQUIRED DOCUMENTATION IS INCLUDED IN THE RFP AND IS PRINTED ON BLUE PAPER FOR THE PART A RESPONSE. GREEN**

PAPER FOR THE PART B RESPONSE AND YELLOW PAPER FOR THE PART C RESPONSE.

NOTE: For purposes of identification and to assist the Proposers in the preparation of their submittals, the County has identified the difference between the Part A, Part B and Part C forms included in these documents by utilizing different colors. These different colors are solely meant to assist the Proposers in the preparation of the proposal; however, the copies, as required by these Instructions to Proposers, may be submitted on standard white paper.

- b) CSBE Responsiveness Review (Part C Proposal): A Schedule of Intent Affidavit is required for each certified CSBE subcontractor meeting the four percent (4%) CSBE subcontractor goal for this Solicitation. The affidavit(s) shall be submitted in a sealed white envelope. The Part C Proposal will be opened on the proposal submittal due date specified in the advertisement for the RFP and reviewed by the Department of Business Development. Upon notification by the DBD, Proposers may correct defects on the Schedule of Intent Affidavit(s) within forty-eight (48) hours after Proposal Due Date. Only those Part A Proposals, containing the Proposer's qualifications, that have been determined to be responsive will be opened publicly and the names of those responsive Proposers will be read aloud forty-eight (48) hours after the Proposal Due Date. Part A and Part B Proposals non-responsive to Part C will not be opened. Proposers are invited to be present at each opening.

In accordance with the CSBE participation provisions, a Proposer may within forty-eight (48) hours after Proposal Due Date correct the following defects of their Schedule of Intent ("SOI") Affidavit:

1. The scope of work is not identified for the subcontractor.
2. There is no signature of the subcontractor.
3. There is no signature of the prime contractor.
4. There are no signatures on other documents submitted with the SOI form.

Blank SOI affidavits (not listing subcontractors name and scope of work and percentage) are non-correctable items on the SOI.

- c) Part A Proposal Responsiveness Review: Each Part A Proposal that is responsive to Part C will be opened and reviewed to determine if the Part A Proposal is responsive to this Request for Proposal.

- d. Part B Proposal that includes the Proposer's fee for its Services will be opened at a later date.

#### 1.26 REJECTION OF PROPOSALS

- A. Proposals that do not contain completed and properly executed forms and affidavits, as required and included in this Request for Proposal document(s), may be rejected by the County.
- B. Any Proposer who, at the time of proposal submission, is involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the Proposer under federal bankruptcy law or any state insolvency law, may be declared non-responsible.
- C. Proposals which are not responsive to the Request for Proposal documents may be rejected by the County.
- D. Collusive proposals from related parties. Where two (2) or more related parties each submit a bid or proposal for any contract, such bids or proposals shall be presumed to be collusive. The foregoing presumption may be rebutted by presentation of evidence as to the extent of ownership, control and management of such related parties in the preparation and submittal of such bids or proposals. Related parties mean bidders or proposers or the principals thereof which have a direct or indirect ownership interest in another bidder or proposer for the same contract, or in which a parent company or the principals thereof of one (1) bidder or proposer have a direct or indirect ownership interest in another bidder or proposer for the same contract. Bids or proposals found to be collusive shall be rejected. Bidders or proposers who have been found to have engaged in collusion may be considered non-responsible, and may be suspended or debarred, and any contract resulting from collusive proposing may be terminated for default.
- E. Proposals will be considered irregular and may be rejected if they contain omissions, alterations of form, additions not called for, unauthorized alternate proposals, or other irregularities.
- F. The County reserves the right to waive informalities and irregularities contained in the proposal, to cancel the advertisement, to cancel any or all proposals or to reject any or all proposals, or to re-advertise for proposals, whichever is in the County's best interests.
- G. Any of the following additional factors may be considered sufficient cause for the rejection of the proposal.
  - Proposal submitted on a form other than that furnished by the County.
  - Evidence of collusion among Proposers.

- Previous participation in collusive proposing on work for the County.
- Lack of Competency of Proposer. The Agreement will be awarded only to a Proposer considered to be capable of performing the work as required by the Agreement. The County may declare any Proposer ineligible at any time during the process of receiving proposals or awarding the Agreement where developments arise which, in the opinion of the County, adversely affect the Proposer's competency or ability to perform the work and to discharge its responsibilities under the Agreement.
- Lack of capability as shown by past performance of Proposer's work for the County, judged from the standpoint of workmanship and progress or inability to perform the services required by the Agreement.
- Being in arrears on any existing contract, or having been sued to enforce the County's rights on a contract, or having failed to complete the services and obligations required under a previous agreement with the County.

#### **1.27 QUARTERLY REPORTING WHEN SUBCONSULTANTS ARE UTILIZED**

Proposers are advised that when Subconsultants are utilized to fulfill the terms and conditions of this Contract, Miami-Dade County Resolution No. 1634-93, will apply. This resolution requires the selected Proposer to file quarterly reports as to the amount of contract monies received from the County and the amounts thereof that have been paid by the Contractor directly to Black, Hispanic, and Women-owned businesses performing part of the Contract work.

Additionally, the listed businesses are required to sign the reports, verifying their participation in the contract work and their receipt of such monies. For purposes of applicability, the requirements of this resolution shall be in addition to any other reporting requirements required by law, statute, ordinance, or administrative order.

#### **1.28 INSPECTOR GENERAL REVIEWS**

##### **A. INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL REVIEW**

Pursuant to Miami-Dade County Administrative Order No. 3-20 and in connection with any award issued as a result of this RFP, the County has the right to retain the services of an Independent Private Sector Inspector General ("IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the selected Proposer shall make available, to the IPSIG retained by the County, all requested records and documentation pertaining to this RFP or any subsequent award, for inspection and copying. The County will be responsible for the payment of these IPSIG services, and under no circumstance shall the Proposer's cost/price for this RFP be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Proposer, its officers, agents, employees and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct, audit or investigate the operations, activities and performance of the selected Proposer in connection with this RFP or any contract issued as a result of this

RFP The terms of this provision are neither intended nor shall they be construed to impose any liability on the County by the selected Proposer or third party.

**B. MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW**

Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit of any agreement issued as a result of this RFP shall be one quarter of one percent (0.25%) of the total agreement amount which cost shall be included in the total proposed amount. The audit cost will be deducted by the County from progress payments to the selected Proposer. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Board; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order No. 3-2; (m) federal, state and local government funded grants; and (n) interlocal agreements. **Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one-quarter of one percent (0.25%) in any exempted contract at the time of award.**

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above.

**1.29 RESPONSIBLE WAGE REQUIREMENTS:** The Agreement shall be subject to the provisions of Miami-Dade County Ordinance No. 90-143 and Administrative Order No. 3-24, for the responsible wages and benefits for County construction contracts.

**1.30 ORDINANCES, RESOLUTIONS AND/OR ADMINISTRATIVE ORDERS**

To request a copy of any ordinance, resolution and/or administrative order cited in this Solicitation, the Proposer must contact the **Clerk of the Board at (305) 375-5126.**

## SECTION 2.0 – GENERAL SCOPE OF SERVICES

The Proposer to whom this Agreement is awarded shall furnish all labor, new materials, tools, supplies and other items required for the design, installation, maintenance, repair, and management and operational support services for: (i) all voice and data network infrastructure for MDAD, its users and tenants; and (ii) the management of shared airport tenant services ("SATS") for the County to Tenants and users at the Airport (collectively, the "Work").

The "Work" includes, but is not limited to: (a) provisioning of voice and data network services; (b) maintaining existing and future voice and data networks infrastructure equipment including operation, maintenance, repair, monitoring, and support of network devices such as routers, switches, and servers; (c) supporting of circuits, including vendor resolutions and support of environmentals including UPS devices for all switches and routers at all sites; (d) daily analysis of network performance to research trending and troubleshooting from end point to end point to enable quick resolution of system degradation; (e) providing capacity planning for all network links, PBX switches and trunk groups, (f) providing an on-site Help Desk and Network Operation Center dedicated to providing uninterrupted service to airport operations; (g) managing the existing voice and data network infrastructure; (h) maintaining records as required by MDAD, including but not limited to, equipment and cable plant, record keeping of work order activity, equipment inventory, telephone number inventory, number dialing plan, key sheets, and cable management to the Intermediate Distribution Frame level and jack level for existing and new structure; (i) managing the turn-key installation of new voice, data and network services such as user training on equipment, project scheduling, appropriate billing to MDAD and SATS customers, (j) billing user customers for services, and also for the specified equipment, including when specifically requested by appropriate work order; (k) needs assessment; (l) system design; (m) procurement of equipment and parts; (n) documentation and reports; (o) record keeping and inventory; and (p) any other functions related to the provisioning of the services.

The Contractor shall also be responsible to provide, install and maintain technical systems hardware and software associated with the management of all telecommunications Asynchronous Transfer Mode ("ATM") Gigabit Ethernet & ATM infrastructure. In addition, the Contractor shall maintain computer hardware and software and the database associated with the cable record systems, the New Security System Cable Management System (after the initial contract expires with that system's provider), and any billing system the Contractor chooses to employ subject to approval by the MDAD. These software applications shall be maintained and operated at such a level that is suitable to maintain the quality of service or additional requirements outlined in the Agreement or other sections of this Specification. Back-ups shall be performed and maintained off-site by the Contractor for all key technical systems to ensure data integrity and disaster recovery. The complete service requirements for the ensuing agreement are included as Exhibit A, entitled "Telecommunications and Network Management Services Specification", to the Form of Non-Exclusive Agreement of this RFP.

## SECTION 3.0 - PROPOSAL FORMAT

### 3.1 INSTRUCTIONS TO PROPOSERS

Proposers should carefully follow the format and instructions in Section 1.5 "Proposal Submission" and outlined below, observing format requirements where indicated. All materials (except for plans and schematics, if any) are to be submitted on 8 1/2" X 11" pages, neatly typed on one side only, with one inch (1") margins and minimum 12 point font. All documents and information must be fully completed and signed as required. The original document package must not be bound. The document package copies should be individually bound. Proposals that do not include the required documents may be deemed non-responsive and may not be considered for contract award.

### 3.2 CONTENTS OF PROPOSAL:

The proposal must consist of three (3) separate parts: (A) Technical Proposal, (B) Price Proposal, and the (C) Schedule of Intent Affidavit(s) for the Community Small Business Enterprise program, as follows:

#### A. TECHNICAL PROPOSAL (PART A)

The Technical Proposal shall be written in sufficient detail to permit the County to conduct a meaningful evaluation of the proposed services. No cost information is to be included with the Technical Proposal. The Technical Proposal must include the following information:

- 1) Cover Page for Technical Proposal (See Appendix A)  
The attached form (Appendix A) is to be used as the cover page for the Technical Proposal. This form must be fully completed and signed by an authorized officer of the Proposer submitting the proposal.
- 2) Table of Contents  
The table of contents should outline in sequential order the major areas of the proposal. All pages of the proposal, including the enclosures, must be clearly and consecutively numbered and correspond to the table of contents.
- 3) Executive Summary  
Provide a brief summary describing the Proposer's ability to perform the work requested in this RFP; a history of the Proposer's background and experience in providing similar services; the qualifications of the Proposer's personnel to be assigned to this project and a brief history of their background and experience; and, any other information called for by this RFP which the Proposer deems relevant. This summary should be brief and concise to advise the reader of the basic services offered, experience and qualifications of the Proposer and staff. The executive summary should be no longer than two (2) pages

4) Minimum Qualification Requirements

Proposers shall provide documentation that demonstrates their ability to satisfy all of the minimum qualification requirements. Proposers who do not meet the minimum qualification requirements or who fail to provide supporting documentation may not be considered for award. If a prescribed format or required documentation for the response to minimum qualification requirements is listed below, Proposers must use said format and supply said documentation.

The Minimum Qualification requirements for this RFP are:

(a) A proposal will only be considered from a firm that is regularly engaged in the business of providing the Voice/Data/Help Desk and Network Operation Center ("NOC") and support services as required by this Solicitation. To satisfy this requirement, Proposers MUST:

- (1) Have had a minimum of five (5) years of providing voice and data management services as described in this RFP, for at least three (3) major airports and/or large government facilities in North America, meeting or exceeding size and complexities of the voice and data support requirements at MIA.
- (2) Have had a minimum of five (5) years of providing On-Site Help Desk and NOC management services and associated software meeting or exceeding the requirements described in this RFP, for at least three (3) major airports and/or large government facilities in North America.
- (3) Submit information on the Experience and Qualifications table in the Appendix A entitled "Technical Proposal and Minimum Qualifications Affidavit" to demonstrate the Proposer has the required management services to meet these minimum qualifications:
  - a. Name and location of the airports or government entities in North America requested above.
  - b. State what software modules were provided, if applicable
  - c. List types of services, and provide a brief scope of work and annual dollar value
  - d. Number of Voice and Data Ports
  - e. Contact name, address, and telephone number
  - f. Number of employees currently employed at each job location

- g. Number of employees currently employed at Proposer's home support office dedicated to providing off-site services.
- (4) A Proposer must ensure that it or its Subcontractor, at the time the Proposal is submitted and throughout the duration of the Agreement, a current valid certificate for the voice/data cabling work contemplated by the Agreement and issued by:
- a) The State of Florida Construction Industry Licensing Board, pursuant to the provisions of Section 489.115 of the Florida Statutes; or
  - b) The Miami-Dade County Construction Trades Qualifying Board, pursuant to the provisions of Section 10-3(a) of the Miami-Dade County Code. Holders of Miami-Dade County Certificates of Competency must also hold Certificates of Registration issued by the State of Florida Construction Industry Licensing Board, pursuant to the provisions of Section 489.115 or Section 489.117, Florida Statutes.

Failure to hold the appropriate certificate at the time this Proposal is submitted shall render the Proposal non-responsive. Copies of the Proposer's Contractor's License(s) or its Subcontractor's license(s) are required to be included in the Proposer's submittal.

If Proposer is a joint venture, the joint venture entity, of whatever nature or qualifications, must be qualified as a separate and distinct entity, as required by the rules of the State of Florida Department of Business and Professional Regulations.

Joint venture Proposers not otherwise qualified as set forth above, may submit Qualifications if they have initiated the process with the Florida Construction Industry Licensing Board and have received a letter from the Department of Business and Professional Regulation ("DBPR") attesting that they have satisfied the requirements of The State of Florida Department of Business and Professional Regulations pertaining to the Qualifications of Joint Ventures. Such letters must be submitted with the Proposer's Qualifications.

5) GENERAL PROPOSER QUALIFICATIONS (100 points)

A Company Qualifications (50 Points)

- 1) **EXPERIENCE** Describe the Proposer's past performance under the same company name and experience and state the number of years that the Proposer has been in existence, the number of years in the telecommunications business, the current number of employees, and the primary markets served.
- 2) **SPECIFIC PROJECT EXPERIENCE.** Provide a detailed description of comparable contracts (similar in scope of services to those requested herein) which the Proposer has either ongoing or completed within the past three (3) years. The description shall identify for each project: (i) the client, (ii) description of scope work, (iii) total dollar value of the contract, (iv) contract duration, and corporate management qualifications, (v) statement or notation of whether Proposer is/was the prime contractor or subcontractor or prime consultant or subconsultant. List and describe those projects performed for any major airport, government clients, similar size private entities, or any work performed for the County.
- 3) **ADDITIONAL EXPERIENCE.** Describe any other experiences related to the work or services described in the Scope of Services (see Section 2.0), and any other information which may be specific to the required services to be provided (e.g., software/hardware information, training, etc.).
- 4) **PAST PERFORMANCE WITH THE COUNTY.** List all contracts which the Proposer has performed for Miami-Dade County. The County will review all contracts the Proposer has performed for the County in accordance with Miami-Dade County Ordinance No. 98-42, which requires that "a Bidder's or Proposer's past performance on County Contracts be considered in the selection of Consultants and Contractors for future County Contracts." As such the Proposer must list and describe all work performed for Miami-Dade County and include the name of the County department which administers or administered the contract(s); the contact person(s) on the contract(s) and their telephone number; the dates covering the term of the contract(s); and, the dollar value of the contract(s).
- 5) **RESOURCE AVAILABILITY & CAPABILITY.** Describe the locally available resources the Proposer has in Miami-Dade County, or Broward County including number of personnel, equipment inventories, disaster recovery centers, and off premises systems, that would be used to provide service or support the MDAD

Telecommunications infrastructure or supplement the Proposer's resources located at MIA. Please include the following information.

Employment Plan

- a) Submit detailed employment policies and procedures.
  - b) Describe in detail all human resource programs that demonstrate Proposer's ability to promote and manage a diversified work force, promote work place fairness and equal opportunity, and establish and enhance employee motivation.
- 6) **FINANCIAL VIABILITY.** Proposer must submit applicable tax returns for the past three (3) years or for the years the Proposer has been in existence, if less than three (3) years (Forms: 1120, 1120S, 1040, or 1065). In addition, the Proposer must submit its 10Qs for the most recent reporting period.

If a joint venture, all partners must submit applicable tax returns for the past three (3) years or for the years the Partners have been in existence, if less than three (3) years (Forms: 1120, 1120S, 1040, or 1065). In addition, all partners must submit its 10Qs for the most recent reporting period.

In addition to the above, the Proposer must also submit the following:

- If Proposer is an individual, attach its personal financial statement (net worth) for the last three (3) years reviewed by an independent certified public accountant.
- If the Proposer is not an individual or a joint venture, attach Proposer's financial statement for the last three (3) years, or for the years the Proposer has been in existence, if less than three (3) years reviewed by an independent certified public accountant.

The public accountant must opine on the financial statements according to the standards for review engagements established by the American Institute of Certified Public Accountants. The Proposer must also include a statement in writing, signed by a duly authorized representative, stating that the present financial condition is materially the same as that shown on or with an explanation for a material change in the financial condition.

- 7) REFERENCES. Provide the name, position title and telephone number of a principal contact for the projects outlined in paragraph 2 above, entitled "Specific Project Experience".
- 8) CONVICTIONS, INDICTMENTS, OR INVESTIGATIONS. Proposers and each member of a joint venture must identify any criminal convictions or civil judgments for the last ten (10) years, and pending criminal indictments or governmental/regulatory investigations. Information must include: (i) nature of the offense; (ii) sentence, fines, restitution, or probation imposed, (iii) jurisdiction of occurrence; (iv) indicting or investigative authority; and (v) status of indictment or investigation.
- 9) Describe any prior or pending litigation, in which (a) the Proposer, (b) any member of a joint venture, (c) Subcontractors, (d) any of those entities' subsidiaries, affiliates or parent companies, or (e) any of those entities' employees is or has been involved within the last three (3) years.
- 10) Describe in detail, the events surrounding an agreement or contract of (a) the Proposer, (b) any member of a joint venture, or (c) Subcontractors being terminated, defaulted, or a notice of default issued.

**B. Qualifications of individuals, including subcontractors, that will be assigned to this project. (50 Points)**

- 1) Provide an organization chart showing all key individuals, including their titles, to be assigned to this project. This chart must clearly identify the Proposer's employees and those of the Subcontractors or Subconsultants. Provide resumes with job descriptions and other detailed qualification information on all key personnel who will be assigned to this project.
- 2) Describe the experience, qualifications and other vital information, including relevant experience on previous similar projects, including major airports, of all key individuals and Subcontractors or Subconsultants who will be assigned to this project. This information shall include the functions to be performed by the key individuals and the Subcontractors or Subconsultants
- 3) The Proposer shall list the names and addresses describe the qualifications of each Subcontractor which it intends to use and the percentage and scope of the work which will be assigned to each of them. Resumes for the Subcontractor's key personnel must be included.

**Note:** After proposal submission, but prior to the award issued as a result of this RFP, the Proposer has a continuing obligation to advise the County of any changes, intended or otherwise, to the key personnel identified in its proposal.

6) SERVICE REQUIREMENTS (100 Points)

A. Technical and Service Specifications (60 points)

- (1) Describe Proposer's proposed plan and recommended solutions in performing the services described in the Scope of Services (see Section 2.0), and describe Proposer's specific policies, plans, procedures or techniques to be used in providing the services to be performed. The Proposer shall describe its approach to project organization and management, responsibilities of Proposer's management and staff personnel that will perform work in this project.
- (2) Identify if Proposer's proposed plan (a) meets the requirements of the Scope of Services, described in Section 2.0, (b) will meet the requirements with modifications (explain how), or (c) cannot meet the requirements .

B. Quality and effectiveness of support systems to provide required services. (20 points)

Describe the support systems (hardware and software) provided by the Contractor that will be used to support the services provided. The information shall include, but not be limited to, the following:

- Work Order System
- Billing System
- Inventory Management System
- Network Operations Center
- Help Desk
- Trouble Reporting and Tracking Software

C. Transition Plan (20 points)

Proposer must specifically provide a detailed plan for the transition period; the "transition period" shall mean, the period of time from the Notice to Proceed to the date of commencement of operations as further specified Exhibit A, entitled "Telecommunications and Network Management Services Specification". This information shall included, but not be limited to, the following:

- i. Work Schedules
- ii. Personnel to be assigned
- iii. Transition milestone dates
- iv. Familiarity and expertise in the use of time keeping and reporting systems that confirm actual hours and work performed
- v. Familiarity with responding to customer service issues and a detailed description of its customer service training program(s). Describe in detail Proposer's training programs including standards for quality performance.

7) Affidavits/Requirements To Be Submitted With The Proposal

The following affidavits must be submitted with the proposal. Affidavits 1 through 3 are part of a single execution affidavit. Affidavits 4, 5, 6, and 7 must be separately executed.

(A) Public Entity Crimes Sworn Statement (Affidavit 1)

Pursuant to Paragraph 2(a) of Section 287.133, Florida Statutes, "Any person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a propose on a solicitation to provide goods and/or services to a public entity, may not submit a propose on a solicitation with a public entity for construction or repair of a public building or public work, may not submit a propose on leases of real property to a public entity, may not be awarded or perform work as a contractor or, supplier, or subcontractor or consultant under a solicitation with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO (\$10,000.00) for a period of thirty-six (36) months from the date of being placed on the convicted vendor list."

(B) Debarment Disclosure Affidavit (Affidavit 2)

The Proposer shall comply with Miami-Dade County Ordinance No. 93-129 as amended by Ordinance No. 00-18, which prevents contractors, subcontractors, their officers, their principals, stockholders, and their affiliates who have been debarred by the County, from entering into contracts with the County during the period for which they have been debarred. Debarment may also constitute grounds for termination of any existing County contract.

It is the Proposer's responsibility to ascertain that none of the Subcontractors, their officers, principals or affiliates, as defined in the ordinance, are debarred by the County pursuant to Ordinance No. 93-129 as amended by Ordinance No. 00-18 and Administrative Order No. 3-2 before submitting a proposal.

The Disclosure Affidavit pursuant to Ordinance No. 93-129 as amended by Ordinance No. 00-18 requires the proposer to affirm, under oath, that neither the proposer, its subcontractors, or their officers, principals or

affiliates, as defined in the ordinance, are debarred by the County at the time of the proposal

Any Proposer who fails to complete the Disclosure Affidavit shall not be awarded an Agreement with the County. Any contract or transaction entered into in violation of Ordinance No. 93-129 as amended by Ordinance No. 00-18 is void, and any person who willfully fails to disclose the required information or who knowingly discloses false information can be punished by civil or criminal penalties, or both, as provided for in the law.

The Proposers and Contractors shall also comply with Miami-Dade County Ordinance Nos. 93-137 and 97-52 providing contractual penalties and debarment for any Contractor attempting to meet contractual obligations and compliance with the Community Small Business Enterprise Program through fraud, misrepresentation, or material misstatement.

(C) Criminal Conviction Disclosure (Affidavit 3)

Pursuant to Miami-Dade County Ordinance No. 94-34, "Any individual who has been convicted of a felony during the past ten (10) years and any corporation, partnership, joint venture or other legal entity having an officer, director, or executive who has been convicted of a felony during the past ten (10) years shall disclose this information prior to entering into a contract with or receiving funding from the County."

(D) Individuals and Entities Doing Business with the County not Current in their Obligations to the County (Affidavit 4)

Pursuant to Miami-Dade County Ordinance No. 99-162 and Section 2-8.1 of the Code, no individual or entity who is in arrears in any payment under a contract, promissory note or other loan document with the County, or any of its agencies or instrumentalities, including the Public Health Trust, either directly or indirectly through a firm, corporation, partnership or joint venture in which the individual or entity has a controlling financial interest as that term is defined in Section 2-11.1(b)(8) of the Code, shall be allowed to receive any additional County contracts, purchase orders or extensions of County contracts until either the arrearage has been paid in full or the County has agreed in writing to a payment schedule. Failure to meet the terms and conditions of any obligation or repayment schedule shall constitute a default of the subject contract and may be cause for suspension, termination and debarment, in accordance with the terms of the contract and the debarment procedures of the County. Failure to submit the Current in Obligations to the County Affidavit at the time of proposal shall not render the proposal nonresponsive, however, the submission of a properly completed and executed affidavit is a condition of award.

(E) Disclosure of Ownership Affidavit (Affidavit 5)

Pursuant to Miami-Dade County Ordinance No. 88-121, the proposer shall disclose the full legal name and business address of any individual (other than subcontractors, material men, suppliers, laborers, or lenders) that has, or will have any interest (legal, equitable, beneficial, or otherwise) in the contract or business transaction with the County. If the contract or business transaction is with a corporation, the full legal address shall be provided for each officer and director and each stockholder who holds directly or indirectly five percent (5%) or more of the corporation's stock. If the contract or business transaction is with a trust, the full legal name and address shall be provided for each trustee and each beneficiary. Post Office addresses are not acceptable.

Also, pursuant to Miami-Dade County Ordinance No. 90-133, the proposer shall disclose the composition of the workforce, and existence of a collective bargaining agreement

Failure to submit the Disclosure of Ownership Affidavit at the time of proposal shall not render the proposal nonresponsive, however, the submission of a properly completed and executed affidavit is a condition of award.

(F) Code of Business Ethics Affidavit (Affidavit 6)

In accordance with Section 2-8.1(i) of the Code of Miami-Dade County, each person or entity that seeks to do business with the County shall adopt a Code of Business Ethics (the "Ethics Code") and shall, prior to execution of any contract between the contractor and the County, submit an affidavit stating that the contractor has adopted an Ethics Code that complies with the requirements of Section 2-8.1(i) of the Code. Any person or entity that fails to submit the required affidavit shall be ineligible for contract award. Failure to submit the Code of Business Ethics Affidavit at the time of proposal shall not render the proposal nonresponsive, however, the submission of a properly completed and executed affidavit is a condition of award.

(G) County Contractors Employment and Procurement Practices Affidavit (Affidavit 7A and 7B)

Miami-Dade County Ordinance No. 98-30 requires certain entities, as a condition of receiving a County contract, to demonstrate that their employment and procurement practices do not discriminate against minorities and women. Unless waived by the Board upon written recommendation by the County Manager that it is in the best interests of the County to do so, no contract will be awarded to a proposer unless and until the certification is provided by the Proposer or the Proposer claims an exemption. Unless verification that the firm's annual gross revenue

does not exceed \$5,000,000 is submitted with the proposal, either (i) the certification or (ii) a claim of exemption shall be submitted with the proposal using either the Affirmative Action Plan/Procurement Policy Affidavit (7A), or Affirmative Action Plan/Procurement Exemption Affidavit (7B) contained in the Proposal Form. Failure to comply at the time of proposal with the requirements of this Section (7) shall not render the proposal nonresponsive, however compliance with this Section (7) is a condition of award.

(H) As of the Proposal Due Date, the Proposer, if a corporation, must provide proof of authorization to do business in the State of Florida. The Proposer, if a joint venture, must provide proof of authorization to do business in the State of Florida, for each corporate member.

8) Additional Condition Of Award Requirements

The highest ranked responsive and responsible Proposer must submit the following certifications prior to contract award. Failure to submit these certifications may cause the contract to be awarded to the next ranked responsive, responsible Proposer. Certifications described in paragraphs (A) through (E) are part of a single execution certification.

(A) Pursuant to Miami-Dade County Resolution No. R-182-00 amending Resolution No. R-385-95, Contractors/respondents shall, as a condition of award, provide written certification that the firm is not in violation of the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, the Federal Transit Act, the Fair Housing Act, and other laws prohibiting discrimination on the basis of disability. Any post-award violation of these acts may result in the contract being declared void. If any certifying firm or affiliate is found in violation of the acts, the County will conduct no further business with such attesting firm. Any violation of this resolution may result in debarment.

(B) Pursuant to Miami-Dade County Resolution No. R-183-00 amending Resolution No. R-1499-91, Contractors/respondents shall, as a condition of award, provide written certification that the firm provides family leave to their employees as required by the County's Family Leave Ordinance. Proposers/respondents who fail to provide the required certification shall preclude the bidder/respondent from receiving the contract. Any violation of this ordinance may result in debarment.

(C) Pursuant to Miami-Dade County Resolution No. R-185-00, Contractors/respondents shall, as a condition of award, provide written certification that the firm is in compliance with the Domestic Leave Ordinance, Ordinance No. 99-05. Proposers/respondents who fail to provide the required certification shall preclude the bidder/respondent from receiving the contract. Failure to comply with the requirements of

this resolution or ordinance may result in the contract being declared void, the contract being terminated, and/or the firm being debarred.

(D) Pursuant to Miami-Dade County Ordinance No. 00-30, it shall be a condition of award that the Contractor shall verify that all delinquent and currently due fees or taxes, including but not limited to real and property taxes, utility taxes and occupational licenses - collected in the normal course by the Miami-Dade County Tax Collector, as well as Miami-Dade County issued parking tickets for vehicles registered in the name of the Contractor, have been paid. Failure to comply with this policy may result in debarment.

(E) No person or entity shall be awarded or receive a County contract for public improvements unless such person or entity make it a condition of award that it will provide a drug free workplace and comply with Section 2-8.1.2 of the Code of Miami-Dade County, as amended by Ordinance No. 00-30. Failure to comply with this policy may result in debarment for those persons or entities that knowingly violate this policy or falsify information.

(F) Required Listing of Subconsultants and Suppliers on County Contracts

Miami-Dade County Ordinance No. 97-104, amended by Ordinance 00-30, requires a bid or proposal for a County or Public Health Trust contract involving the expenditure of \$100,000 or more include a listing of Subconsultants and suppliers who will be used on the contract. The required listing must be filed prior to the contract award. The required listing must be submitted even though the Proposer will not utilize Subconsultants or suppliers on the contract. In the latter case, the listing must expressly state no Subconsultants, or suppliers, as the case may be, will be used on the contract.

(G) Fair Subcontracting Policies

All selected proposers on County contracts in which subconsultants may be used shall be subject to and comply with Miami-Dade County Ordinance No. 97-35, requiring proposers to provide a detailed statement of their policies and procedures for awarding subcontracts which:

- a) notifies the broadest number of local subconsultants of the opportunity to be awarded a subcontract;
- b) invites local subconsultants to submit bids/proposals in a practical, expedient way;
- c) provides local subconsultants access to information necessary to prepare and formulate a subcontracting bid/proposal;
- d) allows local subconsultants to meet with appropriate personnel of the proposer to discuss the proposer's requirements; and

- e) awards subcontracts based on full and complete consideration of all submitted proposals and in accordance with the proposer's stated objectives.

All proposers seeking to contract with the County shall, as a condition of award, provide a statement of their subcontracting policies and procedures (**Appendix F**). Proposers who fail to provide a statement of their policies and procedures may not be recommended by the County Manager for award by the Board.

The term "local" means having headquarters located in Miami-Dade County or having a place of business located in Miami-Dade County from which the contract or subcontract will be performed.

The term "subconsultant" means a business independent of a proposer that may agree with the proposer to perform a portion of a contract.

The term "subcontract" means an agreement between a proposer and a subconsultant to perform a portion of a contract between the proposer and the County.

9) Forms/Affidavits/Acknowledgements

The Proposer must complete, sign as required, and submit the following documents as part of its Technical Proposal:

- Appendix A Cover Page for Technical Proposal and Minimum Qualifications Requirement Affidavit
- Appendix B Registration for Oral Presentation
- Appendix C Acknowledgment of Addenda
- Appendix D Proposal Guaranty
- Appendix E Local Preference
- Appendix F Affidavits

**Submittal With Proposal Required**

Single execution Affidavits

- Affidavit 1 - Sworn Statement On Public Entity Crimes
  - Affidavit 2 - Miami-Dade County Debarment Disclosure Affidavit
  - Affidavit 3 - Criminal Record Affidavit
  - Affidavit 4 - Current in Obligations to the County Affidavit
  - Affidavit 5 - Contractor's Disclosure Affidavit for Miami-Dade County
  - Affidavit 6 - Code of Business Ethics Affidavit
  - Affidavit 7A- Affirmative Action Plan/Procurement Policy Affidavit
  - Affidavit 7B- Affirmative Action Plan/Procurement Exemption Affidavit
- Proof of Authorization to do Business**

**Additional Condition Of Award Requirements**

- Subcontractor/Supplier Listing
- Single Execution Condition of Award Certifications/Verifications
  - Disability Nondiscrimination Certification
  - Family Leave Certification
  - Domestic Leave Certification
  - Currently Due Fees and Taxes Verification
  - Drug Free Work Place Certification
- Subcontracting Policies Statement

**B. PRICE PROPOSAL (PART B)**

1. **Submission Procedure:** The Proposer must submit the Price Proposal in a separate **sealed** envelope or package (**separate from the Technical Proposal**) clearly marked on the sealed envelope or package "PRICE PROPOSAL", together with the Proposer's name, RFP Number and RFP title. The Proposer may submit the separate sealed Price Proposal inside the same container or package together with the separate Technical Proposal. The Proposer's price shall be submitted on **Form B-1 "Price Proposal Schedule"**, and in the manner required on said attachment form; there are no exceptions allowed to this requirement. Proposers who do not submit pricing in accordance with this RFP document and **Form B-1** shall be deemed non-responsive. The Price Proposal must contain the following information:
  - a) Total Price that includes all costs associated with providing all requirements of the RFP solicitation.
  - b) Detailed staffing table by major task that reflects total staff hours by individuals or discipline and hourly rates.
  - c) Projection of Proposer's operational costs of this project for each year.

Note: The Price Proposal shall consist of one original and ten copies

**2. FORM B-1 DESCRIPTION**

Form B-1 "Price Proposal Schedule" boxes that are required to be filled out include the following:

**A. On-Site Management Maintenance and Operations Staff**

Each category of labor shall have a price quoted for the **hourly/yearly salary**. The Proposer shall provide the build-up of its proposed yearly salaries. The yearly salaries shall exclude overhead and profit and shall include:

1. The Basic Hourly Rate
2. Vacation Pay and Union Payroll Burdens

3. Statutory Payroll Burdens
4. Premium Pay for overtime and/or shift work
5. Site Burdens as follows:
  - Safety related costs
  - Miscellaneous small tools and consumable supplies
  - Applicable travel costs (no travel costs for travel to/from MIA for working at MIA)
  - All costs associated with meeting the requirements of the Agreement and Specification.

All other site labor indirects and productivity burdens shall be addressed where applicable and shall be specifically identified.

Each category of labor shall have a multiplier quoted to cover Overhead and Profit.

**B. After On-site Hours of Operation Hourly Rate**

This is the billable rate that will be charged to the County for repairs and installations performed after on-site hours of operation described in the Technical Specification. Estimated hours for pricing purposes is 100 hours a year using the Monday-Sunday rate.

**C. Project Management of Subcontracts**

The Proposer shall quote their mark-ups for subcontracted work, like wiring and cabling, etc. This percentage should be minimal because all general and administrative costs should be executed by the staff in item 2A above. The following criteria shall be followed by the Proposer making the percentage quotation:

- 1) For individual subcontracts greater than \$100,000 the mark-up fee shall not be greater than ten percent (10%).
- 2) The estimated annual amount is \$350,000 per year for cost evaluation purposes only.

**D. Obligations with Vendors**

Shall include all third party maintenance agreements needed to maintain installed equipment or applications outside the technical expertise of the staff in item 2A above. The estimated value of contracts is \$400,000 a year for pricing purposes only.

**E. New Materials and Equipment Purchased**

The Proposer shall quote their markup for new equipment and materials purchased by the Proposer on behalf of MDAD and not included in the

subcontract section. Estimated purchase orders for pricing purposes is \$630,000 a year.

Note: The successful Proposer shall be responsible for any and all costs associated with the training of their staff during the period described in the Specification

### 3. PRICE PROPOSAL LINE ITEMS FORM DESCRIPTION

The data submitted in Form B-1, Price Proposal Schedule, will be inserted (by the County) in the Table 1 spreadsheet Price Proposal Line Items, and the total 5-Year Price will be computed according to the criteria outlined in the spreadsheet. The assumptions stated in the spreadsheet will be used for all Proposers for evaluation purposes only. The actual number of staff shown in item A, the estimated subcontracted work in item C, and the materials purchased in item E may vary during the term of the agreement. **The rates submitted in Form B-1, however are expected to be the actual rates that the successful Proposer will charge MDAD for the performance of the Services.**

An example spreadsheet, showing proposed rates and the calculated Total 5-Year Price, for illustration purposes only, is included in Table 1, Proposal Line Items Example.

### C. COMMUNITY SMALL BUSINESS ENTERPRISES (PART C)

On the Proposal Due Date, the Proposer shall submit in a sealed white envelope the Schedule of Intent Affidavit(s) for the Community Small Business Enterprise program for each certified subcontractor meeting the four percent (4%) CSBE subcontractor goal, as required by this RFP.

### 3.3 PROPOSAL PREPARATION REQUIREMENTS

Proposers must follow instructions of Section 1.5 "Proposal Submission". The proposal Guarantee Deposit specified in these Instructions to Proposers shall be enclosed with the Part A Proposal. Failure to include the specified Guarantee Deposit shall render the proposal non-responsive. The proposal shall consist of three parts separately sealed and bound: 1) Part A – Technical Proposal; 2) Part B – Price Proposal, and 3) Part C – Schedule of Intent Affidavit(s) for the Community Small Business Enterprise program as described in Section 1.8 of the Instructions to Proposers. The required amount of copies to be submitted in Part A shall be an original and ten (10) copies. The required amount of copies to be submitted in Part B shall be an original and ten (10) copies. The required amount of copies to be submitted in Part C shall be an original and one (1) copy. The Part A, Part B, and Part C proposals must be sealed and packaged separately and be submitted in a sealed envelope or container that should be addressed as follows:

Proposer's Name	Clerk of the Board Stephen P. Clark Center 111 NW 1st Street 17th Floor Suite 202 Miami, Florida 33128-1983
Proposer's Address	
Proposer's Telephone Number	
RFP No.:	
RFP Title:	
Proposal Due Date:	

**SECTION 4.0 - EVALUATION/SELECTION PROCESS**

**4.1 TECHNICAL PROPOSAL EVALUATION**

The Evaluation/Selection Committee will first evaluate responsive proposals on the Technical Proposal criteria listed below. The criteria are itemized with their respective weights for a maximum total of two hundred (200) points for all Technical Criteria. A Proposer may receive the maximum points or a portion of this score depending on the merit of its proposal, as judged by the Evaluation/Selection Committee in accordance with:

Criteria	Points
<b>General Proposer Qualifications</b>	(100 points)
A. Company Qualifications. Includes experience, past performance, resource availability, financial viability and references.	(50)
B. Qualification of Individuals including subcontractors	(50)
<b>Service Requirements</b>	(100 points)
A. Technical and Service Specifications	(60)
B. Quality and effectiveness of Support Systems to provide services	(20)
C. Transition Plan	(20)

Based on the Evaluation/Selection Committee's evaluation of the written Technical Proposal and oral presentations, if required, the committee shall rate and rank the responsive firms on their Technical Proposal based on the criteria listed above. If the committee decides not to hold oral presentations in accordance with Section 1.17, the Committee shall rate and rank the responsive firms on the Criteria listed above.

4.2 PRICE PROPOSAL EVALUATION

After the Evaluation/Selection Committee evaluates the Technical Proposals in light of the oral presentation (if necessary), it will then evaluate the Price Proposals of those Proposers remaining in consideration.

After the Evaluation/Selection Committee evaluates the Technical Proposals, in light of the oral presentation(s) if necessary, it will then evaluate the Price Proposals of those Proposers remaining in consideration.

The sealed Price Proposal envelopes of the Proposers remaining in consideration will then be opened in the presence of the Evaluation/Selection Committee. Price will be considered separately and only after the evaluation of the Technical Proposals has been completed by the Evaluation/Selection Committee.

The Price Proposal submission will be assigned a maximum of one hundred (100) points. The Price will be evaluated in the following manner:

- a) The figures submitted by the Proposer in Form B-1 will be inserted by the County in the spreadsheet in Table 1, Proposal Price Line Items, and a computation of the total 5-year price will be done based on the description in Section 3.2 B, Price Proposal Line Items Form Description.
- b) The responsive proposal with the lowest total 5-year price will be given the full weight of one hundred (100) points assigned to the price criterion.
- c) Every other proposal will be given points proportionately in relation to the lowest 5-year price. This point total will be calculated by dividing the lowest price proposed by the total price of the proposal being evaluated with the result being multiplied by the maximum weight for price (points) to arrive at a cost score of less than the full score for price.

$$\text{Example: } \frac{\text{Lowest Price Proposed}}{\text{Proposer's Proposed Price}} \times \text{Total Points for Price} = \text{Price Score}$$

The application of the above formula will result in a uniform assignment of points relative to the criterion of price

4.3 OVERALL RANKING

The Evaluation/Selection Committee will then determine the overall ranking by adding the Price Proposal evaluation score with the Technical Proposal evaluation score and all other applicable additional points specified in this solicitation, if any, to determine the overall ranking.

Following the evaluation and ranking of the proposals, the Evaluation/Selection Committee will recommend to the County Manager that a contract be awarded to the highest ranked responsive and responsible Proposer. Upon concurrence of

the County Manager, a contract will be prepared and submitted to the Board for approval.

#### **4.4 NEGOTIATIONS**

- A. The County may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the Proposer's best terms from a monetary and technical standpoint.
  
- B. The County reserves the right to enter into contract negotiations with the selected Proposer. If the County and the selected Proposer cannot negotiate a successful contract, the County may terminate said negotiations and begin negotiations with another selected Proposer. This process may continue until a contract is executed, or the County may reject all proposals. No Proposer shall have any rights against the County arising from such negotiations or termination thereof.

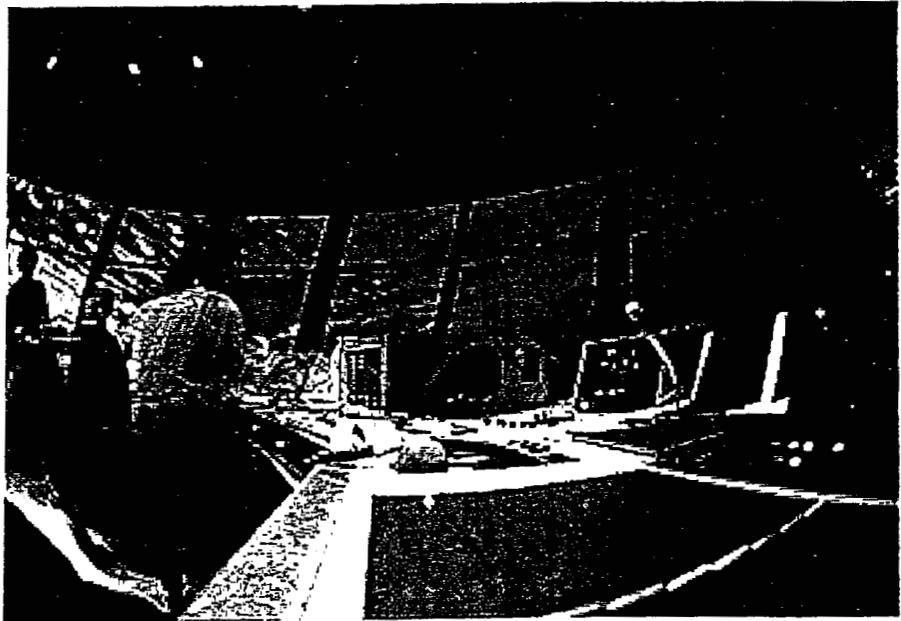
#### **4.5 CONTRACT AWARD**

The Contract award, if any, shall be made to the Proposer whose proposal shall be deemed by the Board to be in the best interest of the County. The Board's decision of whether to make the award and which proposal is in the best interest of the County shall be final.

Proposal to



Miami-Dade Aviation Department



## EXECUTIVE SUMMARY

**Proprietary Notice:**  
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**SITA**

DEFENDANT'S  
EXHIBIT

12

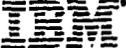
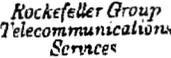
### 3. EXECUTIVE SUMMARY

SITA has been the trusted provider of managed network services to the aviation industry since 1949. International airlines tasked SITA with building a worldwide communications network linking all their airports and offices. By sharing the costs of this critical service, they benefited from the latest technology delivered over a reliable network that grew to be the world's largest network. We expanded these capabilities to the airport campus with a variety of shared systems, including Voice over IP, and are the world's leading shared airport systems provider. SITA is offering to bring this experience to serve the needs of MDAD.



The **SITA** Team for **MDA**

To meet and exceed all requirements expressed in your RFP, SITA designed the **MSATS** organization (**Managed Shared Airport Tenant Services**), a team of industry leaders that brings a unique combination of specific expertise in each discipline combined with proven experience at **Miami International Airport**.

	will be the prime contractor and single-point-of-contact to MDAD. SITA manages networks at airports around the world and has unique end-to-end capabilities, including LAN and WAN.
	will manage the voice communications activities of the MSATS.
	brings market leadership in LAN equipment and will provide support as needed to SITA, one of their largest customers worldwide. SITA and Cisco have successfully deployed VOIP and wireless.
	are local experts with extensive knowledge of the airport. H&D are selected to handle moves, adds and changes (MAC), cable management and to provide maintenance services.
	will provide the local help desk for the MSATS. IBM currently provides and supports MDAD's desktop and server infrastructure, as well as part of the campus area network.
	brings market leadership in WAN and telephony equipment and will provide support as needed to SITA, in particular in the field of disaster recovery. Nortel is a key contributor of SITA's worldwide network.
	RGTS provides unique expertise in managing shared tenant services, from process design and inventory control to billing and marketing of new services.



#### Unique local and global expertise

The **SITA Team** brings together familiar faces, with a working knowledge of your airport, your people, your needs and key business drivers: SITA provides your CUTE environment, IBM your desktop, H&D installs cabling in your facility and BellSouth is the local phone company. By adding organizations with subject matter leadership such as RGTS, Cisco and Nortel, we have formed a team that will support your vision of a world class managed service with revenue generation opportunities for MDAD and bring a clear commitment to quality of service and continuous improvement.



## Helping leverage your investment by reselling managed services

By combining the different service capabilities, the MSATS organization will be able to **design and resell attractive service packages to all airport tenants**. Bundling host connectivity and IP connectivity, with the services that are essential to their operations, such as voice, into a **single managed service** at a fixed price per port is a proposition that the SITA Team will turn into a reality for MDAD. The MSATS will handle all subscription and billing as well as service levels with all service providers. Airport tenants benefit by having a single contract covering, at a lower cost, all their maintenance, connectivity, and content needs. MDAD leverages its investment by sharing the costs amongst multiple users and **realize new revenue streams** by offering new services to its tenants. SITA is approaching this opportunity in an open fashion to ensure that the **benefits accrue to MDAD** and not only to its service providers.



## Reliability and innovation

SITA and all members of the SITA Team have an **unmatched reputation for service reliability**. As a provider of mission critical services to the air transport industry, SITA understands the need to guarantee high uptime and short recovery. The MSATS offering benefits from this experience based on well-established processes, unique technical expertise and market dedication. IBM, BellSouth, RGTS and H&D adhere to these principles. The MSATS will also be the vehicle to **bring new technologies to MIA**. Managing a **wireless infrastructure** would be a simple add-on to our scope or work. Deploying and managing **Voice-over-IP** is also part of our proven capabilities.

**The SITA Team  
Managed Shared Airport Tenant  
Services (MSATS)**

- Single point of contact for design, installation, operation, maintenance and business services
- Tradition for service excellence and unique technical expertise including LAN, WAN and voice
- Promote open network architecture and facilitate emerging technologies such as VoIP and wireless
- Utility based service provision with easy subscription, billing based on usage with data collected in real time
- Generate new revenue opportunities such as the delivery of services on an ASP model to airport tenants
- Strive to turn the MSATS organization from a cost center to a profit center



## Your partner for managed services at Miami International Airport

SITA and all members of the team are excited at this opportunity to offer groundbreaking services to MDAD. **Our team of companies that you trust** is uniquely able to enable your vision while mitigating all risks associated with the project. We value the business relationship we at SITA, IBM, BellSouth and H&D have established with MDAD and look forward to **strengthening this partnership**.

Thank you for your consideration!

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Ordinance Item No. 7(A)(1)(C)  
1-20-04

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OF COUNTY COMMISSIONERS  
DADE COUNTY, FLORIDA

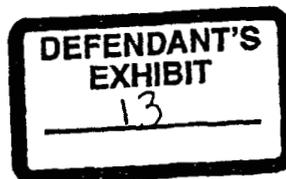
RESOLUTION NO. R-33-04

RESOLUTION RELATING TO TELECOMMUNICATIONS,  
DATA NETWORK, AND SHARED AIRPORT TENANT  
SERVICES AT MIAMI-DADE COUNTY AIRPORT SYSTEM  
FACILITIES; AND AUTHORIZING AWARD AND EXECUTION  
OF NON-EXCLUSIVE MANAGEMENT AGREEMENT WITH  
NEXTIRAONE, LLC FOR FIVE YEAR PERIOD

WHEREAS, Miami-Dade County, Florida (the "County") and NextiraOne, LLC ("Nextira") entered into a non-exclusive "Telecommunications, Data Network, and Shared Airport Services" management agreement (the "Interim Agreement") dated February 1, 2002, whereby the County (i) acquired title to all telecommunications, data network, and common use terminal equipment infrastructure, software, licenses, permits, and other assets (collectively, the "Assets"), to be used and operated by or for the Miami-Dade Aviation Department ("MDAD"), and (ii) authorized Nextira to act as interim manager of the Assets for a two (2) year period, until a telecommunications and data network request for proposal ("RFP") was circulated and a new manager selected; and

WHEREAS, RFP No. MDAD-04-01 was advertised on March 6, 2003, for a successor telecommunications, data network, and shared airport services manager, who would *inter alia* (i) provide for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for MDAD, and (ii) manage the shared airport tenant services customers at Miami International Airport; and

WHEREAS, after competitive bid, which included oral presentations, Nextira received the highest technical score, price score, and overall ranking from the evaluation and selection committee; and



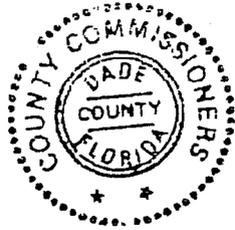
WHEREAS, the Interim Agreement for the management of the Assets terminates on February 6, 2004,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board: (i) authorizes the award and execution of a non-exclusive "Telecommunications and Network Management Services" agreement (the "Agreement") with Nextira for a five (5) year period, with the County's right to extend the Agreement for an additional two (2) years, in one (1) year increments (the maximum term of the Agreement with extensions not to exceed seven (7) years); and (ii) delegates to the County Manager the authority to negotiate all terms and conditions necessary to consummate the Agreement. The Agreement shall contain a random audit provision to be conducted by the Office of the Inspector General, pursuant to § 2-1076(c)(6), Code of Miami-Dade County Florida. The Agreement shall also contain a provision for the County to retain the services of an independent private sector Inspector General ("IPSIG"), pursuant to Administrative Order No. 3-20.

The foregoing resolution was offered by Commissioner **Dorrian D. Rolle**, who moved its adoption. The motion was seconded by Commissioner **Dennis C. Moss** and upon being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson	aye		
Katy Sorenson, Vice-Chairperson	aye		
Bruno A. Barreiro	absent	Jose "Pepe" Diaz	absent
Betty T. Ferguson	absent	Sally A. Heyman	aye
Joe A. Martinez	aye	Jimmy L. Morales	aye
Dennis C. Moss	aye	Dorrian D. Rolle	aye
Natacha Seijas	aye	Rebeca Sosa	aye
Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of January, 2004. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.



MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as  
to form and legal sufficiency.

David Stephen Hope

By. **KAY SULLIVAN**  
Deputy Clerk

5

Table 1  
Proposal Line Items

	Direct Salary Individual Hourly Rate	Direct Salary Individual Yearly Salary	Total Yearly Salary	Payroll Multiplier	CPI For So Fla, Adjusted Annually, presently 3.2%					Totals
					Year 1	Year 2	Year 3	Year 4	Year 5	
					0%	3.20%	3.20%	3.20%	3.20%	
<b>1.0 On-Site Management Maintenance and Operations Staff</b>										
Service Manager	56.77	\$118,082	\$118,082	1.84	217,270.14	224,222.79	231,397.92	238,802.65	246,444.34	1,158,137.84
Office and Administrative Supervisor	25.25	\$52,520	\$52,520	1.84	96,636.80	99,729.18	102,920.51	106,213.97	109,612.81	515,113.27
Administrative Assistant	13.94	\$28,995	\$28,995	1.84	53,351.17	55,058.41	56,820.27	58,638.52	60,514.96	284,383.33
Billing Specialist	23.32	\$48,506	\$48,506	1.84	89,250.30	92,106.31	95,053.72	98,095.43	101,234.49	475,740.26
Purchasing Administrator	14.42	\$29,994	\$29,994	1.84	55,188.22	56,954.25	58,776.78	60,657.64	62,598.68	294,175.58
Dispatcher/Scheduler Specialist	13.74	\$28,579	\$28,579	1.84	52,585.73	54,268.47	56,005.06	57,797.22	59,646.74	280,303.22
SATS Technical Specialist	29.98	\$62,358	\$124,717	1.84	229,478.91	236,822.24	244,400.55	252,221.37	260,292.45	1,223,215.51
Voice Communications Supervisor	33.14	\$68,931	\$68,931	1.84	126,833.41	130,892.08	135,080.62	139,403.20	143,864.11	676,073.42
Senior Voice Technician - LEAD	28.78	\$59,862	\$59,862	1.84	110,148.82	113,671.51	117,309.00	121,062.89	124,936.90	587,127.13
Senior Voice Technicians	23.79	\$49,483	\$98,966	1.84	182,098.18	187,925.32	193,938.93	200,144.97	206,549.61	970,657.01
PBX Engineer	29.86	\$62,109	\$62,109	1.84	114,280.19	117,937.16	121,711.15	125,605.90	129,625.29	609,159.69
PBX Programmer / Administrator	30.29	\$63,003	\$63,003	1.84	115,925.89	119,635.52	123,463.85	127,414.70	131,491.97	617,931.92
Voice Technician	23.82	\$49,546	\$148,637	1.84	273,491.71	282,243.45	291,275.24	300,596.04	310,215.12	1,457,821.56
Data Communications Supervisor	37.92	\$78,874	\$78,874	1.84	145,127.42	149,771.50	154,564.19	159,510.24	164,614.57	773.5
Network Engineers	41.55	\$86,424	\$432,120	1.84	795,100.80	820,544.03	846,801.43	873,899.08	901,863.85	4,238.2
Network Engineer V	57.69	\$119,995	\$119,995	1.84	220,791.17	227,856.49	235,147.89	242,672.63	250,438.15	1,176,906.32
Network Technicians	32.19	\$66,955	\$133,910	1.84	246,395.14	254,279.78	262,416.73	270,814.07	279,480.12	1,313,385.84
Help Desk & NOC Supervisor	37.92	\$78,874	\$78,874	1.84	145,127.42	149,771.50	154,564.19	159,510.24	164,614.57	773,587.93
NOC Technicians - Senior Level	26.66	\$55,451	\$110,906	1.84	204,066.30	210,596.43	217,335.51	224,290.25	231,467.57	1,087,756.02
NOC Technicians	18.97	\$39,458	\$118,373	1.84	217,805.95	224,775.74	231,968.57	239,391.56	247,052.09	1,160,993.91
Help Desk Customer Service Reps.	15.38	\$31,990	\$191,942	1.84	353,174.02	364,475.58	376,138.80	388,175.24	400,596.55	1,882,560.50
Level 1 Support Techs For Office Apps	15.87	\$33,010	\$66,019	1.84	121,475.33	125,362.54	129,374.14	133,514.11	137,786.56	647,512.68
NOC Openview/Netview Configuration Adn	46.89	\$97,531	\$97,531	1.84	179,457.41	185,200.05	191,126.45	197,242.49	203,554.25	956,580.64
Cable Planning & Special Projects Sup.	31.67	\$65,874	\$65,874	1.84	121,207.42	125,086.06	129,088.82	133,219.66	137,482.69	646,084.65
Fiber and Copper Cable Technicians	23.60	\$49,088	\$147,264	1.84	270,965.76	279,636.66	288,585.04	297,819.76	307,349.99	1,444,357.21
Facility Engineers - Project Managers	27.20	\$56,576	\$113,152	1.84	208,199.68	214,862.07	221,737.66	228,833.26	236,155.93	1,109,788.59
Cable Management Field QA	24.05	\$50,024	\$50,024	1.84	92,044.16	94,989.57	98,029.24	101,166.18	104,403.49	490,612.64
Cable Management Data Entry Clerk	13.05	\$27,144	\$27,144	1.84	49,944.96	51,543.20	53,192.58	54,894.74	56,651.38	266,226.86
CADD Operator	23.04	\$47,923	\$47,923	1.84	88,178.69	91,000.41	93,912.42	96,917.62	100,018.98	470,028.11
<b>Total</b>					5,175,599.10	5,341,218.28	5,512,137.26	5,688,525.65	5,870,558.47	27,588,038.77
(Per recommended staffing)										
Monthly Management Fee					431,299.93	445,101.52	459,344.77	474,043.80	489,213.21	
<b>2.0 After Normal On-Site Work Hours Rates</b>										
(Estimated hours = 100 per year using the Monday through Sunday rate)	100		\$90.00		9,000.00	9,288.00	9,585.22	9,891.94	10,208.49	47,917.75
<b>3.0 Project Management of Subcontracts</b>										
(Estimated contracts \$350,000 per year)										
(Individual subcontracts greater than \$100,000, fee not greater than 10%)		8%			28,000.00	28,896.00	29,820.67	30,774.93	31,759.73	
					350,000.00	361,200.00	372,758.40	384,686.67	396,996.64	2,014,893.05
<b>4.0 Obligations with Vendors</b>										
(All third party Maintenance Agreements)										
(Estimated contracts: \$400,000 per year)		8%			32,000.00	33,024.00	34,080.77	35,171.35	36,296.84	
					400,000.00	412,800.00	426,009.60	439,641.91	453,710.45	2,302,734.91
<b>5.0 New Materials and Equipment Purchased</b>										
(Estimated purchase orders = \$630,000 per year)										
		8%			50,400.00	52,012.80	53,677.21	55,394.88	57,167.52	
					630,000.00	650,160.00	670,965.12	692,436.00	714,593.96	3,626,807.49
<b>6.0 Yearly Totals</b>					6,674,999.10	6,888,589.08	7,109,034.25	7,338,523.34	7,571,292.09	35,580,447.86
<b>7.0 Five-year Total</b>										
									35.58	86



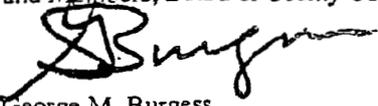
# MEMORANDUM

Agenda Item No. 7(A)(1)(C)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

DATE: January 20, 2004

SUBJECT: Award Recommendation,  
Miami-Dade Aviation Department  
Non-exclusive Telecommunications and  
Network Management Services  
Agreement  
RFP No. MDAD-04-01

FROM:   
George M. Burgess  
County Manager

The accompanying item was considered by the Transportation Committee (the "Committee") at its December 11, 2003 meeting and forwarded to the full Board, as amended, without a recommendation. This item incorporates and responds to the directives of the Committee made during that meeting.

## RECOMMENDATION

It is recommended that the Board approve the attached resolution awarding a non-exclusive "Telecommunications and Network Management Services" agreement (the "Agreement") between Miami-Dade County (the "County") and NextiraOne, LLC ("Nextira" or the "Contractor"), which provides for: 1) the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for the Miami-Dade Aviation Department ("MDAD" or the "Department"); and 2) manage the shared airport tenant services ("SATS") customers at Miami International Airport ("MIA"). It is further recommended that the Board authorize the County Manager or his designee to execute such Agreement for and on behalf of the County, and exercise any renewal, termination, and cancellation clauses contained therein. This contract award recommendation has been prepared by the Miami-Dade Aviation Department.

## BACKGROUND

On January 29, 2002, the Board passed and adopted Resolution No. R-31-02, which authorized: (i) the payment and acquisition of title to all telecommunications network, data network, and common use terminal equipment infrastructure, software, licenses, permits, and other assets (collectively, the "Assets") to be used by or for MDAD at County airport system facilities; and (ii) the execution of non-exclusive management agreement with Nextira (the "Interim Agreement") whereby it became the interim telecommunications infrastructure manager for the design, installation, maintenance, repair, management, and operational support services of all voice and data network infrastructure for MDAD and SATS customers at MIA and the County's owned and operated general aviation airports ("GAAs"), until a new provider was selected but for no longer than a twenty-four (24) month period. Prior to the Interim Agreement, Nextira or its predecessors leased the assets to the County, and managed, operated and maintained the telecommunications infrastructure and services serving MIA and the GAAs. RFP No. MDAD-04-01 was advertised on March 6, 2003, for a successor telecommunications, data network, and shared airport services infrastructure manager. Nextira received the highest technical score, price score, and overall ranking from the evaluation and selection committee. The Interim Agreement with Nextira expires on February 6, 2004.

The Transportation Committee, during its December 11, 2003 meeting, requested. (i) a corporate cross check of Williams Communications Solutions ("Williams"), NextiraOne, and H & D Electric, Inc. to include the owners, officers, and directors of these organizations; (ii) warranty language to be incorporated into the Agreement, wherein NextiraOne represents and warrants that former principals of Williams are not current principals of NextiraOne, and whereby a breach of said representation constitutes grounds for termination of the Agreement; and (iii) dissemination of NextiraOne's (a) convictions, indictments or investigations, and (b) litigation-proposal disclosures. This substitute item includes the revised Agreement which incorporates the representation and warranty by NextiraOne and which has been executed by NextiraOne, a corporate cross check as described above as Exhibit A, and the affidavits and disclosures of NextiraOne's convictions, indictments, investigations, and litigation as Exhibit B. The affidavits and disclosures were included in NextiraOne's original proposal submittal, which is on file with the Office of the Clerk of the Board.

**DESCRIPTION OF PROJECT:**

The Contractor shall: (i) furnish all labor, new materials, tools, supplies and other items required for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for MDAD, its users and tenants; and (ii) manage SATS for the County, to tenants and users at MIA.

The work under the Agreement includes, but is not limited to: (a) provisioning of voice and data network services; (b) maintaining existing and future voice and data networks infrastructure equipment including operation, maintenance, repair, monitoring, and support of network devices such as routers, switches, and servers; (c) supporting of circuits, including vendor resolutions and support of environmentals including UPS devices for all switches and routers at all sites; (d) daily analysis of network performance to research trending and troubleshooting from end point to end point to enable quick resolution of system degradation; (e) providing capacity planning for all network links, PBX switches and trunk groups; (f) providing an on-site Help Desk and Network Operation Center dedicated to providing uninterrupted service to airport operations; (g) managing the existing voice and data network infrastructure; (h) maintaining records as required by MDAD, including but not limited to, equipment and cable plant, record keeping of work order activity, equipment inventory, telephone number inventory, number dialing plan, key sheets, and cable management to the Intermediate Distribution Frame level and jack level for existing and new structure; (i) managing the turn-key installation of new voice, data and network services such as user training on equipment, project scheduling, appropriate billing to MDAD and SATS customers; (j)

billing user customers for services, and also for the specified equipment, including when specifically requested by appropriate work order; (k) needs assessment; (l) system design; (m) procurement of equipment and parts; (n) documentation and reports; (o) record keeping and inventory; and (p) any other functions related to the provisioning of these services

The Contractor shall also provide, install and maintain technical systems hardware and software associated with the management of all telecommunications Asynchronous Transfer Mode ("ATM") Gigabit Ethernet & ATM infrastructure. In addition, the Contractor shall maintain computer hardware and software and the database associated with the cable record systems, the New Security System Cable Management System (after the initial contract expires with that system's provider), and any billing system the Contractor chooses to employ subject to approval by the Department. These software applications shall be maintained and operated at such a level that is suitable to maintain the quality of service or additional requirements outlined in the Agreement or other sections of this specification. Back-ups shall be performed and maintained off-site by the Contractor for all key technical systems to ensure data integrity and disaster recovery. The complete service requirements for this Agreement are included as Exhibit A, entitled Telecommunications and Network Management Services Specification to the Agreement. Exhibit A and all other supporting documentation that is referenced in the Agreement are on file with the Office of the Clerk of the Board.

**CONTRACT TERM:** The term of the Agreement is for five (5) years. The County may terminate the Agreement without cause on thirty (30) days written notice to Nextira, provided however, the Agreement shall have a minimum term of three (3) years unless terminated earlier for cause.

**OPTION(S) TO RENEW:** The County reserves the right to extend this Agreement for up to an additional two (2) years, in one (1) year increments.

**REVIEW COMMITTEE RECOMMENDATION:** 4% CSBE goal for electrical contractors.

**ADVERTISEMENT DATE:** March 6, 2003.

**LIVING WAGE:** Not Applicable.

**RESPONSIBLE WAGES:** Yes.

VENDOR(S): NextiraOne, LLC.

CONTRACT AMOUNT: Management Fee:

The Agreement provides for a management fee of \$5,175,599.10 for the first year based on a staff of fifty (50) persons, which includes all overhead, profit and staff transition costs. The compensation for the rest of the Agreement is based on this management fee as adjusted for the requirements of the Capital Improvement Program ("CIP") and the change in the Consumer Price Index ("CPI") for the salaries of the personnel.

The total estimated management fee for the five (5) years is \$27,588,038.77.

Variable Costs

The Agreement also provides for variable costs when authorized by the Department; and includes: 1) the procurement of new materials and equipment (\$3,626,807.49), 2) obligations with vendors for all third party maintenance agreements (\$2,302,734.91), 3) project management of subcontracts (\$2,014,893.05), and 4) on-call after hour services (\$47,973.64). These amounts, which total \$7,992,409.09, are for the initial five (5) year term.

The total fixed and variable costs for the initial five (5) year term of the Agreement are \$35,580,447.86 (see Table 1 attached hereto). The source of funding for these services is aviation revenue.

PREVIOUS CONTRACT  
VALUE:

Management Fee

The Interim Agreement provided for a management fee of \$6,144,067, for the first year for a staff of thirty-eight (38) persons, which included overhead and profit, staff transition costs, vendor agreements and spare parts carrying charge. The compensation for the second year of the Interim Agreement was based on the management fee above, as adjusted for the requirements of the CIP and the change in the CPI for the salaries of the personnel.

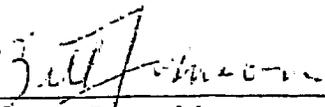
The primary difference between the Agreement being considered for award and the Interim Agreement with Nextira, is that the proposed

Agreement provides for an on-site Help Desk and Network Operation Center dedicated to providing uninterrupted service and support to the Aviation Department and tenants.

Variable Costs

The Interim Agreement also provided for the variable costs, when authorized by the Department, and included for: 1) the procurement of parts, materials and software (\$2,680,000),

2) on-call after hour services (\$273,000), and 3) subcontractor services for wiring installation and maintenance, as necessary (\$899,415). Said variable costs totaled \$ 3,852,415.

  
Assistant County Manager



# MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. DATE: January 20, 2004  
and Members, Board of County Commissioners

FROM:   
Robert A. Ginsburg  
County Attorney

SUBJECT: Agenda Item No. 7(A)(1)(C)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

5 +

FILE COPY

J. Phillip Carver  
General Attorney

September 20, 1994

BellSouth Telecommunications, Inc.  
Museum Tower Building  
Suite 1910  
150 West Flagler Street  
Miami, Florida 33130  
Phone (305) 347-5558

Dan Paul, Esquire  
Jordan Burt Berenson & Klingensmith  
777 Brickell Avenue  
Suite 500  
Miami, Florida 33131-2803

DEFENDANT'S  
EXHIBIT  
14

Dear Mr. Paul:

Mr. Gomez has forwarded to me your correspondence of September 2, 1994. Accordingly, please accept this letter as Southern Bell's response. After reviewing your letter, I can only conclude that your client has been badly misinformed as to what occurred at the meeting of July 25, 1994.

A variety of topics were discussed at that meeting between DCAD and Southern Bell, one of these topics is the fact that DCAD has not received competitive bids in almost twelve years for telecommunications work that is performed at the airport. Southern Bell's representatives merely inquired when DCAD intended to undertake the RFP process in the future. Although we certainly communicated to DCAD our belief that this process is long overdue, there was absolutely no communication from Southern Bell that could even be remotely construed as a request that DCAD breach any existing, binding contract. Quite the contrary, it was specifically stated that this was not our intention.

Moreover, when representatives of DCAD stated to us that the contract between DCAD and WilTel is a public document, I requested that Mr. Abbott, the attorney for DCAD, forward a copy to me at his earliest convenience. This request was expressly premised upon our desire to respect the existence and parameters of DCAD's contract with WilTel. Mr. Abbott, however, has not sent to me a copy of this contract. Since you state in your letter to Mr. Gomez certain specifics about the contract (and assuming it is a public document), I would certainly appreciate your sending a copy of it directly to me so that I can review it for this same purpose.

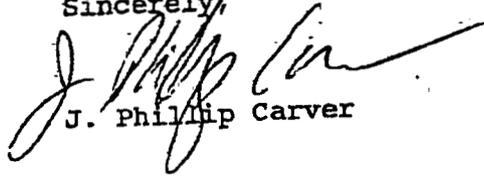
In the meantime, I can only state once again that, although I do not know with whom your client(s) spoke or what they were told, I do know that they have been badly misled as to the substance of the meeting on July 25, 1994. I repeat that absolutely nothing was stated on behalf of Southern Bell that could be taken as a request or inducement for DCAD to breach an existing contract with WilTel or anyone else.

BST20261

Dan Paul, Esquire  
September 20, 1994

I look forward to receiving from you a copy of the contract between your client and DCAD. Also, if you would like to discuss any aspect of the foregoing, or if I may be of help otherwise, please do not hesitate to contact me.

Sincerely,



J. Phillip Carver

cc: E. R. (Tito) Gomez  
Thomas P. Abbott  
John R. Marks, III

FILE COPY

J. Phillip Carver  
General Attorney

BellSouth Telecommunications, Inc.  
Museum Tower Building  
Suite 1910  
150 West Flagler Street  
Miami, Florida 33130  
Phone (305) 530-5558

March 28, 1994

VIA FACSIMILE

Thomas P. Abbott  
County Attorney  
Metropolitan Dade County, Florida  
Aviation Department  
P.O. Box 592075 AMF  
Miami, Florida 33159

DEFENDANT'S  
EXHIBIT  
15

Re: Dispute between Southern Bell and  
DCAD: Interim Agreement to Provide  
Diversity to FAA.

Dear Tim:

This letter is in response to your correspondence of February 9, 1994, which proposed an alternative agreement to the one I suggested in my letter to John Marks of January 3, 1994.

In general, your letter seems to incorporate, with minor changes in language here and there, the proposal set forth in my letter of January 3, 1994. To the extent it does this, it is obviously acceptable. I did notice, however, that your counterproposal varies from Southern Bell's in one important substantive aspect: the amount of the lease payment for the cable.

The understanding that I took from our meeting with the Commission on December 2, 1993 was that DCAD was offering to "give" Southern Bell the needed strands of cable to provide diversity to the FAA on a temporary basis, that is, while we continue to pursue resolution of our dispute. I interpreted this to be an offer to allow us to use this cable for a nominal fee. Accordingly, paragraph three of my proposal reflected this understanding.

Your counterproposal would require Southern Bell to pay a "reasonable charge" that would be based on what it would cost Southern Bell to install its own cable and conduit (i.e., support structures). While I do believe that this is different than what DCAD originally proposed in December to us, we are willing (under these specific circumstances and on a temporary basis) to pay a reasonable fee for the lease of the three strands of cable. Your suggestion that Southern Bell also pay for the conduit, however, does present a problem.

BST20309

As you are well aware, Southern Bell has consistently taken the position that it is the responsibility of DCAD, as a provider of shared tenant-type services, to provide to Southern Bell at no charge support structures that are adequate to allow us to place our cable to have direct access to our customers. The Commission sustained this position in its Order of February 1, 1994, and DCAD has protested this Order. The proposal in your letter, however, goes even further than the position previously rejected by the Commission. You are now suggesting that Southern Bell, in effect, lease DCAD's cable at a price that is designed to underwrite DCAD's costs to build its own conduit. Further, you propose to arrive at this price by charging what Southern Bell would pay for its own conduit, which brings us back to the initial dispute. Southern Bell does not pay for "its own conduit" because it is the obligation of DCAD as an STS-type carrier to provide to Southern Bell, at no cost, support structures to allow us access to our customers. Thus, your proposal that the lease rate be based on some payment for conduit is unacceptable.

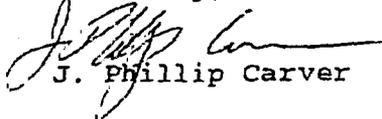
At the same time, I assume that you view this issue differently, and that we are not going to reach an agreement on this point at any time in the near future. Meanwhile, the FAA has an urgent need for diverse cabling, which must be addressed immediately. Therefore, I propose that we temporarily handle the payment issue in keeping with the Agreement of January 25, 1993. In other words, DCAD will provide this cable to Southern Bell on an interim basis, and once a final order is entered to resolve our ongoing dispute, Southern Bell will either pay for lease of the cable at the rate that is consistent with the requirements of the final order.

If this suggestion is acceptable, then please change your version of the letter agreement so that paragraph three either references the January 25, 1993 Agreement or, alternatively, incorporates the same terms on this point into this agreement.

As stated above, Southern Bell believes that there is a very real need to provide diversity to the FAA promptly. Therefore, I would appreciate your responding to this proposal as quickly as you possibly can.

Thank you for your prompt attention to this matter.

Sincerely,

  
J. Phillip Carver

JPC/bp

cc: Alan Taylor  
Tracy Hatch  
John Marks

BST20310

**Shields, Holly S**

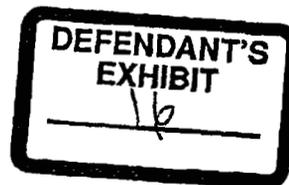
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**From:** Cordal, Elena  
**Sent:** Wednesday, July 31, 2002 7:08 PM  
**To:** Gomez, Tito  
**Cc:** Maier, Lonnie; Andrus, Stuart R; Mule, Joe, Gonzalez, Eduardo; Carcasses, Mercy  
**Subject:** Miami-Dade Aviation - North Terminal Bid

As per your conversation with Lonnie, following are some of the details associated with *MIA Security Equipment Procurement, Project No. MDAD CIP 467.003*.

- 1) Purpose of this bid is to deliver a lump sum bid amount for security equipment and associated warranties. These include routers, cameras, and associated CPE.
- 2) We have chosen to bid with Cisco and Munway Technology (DBE) as our partners. We're the 2nd lowest bidder with a sales price of \$3,896,238. Prices must remain valid for up to 180 days after bid opening date.
- 3) Other vendors who replied to the bid are:
  - a) Presidio with Cisco (currently lowest bidder, lower than us by \$200K)
  - b) Nexteira with Nortel (highest bidder)
  - c) We suspect Sprint also replied but don't know who they partnered with.
- 4) We expect two other bids to be issued shortly. They'll be for installation and maintenance of this CPE.
- 5) We think/believe that this business is necessary to position BellSouth as the vendor to be awarded the other RFP's which will be issued by MIA to replace Nexteira. Thus, it is very important for us to win this bid in order for us to get "our foot in the door."

Pls let me know if you need any other info. Thx, Elena



BST19917

Shields, Holly S

From: Cordal, Elena  
Sent: Thursday, August 01, 2002 3:34 PM  
To: Gomez, Tito  
Cc: Maier, Lonnie; Andrus, Stuart R; Mule, Joe; Gonzalez, Eduardo; Carcasses, Mercy  
Subject: FW: Miami-Dade Aviation - North Terminal Bid

Tito,  
I would like to correct the amount of our bid. The correct total amount should be \$4,598,864.76. Hope this hasn't caused any inconvenience. Thx, Elena

-----Original Message-----

From: Cordal, Elena  
Sent: Wednesday, July 31, 2002 7:08 PM  
To: Gomez, Tito  
Cc: Maier, Lonnie; Andrus, Stuart R; Mule, Joe; Gonzalez, Eduardo; Carcasses, Mercy  
Subject: Miami-Dade Aviation - North Terminal Bid

As per your conversation with Lonnie, following are some of the details associated with MIA Security Equipment Procurement, Project No. MDAD CIP 467.003.

*Handwritten note:*  
Tel: Elena  
8/1/2002  
To: AC  
Re: Bid  
This one

- 1) Purpose of this bid is to deliver a lump sum bid amount for security equipment and associated warranties. These include routers, cameras, and associated CPE.
- 2) We have chosen to bid with Cisco and Munway Technology (DBE) as our partners. We're the 2nd lowest bidder with a sales price of \$3,896,238. Prices must remain valid for up to 180 days after bid opening date.
- 3) Other vendors who replied to the bid are:
  - a) Presidio with Cisco (currently lowest bidder, lower than us by \$200K)
  - b) Nexteira with Nortel (highest bidder)
  - c) We suspect Sprint also replied but don't know who they partnered with.
- 4) We expect two other bids to be issued shortly. They'll be for installation and maintenance of this CPE.
- 5) We think/believe that this business is necessary to position BellSouth as the vendor to be awarded the other RFP's which will be issued by MIA to replace Nexteira. Thus, it is very important for us to win this bid in order for us to get "our foot in the door."

*Handwritten note:*  
9-30-02  
no other news -  
proposed. Oct Nov.

Pls let me know if you need any other info. Thx, Elena

*Handwritten notes:*

8/6/02 In Elena we were #2 on bid - Terminal in North Terminal bid } are 200,000 over Presidio } are ranked #2 - AC make decision

8/9/02 Advise Elena to wait for cl. from County on issue - apparently there has been alt. will of the responsible } their compliance -

8/14/02 Advise Elena to have El. confirm the County } request about the status of the RFP. Per Elena no response yet -

BST19916

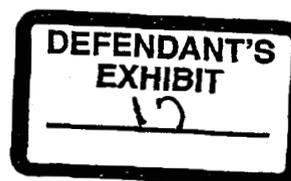


**DADE AVIATION CONSULTANTS**  
GENERAL CONSULTANT TO THE DADE COUNTY AVIATION DEPARTMENT

A JOINT VENTURE OF  
BECHTEL CORPORATION  
DAY & ZIMMERMANN INC.  
SPILLIS, CANDELA & PARTNERS INC.  
THE BUGDAL GROUP  
FORREST CONSTRUCTION MANAGEMENT INC.  
MAURICE GRAY ASSOCIATES INC.  
SHARPTON BRUNSON & COMPANY  
THOMPSON CONSULTANTS INTERNATIONAL INC.  
AN EQUAL OPPORTUNITIES EMPLOYER

**BellSouth/MDAD Meeting**

**Date:** April 12, 2002  
**Time:**  
**Location:** IS Conference Room  
**Purpose:** Discuss BellSouth Participation in POP at MIA



Minutes by Rick Kautz

Next Meeting: Not scheduled

**Attendees:**

Name	Org	Phone	Fax	Email
Elena Cordal	BBS	3055697279		Elena.cordal@bellsouth.com
Lonnie Maier	BBS	3055697210		Lonnie.maier@bellsouth.com
Orlando J. Soto	BLS-Net	3052608231		ojs@bellsouth.com
George Hill	BLS-Net	3056299432		George.f.hill@bridge.bellsouth.com
Jorge F. DeApodaca	Director- Network	3055921489		Jorge.deapodaca2@bridge.bellsouth.com
Ed Gonzalez	BBS	3055692202		Eduardo.Gonzalez@bellsouth.com
Tito Gomez	BBS/REA	3053475450		Tito.Gomez@bellsouth.com
Maurice Jenkins	MDAD	3058760934		mjenkins@miami-airport.com
Pedro Garcia	MDAD	3058767523		pgarcia@miami-airport.com
Howard Werner	MDAD	3058760272		hwerner@miami-airport.com
Rick Kautz	DAC	3058760608		rkautz@miami-airport.com

**Attachments:**

- BellSouth Feedback Letter Dated April 5, 2002

CC: R. Robinson  
Document Control

**BST256**

**Minutes:**

Item #	Discussion	Action:
1	Ms. Cordal stated that a second response to MDAD's discussion on use of Point of Presence was sent on April 5. BellSouth provided copies of this response to review at this meeting.	No action
2	Mr. Garcia said that MDAD had the PSC ruling and the County Charter reviewed by the County Attorney. Their legal position is that the airport can implement a Point of Presence and charge a reasonable price. MDAD cannot deny access to a customer.	No action
3	BellSouth stated that the potential issue with the County Charter is whether or not MDAD can provide dial tone.	No action

Item #	Discussion	Action:
4	Mr. Gomez stated that the April 5 <sup>th</sup> letter says that if MDAD charges the same, as it would cost BellSouth to provide the connectivity there is no issue. He said that the document highlights a sub-issue that BellSouth has an obligation to provide maintenance and service to comply with the PSC. To do this, BellSouth needs access to the facilities at MIA.	No action
5	Mr. Garcia said there will always be issues between concept and implementation. At some places POP may not be practical. The implementation needs to be worked through situation by situation.	No action
6	Mr. Garcia pointed out that MDAD is updating the MDAD design guidelines to meet telecom and BICSI guidelines. This addresses the technical issues listed on page 2 of the MDAD document.	No action
7	Mr. Gomez said that BellSouth's issues were more operational in nature in terms of how they would operate in a POP environment. He reiterated BellSouth's willingness to work through the issues with MDAD.	No action
8	Mr. Gomez stated that there is another issue pertaining to MDAD providing dial tone to other than county personnel. Mr. Jenkins said that the County Attorney had rendered an opinion stating that this is not an issue. It was agreed that the County and BellSouth attorneys should discuss this issue. David Hope is the relevant County Attorney. Sharon Leibman is the BellSouth attorney.	Mr. Garcia to initiate a discussion between attorneys
9	Mr. Jenkins said that MDAD wants to address the wants and needs of the public. The MIA Airline Committee has many expectations of MDAD that involve no increase of landing fees. So MDAD needs to find other ways to collect revenue. Mr. Jenkin's goal is apply technology to run the airport as a business.	No action
10	Mr. Jenkins stated he appreciates George Hill and Kenny Wendt's professionalism in working with MDAD.	No action
11.	Mr. Gomez said that BellSouth originally hesitated in providing support for the POP concept due to issues that occurred prior to Mr. Jenkins and Mr. Garcia representing MDAD. BellSouth was concerned about being forced into an approach that was not mutually agreed. Since MDAD and BellSouth are in agreement that there is not a cookie cutter solution to all implementation issues BellSouth feels good about the implementation approach.	No action
12	Lonnie Maier reports directly to Janice Kraft who attended the last meeting with MDAD. BellSouth will make sure that MDAD will kept up to date about the technology that is available for MIA. Mr. Jenkins said he is interested in ways to make money and not interested more ways to spend money.	BellSouth to keep MDAD up to date on potential revenue making technologies
13	BellSouth asked about MDAD's position on the infrastructure that BellSouth already has in place. Mr. Kautz stated that MDAD knows that MIA won't have a pure POP implementation. It is not likely that MDAD will take over this existing infrastructure. At some time in the near future MDAD will take the position that from that time forward MDAD will install and own all new infrastructure installed.	No action
14	BellSouth has many questions about what MDAD will provide as part of POP. For instance, in some cases BellSouth needs to use electronics in customer areas to send/receive information. Does MDAD plan to provide the equipment on the airport? These details need to be worked out in general,	No action

Meeting notes compiled by Rick Kautz, DAC. Any comments regarding these notes must be submitted in writing within 5 days of receipt of meeting notes.

BST257

Item #	Discussion	Action:
	MDAD plans to provide the same type of services currently provided by NEXTIRA. For cases such as the example listed, MDAD would provide dark fiber and BellSouth would provide equipment at both ends of the communications circuit. BellSouth also talked about having spare pairs in cables allocated to BellSouth so that they could make emergency repairs without getting MDAD involved.	
15	Mr. Garcia talked about his future trip to Orlando to see their POP facility. BellSouth said that Orlando does not have a complete POP implementation... and that they would like George Hill to go along to explain what Mr. Garcia is seeing.	George Hill and Pedro Garcia to coordinate meeting about trip to Orlando

Meeting notes compiled by Rick Kautz, DAC. Any comments regarding these notes must be submitted in writing within 5 days of receipt of meeting notes.

**BST258**

George F. Hill /miami 5/6/2002 12:37

Page 1

TEXT  
Subject: Updated Meeting Minutes  
Creator: Kkautz@miami-airport.com

dated: 5/6/2002 at 7:58  
Size: 587 bytes

The attached meeting minutes have two corrections from George Hill.  
(corrected spelling of two names)

<<2002-05-06 bellsouth letter.doc>>

Rick Kautz  
Sr. IT Consultant  
Dade Aviation Consultants  
P.O. Box 594040  
Miami, Florida 33159-4040  
Phone: 305-876-0608

\*\*\*\* IMPORTANT NOTICE \*\*\*\*

The Miami-Dade County Aviation Department is a public agency subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure. All e-mail sent and received is captured by our server and kept as a public record.

BST259

George F. Hill /m6,mail6a

ted: 5/5/2002 at 7:08

REPLY  
Subject: Meeting Minutes from the April 12 MDAD/BellSouth Meeting Contents 2  
Sender: George F. Hill /m6,mail6a

Item 1

FROM: George F. Hill /m6,mail6a; PHONE=305-629-9432  
TO: KKautz@miami-airport.com

Item 2

Rick,

Please make the following changes:

Resend this out with Jorge's name spelled DeApodaca and change his e-mail address as well.

The BST attorney in referenced in item 8 should be Sharon Liebman.

Thanks!

George

BST260

Tito Gomez /m3,mail3a 8/4/99 14:09

Page 1

MESSAGE

Dated: 8/4/99 at 13:54

Subject: Miami Dade Aviation (MIA Airport)

Contents: 2

Sender: Brett Shinn /Notes/////////HPNOTES/Brett Shinn\BCS\BBS\BLS@BLS

Item 1

TO: Tito Gomez /M3,MAIL3A  
Dave Daucanski /Notes/////////HPNOTES/Dave Daucanski\BCS\BBS\BLS@BLS  
John Zima /Notes/////////HPNOTES/John Zima@BCI  
Manne Strand /Notes/////////HPNOTES/Manne Strand\BCS\BBS\BLS@BLS  
Eduardo Gonzalez /Notes/////////HPNOTES/Eduardo Gonzalez@BCI

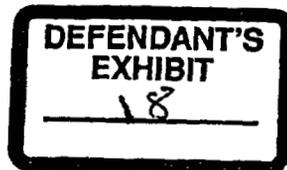
Item 2

The time and date for the meeting has been changed. The meeting is now Friday, August 27th, 9:30 AM to 11:00 AM

The three Airport staff members that we will be meeting with are Jim Neighbors, Maurice Jenkins and Jesus Lira. The meeting is being held to discuss the plans that the Airport has to either upgrade or replace all of their voice and wire infrastructure starting in Y2000.

If any of you want to attend, please call me to get directions, B R E T T 305-569-7256.

AUG 11 4



BST19858

MESSAGE

Dated: 8/20/99 at 15:16

Subject: DCAD Airport meeting

Contents: 2

Sender: Brett Shinn /Notes////////HPNOTES/Brett Shinn\BCS\BBS\BLS@BLS

Item 1

TO: Tito Gomez /M3,MAIL3A

Eduardo Gonzalez /Notes////////HPNOTES/Eduardo Gonzalez@BCI

John Zima /Notes////////HPNOTES/John Zima@BCI

Manne Strand /Notes////////HPNOTES/Manne Strand\BCS\BBS\BLS@BLS

Dave Daucanski /Notes////////HPNOTES/Dave Daucanski\BCS\BBS\BLS@BLS

Item 2

For those of you that are planning on attending the meeting, the time and place has changed, we will now be meeting with them from 11:00 AM to 1:00 PM at the DCAD main office located in the main concourse terminal at the airport. Call me and I will fax you directions to their offices. Attached is a copy of the letter that I sent to them yesterday that outlines what we would like to discuss. Please excuse the formatting, when I copied it from Word to notes, some of it got goofed up. Again, call with questions, B R E T T. 305-569-7256

August 20th, 1999

Mr. Maurice Jenkins, Manager IS-Telecommunications  
Dade County Aviation Department  
Box 592075  
Miami, Florida 33159

Dear Mr. Jenkins:

Thank you for inviting BellSouth to come and meet with you and the staff of DCAD to discuss the telecommunication needs of the airport on August 27th. As you are aware, BellSouth is interested in bidding on current and future telecommunication bids at the airport. So that the meeting can be mutually beneficial, listed below are some major points of interest that we would like to discuss during the meeting:

- Q Exactly when will the current contract extension with Williams Communications expire?
- Q After contract expiration, is DCAD considering purchasing existing in-place equipment or replacing it with new equipment?
- Q What plans does DCAD have concerning purchasing in-place building and tie wire?
- Q How many dedicated technicians does DCAD have under contract with Williams and will this number increase or decrease in the next contract period?
- Q Would DCAD be interested in BellSouth bidding on any work prior to contract expiration?

These are just a few of the topics that we would like to discuss during the meeting, and obviously, if there are subjects that DCAD would like to discuss, please bring them up.

We here at BellSouth are looking forward to developing a mutually beneficial business relationship in the coming years. If you have any questions or concerns prior to the meeting, please contact me at your earliest convenience at 305-569-7256.

Sincerely,

Brett Shinn  
Sales Executive

BST19857

Hill, George F

---

From: Hill, George F  
Sent: Friday, September 26, 2003 3:06 PM  
To: 'pjgarcia@miami-airport.com'  
Cc: Liebman, Sharon ; Perez, Rosa M; Gomez, Tito  
Subject: Agreement

Pedro,

Please see the attached draft of the Agreement that we have been working on. This draft is submitted for the Miami Dade County Aviation Department's review and comments.

If you have any questions please contact me at 305-222-8234.



09-25-03.doc

George



BST33

Draft - 9/25/2003

Term Sheet  
July , 2003

BellSouth Telecommunications, Inc. (BellSouth) and Miami-Dade County Aviation Department (MDAD) plan to enter into an agreement governing the use by BellSouth of telecommunications facilities of MDAD at the north terminal at Miami International Airport (MIA). The north terminal is currently under construction. Generally, the facilities are cables running for "the last mile" from the main telecommunications terminal rooms or feeder cable rooms, through distribution cable terminal rooms and to customers' premises. The following sets forth the key terms of the parties' anticipated agreement. Following signature of this term sheet on the last page below, the parties will prepare a definitive agreement addressing the points in this term sheet and other standard agreement provisions. It is understood that BellSouth would prefer to place its own facilities, but MDAD has advised that it desires this arrangement. BellSouth's willingness to explore this arrangement at the new north terminal should not be construed as willingness or agreement to do so for any other airport areas. Nothing in the agreement will affect any existing BellSouth infrastructure in the area of the north terminal development project.

(1) Term. From the effective date for so long as BellSouth requires the Leased Facilities to serve existing or potential customers at MIA.

(2) Definitions.

a. The cabling system MDAD is installing in each of several Projects, as defined below, in the north terminal is called a "Premise Distribution System" or "PDS." A PDS is composed of the following: a Point of Presence or "POP" location (in a main feeder room) where several telecommunications providers will place their equipment; distribution cables ("Distribution Cables") that will run from the POP to the distribution cable terminal room; and network terminating wire ("NTW") that will run from the distribution terminal room to the demarcation point in customers' premises. A PDS will also include coaxial cables ("Coax Cables") for higher bandwidth services such as DS3s, and fiber cables ("Fiber Cables") for fiber services such as NMLIs, running from the POP to the demarcation point in customers' premises. It is expected that there will be three or four POPs in the north terminal with attendant cables and wiring as aforesaid.

b. A "Project" is each of the four projects in the north terminal development project: (1) Concourse D Extension, (2) Concourse B to C Infill, (3) Concourse A to B Infill and (4) Concourse A. Each project will have a PDS (also referred to as each "PDS project").

c. "Will-serve" refers to the cable records and databases of BellSouth and MDAD that indicate which distribution cable terminal room feeds a particular customer premise.

BST34

- d. "Exclusive" (as in "exclusive use" of Leased Facilities) shall mean that, for the term of use, so long as BellSouth requires the facilities to serve existing or potential customers, only BellSouth may use the facilities.
- e. "Leased Facilities" are the facilities assigned for BellSouth's exclusive use, as referenced in Section 3 below.
- f. "Days" means calendar days, unless otherwise specified.
- g. "Cost" shall have the meaning in Section 4(a) below.

(3) Leased Facilities.

- a. MDAD grants to BellSouth the exclusive use of certain MDAD Horizontal Cables, NTW, Coax Cables and Fiber Cables, all at the north terminal, as further described below. Upon assignment to BellSouth (or, in the case of NTW, upon use by BellSouth), as specified below, these cables and wires shall be "Leased Facilities."
- b. BellSouth shall submit to MDAD requests for Distribution Cables using a form that the parties create for this purpose, and MDAD will provide/assign to BellSouth the requested facilities within 20 days of the BellSouth's request. This procedure will apply for new cable placements and for cables in then-existing MDAD cable. MDAD will provide to BellSouth groups of Distribution Cables in consecutive twenty-five pair groups bundled for exclusive use by BellSouth. Providing/assigning the facilities to BellSouth will include (i) notice to BellSouth of the facilities assigned to BellSouth and (ii) MDAD marking the pair groups on the cable termination frames to indicate that they are for "BellSouth Exclusive Use" (referred to below as "stenciling") and indicating that they are for BellSouth's exclusive use in the MDAD Cable Management System.
- c. BellSouth may use the NTW to reach customers' premises. Following use, BellSouth will notify MDAD of the NTW used. The parties will create a form for this purpose. If MDAD has not placed NTW to a particular customer's premises, BellSouth may do so, but MDAD or the customer will be required to place conduit through which BellSouth may its NTW.
- d. BellSouth shall submit requests for Coax Cables or Fiber Cables using a form that the parties create for this purpose, and MDAD will provide/assign to BellSouth the requested facilities within 20 days of the BellSouth's request. This procedure will apply for new cable placements and for cables in then-existing MDAD cable. Providing/assigning the facilities to BellSouth will include (i) notice to BellSouth of the facilities assigned to BellSouth and (ii) MDAD marking the pair groups on the cable termination frames to indicate that they are for "BellSouth Exclusive Use" and indicating that they are for BellSouth's exclusive use in the MDAD Cable Management System.

**BST35**

- e. The agreement will not address the use of MDAD owned digital loop electronics equipment or the use of any MDAD "circuit POP" facilities. In a "circuit POP" scenario, a BellSouth service would be multiplexed into a MDAD owned digital loop carrier system to be transported to an outlying location of the airport. This scenario would require involvement of MDAD personnel for design of the circuit and provisioning of the circuit to include ordering the proper plug-in card and would require additional design work by BellSouth, all of which would slow the service installation and service repair time frames.

(4) Consideration.

a. The agreement will provide that BellSouth will pay MDAD a one-time fee for Horizontal Cable groups, Coax Cables and Fiber Cables that become Leased Facilities based upon a computer generated cost estimate from BellSouth's Outside Plant Construction Management (OSPCM) System (the "Cost"). The BellSouth OSPCM system is the same system used to calculate the cost on "billing jobs" (ie, work jobs performed by BellSouth and paid for by MDAD) at MIA. Following BellSouth request for and MDAD assignment of such cables to BellSouth as specified in Section 3 above, BellSouth will generate and deliver to MDAD the Cost, and MDAD will have 5 days to respond to ask any questions regarding the Cost. If MDAD does not respond within such timeframe, the Cost amount will be final, and BellSouth will arrange for payment of the Cost to MDAD.

b. The agreement will provide that payment for NTW will be a one-time fee for the NTW BellSouth may use in each of the PDS projects in the north terminal development project. The formula for the one-time fees will be: (Sum Footage multiplied by \$0.0014) multiplied by .333.

1. Sum Footage = the total sheath footage of all the NTW placed on a PDS project multiplied by the average number of pairs of wires contained in a sheath.

2. \$0.0014 = payment amount for one foot of a pair of network terminating wire

3. .333 = one third, because the BellSouth will be sharing the facilities with MDAD and at least one other vendor

The Sum Footage amount will be provided by MDAD, and, following completion of a PDS project and when the Project area is ready for customer move-in, MDAD will submit an invoice showing the above calculations to BellSouth for NTW for the PDS project. BellSouth may request, and MDAD will provide if requested, further information to verify the calculations.

(5) Repair and Maintenance of Facilities.

(a) If any of the Leased Facilities or any associated equipment is damaged or for any reason is responsible for the interruption or disruption of BellSouth service, MDAD shall take whatever action is necessary to repair the existing Leased Facilities within twenty-

four (24) hours of notice or, if BellSouth agrees that the alternate facilities are sufficient to sustain service, provide BellSouth with alternate Leased Facilities. Notwithstanding the foregoing, BellSouth may, at its option, perform such repairs as are necessary to repair the damage or correct the problem associated with the subject facilities or equipment.

(b) In the event MDAD fails or refuses, within twenty-four (24) hours of notice, to repair damage to Leased Facilities or provide BellSouth with alternate Leased Facilities, and the condition was not created or caused by BellSouth, MDAD shall reimburse BellSouth for all reasonable costs incurred by BellSouth, including without limitation actual labor and material costs, in repairing the damage or correcting the problem; provided, however, that MDAD shall have no obligation to reimburse BellSouth for repairs performed without first allowing MDAD the opportunity to do so within the time period in (a) above.

(c) On any single trouble (not a cable cut or cable failure of 4 or more cable troubles in a single cable designation) on which BellSouth technicians are working, BellSouth technicians shall first try to resolve the trouble by working within the group of MDAD cables previously assigned for BellSouth use. If this is not possible, BellSouth may make an expedited request for assignment of new cable for BellSouth's use as Leased Facilities, and MDAD will assign new cable within 24 hours.

(d) If MDAD becomes aware of a cable cut or cable failure affecting the Leased Facilities, it will notify the BellSouth Repair Center at 611. MDAD personnel will provide contact information and will coordinate repair activities with the BellSouth technicians.

(e) MDAD will not move, rearrange or otherwise alter any Leased Facilities without notice to, and prior consent of, BellSouth to avoid service interruptions.

(6) Demarcation Point. The demarcation point for BellSouth services will be at the customer's location (e.g. leased space). MDAD will not deny BellSouth access or space to demarc (using BellSouth-installed jacks, standard equipment, or electronics) at the customer's location.

(7) Specifications for Leased Facilities. All Leased Facilities shall conform to the latest edition of NFPA 70 - National Electric Code (NEC), Telecommunications Industry Association and Electronic Industry Alliance (TIA/EIA), Building Industry Consulting Services International (BICSI), Telecommunications Distribution Methods Manual (TDMM), and any applicable regulations of federal, state or local authorities having jurisdiction, including without limitation, the Florida Public Service Commission (see, for example, FPSC Rule 25-4.036). All Leased Facilities must be appropriately bonded and grounded, as required, for example, by the National Electric Code. The Leased Facilities will be consistent with the specifications in Exhibit A, entitled "Section 13000 - D- Extension Premise Distribution System."

(8) Future Placements.

BST37

- a. MDAD will notify BellSouth of future cable placements at the north terminal, such that BellSouth requirements can be ascertained and incorporated into all such placements. This will allow BellSouth to have input regarding specifications (e.g. gauge of copper cables, grade of fiber cables, types of connectors, number of NTWs in a single sheath to a particular customer premise, etc.) and timing for the design and placement of new and additional facilities to meet future demand. MDAD shall give written notice to BellSouth at the following addresses (or such other addresses as BellSouth may in the future advise) immediately upon the start of any design process:

BellSouth, 8101 NW 90<sup>th</sup> Street, Miami, FL 33166; Attention Kenny Wendt (phone: 305-889-2823); and

BellSouth, 9101 SW 24<sup>th</sup> Street, Miami, FL 33165; Attention George Hill (phone: 305-222-8234)

- b. If a customer places a service order with BellSouth for services and MDAD facilities are planned, but not in place, BellSouth will notify MDAD of the pending need for facilities. The customer will also be contacted and informed. MDAD will have 50 days from the notice from BellSouth to provide facilities to allow BellSouth to meet the 60 day BellSouth service interval and the interval mandated by the FPSC if support structures, i.e. conduits, are not already in place. MDAD will have 20 days to provide facilities to allow BellSouth to meet the 30 day BellSouth service interval and the interval mandated by the FPSC if conduits and other support structures are already in place. These time frames will be revised to accommodate any changes in FPSC-mandated intervals. If MDAD fails to timely place or assign to BellSouth necessary facilities or to timely place support structures, BellSouth has the option to place them.
- c. If a customer requests service from BellSouth at a location where MDAD has no facilities and MDAD elects not to place any facilities to this location, BellSouth has the option to place its own facilities to the location up to and including the customer premise. If a government agency desires service through only BellSouth-owned facilities for security reasons, BellSouth may place its own facilities. MDAD or the customer will provide any support structures necessary (e.g. conduit, backgrounds, ground wires, etc) for BellSouth to place facilities to that particular location.
- d. MDAD will provide BellSouth with the room numbers in any new construction area to allow BellSouth to build the necessary will-serve information into BellSouth cable records and databases for new rooms constructed at the north terminal. This is necessary for accurate and expeditious provision of service installations and repairs.
- e. Drawings. No later than ten (10) calendar days after completion of any PDS Project, MDAD will provide as-built drawings to BellSouth of all telecommunications facilities placed in the PDS project. The drawings will include,

or MDAD will separately provide to BellSouth within the 10-day period, the following: terminal names, cable names, cable lengths, cable gauges, pair ranges, conduit paths, conduit names, terminating room configuration and terminal will-serve information.

f. Other.

(i) If MDAD wishes to change any POP location in the north terminal in the future, MDAD will first secure the written approval of BellSouth and will compensate BellSouth for any relocation work necessary to accommodate such a change.

(ii) BellSouth has no obligation to provide proprietary information or third party customer information to MDAD that BellSouth cannot disclose by law. Examples of this type of information include: customer name, circuit identification, circuit type and the like.

(iii) To the extent permitted by law, MDAD agrees to indemnify BellSouth for any costs, fines, liabilities, judgments or penalties arising from MDAD's breach of the agreement. BellSouth agrees to indemnify MDAD for any costs, fines, liabilities, judgments or penalties arising from BellSouth's breach of the agreement. Each party shall give the other party written notice of any breach of the agreement and an opportunity to cure, or commence to cure and diligently pursue curing any breach that will take additional time to cure, within a reasonable time (e.g. 10 days) before a party shall be considered in default.

(iv) If MDAD repeatedly fails to comply with its obligations to provide or repair Leased Facilities, resulting in service delays, problems, disruptions, etc. to BellSouth, BellSouth may then place its own facilities.

(v) As this is a new arrangement, unforeseeable circumstances not specifically addressed in the agreement may arise. The parties agree to work together in good faith to resolve them in a mutually agreeable manner, consistent with the goal of allowing for the provision by BellSouth of good and timely communications service to customers at MIA.

(vi) Nothing in the agreement affects any existing BellSouth infrastructure in the area of the north terminal development project. In particular, MDAD is considering demolishing Room C1340, which contains BellSouth facilities. If MDAD demolishes the room, MDAD will compensate BellSouth for costs to relocate BellSouth facilities. If MDAD does not demolish the room, the facilities may remain in place.

BellSouth Telecommunications, Inc.

Miami-Dade County Aviation  
Department

By: \_\_\_\_\_

By: \_\_\_\_\_

**BST39**

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**BST40**

**BELLSOUTH FEEDBACK RELATIVE TO**  
**MIAMI-DADE COUNTY AVIATION DEPARTMENT PROPOSAL**  
**REGARDING MIAMI INTERNATIONAL AIRPORT**

April 5, 2002

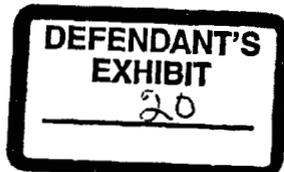
**Miami-Dade County Proposal:** It is BellSouth's understanding that for newly constructed terminals (e.g., north terminal) and perhaps in some other limited circumstances, the County Aviation Department is considering establishing a single point of presence (POP) and desires that BellSouth consider using County-owned cables for "the last mile" past the POP.

In response to Mr. Maurice Jenkins' request for more specificity, this supplements Part B of the feedback on the County's proposal provided by BellSouth to the County on March 13, 2002. We can further discuss this feedback during our April 12, 2002 meeting but are sending it in advance of the meeting to facilitate discussion at the meeting. Generally, BellSouth's comments regarding the County's proposal raise points regarding BellSouth's installation, maintenance and repair of service as required by law and consistent BellSouth's practices and customer needs. These points are of mutual interest to BellSouth and the County, given the ultimate goal of good service to customers at the Airport.

(1) BellSouth's March 13, 2002 feedback included facts and assumptions about the County's proposal, including that the proposal would not affect BellSouth's current facilities at the Airport (ie, would apply in new areas, to newly placed facilities, etc.). If this assumption is incorrect, please advise us.

(2) Based upon BellSouth's understanding of prior comments from the County, the March 13, 2002 feedback also assumed that no fees would be levied on BellSouth for the use. Recent County feedback indicates otherwise, so comments regarding the fee issue follow: Any fees imposed for use will not be in excess of the amount it would have cost BellSouth to install its own facilities and will be in the form of a one-time, upfront fee for particular facilities.

(3) One other "big picture" point is the Florida PSC (FPSC) Rule regarding demarcation point with which BellSouth must comply. Rule 25-4.0345(1)(b) requires, generally, that the demarcation point be located in the customer's premises. This demarcation rule is different than the FCC rule in 47 CFR 68.105 which allows premises owners to choose a minimum point of entry. The FCC rule does not preempt the Florida rule (see FCC Docket No. 88-57, FCC 97-209, para 36). BellSouth Tariff provisions also apply (for example, Part A2.9.1, General Subscriber Service Tariff). So, any arrangement for BellSouth's use of County facilities would



BST42

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need to ensure BellSouth's ability to control, as further described below, "last mile" facilities to the demarcation point.

Any arrangement for use of County-owned facilities past a single POP per the County's proposal would need to address issues to ensure that BellSouth can meet FPSC and Tariff requirements and be otherwise mutually agreeable. These issues would include, for example:

- Copper and/or fiber, as needed by BellSouth, facilities that meet BellSouth's technical specifications and FPSC rules (for example, National Electric Safety Code and National Electric Code, as required by FPSC rule 25-4.036).
- Facilities must be appropriately bonded and grounded, as required, for example, by National Electric Code.
- Access to facilities 24/7 to ensure BellSouth can meet installation and repair requirements (for example, FPSC Rule 25-4.066 sets forth required time frames for service installation, and 25-4.070 sets forth required time frames to respond to customer trouble reports). BellSouth authority to repair facilities at its election immediately or at County's cost if County fails to do so within short window of time.
- An agreed upon number of facilities that are designated "binder(s)" bundled for exclusive use by BellSouth. This is necessary so BellSouth can meet installation and repair requirements and to be consistent with BellSouth practices. Exclusive means that for the term of the use, which would be so long as BellSouth requires the facilities to serve existing or potential customers, only BellSouth may use the facilities to serve. The County would not be able to move or rearrange the facilities without BellSouth's approval, etc. It is understood that BellSouth would not be denied access nor space to "demarc" (using jacks, standard equipment or electronics) at the customer's location (using County cable as part of BellSouth "loop").
- Assurances and input regarding specifications (e.g. grade of fiber, connectors, gauge of cable, etc.) and timing for new and additional facilities to meet future demand and designing and placing those facilities, along with documentation showing specifications on locations, lengths and cable/fiber types upon completion.
- As a condition of BellSouth's use of County facilities, the County cannot request proprietary information or third-party customer information that BellSouth cannot disclose by law, see Section 364.24, Fla. Stat.
- Advanced input, information, concurrence and compensation for any changes to said POP.

**BST43**

- Indemnification to BellSouth for costs, fines or penalties arising from County non-compliance with requirements in any agreement governing use of the facilities or imposed by government regulatory bodies

The above is a general and non-exclusive list of issues/provisions.

**BST44**

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS,  
INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political  
subdivision of the State of Florida,

Defendant.

INDEX

<u>DESCRIPTION</u>	<u>Tab #</u>
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Second Amended Complaint .....	B
Answer to Second Amended Complaint .....	C

AREA OF TESTIMONY

(vii) BellSouth's allegation in paragraph 38 of its Complaint that "BellSouth, the incumbent local exchange telecommunications company in Miami-Dade County, provides similar telecommunications services to Commercial Tenants at MIA and the Other Airports, and has been providing such services at all times relevant, subject to the regulation of the FPSC" .....	D
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- SATS Agreement at Page 5
- Work Order (10/30/02)
- 9/17/01 Memo re: MDAD Provided STS
- Fla. Stat. §364.339

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN  
AND FOR DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

BELLSOUTH TELECOMMUNICATIONS,  
INC.,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political  
subdivision of the State of Florida,  
Defendant.

RE-NOTICE OF TAKING DEPOSITION

TO: Martin B. Goldberg, Esq.  
LASH & GOLDBERG, LLP  
1200 Bank of America Tower  
100 Southeast Second Street  
Miami, Florida 33131

YOU ARE NOTIFIED that the undersigned will take the deposition of the following party:

**Deponent:** Corporate representative(s) of BellSouth Telecommunications, Inc. ("BellSouth") with the most knowledge of: (i) BellSouth's provision of two-way telecommunications service within its service area in Florida, including Miami-Dade County (the "County"); (ii) BellSouth's allegation in paragraph 7 of its Complaint for Declaratory and Injunctive Relief and for Issuance of Writ of Mandamus (the "Complaint") that "[t]he County offers two-way telecommunications service to the public for hire ... at Miami International Airport ("MIA") and other general aviation airports ..."; (iii) BellSouth's allegation in paragraph 11 of its Complaint that "[t]he County ... is operating a Telecommunications Company ..."; (iv) BellSouth's allegation in paragraph 22 of its Complaint that "the County offers shared tenant services to at least one hotel, to retail shops, and to other commercial entities which are 'facilities such as hotels, shopping malls and industrial parks'"; (v) BellSouth's allegation in

paragraph 30 of its Complaint that “[p]rior to the passage of these two Resolutions, the County never operated a telephone utility/telecommunications company ...” (vi) BellSouth’s allegation in paragraph 32 of its Complaint that “based solely on the Resolutions, the County now owns and operates a telephone utility ...”; (vii) BellSouth’s allegation in paragraph 38 of its Complaint that “BellSouth, ..., provides similar telecommunications services to Commercial Tenants at MIA and the Other Airports, and has been providing such services at all times relevant, ...”; (viii) BellSouth’s allegation in paragraph 46 of its Complaint that “BellSouth ... has a special injury ...”; (ix) BellSouth’s allegation in paragraph 47 of its Complaint that “the County’s operation of a telephone utility ... affects BellSouth’s business opportunities with, and potential income from, customers at MIA and the Other Airports”; and (x) BellSouth’s statement in its Reply to the County’s Answer and Affirmative Defenses to Second Amended Complaint that “BellSouth denies and avoids this ‘Second Defense - Laches.’”

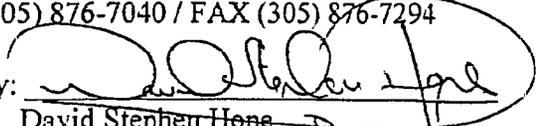
before a person authorized to take depositions in the State of Florida. The deposition is for the purpose of discovery, use at trial, or any other purpose permitted pursuant to Fla. Rule Civ. P. 1.310. The deposition will commence at the location and time listed on this notice, and continue from day to day until completed.

**Place of Deposition:** County Attorney’s Office  
Miami International Airport  
Terminal Building, Concourse A, 4<sup>th</sup> Floor  
Miami, Florida 33122

**Date/Time:** Thursday, December 2, 2004 @ 10:00 a.m. *et*  
Friday, December 3, 2004 @ 10:00 a.m.

Respectfully submitted,

ROBERT A. GINSBURG  
Miami-Dade County Attorney  
Aviation Division  
P.O. Box 592075 AMF  
Miami, Florida 33159-2075  
(305) 876-7040 / FAX (305) 876-7294

By:   
David Stephen Hope  
Florida Bar No. 87718  
Cynji Lee  
Florida Bar No. 537705  
Assistant County Attorneys

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was facsimiled and mailed this 26th day of October 2004, to *Martin B. Goldberg, Esq.*, Lash & Goldberg LLP, 1200 Bank of America Tower, 100 Southeast 2nd Street, Miami, Florida, 33131; *Dorian Denburg, Esq.*, BellSouth Corporation, 1155 Peachtree Street, Suite 1700, Atlanta, Georgia 30309-3610; and *Sharon Liebman, Esq.*, BellSouth Telecommunications, Inc., 150 West Flagler Street, Suite 1910, Miami, Florida 33130.

  
David Stephen Hope  
Assistant County Attorney

Copies furnished to:

**KRESSE, VALDES-PRIETO & ASSOCIATES, INC.**  
Court Reporters  
44 West Flagler Street  
Suite 300  
Miami, Florida 33130

In accordance with the American with Disabilities Act of 1990, persons needing a special accommodation to participate in this proceeding should contact ADA Coordinator no later than seven (7) days prior to the proceeding. Telephone: (305)375-2008 or (305)375-2006 for Court ADA. If hearing impaired, telephone (305)375-2007 or 1-800-955-8771 for assistance.

IN THE CIRCUIT COURT OF THE 11TH  
JUDICIAL CIRCUIT IN AND FOR MIAMI-  
DADE COUNTY, FLORIDA

GENERAL JURISDICTION

CASE NO. 02-28688 CA (03)

BELLSOUTH  
TELECOMMUNICATIONS, INC.

Plaintiff,

v.

MIAMI-DADE COUNTY, a political  
subdivision of the State of Florida,

Defendant.

THE ORIGINAL FILED  
ON MAY 27 2004  
IN THE OFFICE OF  
CIRCUIT COURT DADE CO. FL

SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF  
AND FOR ISSUANCE OF WRIT OF MANDAMUS

Plaintiff, BellSouth Telecommunications, Inc. ("BellSouth"), files this Second Amended Complaint for Declaratory and Injunctive Relief and for issuance of a Writ of Mandamus against Defendant, Miami-Dade County (the "County"), and alleges:

JURISDICTION AND PARTIES

1. BellSouth brings this action for declaratory and injunctive relief pursuant to Chapter 86 and Section 26 012(3), Florida Statutes (2002), based upon the County's violation of The Home Rule Amendment and Charter of Miami-Dade County, Florida (the "Charter") as well as the County's violation of Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985, which incorporate certain prior provisions of the Constitution of 1885, as amended.

BANK OF AMERICA TOWER  
SUITE 1200  
100 SOUTH EAST 2ND STREET

LASH & GOLDBERG, P.A.

WESTON CORPORATE CENTER  
SUITE 400  
2500 WESTON ROAD

2. BellSouth further brings this action for issuance of a Writ of Mandamus to compel the County to perform its ministerial obligation pursuant to Chapter 364 of the Florida Statutes, and its accompanying regulations as set forth in the Florida Administrative Code governing the regulation of telecommunications companies.

3. BellSouth is a Georgia corporation doing business in Miami-Dade County.

4. BellSouth is a local exchange telecommunications company, as defined in Chapter 364, Florida Statutes.

5. Pursuant to its Certificate of Public Convenience and Necessity issued by the Florida Public Service Commission ("FPSC"), BellSouth "offer[s] two-way telecommunications service to the public for hire . . . by use of a telecommunications facility" within its service area in Florida, including Miami-Dade County.

6. The County is a political subdivision of the State of Florida and is located in Miami-Dade County.

7. The County "offer[s] two-way telecommunications service to the public for hire . . . by use of a telecommunications facility," at Miami International Airport ("MIA") and other general aviation airports within Miami-Dade County, including Kendall, Tamiami, Homestead and Opa-Locka (the "Other Airports") (collectively MIA and the Other Airports may be referenced as, "airports")

FACTUAL ALLEGATIONS

## A THE LEGAL FRAMEWORK

8. Section 1.01(A)(14)(b) of the Charter states:

The county shall not operate a . . . telephone utility to serve any territory in the county which is being supplied with a similar service except by a majority vote of those qualified electors voting in an election held not less than six (6) months after the Board has passed an ordinance to that effect by a two-thirds (2/3) vote of the members of the Board present Such ordinance shall contain information on cost, method of financing, agency to regulate rates, agency to operate, location and other information necessary to inform the general public of the feasibility and practicability of the proposed operation. (Emphasis added).

9. A "telephone utility," as used in the Charter, is a "Telecommunications Company" as provided in Section 364.02 (13), Fla. Stat. and the regulations promulgated thereunder.

10. Section 364.02 (13), Fla. Stat. defines a Telecommunications Company, and thus a telephone utility, as:

13) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. (Emphasis added).

11. The County, a political subdivision, is operating a Telecommunications Company and is thus subject to regulation by, and the exclusive jurisdiction of, the FPSC with respect to the County's offering two-way telecommunications services to the public for hire

12. Rule 25-9.002 of the Florida Administrative Code, governing the FPSC's regulatory authority, defines the terms "utility" or "public utility" as follows:

"For the purposes of these regulations the following definitions shall apply: . . . (2) Except where a different meaning clearly appears from the context, the word or words "utility" or "public utility" as used in these rules shall mean and include all electric and gas utilities, water systems, wastewater systems, telephone companies and telegraph companies which are, or may hereafter be subject to the jurisdiction of this Commission. (Emphasis added).

13. Moreover, Rule 25-4 003(10) of the Florida Administrative Code, governing the FPSC's regulation of Telephone Companies, provides the following definitions:

"Company," "Telecommunications Company," "Telephone Company," or "Utility." These terms may be used interchangeably herein and shall mean "telecommunications company" as defined in Section 364.02(12) [sic], Florida Statutes. (Emphasis added).

14. By operating a "Telecommunications Company," the County is *a fortiori* operating a "Telephone Utility."

15. Before the County can operate a telephone utility in a territory within the County where similar services are already supplied, the Charter requires the Board of County Commissioners (the "Board") first to pass an ordinance by 2/3 vote of the members of the Board present, and to obtain the approval of a majority of the qualified electors in Miami-Dade County.

16. In addition to the requirements imposed by the Charter, the Board's authority to authorize the provision of telecommunications services to the public for hire is further circumscribed by general law which explicitly grants the FPSC exclusive jurisdiction over the regulation of such services.

17. The Florida Legislature, by general law, provided in § 364.01(2) the following:

It is the legislative intent to give exclusive jurisdiction in all matters set forth in this chapter to the Florida Public Service Commission in regulating telecommunications companies, and such preemption shall supersede any local or special act or municipal charter where any conflict of authority may exist. (Emphasis added.)

18. The County is presently operating a Telecommunications Company, as evidenced by its offering and providing telecommunications services, including shared tenant services, to airport tenants, the provision of which are subject to regulation by, and the exclusive jurisdiction of, the FPSC

19. Section 364.339, governing the provision of shared tenant services ("STS"), states that "the [Florida Public Service] Commission shall have exclusive jurisdiction to authorize the provision of any shared tenant service which:

(a) Duplicates or competes with local service provided by an existing local exchange telecommunications company; and

(b) Effective January 1, 1996, is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company." (emphasis added).

20. Pursuant to its authority under § 364.339, Fla. Stat., the FPSC enacted a limited "Airport Exemption." The "Airport Exemption" states:

Airports shall be exempt from the other STS rules due to the necessity to ensure the safe and efficient transportation of passengers and freight through the airport facility. The airport shall obtain a certificate as a shared tenant service provider before it provides shared local services to facilities such as hotels, shopping malls and industrial parks. However, if the airport partitions its trunks, it shall be exempt from the other STS rules for service provided only to the airport facility. (Emphasis added).

Rule 25-24.580, F.A.C.

21. As the plain language of the rule makes clear, the Airport Exemption does not grant the County an exemption from the certification requirement applicable to all STS providers with respect to the County's provision of shared tenant services to facilities such as hotels, shopping malls and industrial parks.

22. As set forth below, the County offers shared tenant services to at least one hotel, to restaurants, to retail shops, and to other commercial entities which are "facilities such as hotels, shopping malls and industrial parks "

23. Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985, incorporates certain prior provisions of the Constitution of 1885, as amended, that expressly limit the authority of Miami-Dade County as follows:

Section 11 (5): Nothing in this section shall limit or restrict the power of the Legislature to enact general laws which shall relate to Dade County and any other one or more counties in the state of Florida . . . and the home rule charter provided for herein shall not conflict with any provision of this Constitution nor of any applicable general laws now applying to Dade County . . . nor shall any ordinance enacted in pursuance to said home rule charter conflict with this Constitution or any such applicable general law except as expressly authorized herein. (emphasis added).

Section 11(9). . . . [I]t is further declared to be the intent of the Legislature and of the electors of the State of Florida that the provisions of the Constitution and general laws which shall relate to Dade County and any other one or more counties of the State of Florida or to any municipality in Dade County and any other one or me municipalities of the State of Florida enacted pursuant thereto by the Legislature shall be the supreme law in Dade County, Florida, except as expressly provided herein and this section shall be strictly construed to maintain such supremacy of this Constitution and of the Legislature in the enactment of general laws pursuant to this Constitution. (emphasis added).

24 Consequently, the County, through the Board, both (1) violated the Charter and (2) exceeded its constitutional authority, by purporting to authorize the County Manager and the Miami-Dade Aviation Department ("MDAD") to operate a telephone utility by offering telecommunications services to the public for hire, including to facilities such as hotels, shopping malls and industrial parks, based solely on the County's resolutions, without the prior approval of the FPSC, and without passing the required Ordinance or obtaining the required vote of a majority of the qualified electors.

**B. THE BOARD VIOLATED THE CHARTER AND ENACTED RESOLUTIONS THAT UNCONSTITUTIONALLY CONFLICT WITH GENERAL LAWS GRANTING EXCLUSIVE JURISDICTION TO THE FPSC.**

25. On January 29, 2002, the Board approved Resolution No. R-31-02 authorizing the County to enter into a Non-Exclusive Telecommunications, Data Network, and Shared Airport Tenant Services Management Agreement (the "Agreement") with NextiraOne, LLC ("Nextira").

26 Under the Agreement, among other things, the County acquired title to Nextira's telecommunications facilities, and Nextira assigned its agreements with customers for telecommunications service to the County. See County Manager's Memorandum and Resolution R-31-02, dated January 29, 2002, attached as Composite Exhibit A.

27. Under the Agreement, the County acquired telecommunications facilities, authorized MDAD to operate the facilities to provide telecommunications services to customers for hire, and authorized the County to receive all gross revenues from the provision of the telecommunications services.

28. During 2001, the year prior to the County's acquisition and operation of the telephone utility at the airports, the gross revenues for the provision of telecommunications services to airport tenants totaled approximately \$2,670,024.

29 On September 24, 2002, the Board adopted Resolution No. R-1091-02 (collectively, R-1091-02 and R-31-02 are referenced hereinafter as the "Resolutions") authorizing the County Manager or his/her designee to negotiate and execute new Airport Rental Agreements between the County and customers at the airports to govern the County's provision of telecommunications services to these tenants, including hotels, restaurants, retail shops and other commercial entities ("Commercial Tenants"). See Resolution R-1091-02, County Manager's Memorandum and Miami-Dade Aviation Department Airport Rental Agreement attached as Composite Exhibit B.

30. Prior to the passage of these two Resolutions, the County never operated a telephone utility/telecommunications company because it did not offer two-way telecommunications services to the public for hire by use of a telecommunications facility at MIA or the Other Airports.

31. Nextira and, upon information and belief, its predecessor private entities offered the two-way telecommunications services to the airport tenants for hire using telecommunications facilities owned by these private entities prior to the passage of the Resolutions.

32. Thus, by passing the Resolutions, and, based solely on the Resolutions, the County now owns and operates a telephone utility by offering two-way telecommunications

services to the public for hire, including to Commercial Tenants, at MIA and the Other Airports using telecommunications facilities.

33. As testified to by Pedro Garcia, MDAD's Chief of Telecommunications, the County, through its legal counsel and management, and with the participation of the management of the airport, determined that the County had the authority to authorize MDAD and the County Manager to operate the telephone utility/telecommunications company at the airports without seeking prior approval from the FPSC.

34. Thus, the County never submitted an application to the FPSC to obtain a certificate of public convenience and necessity.

35. The Commercial Tenants to which the County currently offers and provides two-way telecommunications services for hire at the airports include at least one hotel, several restaurants, retail shops and other commercial entities. A list of the County's customers, as of the date of that list, is attached hereto as Exhibit "C," and Pedro Garcia's deposition testimony confirming that MDAD provides STS to a hotel tenant at MIA is attached hereto as Exhibit "D."

36. By offering telecommunications services to Commercial Tenants, the County is in direct competition with other telecommunications companies operating at the airports, including BellSouth.

37. Indeed, the County's professed goal, as testified to by Pedro Garcia, in offering telecommunications services to Commercial Tenants is to make money and to compete with BellSouth and other telecommunications companies operating at the airports.

38. BellSouth, the incumbent local exchange telecommunications company in Miami-Dade County, provides similar telecommunications services to Commercial Tenants at MIA and the Other Airports, and has been providing such services at all times relevant, subject to the regulation of the FPSC.

39. In fact, by offering shared tenant services to Commercial Tenants at the airports, the County is necessarily offering similar services to those already offered at the airports by BellSouth because shared tenant services, by definition, are services which duplicate or compete with local service provided by an existing local exchange telecommunications company.

40. The provision of shared tenant services to these Commercial Tenants at the airports is not necessary to ensure the safe and efficient transportation of passengers and freight through the airports' facilities.

41. The Commercial Tenants at the airports to which the County offers shared tenant services are facilities, such as hotels, shopping malls and industrial parks.

42. Accordingly, the County's provision of shared tenant services to these Commercial tenants is not exempt from the certification requirements and other regulations enacted by the FPSC and as provided in Chapter 364 of the Florida Statutes.

43. Thus, by passing the Resolutions, the Board purported to authorize the County, based on its own authority and without prior approval of the FPSC, to offer shared tenant services to the Commercial Tenants at MIA and the Other Airports.

44. Moreover, whether or not the County, pursuant to the "Airport Exemption," is entitled to a limited exemption from "other STS rules" governing the provision of shared

tenant services, the County is still operating a telecommunications company, and thus a telephone utility, in violation of the Charter, and the County is still subject to FPSC jurisdiction by virtue of its operation as a telecommunications company.

45. MIA and the Other Airports are territories in Miami-Dade County.

46. BellSouth has standing to bring this action because it has a special injury resulting from the County's violation of Section 1.01(A)(14)(B) of the Charter, as it relates to the operation of a telephone utility by the County.

47. Specifically, BellSouth's injuries are different in kind from that of the general public. The County's operation of a telephone utility in violation of the Charter affects BellSouth's business opportunities with, and potential income from, customers at MIA and the Other Airports.

48. BellSouth also has standing to compel the County to comply with its statutory and regulatory obligations under Chapter 364, Florida Statutes, because those statutes and related rules expressly govern all telecommunications companies and the provision of telecommunications services.

49. The statutory scheme explicitly promotes and seeks to ensure fair and effective competition amongst telecommunications companies, including BellSouth and the County.

50. Finally, BellSouth has standing to bring this action because it is challenging the constitutionality of the County's Resolutions purporting to authorize the County to operate a telecommunications company independently, and in direct conflict with, general

law passed by the Florida Legislature which grants exclusive jurisdiction to the FPSC to authorize persons to provide such services and regulate providers thereof.

COUNT I  
DECLARATORY JUDGMENT  
(The County's Violation of the Charter)

51. BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint.

52. An actual and justiciable controversy exists between BellSouth and the County as to whether the County's operation of a telephone utility in Miami-Dade County, absent the necessary votes of the qualified electors and enactment of an ordinance required under Section 1.01(A)(14)(b) of the Charter, violate the Charter.

53. There is a present, bona-fide need for a declaration that the County's actions violate the Charter.

54. The declaration is ascertainable based on the current state of the facts.

55. BellSouth has an actual, present, and adverse interest in the subject matter of this declaration, which is before this Court by proper process, and the relief it seeks is not merely the giving of legal advice or the answer to questions propounded from curiosity.

WHEREFORE, BellSouth requests this Court issue a judgment declaring that the County is violating Section 1.01(A)(14)(b) of the Charter, declaring that any existing contracts relating to the operation of a telephone utility in violation of Section 1.01(A)(14)(b) of the Charter are void, and further declaring that Resolution No. R-31-02 and Resolution R-1091-02, to the extent they authorize the County to operate a telephone

utility in violation of the Charter, are void, and to award Plaintiff its costs pursuant to Section (C) of the Charter's Bill of Rights

**COUNT II**  
**INJUNCTION**

**(To Prohibit the County from Continuing to Violate the Charter)**

56. BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint

57. This is an action for injunctive relief to prevent the County from continuing to operate a telephone utility absent the votes and enactment of an ordinance required under Section 1.01(A)(14)(b) of the Charter.

58. BellSouth has no adequate remedy at law. If the County is permitted to continue to operate its telephone utility at the airports without the majority vote of the qualified electors and the enactment of an ordinance as required under Section 1.01(A)(14)(b) of the Charter, BellSouth will suffer irreparable harm.

WHEREFORE, BellSouth requests that this Court issue an injunction enjoining the County from continuing to operate a telephone utility in the County absent the required votes of the qualified electors and enactment of an ordinance required under Section 1.01(A)(14)(b) of the Charter, and further enjoining the County from continuing to operate a telephone utility in violation of Section 1.01(A)(14)(b) of the Charter, and to award it costs pursuant to Section (C) of the Charter's Bill of Rights.

COUNT III  
DECLARATORY JUDGMENT  
(Constitutional Challenge to the County's Passage of the Resolutions)

59. BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint

60. An actual and justiciable controversy exists between BellSouth and the County as to whether the County's Resolutions authorizing the County Manager and MDAD to operate a telecommunications company as a shared tenant service provider to certain airport tenants is an unconstitutional exercise of authority that is inconsistent with and conflicts with the general law applicable to the regulation of telecommunications companies under Chapter 364 of the Florida Statutes, thereby violating Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985 which incorporate Sections 11(5) and 11(9) of the 1885 Constitution.

61. There is a present, bona-fide need for a declaration that the County's actions violate the Florida Constitution.

62. The declaration is ascertainable based on the current state of the facts

63. BellSouth has an actual, present, and adverse interest in the subject matter of this declaration, which is before this Court by proper process, and the relief it seeks is not merely the giving of legal advice or the answer to questions propounded from curiosity.

WHEREFORE, BellSouth requests this Court issue a judgment declaring the following: (1) that the County is a "Telecommunications Company" as defined in § 364.02(13); (2) that the County is offering shared tenant services as defined in §364.339, Fla. Stat ; and (3) that the County's passage of Resolution No. R-31-02 and Resolution R-

1091-02, to the extent they authorize the County to operate a telecommunications company providing shared tenant services in conflict with the general law granting the exclusive jurisdiction for the regulation of telecommunications companies to the Florida Public Service Commission, is a violation of Article VIII, Sections 6(a) and 6(e) of the Florida Constitution of 1985, incorporating Sections 11(5) and 11(9) of the 1885 Constitution, and declaring such Resolutions, to the extent they violate the Florida Constitution, null and void.

**COUNT IV**  
**PETITION FOR ISSUANCE OF WRIT OF MANDAMUS**  
**(Compelling the County to Comply with Its Statutory and Regulatory Obligations as a Telecommunications Company)**

64. BellSouth incorporates Paragraphs 1 through 50 of this Second Amended Complaint

65. Miami-Dade County has a clear legal duty to perform certain ministerial acts required by Chapter 364 of the Florida Statutes, and the regulations enacted pursuant thereto, which exclusively govern the regulation of telecommunications companies.

66. Section 364.02 (13) defines Telecommunications Company to include political subdivisions, and §364.32(1)(a), Fla. Stat., defines "Person" to include any county.

67. Section 364.33, Fla. Stat. then provides that:

.. A person may not begin the construction or operation of any telecommunications facility, or communications services to the public, or acquire ownership or control thereof, in whatever manner, . . . without prior approval. (Emphasis added).

68. With respect to the provision of shared tenant services, §364.339(2), Fla. Stat., further states that "No person shall provide shared tenant services without first obtaining from the commission a certificate of public convenience and necessity to provide such service."

69. To obtain "prior approval," from the FPSC, and to obtain a certificate of public convenience and necessity, the "person" must satisfy the ministerial requirements described in §§ 364 33 and 364 335, Fla. Stat

70. Enacted pursuant to Section 364.339, Fla. Stat., Rule 25-24.567 of the Florida Administrative Code sets forth additional ministerial requirements that the County must satisfy before it can provide shared tenant services.

71. Alternatively, to the extent the County seeks to take an assignment of an existing certificate for the provision of shared tenant services which may have previously been held by NextiraOne, the County is required to satisfy the requirements set forth in Rule 25-24.569 of the Florida Administrative Code before it can offer the shared tenant services

72. BellSouth has the right to demand that the County perform the ministerial obligations set forth in the above-referenced statutory and regulatory provisions because the County competes with BellSouth. One of the purposes of Chapter 364 is to promote the development of fair and effective competition with respect to the provision of telecommunications services in Florida.

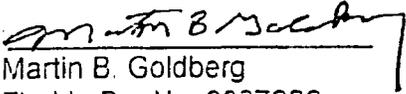
73. There is no room for the County to exercise discretion in the performance of the stated obligations, and the performance thereof is directed by law.

74. BellSouth has no other legal remedy available to it.

WHEREFORE, BellSouth requests this Court issue a Writ of Mandamus (1) compelling the County to perform the ministerial duties required by §§364.32 – 364.335 and §364.339, Fla. Stat. and as required by the Florida Administrative Code, including Rule 25-24.567 or Rule 25-24.569, F.A.C. and (2) enjoining the County from continuing to operate a telecommunications company and to offer shared tenant services to facilities such as hotels, shopping malls, and industrial parks until the County complies with its statutory and regulatory obligations under Chapter 364, Fla. Stat., in addition to the obligations set forth in the Charter.

Respectfully submitted:

**LASH & GOLDBERG LLP**  
1200 Bank of America Tower  
100 S.E. 2<sup>nd</sup> Street  
Miami, Florida 33131  
Telephone: (305) 347-4040  
Telefax: (305) 347-4050

BY:   
Martin B. Goldberg  
Florida Bar No. 0827029  
Lawrence B. Lambert  
Florida Bar No. 0032565

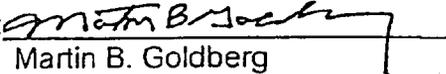
Dorian Denburg, Esq.  
Florida Bar No. 350291  
BellSouth Telecommunications, Inc.  
1155 Peachtree Street, Suite 1700  
Atlanta, GA 30309-3610  
Telephone: (404) 249-2608  
Telefax: (404) 249-5664

Sharon Liebman, Esq.  
Fla. Bar No 0048828  
BellSouth Telecommunications, Inc.  
150 W. Flagler Street, Ste 1910  
Miami, Florida 33130  
Telephone: (305) 347-5570  
Telefax: (305) 375-0209

Counsel for Plaintiff, BellSouth Telecommunications, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by Overnight Mail on this 27<sup>th</sup> day of May, 2004 to David Hope, Asst. County Attorney, Miami-Dade County Attorneys Office, 111 N.W. 1st Street, Miami, Florida 33130.

BY:   
Martin B. Goldberg

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 6(A)(1)(D)  
1-29-02

OFFICIAL FILE COPY  
CLERK OF THE BOARD  
OF COUNTY COMMISSIONERS  
DADE COUNTY, FLORIDA

RESOLUTION NO. R-31-02

RESOLUTION RELATING TO TELECOMMUNICATIONS, DATA NETWORK, AND SHARED AIRPORT TENANT SERVICES AT MIAMI-DADE COUNTY AIRPORT SYSTEM FACILITIES; AUTHORIZING PURCHASE OF LEASED EQUIPMENT; AUTHORIZING APPROVAL AND EXECUTION OF NON-EXCLUSIVE MANAGEMENT AGREEMENT WITH NEXTIRAONE, LLC FOR INTERIM TWO-YEAR PERIOD; AND WAIVING COMPETITIVE BID PROCEDURES AND PROVISIONS

WHEREAS, Miami-Dade County, Florida (the "County") and Centel Communications Company ("Centel") entered into an Equipment Lease and Maintenance Agreement, as of July 24, 1990, and retroactive to February 7, 1988 (the "ELM Agreement") which ELM Agreement terminates on February 6, 2002; and

WHEREAS, the County and Centel also entered into a Shared Airport Tenant Service Agreement (the "SATS Agreement") which SATS Agreement terminates on February 6, 2002; and

WHEREAS, NextiraOne, LLC ("Nextira") is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC)<sup>1</sup> under both the ELM Agreement and the SATS Agreement; and

WHEREAS, it is in the best interest of the County to acquire title to all telecommunications, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as detailed on Schedule A of the ELM Agreement and Schedule E of the SATS Agreement, as of February 6, 2002 (the "Assets"); and

1 In 1991, Centel Communications Company ("Centel") was acquired by WITel Communications System ("WITel"), and in 1997, Williams Communications Solutions, LLC was created from the merger of WITel and Nortel Communications Systems.

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WHEREAS, an interim manager is necessary to operate, maintain, and manage the Assets, until a telecommunications and data network request for proposal ("RFP") is circulated and a new manager is selected; and

WHEREAS, Nextira, as the owner and operator of the Assets, has the personnel, technical and product knowledge, expertise, and market recognition to manage the Assets,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board:

Section 1. Authorizes the payment of \$6,450,000 to Nextira, for the purchase of the Assets, to be used and operated by or for the Miami-Dade County Aviation Department.

Section 2. Authorizes the approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement (the "Agreement") with Nextira for an interim two (2) year period, and delegates to the County Manager the authority to negotiate all terms and conditions necessary to consummate the Agreement. The Agreement shall contain a random audit provision to be conducted by the Office of the Inspector General, pursuant to § 2-1076(c)(6), Code of Miami-Dade County Florida (the "Code"). The Agreement shall also contain a provision for the County to retain the services of an independent private sector Inspector General ("IPSIG"), pursuant to Administrative Order No. 3-20.

Section 3. Waives competitive bid provisions of Administrative Order Nos. 3-4 and 3-16 related to the procurement of professional services.

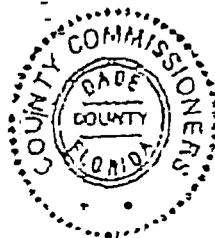
Section 4. Waives competitive bid provisions of Section 4.03(D) of the Home Rule Charter and the requirements of Administrative Order No. 3-2 in connection with the purchase by the County for (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications

equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport system facilities. Such waiver is by a two-thirds (2/3) vote of the Board members present.

The foregoing resolution was offered by Commissioner **Dorrian D. Rolle**, who moved its adoption. The motion was seconded by Commissioner **Katy Sorenson** and upon being put to a vote, the vote was as follows:

Dr. Miriam Alonso	absent	Bruno A. Barreiro	aye
Dr. Barbara Carey-Shuler	aye	Betty T. Ferguson	absent
Gwen Margolis	absent	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrian D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
	Javier D. Souto	aye	

The Chairperson thereupon declared the resolution duly passed and adopted this 29th day of January, 2002. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.



MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

dsh

David Stephen Hope

115

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## MEMORANDUM

TO: Honorable Chairperson and Member  
Board of County Commissioners

DATE: January 29, 2002

FROM: Steve Shiver  
County Manager

SUBJECT: Telecommunications  
Services at the Aviation  
Department

### RECOMMENDATION

It is recommended that the Board of County Commissioners (the "Board") approve the attached resolution waiving the competitive bid requirements of Administrative Order No. 3-2 related to the procurement of commodities and services and approve in principle the non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement ("Agreement") between Miami-Dade County, (the "County") and NextiraOne, LLC ("Nextira"), substantially in the form attached hereto, which provides for: 1) the acquisition of, in accordance with the principles delineated in the Agreement, title to all telecommunications network, data network, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as described in Schedule A to the Equipment Lease and Maintenance agreement ("ELM Agreement") and Schedule E to the Shared Airport Tenant Services agreement ("SATS Agreement"), as of February 6, 2002 for the acquisition price of \$6,450,000 which will be amortized at five (5) percent over five (5) years; 2) resolution of various claims arising out of the ELM Agreement and SATS Agreement; 3) assignment to the County all existing tenant SATS and CUTE agreements entered into by Centel or its successors or assigns with tenants at Miami International Airport ("MIA") or the County's other owned or operated general aviation airports; and, 4) Nextira to become the interim telecommunications infrastructure manager, to provide for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for the Miami-Dade Aviation Department ("MDAD") and shared airport tenant services customers at MIA and the General Aviation Airports ("GAAs") until a new provider is selected, but for no longer than a period of twenty-four (24) months.

In addition, it is recommended that the Board approve the attached resolution authorizing the County to make direct purchases of the following equipment: (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications equipment, (v) telephone and data network equipment, (vi) software, and (vii) material and supplies, necessary to maintain, support, operate, and expand the telecommunications, data network, and shared airport tenant services at the County airport systems facilities. Under this system the County will purchase directly, certain commodities as indicated by Nextira and be exempt from paying state sales taxes and mark-up

<sup>1</sup> NextiraOne, LLC is the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement.

Board of County Commissioners  
Page 2

costs on these purchases. It is also recommended that the Board authorize, in accordance with Ordinance No. 99-63, the inclusion of a random audit provision, including the one quarter (1/4) of one percent assessment, in the Agreement. It is further recommended that the County Manager be authorized to execute the Agreement.

**BACKGROUND**

The County is currently under contract with Nextira. Nextira leases to the County, and manages, operates and maintains all the telecommunications infrastructure and services serving MIA and the GAAs at an approximate annual cost of \$7,300,000. MDAD's agreement with Nextira expires on February 6, 2002.

**NEGOTIATIONS**

In July 2001, the Board approved Resolution No. R-852-01, approving a professional services agreement between the County and ResAvia. ResAvia is providing specialized technical and negotiation services to resolve the various claims arising out of the ELM Agreement and SATS Agreement entered into between the County and Nextira, and to negotiate a buy-out and new agreement with Nextira to allow MDAD an opportunity to finalize its long term voice and data telecommunications strategy.

**INTERIM MANAGER FOR TELECOMMUNICATIONS INFRASTRUCTURE**

MDAD is simultaneously working to develop a request for proposal ("RFP") to award a contract to a service provider to serve as the manager of the telecommunications infrastructure. Due to time constraints, the County will not be able to award this contract before February 6, 2002, when the Nextira contract expires. To assure the uninterrupted operation of the County airports, ResAvia, MDAD and the County Attorney's Office negotiated a proposed management agreement type contract (the "Agreement") with Nextira, to retain it as manager of the installed telecommunications infrastructure based upon County ownership of the equipment as further described below:

PROJECT LOCATION: Miami International Airport and General Aviation Airports

PROJECT DESCRIPTION: Provides for the operations, management, maintenance, service, support and equipment and supplies of the telecommunications and data, infrastructure, hardware and software systems for the MDAD and the shared airport tenant services customers at Miami International Airport and the General Aviation Airports. The scope of services includes the management of the shared airport tenant services for the County, including CUTE, to tenants and users at the Airport. In addition, Nextira will be

Board of County Commissioners  
Page 3

required to implement a transition program, one hundred and twenty (120) days prior to the expiration of the term of this Agreement, to ensure that either the new vendor selected as a result of the RFP process or MDAD's operating and maintenance personnel are trained in all aspects of the telecommunications and data infrastructure.

FIRM:

NextiraOne, LLC

LOCATION OF FIRM:

Houston, Texas

TERM OF AGREEMENT:

The Agreement shall be for a duration of twenty-four (24) months. The County may terminate the Agreement with or without cause on thirty (30) days written notice to Nextira, provided however, the Agreement shall have a minimum term of eighteen (18) months unless terminated earlier for cause.

AMOUNT OF AGREEMENT:

Compensation to the Contractor

One-Time Acquisition Price:

Acquisition of the telecommunications, data network, and CUTE infrastructure, software licenses, permits, and other assets in Schedule A to the ELM Agreement and Schedule E to the SATS Agreement of \$6,450,000 which will be amortized at five (5) percent over five (5) years.

Fixed Management Fee:

This Agreement provides for a fixed management fee of \$6,144,067 for the first year, which includes overhead and profit, staff transition costs, vendor agreements and spare parts carrying charge.

The compensation for the second year is based on this Management Fee as adjusted by the budgeting process that incorporates the requirements of the Capital Improvement Program (CIP) and the change in the Consumer Price Index (CPI) for the salaries of the personnel.

Variable Costs:

The Agreement also provides for the variable costs, when authorized by the Department, and includes: 1) the procurement of parts, materials and software (\$2,680,000), 2) On-call after hour services (\$273,000), and 3) subcontractor services for wiring installation and maintenance, as necessary (\$899,415).

SATS Revenue:

Per the SATS Agreement, last year MDAD received \$267,000 which was based on ten (10) percent of gross revenues. Under this new Agreement, MDAD will receive all SATS gross revenues which last year was \$2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

Compensation to the County

The Contractor will pay to the County the sum of \$110,000, on February 6, 2002, on account of excess space occupied without lease by the Contractor in Building 3030 at MIA for the period from November 1, 1997 to and including February 6, 2002.

RECOMMENDED CONTRACT MEASURES:

No measure

USING AGENCY:

Miami-Dade Aviation Department

FUNDING SOURCE:

Miami-Dade Aviation Department Operating Budget for Consulting Services and Aviation Revenue Bonds.

APPROVED FOR LEGAL SUFFICIENCY:

Yes

CONTINGENCY PLAN

As reported to the Board at its December 18, 2001 meeting, in the event that the negotiations with Nextira fail and no agreement is reached by the contract expiration date, the Department has a contingency plan to assure continuity in the provision of telecommunication services.

Board of County Commissioners  
Page 5

SUMMARY

In summary, our preferred outcome is a negotiated buyout of the telecommunications equipment and infrastructure, retaining Nextira for a limited time to act as manager of the telecommunications infrastructure, and obtaining a long-term contract for telecommunications infrastructure management through a competitive request for proposal. In addition, the above recommendation begins the implementation of MDAD's long-term, cost-effective strategy to enable better management and control of our telecommunications infrastructure. In the alternative, MDAD has a plan to continue services without Nextira while procurement processes and legal remedies are undertaken.

Attachment

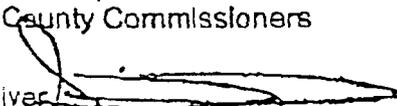


MEMORANDUM  
OFFICE OF THE COUNTY MANAGER

Agenda Item No. 6(A)(1)(A)

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TO: Honorable Chairperson and Members      DATE: September 24, 2002  
 Board of County Commissioners

FROM: Steve Shiver       SUBJECT: Resolution approving  
 County Manager      recommendations relating to  
    shared airport tenant services for  
    the Aviation Department

---

RECOMMENDATION

It is recommended that the Board approve the attached resolution that will authorize the County Manager or his designee to: (i) execute standard form airport rental agreements for shared airport tenant services ("SATS") to offer telecommunications and network access to airport tenants; (ii) negotiate such terms and conditions as may be necessary on a tenant by tenant basis; and (iii) issue renewal and event of default notices, and in the instance of default, to take necessary termination actions for failures to correct defaults on a timely basis all in accordance with the airport rental agreement.

BACKGROUND

On January 28, 2002, the Board of County Commissioners (the "Board") approved Resolution No. R-31-02 relating to the telecommunications, data network, and shared airport tenant services at Miami-Dade Aviation Department ("MDAD"), and entered into a non-exclusive management agreement with NextiraOne, LLC (the "Contractor") wherein MDAD receives all SATS gross revenues.

Shared airport tenant services consist of telecommunications, voice and data network services which MDAD offers to its tenants. The Contractor is required to use its best efforts to establish, market, maintain, operate and manage SATS for the County to tenants and users at Miami International Airport ("MIA") and the General Aviation Airports ("GAA"), consistent with the requirements of the Public Service Commission of Florida ("PSC") or whatever other governmental entity has jurisdiction over SATS, if and where applicable, and all applicable laws.

It is requested that the Board delegate to the County Manager or his designee certain specific and limited authority that would provide for more efficient management of airport properties, maximization of revenues, and better operational flexibility for users of said facilities. Given the changing or different needs of each tenant requesting SATS, it is also requested that the Board delegate the authority to negotiate such terms and conditions as may be necessary, on a tenant by tenant basis, to allow the County to be responsive to the needs of the MIA and GAA business partners. The rental term may vary depending on the tenant but on no occasion will any airport rental agreement exceed forty-eight (48) months.

EXHIBIT  
R

Honorable Chairperson and Members  
Board of County Commissioners  
Page 2

The installation and monthly rental fees for SATS is dependent on the scope of the tenant's request for services.

The following chart provides a sampling of three levels of service (i.e., small, medium, and large tenant) that is presently offered by MDAD:

Tenant	Type of Service	Number of Subscribers	Installed Costs	Actual Monthly Rental Fee (period 5/1/02 - 5/31/02)
Air Jamaica (small)	Telecommunications Access	6 Subscribers	\$860.00	\$208.88
Miami Airport Duty Free (medium)	Network Access	46 Subscribers	\$15,690.00	\$ 2,516.44
United Airlines (large)	Telecommunications Access	593 Subscribers	\$99,297.00	\$18,142.88

The requested delegation of authority is similar to that which has existed for standard form aviation leases for the use and occupancy of real property at MDAD facilities.

At present, there are fifty-five (55) tenants with existing SATS agreements with MDAD. These agreements must be renewed, and as MDAD takes additional tenants into service, it is expected the number of users of our telecommunications and data network system and resulting revenues will increase. Per the previous SATS agreement with NextiraOne, LLC<sup>1</sup>, last year the MDAD received \$267,000, which was based on ten (10) percent of gross revenues. Under the new non-exclusive management agreement with NextiraOne, LLC, approved by the Board on January 29, 2002, MDAD will receive all SATS gross revenues which last year totalled \$2,670,024. This revenue is expected to increase based on new marketing initiatives presently under development.

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<sup>1</sup> NextiraOne, LLC was the successor or assignee of Centel's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 6(A)(1)(A)  
9-24-02

OFFICIAL FILE COPY  
CLERK OF THE BOARD  
OF COUNTY COMMISSIONERS  
DADE COUNTY, FLORIDA

RESOLUTION NO. R-1091-02

RESOLUTION AUTHORIZING THE COUNTY  
MANAGER OR DESIGNEE TO EXECUTE  
AIRPORT RENTAL AGREEMENTS FOR AIRPORT  
TENANT TELECOMMUNICATIONS SERVICES AND  
NETWORK ACCESS; NEGOTIATE TERMS AND  
CONDITIONS; AND ISSUE RENEWAL AND  
DEFAULT NOTICES AND TAKE NECESSARY  
TERMINATION ACTION FOR FAILURE TO  
CORRECT DEFAULTS.

WHEREAS, this Board desires to accomplish the purposes  
outlined in the accompanying memorandum, a copy of which is  
incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY  
COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board  
hereby authorizes the County Manager or designee to: (i) execute  
the standard form of an airport rental agreement attached to the  
accompanying memorandum for shared airport tenant  
telecommunications services and network access; (ii) negotiate  
such terms and conditions as may be necessary on a tenant by  
tenant basis; and (iii) issue renewal and default notices and, in  
the instance of default, to take necessary termination actions  
for failure to timely correct defaults all in accordance with the  
agreement.

The foregoing resolution was offered by Commissioner  
Dorrin D. Rolle , who moved its adoption. The motion  
was seconded by Commissioner ~~Gwen Margolis~~  
and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro	absent	Jose "Pepe" Cancio, Sr.	aye
Dr. Barbara Carey-Shuler	absent	Betty T. Ferguson	aye
Gwen Margolis	aye	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
		Sen. Javier D. Souto	absent

The Chairperson thereupon declared the resolution duly  
passed and adopted this 24th day of September, 2002. This  
resolution shall become effective ten (10) days after the  
date of its adoption unless vetoed by the Mayor, and if  
vetoed, shall become effective only upon an override by  
this Board.



MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **KAY SULLIVAN**  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency. dsh

David Stephen Hope

# MIAMI-DADE AVIATION DEPARTMENT

# Airport Rental Agreement

This Agreement is made as of \_\_\_\_\_, 20\_\_\_\_, between Miami Dade County (the "County") a political subdivision of the State of Florida, and \_\_\_\_\_ a corporation/partnership/sole proprietorship (the "Customer"), conducting business at Miami International Airport (MIA) or the "Airport")

1) **AGREEMENT.** The County agrees to deliver, install, rent and maintain telecommunications systems and services consisting of (1) switch access to its computerized communications switching equipment and software which will be shared by the Miami-Dade Aviation Department (MOAD) or the "Department") and its tenants at the Airport (Switch Access), (2) network access to the local telephone exchange carrier ("Network Access") and (3) telecommunication terminal equipment and cabling when furnished and installed on Schedule I. Such equipment and services are described in the Equipment and Services Schedule I and Maintenance Schedule III attached hereto, including optional services and features and made a part hereof, collectively, the "System" and the Customer agrees to rent the System (the "Rental") subject to the terms and conditions of this Agreement.

This Agreement is subject to credit approval by the County. The Customer agrees to cooperate with the County by providing all credit and financial information that may be required by the County. Upon the County's approval of the Customer's rental application, the Customer agrees to execute all documents relating to the Rental and promptly return them to the County. In the event all required and properly executed documents are not provided to the County, the County may, in addition to other delinquent rights and remedies, delay delivery until such executed documents and advance payments are received and approved by the County.

- 2) **Schedules.** The attached schedules (the "Schedules") are part of this Agreement:
- Schedule I Equipment and Services Schedule
  - Schedule II Acknowledgment and Certificate of Acceptance
  - Schedule III Maintenance Schedule

3) **Installation**

- a) The Customer will be responsible for, and provide or arrange for at its own expense in a timely manner as required or directed by the County: (1) necessary land, parts and accessible System locations free from environmental hazards, (2) reasonable access for the County, (3) completed copies of database lease forms, (4) necessary, conduit, holes and wireways, where not otherwise provided herein, and (5) easements and microwave licenses.
  - b) The System will meet Federal Communications Commission Part 68 regulations regarding connection to the public telephone network. The County will install the System in a workmanlike manner without damage to the Customer's premises, and will obtain necessary work permits to install the System. The County will not be responsible for removing any cabling or equipment of the Customer's old telephone system.
- 4) **Force Majeure.** The County's performance under this Agreement shall be excused to the extent and for the time compliance is beyond the County's reasonable control to reasons that include but are not limited to: strikes, work stoppage, fire, water, wind, acts of God, disruption in service for any cause, strikes, lightning, delays by workers and subcontractors, delays of power company, delays of the local exchange company, interexchange carrier, or any other carrier, governmental action, or any Customer nonperformance such as (i) non-payment, or (ii) failure to execute an acceptance certificate or rental document.

5) **Term and Acceptance.** This Agreement shall be effective upon execution by the Customer and the County, but the term of this Agreement (the "Rental Term") shall commence on the "Commencement Date" (as hereinafter defined) and shall terminate on the last day of the Rental Term stated in Schedule I, provided, however, the Customer's indemnities, assumptions of liabilities and other duties, and all of the County's disclaimers herein shall survive the termination of this Agreement. The Customer shall be deemed to have accepted the System for all purposes of this Agreement, including the payment of rent hereunder, with the Customer's execution of the "Acknowledgment and Certificate of Acceptance" contained in Schedule II, attached hereto and made a part hereof. The date of execution of the Acknowledgment and Certificate of Acceptance shall be the Commencement Date under this Agreement. The Customer shall execute the Acknowledgment and Certificate of Acceptance with the County's completion of installation and pre-operational testing and first connection of the equipment to the public telephone network in a manner permitting calls to be made through the System (the "Cutover").

6) **Payment of Rent.** The rent for the System (the "System Rent") shall be as listed in Schedule I and shall be payable, without notice or demand, pursuant to said Schedule I.

7) **Cancellation.** After paying the first twelve (12) monthly payments under this Agreement including twelve (12) months of payments for any additions, the Customer may cancel this Agreement by giving sixty (60) days written notice to the County and by paying a cancellation fee equal to (a) seventy percent (70%) of the unpaid System Rent, AND (b) three (3) monthly payments for Switch Access and Network Access. With the County's prior written approval, the cancellation fees will be waived if the Agreement is assigned to a MIA tenant who assumes all the obligations of this Agreement.

8) **Training.** The County will provide instruction and training in the use of the System, to employees of the Customer for a reasonable time (not to exceed thirty (30) days) after the Cutover.

9) **Maintenance.** The County will maintain the System in good repair and will provide the necessary parts and labor to maintain the System as provided in Schedule III, provided the Customer is current on its payments hereunder and is otherwise in compliance with terms and conditions of this Agreement. The Customer's SOLE AND EXCLUSIVE REMEDY for the County to correct a defect in the System is limited to the County's performance under this Section 9.

- The County's duty to maintain the System:
- a) Excludes any service in connection with maintenance or repair of the equipment caused by negligence, theft or unexplained loss, cause, connection to foreign power, fire, water, wind storms, lightning, acts of God, acts of public enemies, improper wiring, installation of equipment, items, material, or software by the Customer or third parties, failure or changes resulting from local exchange company, failure or changes resulting from local power company, failure or changes resulting from other transmission providers, or repair or alteration of the equipment or software by anyone other than the County; and
  - b) requires that Customer maintain a suitable operating environment for the System.

BY CUSTOMER REQUEST, REPAIRS NECESSITATED BY ANY OF THE EXCEPTED CAUSES IN SECTION 9(a) ABOVE, SHALL BE PERFORMED BY THE COUNTY AT ITS THEN PREVAILING RATES. THIS MAINTENANCE AGREEMENT IS IN LIEU OF ANY WARRANTY OR OTHER OBLIGATION, EXPRESS OR IMPLIED INCLUDING BUT NOT LIMITED TO ANY WARRANTY AGREEMENT OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE COUNTY DISCLAIMS ANY WARRANTY TO PREVENT UNAUTHORIZED USE OF THE SYSTEM INCLUDING TOLL FRAUD.

10) **LIMITATION OF LIABILITY.** THE COUNTY WILL BE LIABLE FOR PHYSICAL INJURIES TO INDIVIDUALS AND DAMAGES TO TANGIBLE PHYSICAL PROPERTY (OTHER THAN THE SYSTEM WHICH IS COVERED BY THE MAINTENANCE PROVISIONS OF THIS AGREEMENT) CAUSED BY THE COUNTY'S NEGLIGENCE IN-NO EVENT HOWEVER WILL THE COUNTY AND ITS CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS BE LIABLE FOR: (A) ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, (B) COMMERCIAL LOSS OF ANY KIND (INCLUDING LOSS OF BUSINESS OR PROFITS); OR (C) ANY DAMAGE OF ANY KIND RESULTING FROM UNAUTHORIZED USE OF THE SYSTEM INCLUDING TOLL FRAUD. THIS LIMITATION SHALL APPLY TO ANY CLAIM OF THE CUSTOMER WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE OF THE COUNTY, ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS AND SUPPLIERS, STRICT TORT OR ANY OTHER LEGAL THEORY WHETHER OR NOT THE COUNTY OR ITS EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

11) **TITLE.** The County shall retain title to the System and the Customer shall have no interest in the System other than the rights acquired as a customer hereunder. The Customer acknowledges the County may affix to and maintain on such System identifying labels indicating the County's ownership. The System shall remain County's personal property and not become a fixture or part of any Customer real estate regardless of the manner in which it may be installed or attached. If requested by the County, the Customer will, at the Customer's expense, furnish a landlord and/or mortgagee waiver with respect to the System. The Customer shall protect and defend the County's title and all the Customer's expenses to keep the System and parts insured and clear of all liens, encumbrances and security interests other than those which, through the County, and shall not permit the County's notes or related documents to be subject to any lien, charge or encumbrance, including but not limited to (a) any lien of the County on real property upon which the System is installed, or (b) of any purchaser or a future creditor obtaining a lien on said real property. The Customer shall give the County immediate notice of any judgment or judicial process affecting any part of the System.

12) **Use of the System(s), Inspections and Reports.** The Customer shall use the System(s) solely for business and not for personal, family or household purposes. The Customer may only use the System at the location set forth in Schedule I. The Customer's use of the System shall conform with all applicable federal, state and local laws and rules. The County shall have the right to inspect the System at all reasonable times during the Customer's normal business hours.

## Additional Terms and Conditions

- 10) **Alterations and Attachments.** The Customer shall not permit any equipment or changes of material (the "Other Equipment") or software (the "Other Software") to be used on or in connection with the System, which does not meet the specifications of the manufacturer of the equipment in the System. All Other Equipment and Other Software which may be used on or in connection with the System shall be acquired and installed by the Customer at Customer's own expense and risk. The County makes no representation concerning the compatibility of any such Other Equipment and Other Software for use with the System.
- Without the prior written approval of the County, at the end of the Rental Term, the Customer must remove any additions to the System not otherwise subject to this Agreement (the "Additions") made by Customer during the Rental Term, and return the System, at the Customer's expense, to its original condition, reasonable wear and tear only excepted. In the event the Customer fails to remove an Addition, it shall become the property of the County.
- 11) **Indemnification.** The County will be responsible only for physical injury to persons (including death) and damage to tangible physical property to the extent caused by its negligence during delivery, installation, or maintenance of the System, and when a response to the County in writing within sixty (60) calendar days of the incident.
- The Customer shall indemnify and hold harmless the County and its officers, employees, agents and authorized representatives, and instrumentalities from any and all third parties' liabilities, losses, damages, and causes of action, including attorney's fees and costs of defense, which may arise or be incurred as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of or relating to or resulting from the performance of this Agreement by the Customer or its officers, agents, servants, partners, principals, or subcontractors, except to the extent such acts are caused by the County's negligence. The Customer shall cover all claims and losses of any nature whatsoever in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be issued thereon. The Customer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Customer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and authorized representatives, and instrumentalities as herein provided. Nothing contained in this Section 14 shall be construed so as to require the Customer to indemnify the County's employees, agents, and authorized representatives to their own negligence.
- 12) **Return of System.** Upon termination of this Agreement, excepting equipment covered under a renewal agreement, the Customer will make the System available for removal which shall be accomplished in a careful and reasonable fashion by the County. The System will be returned to the County in the same condition as originally installed, ordinary wear and tear excepted, or the Customer will pay for the restoration of the System to such condition. The County shall not be obligated to restore the premises to its original condition. If the Customer does not return the System or make it available for removal by the County, then in addition to all other remedies in this Agreement, the County has available all other remedies available at law or equity. All obligations of the Customer under this Agreement shall remain in force and effect until the System is returned to the County.
- 13) **Events of Default by the Customer.** The occurrence of any one or more of the following events (an "Event of Default") shall constitute a default under this Agreement:
- Failure by the Customer to pay any installment of System Rent or any other amount payable hereunder as and when the same becomes due and payable and the continuation of such failure for a period of ten (10) calendar days thereafter.
  - Failure by the Customer to perform or observe any other term, covenant or condition of this Agreement or any Schedule or the inaccuracy in any material respect of any representation, warranty or statement made by the Customer in this Agreement, any Schedule, or any document or certificate furnished to the County at any time, which such failure or inaccuracy shall continue for a period of ten (10) calendar days after notice from the County.
  - Discontinuation, termination, or discontinuance of the Customer's business (including without limitation, the death of the proprietor if the Customer is a sole proprietorship or the death of a general partner if the Customer is a partnership), the sale of substantially all of the Customer's assets, or the sale or pledge of the controlling interest in the Customer.
  - The Customer's insolvency, the appointment of a receiver for any property of the Customer, assignment by the Customer for the benefit of creditors, admission by the Customer in writing of its liability to pay its debts as they become due, or the commencement of a proceeding under any bankruptcy, reorganization, or similar laws by or against the Customer or any property it possesses, or if the Customer enters into an agreement of composition with its creditors, or
  - The attempted sale by the Customer of a System or any part thereof, or the issuance of any levy, seizure, or attachment thereon or pertaining thereto.
- 14) **Remedies of the County.** At any time after the occurrence of an Event of Default, the County may exercise any one or more of the following remedies:
- The County may, upon seven (7) days written notice, terminate this Agreement with respect to any System, or portion thereof, or all of the Systems.
  - The County may demand and recover from the Customer all System Rent and other amounts then due.
  - The County or its agents may take possession of any portion or all of the Systems, whenever the same be located, on reasonable notice, without any court order or other process of law and without liability to the Customer, for any damages occasioned by such taking or possession, and any such taking or possession shall constitute a termination of this Agreement, and whereupon all rights and interests of the Customer to possess and use the Systems shall absolutely cease, but the Customer shall remain liable as provided herein.
  - The County may demand the Customer return any System or portion thereof or all of the Systems to the County in accordance with this Section 17 herein, and
  - The County may pursue any other remedy available at law or in equity including, without limitation, seeking damages, specific performance and/or an injunction. None of the remedies under this Agreement is intended to be exclusive but shall be cumulative and in addition to any other remedy referred to herein or otherwise available to the County in law or in equity. Any repossession or subsequent sale or lease by the County of any portion of the System shall not bar any action for a deficiency as herein provided, and the bringing of any action or the entry of a judgment against the Customer shall not bar the County's right to repossess any System or portion thereof or all of the Systems.
- 15) **County Event of Default and Customer Remedy.** The Customer may terminate this Agreement upon thirty (30) days written notice in the event of the County's material breach of this Agreement. Such written notice shall identify the material breach(es) and provide a reasonable time to cure in the notification to remedy the cause(s). The County has fifteen (15) days to cure the cause of the termination (the "Cure Period"). Such Cure Period commences the day after the thirty (30) day written notice period runs. The Customer may extend the Cure Period. This shall be the Customer's exclusive remedy.
- 16) **Insurance.** In addition to such insurance as may be required by law the Customer shall maintain during the term of this Agreement the following insurance:
- Public Liability Insurance** on a comprehensive basis including contractual liability, products, and completed operations, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be an Additional Insured with respect to this coverage.
  - Automobile Liability Insurance** coverage for all owned, non-owned and hired vehicles used in connection with this agreement in amounts not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.
  - Property Damage.** The Customer will bear the risk of loss or damage to the leased equipment for the replacement cost and will reimburse the County for any damages to the equipment.
- The insurance coverage required shall include those classifications as listed in the standard liability manuals which most nearly reflect the operations of the Customer in this Agreement. All insurance policies required herein shall be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B" as to management, and no less than "A" as to strength in accordance with the latest edition of "Best's Insurance Guide", published by A.M. Best Company, Inc. or its equivalent as approved by the Miami-Dade County Risk Management Division.
- 17) **Compliance with this Section 16 (2) any material change of circumstance of the insurance shall not be effective without thirty (30) days prior written notice to the County, and (3) that Miami-Dade County is named as an Additional Insured under the Public Liability coverage.**
- The Customer reserves the right to require the Customer to provide such reasonably amended insurance coverage as it deems necessary or desirable upon issuance of notice in writing to the Customer, which notice shall automatically extend the notice period thirty (30) days after such notice. Compliance with the requirements shall not release the Customer of its liability under any other portion of this Agreement.
- 18) **Further Assurances.** The Customer will execute and deliver to the County such additional instruments as the County deems necessary hereunder.

## Additional Terms and Conditions

- 21) **County's Performance of the Customer's Obligations:** If the Customer fails to perform any of its obligations under this Agreement, the County may perform any or all of the obligations and make any payment which the County deems necessary for the maintenance and preservation of the Systems and the County's title thereto. All sums so paid by the County, together with all related "Late Payment Charges", as hereinafter defined, and reasonable attorney's fees incurred by the County in connection therewith shall be deemed System Rent immediately due and payable by the Customer to the County. The performance of any act or payment by the County shall not be deemed a waiver or release of any obligation or default on the part of the Customer.
- 22) **Enforceability:** Any provision of this Agreement prohibited by the laws of a state shall, as to such state, be ineffective to the extent of such prohibition, but shall not affect the other provisions of this Agreement.
- 23) **Amendments and Waivers:** This Agreement and the Schedules constitute the entire agreement between the County and the Customer with respect to the terms of the Systems and supersede all previous communications, understandings, and agreements, whether oral or written, between the parties with respect to such subject matter. Any representations, warranties or statements made by an employee, salesperson, agent, or authorized representative of the County and not expressed in this Agreement are not binding upon the County. No provision of this Agreement may be changed, waived, or amended except by written agreement signed by both the County and the Customer, except that the County may return the serial number of any portion of a System on the applicable Schedule after delivery of such portion of the System and the County may insert the Commencement Date for this Agreement after receiving the Acknowledgment and Certificate of Acceptance.
- 24) **Late Payment Charge:** In the event the Customer fails to make any payments, as required to be paid under the provisions of this Agreement, within ten (10) calendar days of the due date, then an arrearage shall be established from time to time by the Miami-Dade Board of County Commissioners and/or Florida Statutes (currently set at one and one-half percent (1 1/2%) per month), shall accrue against all such delinquent payment(s) from the original date due until the Department actually receives payment. The right of the County to require payment of such arrearage and the obligation of the Customer to pay same shall be in addition to and not in lieu of the County's right to enforce other provisions herein, including termination of this Agreement, or to pursue other remedies provided by law.
- 25) **Assignment:** The Customer shall not assign this Agreement without the County's written consent. No assignment or transfer of any sort shall relieve the Customer of its obligations hereunder. The County may assign any rights under this Agreement to an affiliate or any other assignee, and the Customer agrees to execute any documents that such assignee may reasonably require. The Customer acknowledges that if this Agreement is assigned to a governmental entity, the indemnity obligations under Section 14 hereon may not apply in full to such assignee.
- 26) **Applicable Law:** This Agreement shall be governed by, construed and enforced in accordance with the applicable laws of the County, including (a) the rules and regulations of the Department, (b) Chapter 25 Code of Miami-Dade County, Florida, and (c) operational directives issued thereunder, in addition to all additional laws, ordinances, administrative orders, regulations, and rules of the federal, state, and local governments, and any and all plans and programs developed in compliance therewith, which may be applicable to the operations of this Agreement.
- 27) **Customer's Representations:** The Customer represents that this Agreement is a lawful, binding and valid obligation of the Customer enforceable in accordance with its terms and has been duly authorized, executed and delivered by the Customer, and that all information concerning the Customer's financial condition which has been or will be supplied to the County is and will be true and correct.
- 28) **Notices:** All notices, demands and other communications shall be transmitted in writing by hand delivery or by United States Mail, addressed to such party set forth below or at such other address as may be subsequently submitted by written notice of either party. Notice given pursuant to this Section 28 shall be deemed effective four (4) days after the date it is mailed or upon receipt, whichever is earlier.

For the Department:

Manager, Information Services Division  
Miami-Dade Aviation Department  
PO Box 592073  
Miami, Florida 33150-2075

For the Customer:

(Billing Customer Name) \_\_\_\_\_  
(Customer Address) \_\_\_\_\_  
(City, State & Zip Code) \_\_\_\_\_  
(Billing Contact) \_\_\_\_\_  
(Telephone Number) \_\_\_\_\_

29) **Miscellaneous**

- If the Customer uses a purchase order or similar document to order a System or addition thereto, the Customer acknowledges that the terms and conditions of such purchase order or document shall not apply and that the terms and conditions of this Agreement shall exclusively apply thereto.
- The waiver by either party of any default will not operate as a waiver of any subsequent default.
- The Customer will pay all of the County's costs or expenses, including reasonable attorney's and collection fees, incurred in enforcing this Agreement.
- Any modification must be in writing and executed by an authorized representative of the party against whom enforcement is sought.
- This Agreement shall be binding upon and inure to the benefit of the County and the Customer and their respective successors and assigns.
- Rights to be Exercised by the County: Whenever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

**Additional Terms and Conditions**

**20) Terms and Execution**

- a) This Agreement binds the Customer when it is executed by the Customer and binds the County when executed by the County and delivered to the Customer.
- b) This Agreement allocates the risks of the System's delivery, installation, operation and maintenance between the County and the Customer. The County has provided the Customer a favorable rate in return for the County performing all delivery, installation, and maintenance obligations. This allocation is recognized on both sides and is reflected in the System RCM. The Customer acknowledges that it has read this Agreement, understands it and is bound by its terms.
- c) The Customer agrees that the County shall not be obligated under this Rental Agreement if the federal, state, or county statutory or regulatory authority permits, the County's performance hereunder is withdrawn, abridged, or amended so as to preclude the effective delivery by the County of services hereunder. In such event, the County shall notify the Customer in writing and the Customer's sole obligation thereafter shall be to compensate the County for the equipment and services rendered by the County to date.

Miami-Dade Aviation Department

Customer

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

MIAMI-DADE AVIATION DEPARTMENT

Equipment and Services Schedule I

Rental # \_\_\_\_\_ Dns \_\_\_\_\_

THIS SCHEDULE is to the certain Airport Rental Agreement dated \_\_\_\_\_ 20\_\_ (the "Agreement") between the County and \_\_\_\_\_ (the "Customer"). The County and the Customer agree to incorporate the following additional terms and conditions into said Agreement.

- 1) Location: Miami International Airport
- 2) Rental Term: \_\_\_\_\_ months
- 3) Payment: The Customer shall pay to the County the total rental (which includes maintenance) for the Rental Term of the Agreement, which shall be the total amount of all rental payments set forth on this Schedule, plus any such additional amounts as may arise hereunder or pursuant to any addenda hereto as described in Paragraphs 1 and 12 of this Schedule. Except as otherwise specified in this Schedule, rental payments pursuant to this Schedule (each monthly payment of System Rent) shall be made and shall be due and payable in advance on the first day of each calendar month during the Rental Term, provided, however, that the Customer shall pay to the County the first monthly System Rent payment with respect to the System when the Customer delivers to the County the Schedule I and Schedule II executed by the Customer. In the event the Customer does not accept the System for any reason, the County shall be entitled to retain such payment, in addition to its other rights hereunder, unless the parties agree in writing to the contrary. All amounts due hereunder from the Customer shall be paid to the County by check, in immediately available funds at the address of the County as set forth in the Agreement or at such other place as the County may designate in writing. Whenever any payment (of System Rent or otherwise) is not made within 10 (10) days of the date when due hereunder, the Customer shall pay the "Late Payment Charge" (as defined in Section 24 of the Agreement), calculated from the eleventh (11th) day after the due date to the date of actual receipt of payment.
- 4) System Rent: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (Monthly System Rent during Rental Term: \_\_\_\_\_ per month during the term of this Agreement, except as it may be increased or decreased by amendment or by an inflation and/or utility company adjustment, plus applicable taxes. Unless otherwise specified, telephone numbers, directory listings, and all other charges of the local exchange company or any interexchange carrier are not included in the rental price unless indicated on a schedule. No cabling, wiring, or other items are included unless specifically stated in this Agreement and indicated on this Schedule.
- 5) Security Deposit: The Customer shall pay two (2) months rent as a security deposit that shall be held as long as the Customer is current on its System Rent and applicable taxes and that shall be returned without interest to the Customer at termination of this Agreement. If not current on either System Rent or applicable taxes, the County may deduct from the Security Deposit any and all amounts due from the Customer under the Agreement. The Customer must maintain the two (2) month rent security deposit amount balance, and must tender to the County the amount needed to maintain this threshold if a deduction or deductions are made by the County.
- 6) Estimated Commencement Date: \_\_\_\_\_ 20\_\_
- 7) Attachments: The following Schedules are attached to and made a part of this Agreement: Schedules I, II, & III
- 8) Installation: The total amount due for installation of the System is \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) plus applicable taxes. This amount is due and payable on the Agreement execution date and is non-refundable.
- 9) Maintenance Hours: The County will respond to System failures during the hours specified by the maintenance plan chosen by the Customer (see Schedule III).
- 10) Equipment and Features: The equipment and features subject to the Agreement are set forth below:
 

1) Switch Access	\$ _____	/month
2) Network Access	\$ _____	/month
3) System - Terminal Equipment	\$ _____	/month
4) System - Other	\$ _____	/month

Monthly Rent: \$ See Attached quote # \_\_\_\_\_  
(A continuation sheet may be added if more room is needed)

- 11) Pre-Customer Changes: In the event that additions and/or deletions to the equipment and/or features described in Section 10 above are made in accordance with the Agreement before the Commencement Date, the monthly Rental shall be adjusted by the change caused by applicable Installation Change Notices ("ICNs"). The County and the Customer hereby agree that any ICN executed by the Customer and delivered to the County in accordance with this Section 11 shall constitute an amendment to the Agreement and this Schedule. Hereby adding to each such document the descriptions and rental information with respect to the equipment and the software included in such ICN.
- 12) Post-Customer Changes: If the Customer wishes to add additional County equipment and/or features to the System (excluding however, minor equipment and/or features with maintenance related thereto which the Customer purchases from the County for cash) during the Rental Term of the Agreement, the Customer shall add additional equipment and/or features to the Agreement on such terms as the County and the Customer may agree in a Customer Service Order ("CSO") executed by the County and the Customer, and such equipment and/or features shall become, upon amendment of the Agreement and acceptance by the Customer pursuant to the Agreement, subject to the terms of the Agreement, provided the Customer is not in default under the Agreement and has not suffered a material adverse change in its financial condition since the execution of the Agreement. Pricing for additions may be adjusted for changes in law and regulations.  
The term of the Agreement for all CSO additions will commence on the date when such CSO additions are first opened as part of the System and shall have a term of sixty (60) months unless stated otherwise on this Schedule.
- 13) Renewal: If the Customer is not in default under this Agreement, the Customer can either (a) renew this Agreement on its termination at the then current market monthly rate or (b) return the System to the County. Negotiation of any such renewal can be initiated by the Customer's written notice of its willingness to negotiate a renewal no earlier than one hundred twenty (120) days but not later than sixty (60) days prior to the end of the Rental Term, the Agreement can be automatically renewed at the County's discretion for a minimum period of one (1) year if a renewal is not finalized. Renewals will be at the prior and on the terms and conditions of the County in effect at the time of renewal unless otherwise agreed to in writing by the parties.
- 14) Miscellaneous: All terms defined in the Agreement shall have the same meaning herein.

IN WITNESS WHEREOF, the parties hereto have caused this Schedule to be executed by their duly authorized representative and the Schedule shall be incorporated into and made a part of the Agreement.

Miami Dade Aviation Department	Customer
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

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**AVIATION DEPARTMENT Acknowledgment and Certificate of Acceptance Schedule II**

To: Aviation Department

I, \_\_\_\_\_ acknowledges, represents and warrants to the  
County and the undersigned, (a) has been delivered, installed and subjected to all necessary pre  
operation testing; (b) has been inspected; (c) is operating in accordance with the manufacturer's specifications  
(d) has been used or made available to be placed in service for its specifically assigned function for the first  
time on the date indicated below as the "Commencement Date"; and (e) was first connected to a public  
facility in a manner permitting calls to be made through the equipment to and from the facility in which  
the equipment is located on such Commencement Date.

Commencement  
Date: \_\_\_\_\_

Customer: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

The maintenance plan features the following services:

### 1. Types of Failures:

Troubles reported by the Customers will fall into two categories: a) Major Failures, and b) Minor Failures

- a) Major Failures are those that severely impede the ability for a Customer to conduct business at the Airport and shall be defined as an occurrence of any of the following:
- 1 A failure of the telephone switch, its common equipment or power supplies which renders it or them incapable of performing normal functions for five percent (5%) or more of the stations or trunks.
  - 2 A failure of network components that will render over five percent (5%) of work stations inoperable
- b) Minor Failures are any other failures including a failure of any ancillary equipment such as intercom circuits, paging input arrangement, or any other telecommunications equipment or component

### 2. Response and Repair Time:

Based on the trouble classification, the response will be in the following manner:

- a) Major Failure - Immediate response during business hours (Monday-Friday, 7 A.M. - 11 P.M., Eastern Time) and within two (2) hours for off hours (Monday-Friday, 11 P.M. - 7 A.M., Eastern Time, and twenty-four (24) hours a day Saturday, Sunday, and holidays).

Remedial maintenance will begin immediately for a major malfunction, which may consist of remote diagnostics during the first fifteen (15) to thirty (30) minutes, after the repair notification time by the Customer, via the service provider tracking processes with the appropriate service ticket number, however if not corrected, the service provider's personnel must be on-site no less than forty-five (45) minutes during business hours and no less than two (2) hours during off hours from the repair notification time. Repair work shall start immediately and continue until the problem is resolved. All commercially reasonable efforts will be made to complete repairs within eight (8) hours from the time the Customer reported the incident.

- b) Minor Failure - Response within eight (8) business hours.

Repairs not defined as a major failure will begin as expeditiously as possible, and all commercially reasonable efforts shall be made to complete repairs within one (1) business day from the time the Customer reported the incident. Repairs may be made by a certified technical personnel either through a premise visit or via electronic access through the use of a remote maintenance terminal. However, in all cases, the repair must be confirmed and the status updated by the next business day by notification to the service provider. Response to minor service interruptions will take place within eight (8) business hours.

"Respond" is equated to having technical support and/or troubleshooting the problem within aforementioned times. Note that during the troubleshooting process, the service provider is coordinating directly with the Customer until the problem is resolved.

### 3. Miscellaneous:

- All parts and labor are included, unless the failure is due to abuse or misuse of the equipment or facilities
- Preventive maintenance routines are included
- Utility coordination with the local telephone company and other common carriers are provided
- Consultation services on the Customer's system are included
- User training (beyond that provided in Section 8 of the Agreement) is optional, and at an additional cost
- Traffic studies to determine adequate system utilization (not to exceed two (2) annual Customer request studies) are included

Exhibit 6  
SATS Airport Rental and CUTE Agreements

Airtel Customers (Excluding MOAD)	Customer Number
1 Abatis International	10391420
2 Aces - CUTE & Voice	10336645
3 ADT Securities	10506587
4 AeroMexico	10506587
5 Aeropostal - CUTE & Voice	10427644
6 Air France - CUTE	10450333
7 Air Jamaica	10518850
8 Air Tran Airways	10354615
9 American Airlines - CUTE & Voice	10363503
10 ASI Baggage	10381496
11 ASIG Miami Inc	10377170
12 Asaca Airlines	10519350
13 Atlas Air	10337970
14 AT&T	10344626
15 Avianca - CUTE & Voice	10484758
16 British Airways - CUTE & Voice	10408278
17 Cafe Versailles	10339696
18 Carne Ice Cream Shop	10351663
19 Centers for Disease Control	10395494
20 Cirilo Rodriguez d/b/a Bright Additions	10363032
21 Commodore Aviation	10416024
22 Communitel	10404505
23 Continental Airlines	10421360
24 Copa - CUTE	10494895
25 Cyber Express	10464227
26 Evergreen International	10338837
27 Flagship (American Eagle)	10338283
28 Gray Construction	10497202
29 Gulfstream Airlines	10341784
30 Host Mamot	10406827
31 ICI	10422707
32 Lan Chile - CUTE	10377882
33 Martin Air - CUTE & Voice	10411203
34 Mexicana	10505015
35 Miami Airport Duty Free Joint Venture	10396900
36 Midway Airlines	10506157
37 National Airlines	10477140
38 Polar Air	10345528
39 Sirgany Bencomo	10407537
40 Sita Communications	10459735
41 Smarte Carte	10428523
42 Swiss Air	10462868
43 Taca International	10518491
44 Underground Construction	10514494
45 United Airlines	10342394
46 USDA - Cargo	10344972
47 USDA - Network	10427656
48 USDA - Terminal	10370069
49 USDA - Operations	10517502
50 USDA - Bldg 100	10518439
51 USDA - Bldg 701	10518440
52 Vang Brasil - CUTE	10467672
53 Virgin Atlantic - CUTE	10467591
54 Worldwide Concessions	10518818
55 Worldwide Flight Services	10464295
Expected New Contracts	
Global Concessions	TBD

MOAD - Neutral Management Agreement  
February 7, 2002

**EXHIBIT**

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IN THE CIRCUIT COURT OF THE  
11th JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA  
GENERAL JURISDICTION DIVISION  
CASE NO. 02-28688 CA (03)

BELLSOUTH TELECOMMUNICATIONS,  
INC.,

ORIGINAL

Plaintiff,

vs.

MIAMI-DADE COUNTY, a political  
subdivision of the State of  
Florida,

Defendant.

2601 South Bayshore Drive  
Miami, Florida  
May 21, 2003  
9:03 a.m.

DEPOSITION OF PEDRO J. GARCIA

Taken before LANCE W. STEINBEISSER,  
Registered Professional Reporter and Notary Public  
in and for the State of Florida at Large, pursuant  
to Notice of Taking Deposition in the above cause.

EXHIBIT

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APPEARANCES:

MITCHELL R. BLOOMBERG, ESQ. and  
NATALIE-CARLOS, ESQ.,  
of the firm of ADORNO & YOSS, P.A.  
on behalf of the Plaintiff

DAVID STEPHEN HOPE, and  
CYNJI A. LEE,  
Assistant Miami-Dade County Attorneys  
on behalf of the Defendant

Also present:

Sharon R. Liebman, Esq., BellSouth  
Jennifer Sasha Kay, Esq., BellSouth  
WITNESS EXAMINATION

PEDRO J. GARCIA

BY MR. BLOOMBERG

PAGE

4

1 A. No, sir.

2 Q. Now, the first sentence of this  
3 regulation says that airports are -- essentially  
4 I'm paraphrasing -- airports are exempt from other  
5 STS rules due to the necessity to ensure safe and  
6 effective transportation of passengers and freight;  
7 fair paraphrase?

8 A. Yes.

9 Q. The second sentence says the airport  
10 shall obtain a certificate as a shared tenant  
11 service provider before it provides shared local  
12 services to facilities such as hotels, shopping  
13 malls and industrial parks.

14 . . . . . Do you see that? . . . . .

15 A. Yes, I see it.

16 Q. And are you providing facilities, shared  
17 local services to facilities such as hotels, shops  
18 and so forth?

19 A. We're not providing service to any  
20 shopping malls.

21 Q. Hotels?

22 A. We're providing service to hotels --  
23 there's a management company that manages the hotel  
24 and it's a pass-through situation. We're not  
25 making any profit from that.

1 Q. So is that why you determined you don't  
2 need a certificate?

3 A. It was determined that we didn't need a  
4 certificate based on the overall interpretation of  
5 this paragraph. We're now providing services  
6 within the airport. We're not going outside to  
7 shopping malls or to outside hotels or any outside  
8 the airport property, which belongs to Miami-Dade  
9 County.

10 Q. And the hotel belongs to whom?

11 A. The hotel building belongs to Miami-Dade  
12 County, and we have a management company managing  
13 the operation.

14 Q. You mentioned that you started the  
15 process of applying for a certificate at some  
16 point?

17 A. Yes, sir.

18 Q. Who decided to apply? Who decided you  
19 needed to apply?

20 A. I don't believe it was anybody in  
21 particular. It was something that it was just  
22 decided to -- let's do it -- at the time we were  
23 engaged in purchasing the infrastructure from the  
24 service provider NextiraOne which was -- they were  
25 the owners of all the infrastructure at the time.

**FILE COPY**

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN  
AND FOR DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

**BELLSOUTH TELECOMMUNICATIONS,  
INC.,**

Plaintiff,

vs.

**MIAMI-DADE COUNTY**, a political  
subdivision of the State of Florida,  
Defendant

---

**MIAMI-DADE COUNTY'S ANSWER AND AFFIRMATIVE  
DEFENSES TO SECOND AMENDED COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF AND FOR ISSUANCE OF WRIT OF MANDAMUS**

Defendant, Miami-Dade County, by and through its undersigned counsel, hereby files its Answer and Affirmative Defenses, to the Second Amended Complaint for Declaratory and Injunctive Relief and for Issuance of Writ of Mandamus of Plaintiff, BellSouth Telecommunications, Inc. ("BellSouth") and states:

1. Miami-Dade County (the "County") admits the allegations contained in Paragraphs 3, 6, and 15.
2. The County denies the allegations contained in Paragraphs 7, 14, 21, 22, 24, 27, 28, 30, 31, 32, 33, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 55, 57, 58, 60, 61, 63, 65, 72, 73, and 74 and therefore demands strict proof thereof.
3. The County is without knowledge as to the allegations contained in Paragraphs 4, 5, 54, and 62, and therefore denies the same and demands strict proof thereof.
4. Regarding Paragraph 8, the Miami-Dade County Home Rule Charter (the "Charter") speaks for itself.

---

C:\Data\sh\Pleadings\Airport\BellSouth Telecommunications (Second Amended Answer and Affirmative Defenses).doc  
OFFICE OF COUNTY ATTORNEY, MIAMI-DADE COUNTY, FLORIDA

10 days 7/26/02

5. Regarding Paragraph 9, the definition of "telephone utility" as used in the Charter speaks for itself.
6. Regarding Paragraph 10, § 364.02(13), Florida Statutes speaks for itself.
7. Regarding Paragraph 11, the County denies operating a telecommunications company offering two-way telecommunications services to the public for hire.
8. Regarding Paragraph 12, Florida Administrative Code Rule 25-9.002 speaks for itself
9. Regarding Paragraph 13, Florida Administrative Code Rule 25-4.003(10) speaks for itself.
10. Regarding Paragraph 16, the County admits that the authority of the Miami-Dade County Board of County Commissioners (the "Board") shall not conflict with applicable general laws related or applying to Miami-Dade County.
11. Regarding Paragraph 17, § 364.01(2), Florida Statutes speaks for itself.
12. Regarding Paragraph 18, the County admits providing shared airport tenant services to airport tenants at Miami International Airport ("MIA").
13. Regarding Paragraphs 19 and 20, § 364.339, Florida Statutes speaks for itself.
14. Regarding Paragraphs 23, Article VIII, Florida Constitution of 1985 speaks for itself.
15. Regarding Paragraph 25, on January 29, 2002, the Board passed and adopted Resolution No. R-31-02 related to telecommunications, data network, and shared network services at County airport system facilities. The resolution authorized the: (i) purchase of leased telecommunications, data network, and common use terminal equipment infrastructure, software, licenses, permits, and other assets; and (ii) approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement (the "Agreement") with NextiraOne, LLC for an interim two (2) year period.

16. Regarding Paragraph 26, the Agreement speaks for itself.
17. Regarding Paragraph 29, on September 24, 2002, the Board passed and adopted Resolution No. R-1091-02 authorizing the County Manager or designee to negotiate and execute airport rental agreements with tenants for shared airport tenant services telecommunications and data network access.
18. Regarding Paragraph 34, the County admits it has not submitted an application to the Florida Public Service Commission to obtain a certificate of public convenience and necessity.
19. Regarding Paragraph 35, the County denies providing two-way telecommunications services for hire at the airports.
20. Regarding Paragraph 38, the County denies that BellSouth: (i) provides similar services, as such services are defined by the Charter, to tenants at Miami International Airport ("MIA"); and (ii) has been providing such services at all times relevant. The County has no knowledge of any other statements in this paragraph, not specifically denied above.
21. Regarding Paragraph 66, §§ 364.02(13) and 364.32(1)(a), Florida Statutes speak for themselves
22. Regarding Paragraphs 67, § 364.33, Florida Statutes speaks for itself.
23. Regarding Paragraphs 68, § 364.339(2), Florida Statutes speaks for itself.
24. Regarding Paragraphs 69, §§ 364.33 and 364.335, Florida Statutes speak for themselves.
25. Regarding Paragraph 70, Florida Administrative Code Rule 25-24.567 speaks for itself.
26. Regarding Paragraph 71, Florida Administrative Code Rule 25-24.569 speaks for itself.
27. Any allegations of the complaint not specifically responded to above are hereby denied, and therefore the County demands strict proof thereof.

AFFIRMATIVE DEFENSES

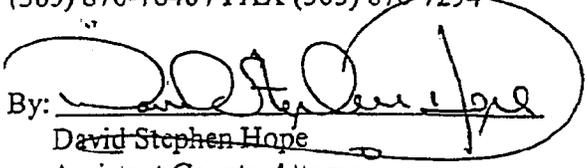
FIRST DEFENSE  
(Failure to State a Claim)

1. For each cause of action of the Second Amended Complaint asserted against Defendant, Plaintiff has failed to state a claim for which relief can be granted.

SECOND DEFENSE  
(Laches)

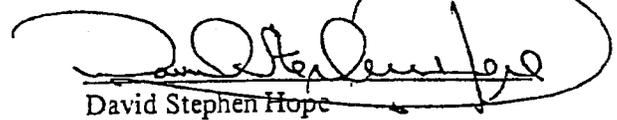
2. The County has operated a telecommunications, data network, and shared airport tenant services infrastructure and system, and provided such services at MIA since circa 1982. BellSouth has had knowledge of said infrastructure and system since its inception. The doctrine of laches is a bar to any and all claims of Plaintiff, given BellSouth's approximate twenty (20) year knowledge of the operation of the system and provision of services now challenged.

ROBERT A. GINSBURG  
Miami-Dade County Attorney  
Aviation Division  
P.O. Box 592075 AMF  
Miami, Florida 33159-2075  
(305) 876-7040 / FAX (305) 876-7294

By:   
David Stephen Hope  
Assistant County Attorney  
Florida Bar No. 87718

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 19<sup>th</sup> day of July 2004, to *Martin B. Goldberg, Esq.*, Lash & Goldberg LLP, 1200 Bank of America Tower, 100 Southeast 2nd Street, Miami, Florida, 33131; *Dorian Denburg, Esq.*, BellSouth Corporation, 1155 Peachtree Street, Suite 1700, Atlanta, Georgia 30309-3610; *Sharon Liebman, Esq.*, BellSouth Telecommunications, Inc., 150 West Flagler Street, Suite 1910, Miami, Florida 33130.



David Stephen Hope  
Assistant County Attorney

38. BellSouth, the incumbent local exchange telecommunications company in Miami-Dade County, provides similar telecommunications services to Commercial Tenants at MIA and the Other Airports, and has been providing such services at all times relevant, subject to the regulation of the FPSC.

39. In fact, by offering shared tenant services to Commercial Tenants at the airports, the County is necessarily offering similar services to those already offered at the airports by BellSouth because shared tenant services, by definition, are services which duplicate or compete with local service provided by an existing local exchange telecommunications company.

40. The provision of shared tenant services to these Commercial Tenants at the airports is not necessary to ensure the safe and efficient transportation of passengers and freight through the airports' facilities.

41. The Commercial Tenants at the airports to which the County offers shared tenant services are facilities, such as hotels, shopping malls and industrial parks.

42. Accordingly, the County's provision of shared tenant services to these Commercial tenants is not exempt from the certification requirements and other regulations enacted by the FPSC and as provided in Chapter 364 of the Florida Statutes.

43. Thus, by passing the Resolutions, the Board purported to authorize the County, based on its own authority and without prior approval of the FPSC, to offer shared tenant services to the Commercial Tenants at MIA and the Other Airports.

44. Moreover, whether or not the County, pursuant to the "Airport Exemption," is entitled to a limited exemption from "other STS rules" governing the provision of shared

13. Regarding Interrogatory No. 13, these documents are entitled: (i) "Contract Documents for DCAD Telecommunications, DCAD Contract No. 6-T-600"; (ii) "Resolution No. R-361-82" and supporting documentation; (iii) "Resolution No. R-788-90" and supporting documentation; (iv) "Status Report: Telecommunications at the Aviation Department", dated December 18, 2001; (iv) "Resolution No. R-31-02" and supporting documentation; (vi) "Resolution No. R-1091-02" and supporting documentation; (vii) "Proposal to MIA, Non-Exclusive Telecommunications and Network Management Services Agreement" dated April 17, 2003, from SITA and BellSouth; and (vii) "Resolution No. R-33-04" and supporting documentation.

14 Regarding Interrogatory No. 14 -

BellSouth provides only a fraction of the telecommunications, data network, and SATS services offered by MDAD. RFP No. MDAD-04-01 was advertised on March 6, 2003, for a successor telecommunications, data network, and shared airport services manager, who would *inter alia* (i) provide for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for MDAD, and (ii) manage the shared airport tenant services customers at MIA. After advertisement of the RFP to the general public, on April 17, 2003 the County received four (4) bids in response. BellSouth was a subcontractor under one of the bids received by primary contractor SITA, who has put together a team of seven (7) companies, SITA included, to offer managed shared airport tenant services ("MSATS") to MIA. In SITA's proposal, BellSouth would have only managed the voice communications activities component of the MSATS. In addition, BellSouth does not provide CUTE which is the primary STS service provided by MDAD. A subset of the Services is not similar services.

In addition, this answer has been provided in Interrogatory No. 6.

15. Regarding Interrogatory No. 15 -

WorldCom/MCI, SunCom, BellSouth, and AT&T are the authorized long distance providers for MIA. MDAD pays BellSouth and the other long distance providers, for all long distance service, and then MDAD bills MDAD's tenants for the actual cost of the service, without any mark-up. WorldCom/MCI is the local and short-long distance provider (from Miami to West Palm Beach) for the County pursuant to a County contract.

In addition, this answer has been provided in Interrogatory No. 14.

16. Regarding Interrogatory No. 16 -

Failure to State a Claim - BellSouth's Amended Complaint for Declaratory and Injunctive Relief contains only speculative allegations and provides no factual evidence of a special injury. BellSouth fails to demonstrate: (i) the County is operating a light, power, or telephone utility; (ii) the utility is

1

1 IN THE CIRCUIT COURT OF THE  
 2 11th JUDICIAL CIRCUIT IN AND FOR  
 3 MIAMI-DADE COUNTY, FLORIDA  
 4 GENERAL JURISDICTION DIVISION  
 5 CASE NO. 02-28688 CA (03)

6 BELL SOUTH TELECOMMUNICATIONS,  
 INC.,

7  
 8 Plaintiff,  
 9 vs  
 10 MIAMI-DADE COUNTY, a political  
 subdivision of the State of  
 11 Florida,  
 12  
 Defendant.

13 \_\_\_\_\_ /  
 14  
 15 2601 South Bayshore Drive  
 Miami, Florida  
 16 May 21, 2003  
 9:03 a.m.

17  
 18  
 19  
 20 DEPOSITION OF PEDRO J. GARCIA  
 21  
 22 Taken before LANCE W. STEINBEISSER,  
 23 Registered Professional Reporter and Notary Public  
 24 in and for the State of Florida at Large, pursuant  
 25 to Notice of Taking Deposition in the above cause.

3

EXHIBITS

EXHIBITS	FOR IDENT
1	8
2	17
3	18
4	21
5	27
6	41
7	44
8	46
9	49
10	58
11	65
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22	132
23	137
24	141
25	144
26	153
27	159
28	162
29	163

(All exhibits are attached hereto)

2

1 APPEARANCES:  
 2 MITCHELL R. BLOOMBERG, ESQ. and  
 3 NATALIE CARLOS, ESQ.,  
 of the firm of ADORNO & YOSS, P.A.  
 on behalf of the Plaintiff

4  
 5 DAVID STEPHEN HOPE, and  
 CYNJI A. LEE,  
 6 Assistant Miami-Dade County Attorneys  
 on behalf of the Defendant

7  
 8 Also present:  
 9 Sharon R. Liebman, Esq., BellSouth  
 Jennifer Sasha Kay, Esq., BellSouth

10 WITNESS EXAMINATION PAGE  
 11 PEDRO J. GARCIA  
 12 BY MR. BLOOMBERG 4

4

1 (Ms. Carlos and Ms. Lee were not  
 2 present.)  
 3 Thereupon--  
 4 PEDRO J. GARCIA  
 5 was called as a witness and, after having been  
 6 first duly sworn, was examined and testified as  
 7 follows:  
 8 -----  
 9 DIRECT EXAMINATION  
 10 BY MR. BLOOMBERG:  
 11 Q. Would you tell me your name, please,  
 12 sir.  
 13 A. Pedro J. Garcia.  
 14 Q. What is your occupation?  
 15 A. Chief of telecommunications of the  
 16 Miami-Dade Aviation Department.  
 17 Q. How long have you held that position?  
 18 A. About two years, give or take a couple  
 19 months.  
 20 Q. How long have you been with the County?  
 21 A. About 15 years.  
 22 Q. Take me through your positions with the  
 23 County.  
 24 A. I started as a Telecommunications  
 25 Engineer III which is a senior position. The

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1 knowledge, who made the ultimate decision that said  
 2 we are not filing this application? And if it was,  
 3 who was it?  
 4 A. The decision was made not to file it? I  
 5 don't know exactly who -- whose decision was it.  
 6 It was communicated to me that we're not filing it  
 7 or the airport wasn't filing it, and that was the  
 8 extent of that.  
 9 Q. Who communicated that to you?  
 10 A. I don't recall who communicated it to  
 11 me  
 12 Q. During the process in which there were  
 13 discussions about whether or not to file the  
 14 application, who did you talk to about that subject  
 15 matter?  
 16 A. I talked to my boss Maurice Jenkins. I  
 17 talked to counsel, I talked to -- you mean as far  
 18 as within the airport department?  
 19 Q. Right, within the decision-making group.  
 20 A. I think that's basically it, as far as  
 21 me up. From me down it's -- you know, I discussed  
 22 it with the person that filled out the draft. But  
 23 basically it was just a discussion with my boss and  
 24 counsel.  
 25 Q. But you don't know who actually made the

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1 contact with As I said, the Orlando folks seemed  
 2 to be very knowledgeable about the process. They  
 3 had been in it for a while and they were deep  
 4 into --  
 5 Q. Have you had any communications with the  
 6 Public Service Commission since your e-mail to  
 7 Mr. Moses back in March?  
 8 A. No, sir.  
 9 Q. Verbal? Any verbal communications?  
 10 A. None that I recall, no.  
 11 Q. Do you know if Mr. Jenkins has had any  
 12 contact or discussions with the Public Service  
 13 Commission since mid-March of 2003?  
 14 A. I'm not aware of any, but then he  
 15 doesn't tell me everything.  
 16 Q. Nobody's told you that?  
 17 A. Right.  
 18 Q. You can put that packet away, fold it  
 19 up.  
 20 Are there any other entities, to your  
 21 knowledge, individuals or entities that provide  
 22 telecommunications services to tenants at the  
 23 airports within the County?  
 24 A. Define entities. You mean other  
 25 companies?

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1 ultimate decision?  
 2 A. No, sir. For what it's worth, I do  
 3 recall that the opinions of the process that  
 4 Orlando Airport went through has some weight that I  
 5 communicated to -- with people involved in the  
 6 discussion at MDAD as far as not requiring a  
 7 license.  
 8 Q. Right.  
 9 You were sort of the investigator --  
 10 A. Right.  
 11 Q. -- and found out information --  
 12 A. I was putting together the  
 13 information --  
 14 Q. -- and passed that on?  
 15 A. Passed it to the higher authority to  
 16 make a decision one way or the other.  
 17 Q. Do you know of any airports within the  
 18 state that have actually made application?  
 19 A. I believe I spoke to the folks at the  
 20 Tampa Airport, and they told me that they had  
 21 applied but they were not providing the services.  
 22 So they really didn't know -- they didn't seem to  
 23 be very knowledgeable about the whole thing  
 24 Q. Any other airports, to your knowledge?  
 25 A. Those are the only two that I really had

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1 Q. Other companies, yes, businesses.  
 2 A. Sure. There are many.  
 3 Q. Who?  
 4 A. BellSouth, MCI, there's -- we're not --  
 5 the tenants do not let us know who do they do  
 6 business with as far as provisioning their  
 7 telecommunication services. So they could be  
 8 almost anybody providing services.  
 9 Q. The ones you provide services you know  
 10 you provide service to?  
 11 A. Right.  
 12 Q. But you don't know who provide services  
 13 to the other --  
 14 A. Yes.  
 15 Q. But you do know there are other entities  
 16 out there that provide services?  
 17 A. Yes. Within their leasehold, they can  
 18 get services from anybody they want to. They don't  
 19 even have to tell us who  
 20 Q. Would you classify those services as  
 21 services similar to those that the County provides?  
 22 MR. HOPE: Objection to form.  
 23 A. I cannot really tell whether the  
 24 services are -- you can say similar. They may or  
 25 may not -- they may be more or less what we

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1 provided but they're of the same nature.  
2 Q. Right, voice and voice network.  
3 A. Voice and network, right.  
4 Q. Does the County compete with these other  
5 entities for the business out there?  
6 A. Yes, sir.  
7 Q. Are you aware of situations where a  
8 potential customer of the County chose to go with  
9 BellSouth or MCI or some other entity?  
10 A. Yes, sir.  
11 Q. And they've told the County we're going  
12 elsewhere?  
13 A. They don't tell us. They just do it.  
14 Most of the time before they even come to the  
15 airport they've already made plans to go with  
16 somebody else.  
17 (Plaintiff's Exhibit 6 was marked for  
18 identification.)  
19 BY MR. BLOOMBERG:  
20 Q. Let me show you what's been marked as  
21 Exhibit 6 for the purposes of the deposition and  
22 ask you first if you can tell me what it is.  
23 A. It looks like a work order cover  
24 sheet -- a work order, work description, the work  
25 order.

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1 Q. I mean it's a form that's used by the  
2 County?  
3 A. Yeah, it's used by NextiraOne basically  
4 to transmit the work order information to perform  
5 work for the tenants or communicate with us for  
6 that  
7 Q. Up at the top it says work order  
8 processor-TSR remarks. Do you know what TSR means?  
9 A. TSR number, I don't really know what  
10 that stands for, but it's just a number of the work  
11 order. It could be just the name of the system  
12 that produces this  
13 Q. It's an identifying number of some sort?  
14 A. An identifying number for the work  
15 order.  
16 Q. Down in the remarks it says cancel as  
17 per Holly. Do you know somebody by the name of  
18 Holly out there?  
19 A. Holly is the person who works for  
20 NextiraOne and she's the one -- the person that  
21 does the marketing to get customers to come to  
22 our -- to provide -- to let us provide the  
23 services.  
24 Q. This one says cancel as per Holly,  
25 customer opted to use BellSouth?

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1 A. Right.  
2 Q. Which would indicate to you that this  
3 particular customer, and we don't know who it is,  
4 it's been redacted, but has chose to use BellSouth  
5 as its provider as opposed to the County?  
6 A. That's right.  
7 Q. Below that it says provide quote,  
8 install one analog line in room -- whatever the  
9 room number is. Analog line is a voice line?  
10 A. What happens is everything that  
11 NextiraOne does for us, they require permission,  
12 which is a work order to do whatever.  
13 Q. Permission from whom?  
14 A. From MDAD, from the aviation department.  
15 They work for us. We pay them for this.  
16 Q. Okay.  
17 A. So this was a work order that was  
18 issued, seems like, for them to provide -- to go  
19 out to the customer and provide a quote. Sometimes  
20 you need to install a wire or do some work to  
21 provide the service  
22 So she went ahead and tried to give this  
23 customer a quote, whoever the customer was, and  
24 when she got there the customer had already made  
25 arrangements for BellSouth to provide the service.

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1 So this is just basically cancelling the work  
2 order.  
3 Q. So in this case BellSouth was apparently  
4 providing a similar service?  
5 A. The customer picked BellSouth as a  
6 service provider which is the same service we could  
7 have provided.  
8 MR. HOPE: Objection to form.  
9 (Plaintiff's Exhibit 7 was marked for  
10 identification.)  
11 BY MR. BLOOMBERG:  
12 Q. Let me show you what's been marked as  
13 Exhibit 7 for the purposes of deposition and ask if  
14 you recognize that document.  
15 A. Okay.  
16 Q. Have you seen it before?  
17 A. I'm sure I have.  
18 Q. What is it?  
19 A. It seems to be telling the customer --  
20 the tenants of the airport about services that  
21 would be provided in addition to the ones that were  
22 provided before.  
23 Q. Now, is there a change in services -- I  
24 know there was a change with Nextira in  
25 February 2002. Was there a change in services

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1 provided after the 2002 agreement?  
 2 A. Not really. All we did was take over  
 3 their operations. Whatever services they were  
 4 provided before, we were going to provide.  
 5 However, STS, as we see it, is not only services  
 6 that Nextira provides. We're calling basically STS  
 7 anything that the airport can provide, even outside  
 8 the telecommunications arena.  
 9 They may need what they call a FIDS  
 10 monitor to provide flight information and things  
 11 like that in their back office and we -- the  
 12 airport -- to provide service to all the airlines  
 13 and everybody, unless there -- we can provide  
 14 anything they want at a price.  
 15 Q. Okay.  
 16 A. I think it's our responsibility and also  
 17 the way to --  
 18 Q. Make money?  
 19 A. -- get some money for the airport.  
 20 Q. Right.  
 21 The MDAD is in the telecommunications  
 22 business?  
 23 MR. HOPE: Objection to form.  
 24 A. MDAD is in the business of lowering the  
 25 landing fees to the airlines as much as possible by

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1 producing revenue in any way we can.  
 2 Q. To the County?  
 3 A. To the County.  
 4 Q. Making money without taxing people?  
 5 A. Yes, that's right  
 6 (Plaintiff's Exhibit 8 was marked for  
 7 identification.)  
 8 BY MR. BLOOMBERG:  
 9 Q. Did the County or MDAD or anybody  
 10 prepare a marketing plan?  
 11 A. Yes. We requested from NextiraOne after  
 12 we purchased their infrastructure that they would  
 13 prepare a marketing plan on our behalf.  
 14 Q. To go out and market to tenants of the  
 15 airport --  
 16 A. Yes.  
 17 Q. -- airports?  
 18 A. Um-hum  
 19 Q. Let me show you what's been marked as  
 20 Plaintiff's Exhibit No. 8 and ask you if that is a  
 21 copy of the marketing plan.  
 22 A. Yes.  
 23 Q. And the first page there's handwriting  
 24 on it. Do you recognize the handwriting?  
 25 A. This is my boss' handwriting.

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1 Q. Both of them? Both the page to  
 2 Simone --  
 3 A. Yeah, Simone is his secretary and Pedro  
 4 is me, so he was writing notes to discuss this with  
 5 me. He wasn't happy with it.  
 6 Q. If you sort of skim the pages, you'll  
 7 see some handwritten notes or some handwritten  
 8 comments. Is all of that handwriting Mr. Jenkins'  
 9 handwriting, to your knowledge?  
 10 A. It looks like it is, yes  
 11 Q. If you go to Page 7 of the report which  
 12 bears the number 000165 on the bottom,  
 13 Section 2.2.1 Strengths, it says knowledge. Our  
 14 competitors are Reeboks, and then the handwritten  
 15 note, Regional Bell Operating Company --  
 16 A. RBOX.  
 17 Q. RBOX, Reeboks --  
 18 A. That's an industry thing  
 19 Q. You're right. Regional Bell Operating  
 20 Companies, whose handwriting is that? Is that  
 21 Mr. Jenkins', to your knowledge?  
 22 A. That could have been me just to clarify  
 23 what the name meant.  
 24 Q. And BellSouth is one of those RBOX;  
 25 correct?

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1 A. Yes, sir.  
 2 Q. So then this marketing plan  
 3 acknowledges, does it not, that BellSouth and MDAD  
 4 are competitors in this venture or in this  
 5 business?  
 6 A. Correct. Actually, this term is out of  
 7 date. The person that wrote this is talking like  
 8 some many years back.  
 9 Q. Right.  
 10 A. The correct term is --  
 11 Q. Right  
 12 A. But it means that  
 13 Q. BellSouth?  
 14 A. BellSouth or any other service provider.  
 15 Q. Are you familiar with it as it relates  
 16 to what's going on at the airport? Are you  
 17 familiar with the Miami-Dade County, Florida Home  
 18 Amendment Charter as it relates to the operation of  
 19 this kind of this business? Have you ever looked  
 20 at it?  
 21 A. As it refers to the operation of the  
 22 airport?  
 23 Q. The telecommunications business at the  
 24 airport  
 25 A. No, I can't say that I'm --

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1 of Florida or at least within this region because  
 2 it is --  
 3 A. There's 29, I believe.  
 4 Q. 29 what?  
 5 A. Utilities in the state of Florida as far  
 6 as BellSouth.  
 7 Q. Because of the scope of regulation?  
 8 A. Because they're the carrier of last  
 9 resort in the area in which they serve.  
 10 Q. Do you have any idea why the charter  
 11 uses the phrase the County shall not operate a  
 12 telephone utility? I realize you didn't draft the  
 13 charter provision, but have you ever had a  
 14 discussion with anybody as to why that phrase is  
 15 there?  
 16 MR. HOPE: Objection to form.  
 17 A. I have no idea why that's there.  
 18 Q. Correct me if I'm wrong, we've already  
 19 gone through the fact that apparently it may not be  
 20 the exact same service, but BellSouth, for example,  
 21 offers similar services to tenants at the airport?  
 22 MR. HOPE: Objection to form.  
 23 A. We provide services to the tenants of  
 24 the airport which is a County-owned facility.  
 25 Q. I'm just asking if BellSouth offers

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1 similar service to those tenants.  
 2 A. Yes, they do.  
 3 Q. And is the airport a territory in the  
 4 County?  
 5 A. The airport is a County-owned facility.  
 6 That's a legal interpretation. I don't believe we  
 7 consider the airport to be a territory. It's a  
 8 County-owned building or facility. I'm not an  
 9 attorney. Again, my opinion. But if you ask my  
 10 opinion, I would consider territory a neighborhood,  
 11 West Miami, Coral Gables; those are territories  
 12 A County-owned facility, I don't  
 13 consider that to be a territory, but that's my  
 14 interpretation.  
 15 Q. Why not?  
 16 A. Why not? It's just the definition  
 17 that -- the meaning that I attach to the word.  
 18 Q. What meaning do you attach to the word  
 19 territory?  
 20 A. A territory is a more -- it's not  
 21 something that you own. It's something that is  
 22 owned collectively by other folks, collectively or  
 23 independently, and there are certain amounts of  
 24 legal control over that territory but that's -- the  
 25 Miami International Airport is an owned facility by

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1 the County. We don't own Coral Gables, the County  
 2 doesn't own West Miami, but they own the Miami  
 3 International Airport.  
 4 And if I could go further, I would  
 5 probably say the intent of this was basically to  
 6 reassure the utilities that we would not complete,  
 7 we meaning by Miami-Dade County will not compete  
 8 with them to provide services to neighborhoods and  
 9 other neighborhoods that would be competing with  
 10 them  
 11 Q. Miami International Airport is within  
 12 the physical geographic boundaries of Miami-Dade  
 13 County; is that a fair statement?  
 14 A. Yes, sir.  
 15 Q. As are the two other airports, Tamiami  
 16 and Opa-Locka, to which the County provides similar  
 17 services?  
 18 A. Yes  
 19 Q. Does the County provide telephone  
 20 services at other locations, to your knowledge,  
 21 within the geographical boundaries of Miami-Dade  
 22 County?  
 23 A. Miami-Dade County has telephone  
 24 equipment and network equipment similar to what's  
 25 in at the Miami International Airport only in

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1 County-owned facilities.  
 2 The County does not provide services to  
 3 buildings and -- or -- that have nothing to do --  
 4 or tenants that have nothing to do with the  
 5 government operation.  
 6 Q. Correct me if I'm wrong, are those  
 7 facilities serving the County itself?  
 8 A. It's serving the County employees.  
 9 Q. The County employees?  
 10 A. And by the way -- and then we'll connect  
 11 to BellSouth for the outside --  
 12 Q. I understand that. But what I'm asking  
 13 you is other than at the airports, does the County  
 14 provide telephone service, for example, to people  
 15 or entities other than County employees anyplace  
 16 else within the County?  
 17 A. Not to my knowledge. It's no different  
 18 than the owner of this building having their own  
 19 telephone switch and providing dial tone to people  
 20 that live in the building.  
 21 Q. I'm just saying --  
 22 A. That's the extent, as far as I know.  
 23 Q. I'm just trying to understand  
 24 Let's do it this way. We've agreed  
 25 earlier in the deposition that MDAD is engaged in

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1 Q. Well, this agreement only refers to  
2 Miami Dade County, doesn't it?  
3 A. Well, I'm trying to be accurate.  
4 Q. I understand. I understand. I mean the  
5 agreement itself is only operating in Miami-Dade  
6 County; correct? Your agreement with Nextira is to  
7 cover airports in Miami-Dade County, not anything  
8 else?  
9 A. Actually the way -- it's anybody that  
10 can provide dial tone to -- to access to a public  
11 network. That's what it refers to the local  
12 exchange -- local exchange -- an existing local  
13 exchange telecommunications company. So you can  
14 get dial tone from MCI or anybody else. So that's  
15 what it's --  
16 Q. And clearly shared airport tenant  
17 services contemplates the competition between  
18 various telecommunications providers; is that a  
19 fair statement?  
20 MR. HOPE: Objection to form.  
21 A. I'm sorry. Can you --  
22 Q. Let me rephrase it.  
23 This paragraph makes reference to the  
24 fact that the services that MDAD is going to  
25 provide compete with other providers?

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1 A. Yes.  
2 Q. Okay. Because they're providing similar  
3 services?  
4 A. Yes.  
5 Q. MDAD is providing services similar to  
6 other providers?  
7 MR. HOPE: Objection to form.  
8 A. Yes. I'm assuming in all of this,  
9 you're keying on telecommunication services and the  
10 airport provides not only those but a lot of other  
11 services to them from the airport. But your  
12 question was specifically directed towards the  
13 telecommunications --  
14 Q. Yes. The fact that the airport provides  
15 in-flight communications to people --  
16 A. No. I'm saying monitors for flights and  
17 additional microphones, others -- we provide  
18 everything that we can provide to tenants of the  
19 airport, and telecommunication is just one of those  
20 things.  
21 Q. Right.  
22 We're talking about telecommunications  
23 here.  
24 A. Okay.  
25 Q. Now, if you turn to Article 4 which

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1 begins on Page 10 of the agreement, it talks about  
2 what contractor is required to provide. Do you see  
3 that just starting off above the letter A? And the  
4 contractor is NextiraOne?  
5 A. Um-hum.  
6 Q. And there's a list of what NextiraOne is  
7 going to be doing; is that correct?  
8 A. Yes.  
9 Q. And those are all operations that  
10 NextiraOne is going to be providing under the  
11 supervision and control of MDAD?  
12 A. Yes.  
13 Q. Was MDAD the final authority, in other  
14 words, MDAD had to approve things?  
15 A. Yes, MDAD is the final authority and the  
16 County as far as --  
17 Q. Well, the County --  
18 A. Right.  
19 Q. And all of these things that Nextira is  
20 supposed to do pursuant to this agreement are  
21 things that a telecommunications company, telephone  
22 utility would also do --  
23 MR. HOPE: Object to form.  
24 Q. -- is that a fair statement?  
25 A. No. Like I said, the MDAD provides

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1 services to the tenants way in addition to whatever  
2 the telecommunications companies do.  
3 Q. Okay.  
4 A. And I'm not talking about in-flight  
5 services. We don't provide that.  
6 Q. Let me rephrase the question  
7 MDAD is providing a greater amount of  
8 services than a telecommunications company would  
9 do?  
10 A. Yes.  
11 Q. Some of the services that MDAD provides  
12 through NextiraOne are the same services that a  
13 telecommunications company would provide?  
14 A. That's correct.  
15 Q. For example, manage the existing voice  
16 and data is something that a telecommunications  
17 company would do?  
18 A. If we engage them to.  
19 Q. Could do?  
20 A. Yes, could.  
21 Q. Routine installations of telephone lines  
22 are something that a telecommunications company  
23 would do?  
24 A. Yes.  
25 Q. And I understand that MDAD does more

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1-29-02  
R-31-02

**NON-EXCLUSIVE TELECOMMUNICATIONS,  
DATA NETWORK, AND SHARED AIRPORT  
TENANT SERVICES MANAGEMENT  
AGREEMENT**

**PLAINTIFF'S  
EXHIBIT**

leaf 15  
5-21-03

made as of the 1st day of February in the year  
Two Thousand and Two.

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

**AND THE CONTRACTOR:** NEXTIRAONE, LLC  
2800 Post Oak Boulevard  
Suite 200  
MD 25-12  
Houston, Texas 77056

Which term shall include its officers, partners, employees, successors, legal representatives and assigns.

**Description of the Project:** Provides for the operations, management, maintenance, service, support and equipment and supplies of certain telecommunications and data network, infrastructure, hardware and software systems for Miami-Dade Aviation Department as more specifically herein.

Dated 1/24/02

- 1.28 **Project Manager:** The chief of the MDAD Telecommunications Section, or his or her designee. The primary responsibilities of the Project Manager are to coordinate and communicate with the Contractor and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement. All parties may rely on the instructions or determinations made by the Project Manager; provided, however, that such instructions and determinations do not change the Scope of Services or modify the terms and conditions of this Agreement. The County shall from time to time provide written notice to the Contractor designating the assigned Project Manager.
- 1.29 **Reimbursable Expenses:** Those expenses delineated in the Payments and Costs Reimbursable article, of this Agreement which are separately approved by the County that are incurred by the Contractor in fulfillment of this Agreement.
- 1.30 **Risk Management Division:** A division of Miami-Dade County, with offices in the Stephen P. Clark Center, 111 N.W. 1<sup>st</sup> Street, Miami, FL 33128.
- 1.31 **Services:** All services, work and actions by the Contractor performed pursuant to or undertaken under this Agreement.
- 1.32 **Shared Airport Tenant Service ("SATS"):** The provision of service which duplicates or competes with local service provided by an existing local exchange telecommunications company and is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company.
- 1.33 **Software:** Is defined as any set of one or more computer or telephone system programs which is composed of routines, subroutines, concepts, processes, algorithms, formulas, ideas, or know-how severally owned by or licensed by the County and/or any one of its suppliers, regardless of the particular delivery media in or on which such intangible assets may be embodied. Software shall also include any corrections, patches, updates, or revisions to Software originally provided.
- 1.34 **Sub-System:** The integrated systems; including voice mail, automated attendants, automatic call distributors, customized control routing, power supplies, remote access devices, battery back-up units, integrated voice response, uninterruptible power supplies, and any related and embedded Software reporting products so designated by the County.
- 1.35 **System:** The telecommunications system, which may include Equipment, switches, Sub-Systems, related Software, and peripheral equipment. As used in this Agreement, the terms System and switch have equal meaning.
- 
- 1.36 **Tenant:** Shall mean any individual, company, or business located at any of the

Dated 1/24/02







**OPERATIONAL DIRECTIVE NO. 01-01**

Effective date: August 28, 2001

**SUBJECT: Miami-Dade Aviation Department Provided Shared Tenant Services – Communication Systems and Infrastructure**

**PURPOSE:** To establish policies and procedures for the development, establishment, modification, and maintenance of the Miami-Dade Aviation Department (MDAD) provided Shared Tenant Services (STS) for communication systems and infrastructure.

**I. BACKGROUND:**

- A. The existing Miami International Airport (MIA) Network, Telephone, and STS contracts expire on February 6, 2002. Several STS presently provided to airport tenants through these and other contracts will become the responsibility of MDAD. These services include:
1. Voice telephone service,
  2. Common Use Terminal Equipment (CUTE),
  3. Network Data Services, and
  4. Commercial Service Providers access to tenants on airport property using MDAD provided cable plant infrastructure.
- B. In the future, other STS may be provided including but not limited to:
1. Security CCTV,
  2. Internet Access,
  3. Network Server Storage,
  4. E-mail,
  5. Wireless connectivity (voice and data), and
  6. Other information technology services.
- C. The MDAD management goal is to provide better service at lower rates than the existing provider or any other commercial service provider.

**MIAMI INTERNATIONAL AIRPORT**

**II. AUTHORITY:**

All commercial telecommunications carriers doing business at the airports shall provide services to MDAD and airport tenants in accordance with the Florida Public Service Commission Rules for Shared Tenant Service which state in part:

*"Rules For Shared Tenant Service 25-24.575 Shared Tenant Service Operations Page 7 of 8 section (5) (d.) 3. (7)*

*The carrier of last resort of local exchange telecommunication services shall use the STS provider's or the STS building owner's cable, if made available, to gain access to the tenant. The carrier of last resort of local exchange telecommunication services shall be required to provide reasonable compensation. Such compensation shall not exceed the amount it would have cost the carrier ... to serve the tenant through installation of its own cable."*

Source: <http://www.psc.state.fl.us/industry/telecomm/sts/stsrules.pdf>

**III. DEFINITIONS: None.**

**IV. POLICY:** Tenants may elect to use MDAD services provided at below comparable service commercial rates. A published rate schedule fees and charges shall be established in accordance with the provisions of subsection 25-1.2 (a) hereof (Ord. No. 88-37, § 2, 3-3-88; Ord. No. 95-41, §§ 36, 37, 3-7-95).

**V. GUIDELINES:****A. Rate Setting**

Final setting of telephone and other STS rates will be done after the existing STS and MIA Network contract buyout negotiations have been completed. Fees for STS will be calculated based on installed costs amortized over an appropriate number of years for the various devices life cycle, plus actual annual administrative, operating and maintenance costs. When finalized, schedules, rates and method of calculation will be published.

Business Management will annually develop or update the rates as part of the budget cycle, and notify affected parties of their specific rate changes including MDAD Divisions, tenants, and commercial telecommunications service providers.

**B. Public Dissemination**

Business Management will make proper distribution of the official document and will also provide an electronic file copy to the Information Systems Division to be posted in an application providing public dissemination of the OD.

**C. Effective Date**

The effective date of this OD will be 15 days after being recorded with the Clerk of the Circuit Court as Clerk of the County Commission. Unless otherwise stated in this document, these procedures will remain in effect until revoked or modified.

**D. Amendments**

The Department reserves the right to amend ODs at any time and from time to time and copies of such amendments will be mailed to all affected parties who register with the Aviation Department.

**VI. SUNSET PROVISIONS:**

None.

**VII. SEVERABILITY:**

If any court of competent jurisdiction determines that any provision in this OD is illegal or void, the remainder of the OD shall continue in full force and effect.

**VIII. REVOCATION: None.**

**IX. CROSS REFERENCE: None.**

  
Angel Gittens, Aviation Director  
Date: 8/10/01

Westlaw.

Page 1

West's F S A § 364.339

C  
West's Florida Statutes Annotated Currentness  
Title XXVII Railroads and Other Regulated Utilities  
Chapter 364. Telecommunications Companies (Refs & Annos)  
Part I General Provisions

→364.339. Shared tenant service; regulation by commission; certification; limitation as to designated carriers

(1) The commission shall have exclusive jurisdiction to authorize the provision of any shared tenant service which

(a) Duplicates or competes with local service provided by an existing local exchange telecommunications company; and

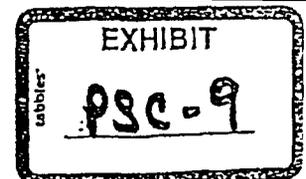
(b) Effective January 1, 1996, is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company.

(2) No person shall provide shared tenant service without first obtaining from the commission a certificate of public convenience and necessity to provide such service. The commission shall grant certificates to telecommunications companies upon showings that the applicants have sufficient technical, financial, and managerial capabilities to provide shared tenant services. The commission may require such service to be offered and priced differently to residential and commercial tenants if deemed to be in the public interest

(3)(a) Shared tenant services provided to government entities pursuant to this section are exempt from paragraph (1)(b), and the commission may exempt such entities from any certification requirements imposed by this chapter

(b) As provided in subsection (4), the commission may authorize such service notwithstanding the provisions of s 364.335. The commission may prescribe the type, extent, and conditions under which such service may be provided and may exempt such service, except appropriate certification, from commission regulation

(4) In determining whether the actions authorized by subsections (1) and (2) are consistent with the public interest, the commission shall consider the following:



West's F.S.A. § 364.339

- (a) The number of firms providing the service.
- (b) The availability of the service from other firms or the local exchange telecommunications company.
- (c) The quality of service available from alternative suppliers
- (d) The effect on telecommunications service rates charged to customers of the local telecommunications company.
- (e) The geographic extent of the service to be provided.
- (f) Any other factors which the commission deems relevant.

(5) The offering of shared tenant service shall not interfere with or preclude a residential or commercial tenant's right to obtain direct access to the lines and services of the telecommunications company or the right of the telecommunications company to serve the residential or commercial tenant directly under the terms and conditions of the commission-approved tariffs.

#### CREDIT(S)

Added by Laws 1986, c. 86-270, § 1, eff. July 9, 1986. Amended by Laws 1990, c. 90-244, § 40, eff. Oct. 1, 1990; Laws 1995, c. 95-403, § 27, eff. July 1, 1995; Laws 1998, c. 98-277, § 15, eff. May 28, 1998

#### HISTORICAL AND STATUTORY NOTES

##### *Prior Provisions for Legislative Review of Regulatory Statutes:*

Laws 1986, c. 86-270, § 2, provided for repeal of this section October 1, 1989, and review pursuant to § 11.61, the Regulatory Sunset Act.

#### LIBRARY REFERENCES

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	BST.	MDAD.
VOICE	✓	✓
DATA	✓	✓
HIGH SPEED	✓	
HIGHER SPEED	✓	
SMART RINGS	✓	
VIDEO	OFFERED	
DARK FIBER	OFFERED	
DAY FIBER	OFFERED	
ADSL/ INTERNET	✓	
METRO ETHERNET	✓	

Brown - Hill J.  
12-3-04

PLAINTIFF'S  
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