

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

**VIDEO-TAPED DEPOSITION OF MAURICE JENKINS
DATED AUGUST 5, 2004**

FINAL EXHIBIT NO. 17

6 of 29

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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.,
a foreign corporation,

Plaintiff,

vs.

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

Defendant.

VIDEOTAPE DEPOSITION
OF
MAURICE JENKINS

100 Southeast 2nd Street
Suite 1200
Miami, FL 33131

Thursday, August 5, 2004
10:15 a.m. - 5:00 p.m.

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

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APPEARANCES

For the Plaintiffs:

MARTIN B. GOLDBERG, ESQ.
Lash & Goldberg, LLP
Bank of America Tower, Suite 1200
100 Southeast 2nd Street
Miami, FL 33131

For the Defendants:

DAVID S. HOPE, ESQ.
Assistant County Attorney
County Attorney's Office
P.O. Box 592075
Miami, FL 33159-2075

Also present:
Sharon Liebman, Attorney, BellSouth
Wayne Tubaugh, BellSouth
Dorian Denberg (on conference call) BellSouth

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

1 THEREUPON:

2 MAURICE JENKINS,
3 a witness named in the notice heretofore filed,
4 having been first duly sworn, deposes and says as
5 follows:

6 MR. GOLDBERG: Present for the plaintiff
7 BellSouth Telecommunications, Inc., Martin
8 Goldberg, law firm of Lash & Goldberg on behalf
9 of BellSouth. Also present is Sharon Liebman.

10 At the deposition here today as well is
11 Wayne Tubaugh from BellSouth, as well as Dorian
12 Denberg, who is present by telephone.

13 MR. HOPE: David Stephen Hope, Assistant
14 County Attorney on behalf of Miami-Dade County.

15 MR. GOLDBERG: And your witness here today
16 is Maurice Jenkins?

17 MR. HOPE: Correct, who is our head of our
18 information technology division at Miami
19 International Airport.

20 MR. GOLDBERG: Thank you.

21 DIRECT EXAMINATION

22 BY MR. GOLDBERG

23 Q. Mr. Jenkins, are you ready to proceed with
24 your deposition this morning?

25 A. Yes.

1 Q. Once again, let me just introduce myself.
2 My name is Martin Goldberg. I am here on behalf of
3 BellSouth in the case that was just read into the
4 record. Have you been deposed before?

5 A. Yes, sir, I have.

6 Q. So I am going to sort of shortcut my
7 introduction and ground rules and let's just go over
8 a couple of points, and then we will proceed into
9 more of the substance of the deposition if you don't
10 mind.

11 Most of my questions as you will see today
12 can probably be answered with a yes or no. Of
13 course, at any time if it can't be answered with a
14 yes or no please do so.

15 If you want to answer yes or no and then
16 explain your answer, obviously please feel free to do
17 that as well. OK?

18 A. OK.

19 Q. The deposition that's going to occur is
20 obviously a series of questions that I am going to
21 ask you and then you are go to provide answers to
22 those questions.

23 I just want to remind you since you have
24 been sworn and you are under oath that any answer
25 that you provide to a question that I ask has to be

1 truthful, complete and not misleading. Do you
2 understand that?

3 A. Yes, I do.

4 Q. OK. If you do answer a question we are all
5 going to assume here on the record as well as for
6 purposes of the videotape that you have understood
7 the question that I have asked. Is that OK with you
8 as well?

9 A. That's fine.

10 Q. OK. If by any chance you don't understand a
11 question, which may be very likely because I may ask
12 a confusing question or a question that just doesn't
13 make sense to you, please ask me to restate the
14 question or to clarify the question or just tell me
15 you don't understand and then we will try it again
16 before you provide an answer.

17 Is that OK with you as well?

18 A. That's fine.

19 Q. Your lawyer is here, Mr. Hope. If at any
20 time you want to take a break please let me know, I
21 will do my best, although we may not take a break at
22 that exact point in time, we will honor your request,
23 of course, and proceed that way.

24 We'll get into more of your preparation for
25 this deposition, but one last point I want to make is

1 Mr. Hope is your attorney on behalf of the county.
2 He serves as an advocate for the county's position
3 and it is his job to argue and try to convince the
4 judge in this case what the truth is and so forth.
5 He has to and will argue the county's case before the
6 judge.

7 Your role here today, though, I want to
8 emphasize, is just to tell the truth, to provide the
9 facts. It is not to advocate a particular position
10 because I think a deponent's role is simply to answer
11 the questions that I ask truthfully and completely.

12 Do you understand that?

13 A. Yes, sir.

14 Q. OK. Let me show you what has been marked
15 what I'll mark as Plaintiff's Exhibit MJ1.

16 (Notice marked MJ Exhibit 1 for
17 identification)

18 While you look at that with a copy to
19 Mr. Hope --

20 MR. GOLDBERG: David, is it OK if I refer to
21 you as David?

22 MR. HOPE: David is fine.

23 Q. Do you recognize this document?

24 A. Yes, sir, I do.

25 Q. Have you seen that document before?

1 A. Yes, sir, I have.

2 Q. This is the notice of taking of videotape
3 deposition for this morning's deposition. And it was
4 addressed to have appear at this deposition the
5 defendant, which is the county's corporate
6 representative with the most knowledge of MDAD's
7 provision of local service at county owned airports
8 and the tenants to which such local service is
9 provided; as well as number 2, MDAD's statement in
10 its response to interrogatory number 3 dated March 1,
11 2004 that MDAD does not charge MDAD tenants for local
12 service.

13 Did I read that correctly?

14 A. Yes.

15 Q. Are you designated by the county as the
16 individual with the most knowledge of those areas
17 identified in Exhibit MJ1?

18 A. Yes, sir.

19 Q. Can you tell me how it came about that you
20 were designated as the corporate representative for
21 purposes of this deposition here this morning?

22 A. My job title is the manager of information
23 systems and telecommunications for the aviation
24 department. That responsibility entails oversight of
25 my two organizations, one of which is

1 telecommunications.

2 Q. Let me just ask you, you might have to keep
3 your voice up even though you have a microphone
4 there, the videographer may hear you but the court
5 reporter may not.

6 A. No problem.

7 Q. The other thing, let me clarify since there
8 is a court reporter here. As you know, he can only
9 take down one voice at a time, so I am going to do my
10 best to let you finish your answers before I ask a
11 question. And I'll likewise ask you to wait until I
12 finish the question before you answer so he doesn't
13 have a problem. OK?

14 A. Noted.

15 Q. Also, the other thing is your attorney
16 obviously has the right to object to any question I
17 ask on a limited basis. So I'd appreciate you giving
18 a little bit of time for David jumping in and
19 objecting before the answer is given because an
20 objection after the answer is given is of no merit.

21 I am sure Mr. Hope obviously understands
22 that.

23 You were saying about your job title. We'll
24 go through that, but let me ask you a more precise
25 question.

1 Who designated you as a corporate
2 representative for today's deposition?

3 A. When I received a copy of this document, it
4 requested the individual most knowledgeable. I
5 looked at it, and after discussion with counsel
6 determined that it should be me.

7 Q. Were there other people considered to appear
8 as the person with the most knowledge of these areas?

9 A. I didn't consider anyone else directly. I
10 could have probably so, but I did not.

11 Q. So you made the decision to designate
12 yourself in short order, is that correct?

13 A. Yes, sir.

14 Q. Your current position again is what at the
15 airport?

16 A. Manager of information systems and
17 telecommunications.

18 Q. How long have you been in that position?

19 A. In excess of five plus years. I'm not sure
20 exactly.

21 Q. If you could you just give me a general
22 outline of your day-to-day duties and
23 responsibilities please?

24 A. Managing two organizational units of a
25 hundred people, responsible for all information

1 technology and telecommunications work done at the
2 airport on the IT side, everything from desktop
3 support, application development, network management,
4 network design and implementation.

5 On the telecommunication side, customer
6 service represents, cellphone deployment,
7 coordination with cellphone providers, installations
8 of telecommunications equipment, coordination of
9 services, working with our long distance provider,
10 which is MCI, and also coordinating with BellSouth
11 for work to be done on airport property.

12 Q. Any other general areas that you are
13 responsible for, other than those you have listed?

14 A. Yes. We'll be here for a while. Working on
15 new design implementation, common use, facility
16 development for the airport, which is roughly about
17 \$130 million of IT telecom related type work that we
18 are doing over the next three years that has an
19 impact both on the department and the customers that
20 we serve, which are the carriers.

21 Q. So I guess it is safe to say you are the
22 person responsible for the telecommunications
23 facility at the airport?

24 A. Ultimate responsibility, yes, sir.

25 Q. How many people work for you or, maybe I

1 should more accurately say, report to you?

2 A. In its totality just at a hundred if not a
3 little bit over a hundred people.

4 Q. Those hundred people that report to you, are
5 they segmented out into various departments or
6 groups?

7 A. Yes, they are segmented into groups.

8 Q. Could you give me a brief outline of what
9 groups they are in?

10 A. OK. We have systems and -- do you want the
11 responsibilities or just the groups themselves?

12 Q. Why don't we just go to the groups first.

13 A. Systems, network operations, PC desk top and
14 support. We have technical support/our technical
15 shop.

16 We have telecommunications, which break down
17 into customer service, construction, coordination,
18 and also put a slash with project management because
19 they also manage one of our service providers.

20 I think that just about covers it in its
21 whole broad spectrum. There may be more.

22 Q. I would assume that within each of these
23 groups there's a director or person of managerial
24 designation?

25 A. Yes, in all of them.

1 Q. And those individuals who are directors or
2 management report to you?

3 A. Yes, sir.

4 Q. Is it accurate or safe to call you more of a
5 really a CEO of this entity out at the airport?

6 A. A CEO? I want to make sure I understand
7 you.

8 Q. Fair enough. Generally you have a lot of
9 groups with directors reporting to you?

10 A. Yes.

11 Q. And the operation of telecommunications
12 facility at the airport, would it be safe to say that
13 you act in the role of a CEO although not called a
14 CEO in the private sector they are called a CEO.
15 Would you depict your role as a CEO?

16 MR. HOPE: Objection to form.

17 Q. You can answer.

18 A. I would deem it more of a CIO than a CEO.

19 Q. And CIO?

20 A. Is chief information officer.

21 Q. And that sort of leads to the next question:
22 Who do you report to?

23 A. I report to the assistant director for
24 administration.

25 Q. Who is that currently?

1 A. Ms. Bobbie Phillips.

2 Q. Who does Ms. Phillips report to?

3 A. The deputy director for the aviation
4 department.

5 Q. Who is that currently?

6 A. Mr. Steve Baker.

7 Q. And who does Mr. Baker report to?

8 A. The aviation director.

9 Q. And who is that currently?

10 A. Ms. Angela Giddens.

11 Q. Do you have any sort of direct line report
12 to Ms. Giddens or is it through the people that we
13 just mentioned?

14 A. It's normally through the people that we
15 just mentioned.

16 Q. Going back to the groups that report to you,
17 what is the purpose of the systems group please?

18 A. They insure that the operating systems that
19 run our primary applications are current. They are
20 responsible for storage management, computer
21 operations and support.

22 Q. What is the purpose of the network
23 operations group?

24 A. They do support of the network, insure fire
25 wall maintenance, insure that the network revisions

1 and current releases are up to date. They insure
2 operability uptime.

3 Q. The word "network," specifically what does
4 network refer to? Sorry if I missed that.

5 A. In this context of the network it is our
6 infrastructure that allows the computers that are
7 connected to, basically, interrelate to each other to
8 be able to communicate to a common source, to a
9 server, run an application, access to the Internet.
10 Those types of things.

11 Q. And do you have a group responsible for PC
12 desktop and support?

13 A. Correct.

14 Q. Is that computers that are on your
15 employees' desks?

16 A. All PCs, all desktops that are deployed
17 throughout the aviation department's facilities.

18 Q. Technical support group, what's the purpose
19 of that group?

20 A. They are responsible for supporting our
21 flight information systems displays. If you come to
22 the airport all the flight markers that you see, the
23 paging system, primarily radios, 800 megahertz, 400
24 megahertz type. But their role is for the operation
25 inside the facility to insure that they are

1 functioning well; that the systems are responsible
2 for supporting impact or have to deal with passengers
3 in some fame or some fashion.

4 Q. And the legal telecommunications group, can
5 you explain the purpose of that group?

6 A. They are responsible for coordination for
7 deployment of cellphones, pagers, coordinating with
8 carriers, long distance carriers, cellphone carriers,
9 entities like BellSouth for work to be done at the
10 airport. Especially as it involves construction and
11 projects.

12 Q. Construction is sort of self defining. What
13 do you mean by projects, can you give me an example?

14 A. A majority of the projects, most of the
15 projects, ongoing at the airport right now involve,
16 there's an IT or there's a telecom component of which
17 it requires, if there's demolition -- one example is
18 the concourse, the north terminal for American
19 Airlines involves the demolition of some
20 telecommunications rooms.

21 We have to coordinate that demolition to
22 insure we minimize impact of service.

23 So Bell is in one of the rooms. We need to
24 coordinate with Bell that this room is going to be
25 demolished, need to coordinate when you are going to

1 come, move out your facilities, move your facilities
2 out and move them into a new location so that it
3 doesn't impact anybody utilizing services.

4 That's when the coordination comes into
5 play. So we work with the contract, work with the
6 providers that are currently on the airport property.

7 Q. Who is the director or head of that group,
8 the telecommunications group?

9 A. Pedro Garcia.

10 Q. Who is the head of technical support group
11 please?

12 A. They report to Pedro but Steven Podley is
13 the superintendent.

14 Q. How do you spell his name?

15 A. P-O-D-L-E-Y.

16 Q. And he reports to Mr. Garcia?

17 A. Right. In my organizational unit there are
18 two reports basically that govern the tier. I have
19 subsections with the managers. However, there are
20 two individuals that support or basically drive
21 computer services and telecom.

22 Q. So the telecom side we find Mr. Garcia, is
23 that correct?

24 A. Yes, sir.

25 Q. And on the other side is who?

1 A. Carlos Garcia.

2 Q. And the other side what did you refer to

3 that as? Sorry.

4 A. I'm sorry.

5 Q. My fault. You have the telecom group on one

6 side which is Mr. Pedro Garcia. The other group's

7 designation or the other chain you gave a

8 designation. What designation is that?

9 A. I call that computer services.

10 Q. And that is Mr. Carlos Garcia?

11 A. Yes, sir.

12 Q. And just for purposes of record can you tell

13 me who is responsible for the PC desktop and support

14 group?

15 A. Michelle Thames.

16 Q. Spell that please.

17 A. T-H-A-M-E-S.

18 Q. Thank you very much. Network operations,

19 who is responsible for that group?

20 A. Michelle has some of it, but most of it

21 belongs to -- I'll leave that where Michelle as well.

22 I'm separating, but Michelle has most of it. And

23 Jesus has a part of it but leave it at Michelle.

24 Q. Fair enough. And the stipulation?

25 A. That would be Michael Lyn.

1 Q. Lyn?

2 A. Yes, L-Y-N.

3 Q. Ms. Phillips, who is the assistant director
4 for administration, who reports to her other than
5 yourself at the airport?

6 A. She has administrative services, she has
7 technical support, there's a division called
8 technical support, contracts and procurement.

9 Q. Where is her office? Let me ask you that.
10 I don't need an exact address. Is it at the airport?

11 A. It is at the airport but not in the terminal
12 directly.

13 Q. And Mr. Baker, where is his office?

14 A. In the terminal.

15 Q. And then Ms. Giddens?

16 A. Also in the terminal.

17 Q. Regarding your designation as the person
18 with the most knowledge of these areas, for purposes
19 of this deposition this morning, did you have any
20 conversation about your designation with either Ms.
21 Phillips, Mr. Baker, or Ms. Giddens?

22 A. No, sir, I did not.

23 Q. Did you have any conversation regarding your
24 designation with either of the two Mr. Garcias, Pedro
25 or Carlos?

1 A. Yes, sir.

2 Q. Which one or both?

3 A. Pedro Garcia.

4 Q. We'll come back to that. You said you have
5 been in this position for approximately five years,
6 is that correct?

7 A. It could be longer. I don't know. I've
8 been at the airport for a while.

9 Q. That's the next area I wanted to go to.
10 Before I go to your prior experience at the airport,
11 let me ask you, let me take you back to 2002 for
12 purposes of this case.

13 Was the same structure in place, same
14 reporting structure to you in place as what you have
15 just outlined for us here today?

16 A. I am not sure. I believe it to be true.

17 Q. Any significant changes that have occurred
18 in the reporting structure to you between 2002 and
19 today August 2004?

20 A. As I said, I don't know. I have to look at
21 the start date of some staff individuals.

22 Q. Were your duties and responsibilities in any
23 way different in 2002 than they are today as you have
24 outlined them in August of 2004?

25 A. No, sir.

1 Q. Prior to taking your current position what
2 position did you occupy at the airport since you have
3 stated you have been at the airport for approximately
4 15 years?

5 A. Prior position was chief of information
6 systems.

7 Q. How long were you in that position?

8 A. Several years. I'm not sure, I'd have to go
9 back to my HR records.

10 Q. Fair enough. And chief of information
11 systems, in that capacity what were your general
12 duties and responsibilities?

13 A. Short-term planning of IT, telco services,
14 operations, maintenance, support, dealing with
15 information technology and telecommunications.

16 Q. Do you know the year in which you took your
17 current position?

18 A. I'll be guessing. I don't know. If you
19 allow me to guess I'll say sometime between '97 and
20 '98 I think, somewhere around that. But I'm not
21 sure.

22 Q. Fair enough. As long as if you are not
23 exactly sure and you say you are not exactly sure
24 that's fine with us. I'm sure it is fine with your
25 attorney.

1 So just approximating, you were chief of
2 information systems going back to approximately
3 between 1995 and 1997, approximately, is that fair
4 enough?

5 MR. HOPE: Objection to form.

6 A. Approximately.

7 Q. How about before your position as chief of
8 information systems, what position did you occupy?

9 A. Office systems supervisor.

10 Q. How long were you in that position?

11 A. Several years.

12 Q. What were your duties and responsibilities?

13 A. I ran the PC, what's currently the PC group
14 and the network group.

15 Q. And chief of information systems, is that
16 equivalent to the head of the systems group that you
17 outlined earlier that reports to you now?

18 MR. HOPE: Objection to form.

19 A. No, sir.

20 Q. No. What is the distinction?

21 A. The systems person reports to Carlos Garcia.

22 Q. Fair enough.

23 A. So -- I'm sorry.

24 Q. Fair enough, and I appreciate that
25 correction. Was your prior position as chief of

1 information systems equivalent to Mr. Lyn's current
2 position?

3 A. No, sir.

4 Q. How was it different?

5 A. It's a lower level position.

6 Q. Mr. Lyn's position is a lower level position
7 or yours was at the time?

8 A. Mr. Lyn's is a lower level position. It
9 reports to that position.

10 Q. Prior to your position that you just
11 outlined sort of as head of the PC group, where were
12 you positioned at the airport?

13 A. I think I was an office systems specialist.

14 Q. For how many years were you in that
15 position?

16 A. I think two or three.

17 Q. How many years were you in the PC group?

18 A. In the PC group?

19 Q. Yes, sir.

20 A. I am looking at almost six years.

21 Q. Six years as head of the PC group?

22 A. That wasn't your question. I want to make
23 sure I answered your question.

24 Q. That's fair enough. I have two or three
25 years as chief of information systems that you were

1 in that position, then you were in the PC group, and
2 I'm asking how long were you positioned in that
3 group?

4 A. OK. Can I reask his question back to him,
5 because I want to make sure I answer the right
6 question.

7 Q. Fair enough.

8 A. As an office systems supervisor I managed
9 the PC group. So I am in the PC group because I'm
10 hands on because I'm managing a staff.

11 Q. Let me ask it more accurately. Before you
12 took the chief of information systems position, your
13 immediate prior position, how long were you in that
14 position?

15 A. The immediate prior position would have been
16 about two years.

17 Q. And then going back in time the office
18 systems specialist position you are saying you were
19 in that position two or three years?

20 A. Yes, sir. That's about it.

21 Q. And before that what was your position?

22 A. I was an office systems tech 2.

23 Q. For how many years?

24 A. I think about eight months. That was not
25 with the airport.

1 Q. Where was that at?

2 A. Miami-Dade County main IT department.

3 Q. We have gone through four prior positions
4 that you occupied before you went to your current
5 position, is that correct?

6 A. Yes, sir.

7 Q. In any of the four prior positions that we
8 have discussed did you have any direct involvement
9 with the airport's relationship with any or all of
10 the following entities: WilTel, Sentel or Nextera?

11 A. Please restate the question.

12 MR. GOLDBERG: Would you repeat the
13 question.

14 (Question read)

15 MR. HOPE: Objection to form.

16 Q. You can answer.

17 A. What do you mean by relationship? We
18 coordinated work. So that's coordination of work to
19 be done at the airport, the answer is yes.

20 Q. Outside of coordination of work, did you
21 have any other involvement with those companies on a
22 day-to-day basis?

23 A. No, sir.

24 Q. What do you mean by coordination of work?
25 Could you explain that to me please?

1 A. If I'm doing network drops or I'm installing
2 a new network or doing connection of a new employ in
3 which there is no network connectivity or staff needs
4 to coordinate with Nextera or the other two names
5 that you mentioned, Sentel or WilTel to have work
6 done to go ahead and have a cable drop run or cat 5
7 and then terminate it. So my staff or myself can go
8 and complete the terminations and get a user
9 connected.

10 Q. You are familiar with Nextera, correct?

11 A. Yes, sir.

12 Q. Did you personally work with representatives
13 of Nextera in any or all of these four positions
14 prior to your current position?

15 Do you want him to read the question?

16 A. Yes, please. As I said before, it is still
17 coordinating projects of work to be done so I want to
18 make sure you are asking --

19 Q. I guess the answer is yes, you did
20 coordinate projects with Nextera?

21 A. Yes, sir.

22 MR. HOPE: Objection to form.

23 Q. Did you actually coordinate projects and
24 have involvement with Sentel?

25 A. No, sir.

1 Q. Did you have involvement or coordinate
2 projects with WilTel?

3 A. Yes, sir.

4 Q. With respect to with WilTel, do you recall
5 who you dealt with on a day-to-day basis from that
6 entity?

7 A. Let's see. The previous marketing manager,
8 we've had discussions of requirements as well as the
9 technical manager, technical project manager on the
10 project or working for WilTel.

11 Q. Were you involved in any way, shape or form
12 with negotiating any business or contractual
13 arrangements between WilTel and the airport or the
14 county or MDAD, and I'll talk to you about that in a
15 second.

16 A. Can you repeat the question.

17 (Question read by the court reporter)

18 MR. HOPE: Objection to form.

19 A. Yes, I believe so.

20 Q. Can you tell me in what respect you
21 negotiated or had that type of contact with WilTel?

22 A. If there is project work to be done I
23 would -- if there's project work to be done you could
24 look at it, primarily it's -- if I need a drop or a
25 network connection or need a line to be installed,

1 it's having the discussion with WilTel of scoping the
2 work to be performed, providing a price quote of the
3 work to be performed before it's approved.

4 If I don't like the price or what's required
5 in regards to labor or product used, the
6 determination will be made whether it is yes or no or
7 actually have them do the work or not.

8 Q. Let's go back to just establishing your
9 knowledge and your role here as a corporate
10 representative.

11 Could you just tell me briefly about your
12 education. Where did you go to school? College
13 first.

14 A. School University of Miami.

15 Q. What year did you graduate?

16 A. 1987.

17 Q. What degree?

18 A. I have a bachelor's in business
19 administration with a concentration in computer
20 information systems and business.

21 Q. Did you ever receive any graduate education?

22 A. You did some postgraduate classes at UM but
23 that's it.

24 Q. What type of post-grad classes?

25 A. Mostly IT telecom related.

1 Q. Where did you go to high school?
2 A. Miami Palmetto Senior High School.
3 Q. Were you born and raised in Miami?
4 A. No, sir.
5 Q. Where were you born and raised?
6 A. St. Andrew Parish, Ballton Park Road,
7 Kingston, Jamaica.
8 Q. What have you done to prepare for this
9 deposition this morning?
10 A. Nothing.
11 Q. Did you meet with Mr. Hope?
12 A. No, sir, I did not.
13 Q. Have you reviewed any documents?
14 A. Yes, sir, I did.
15 Q. So you reviewed documents in preparation for
16 the deposition this morning?
17 A. I pulled out this thing. Yes, sir. Well, I
18 pulled out the document.
19 Q. That's MJ number 1 you are referring to, the
20 notice of taking deposition?
21 A. Yes, sir.
22 Q. Did you review any other documents before
23 you came here today in preparation for this
24 deposition?
25 A. No, sir.

1 Q. When did you learn about -- when did you
2 designate yourself to be the corporate representative
3 for the purposes of this deposition?

4 A. When I got this fax that came to me that we
5 were, faxing Plaintiff's Exhibit MJ1. When I
6 received that and the date of the deposition I looked
7 at what they were asking for and I opted, I opted to
8 come and sit in to do this deposition.

9 Q. And this was, this notice of taking
10 deposition MJ1 was mailed to your attorney or served
11 on your attorney on or about July 21 of this year,
12 2004.

13 So between July 21 and today, August 5th, is
14 it your testimony that you have not reviewed any
15 documents in preparation for this deposition outside
16 of this document MJ1?

17 A. Yes, sir.

18 Q. Have you met with Mr. Hope at any time
19 between July 21st and today to prepare or discuss
20 this deposition?

21 A. No, sir.

22 Q. Have you met with anybody to prepare or
23 discuss this deposition between July 21st and today,
24 August 5th?

25 A. Yes, sir.

1 Q. Please tell me who?
2 A. Pedro Garcia.
3 Q. When did you meet with Mr. Garcia?
4 A. Either Monday or Tuesday of this week.
5 Q. Today is August 5th, you are referring to
6 perhaps August 2nd or August 3rd?
7 A. Yes, sir.
8 Q. Where did you meet with him?
9 A. It was right after a meeting in a conference
10 room, I just told him I wanted to speak with him.
11 Q. When you spoke to him was anybody else
12 present?
13 A. No, sir.
14 Q. How long did you speak to him?
15 A. About five, maybe ten minutes.
16 Q. Did you make any notes during that meeting?
17 A. Yes, sir.
18 Q. Do you have those notes with you today?
19 A. No, sir, I do not.
20 Q. You have a number of documents in front of
21 you. I just want to make sure that the notes are not
22 contained in the documents in front of you today.
23 A. No, sir.
24 Q. OK. Where are the notes located as we sit
25 here today?

1 A. They should be in my office on my desk, if I
2 am not mistaken, or in the drawer.

3 Q. Let me just put on the record for your
4 counsel's information and yours as well that we will
5 ask to have those notes produced. So I'd like to ask
6 you, and I am sure you can discuss this with your
7 counsel, not to dispose of those notes, alter those
8 notes or really do anything to those notes from this
9 point forward until we have a chance to receive
10 copies of them. Is that OK with you?

11 A. That's fine.

12 Q. I'm sure Mr. Hope will discuss that with you
13 later. But thank you very much.

14 Why did you want to meet with Mr. Garcia?

15 A. Just -- two things. One, to let him know
16 that this deposition was coming up and I was going.
17 And I asked him just two questions.

18 Q. What were the two questions?

19 A. One, who was providing service or were we
20 providing service at our GA airports, and he was
21 going to respond back to me on that.

22 And what was the other question? And the
23 other one I believe had to do with our STS customers,
24 share tenant service customers, with reference to how
25 many we had, if I am not mistaken.

1 Q. With respect to the first question and maybe
2 I don't have it written down right, but the first
3 question was who or what was providing --

4 A. Service at our GA airports.

5 Q. And GA stands for?

6 A. General aviation airports.

7 Q. Sorry. Why did you need to ask him that
8 question?

9 A. Because we have four general aviation
10 facilities and some of them are pretty far out, and I
11 thought that we may be the ones providing all the
12 service there or it's a combination of us as well
13 other telecom providers, and I wanted to verify that.

14 And the reason being I was looking at the
15 statement that was in I guess the requirements here
16 and I just wanted to make sure I got some
17 clarification.

18 Q. And you are referring to again, just for the
19 record, to MJ1?

20 A. Yes, sir.

21 Q. And so you on Monday or Tuesday when you
22 spoke to Mr. Garcia you did not know for sure whether
23 MDAD was providing telecommunications service at
24 those other GA airports, is that correct?

25 MR. HOPE: Objection to form.

1 A. No, sir. We have a presence at that
2 facility because we have offices at the facility. I
3 was inquiring whether we also, whether there also
4 were other service providers out there as well.

5 Q. Did you receive an answer from him prior to
6 the deposition?

7 A. Yes, sir.

8 Q. Can you tell me what that answer -- first,
9 how did you receive that answer from him?

10 A. It's an e-mail that he sent me. So we can
11 get that e-mail as well.

12 Q. I will ask you to retain that e-mail.

13 Can you tell us what the e-mail said?

14 A. It said three things. Primarily said that
15 we don't have any STS services at our GA airports.
16 Which means if there are any customers on the general
17 aviation property getting telco service it's not
18 coming via the aviation department.

19 Q. Do you know who it is coming via if it is
20 not the aviation department?

21 A. No, sir, did not inquire. It could come
22 from any telco provider.

23 Q. Did you follow up with Mr. Garcia with
24 respect to his e-mail?

25 A. No, sir.

1 Q. The second question you asked him was how
2 many STS customers you have at the Miami Airport, is
3 that correct?

4 A. Something to the effect of that. I'm not
5 sure. It would be in the e-mail as to I think STS or
6 how it is provided. You would have to look at the
7 e-mail to be honest.

8 Q. Do you recall what the answer was to the
9 second question?

10 MR. HOPE: Objection, privilege in terms of
11 our customer and number of customers.

12 I am instructing the deponent not to answer.

13 MR. GOLDBERG: Just to make the record
14 clear, it is your contention and assertion that
15 the amount of customers or all customer
16 information is privileged and confidential?

17 MR. HOPE: Correct. I think you can ask
18 whether or not we have STS customers. He'll be
19 able to answer that. But if you start getting
20 into quantities, which you can break down, that
21 should be privileged and protected.

22 MR. GOLDBERG: That's an issue we will have
23 to take up with the court at a later date.

24 Q. Anything else discussed with Mr. Garcia
25 during your five to ten minute meeting with him?

1 A. No, sir.

2 Q. Have you ever reviewed Mr. Garcia's
3 testimony in this case?

4 A. No, sir.

5 Q. Do you know whether or not he was deposed in
6 this case?

7 A. I believe he was.

8 Q. Have you had any discussions with Mr. Garcia
9 about his deposition in this case?

10 A. No, sir.

11 Q. Have you had any discussions with Mr. Hope
12 about Mr. Garcia's deposition in this case?

13 A. No, sir.

14 Q. Have you read Mr. Garcia's deposition in
15 this case?

16 A. No, sir.

17 Q. Have you read any of the pleadings that have
18 been filed in court in this case?

19 A. Yes, sir.

20 Q. Do you recall what pleadings you have read?

21 A. One that had to do with I guess there were
22 claims, I'm not sure, from BellSouth I think 22 of
23 them, 25 of them, and the response that we sent back,
24 the department sent back to those claims.

25 Q. When you say claims, are you referring to,

1 maybe let me see if I can refresh your recollection,
2 interrogatories or questions that were asked and
3 responses that were sent back, is that what you are
4 referring to?

5 A. That sounds familiar.

6 Q. We'll go over that in a second. Let me just
7 go back to Mr. Garcia's testimony. I just want to be
8 clear.

9 Is it your testimony that you have not
10 spoken to anybody, any person regarding Mr. Garcia's
11 testimony in this case?

12 A. That is factual. Yes, sir.

13 Q. And if I asked you to tell me what Mr.
14 Garcia said or didn't say at his deposition would you
15 be able to tell me anything?

16 A. No, sir.

17 Q. Who at the airport is responsible for
18 overseeing this lawsuit?

19 A. I'm sorry, who is responsible for overseeing
20 the lawsuit?

21 Q. Yes.

22 A. I don't understand the question.

23 Q. Who at the airport or the county -- let me
24 stop here because it has been my error so far.

25 Would you agree with me and proceed in the

1 following fashion, if I use the word airport or if I
2 use the word county or if I use the word MDAD I mean
3 to refer to all three of those entities, basically
4 the county?

5 Will you understand that and answer
6 appropriately as we go forward? Is that OK?

7 A. I want to make sure.

8 Q. Because I may interchange "airport" with
9 "county" and "MDAD," but I want to make sure you are
10 responding essentially on a broader scale. And if
11 Mr. Hope has a problem with any particular question
12 we'll take it up at that time and he can object to
13 form.

14 MR. HOPE: That's fine just as long as we
15 understand, and I think you do, that they are,
16 the county versus MDAD versus the airport, they
17 are distinct. So there could be times in the
18 question if you ask something that you are making
19 a generic and it is confusing.

20 MR. GOLDBERG: Understood.

21 A. County, MDAD and airport as three
22 separate --

23 Q. Yes.

24 A. Yes, sir.

25 Q. Who is responsible for making decisions with

1 respect to this lawsuit?

2 A. Making decisions -- I mean, ultimately I
3 would look that the responsibility of this as being
4 addressed against the department and the director and
5 the county, and ultimately it is the governing body
6 of the county.

7 Q. Let's start with backing up and going basic.
8 The style of this case is BellSouth
9 Telecommunications v. Miami-Dade County. That means
10 Miami-Dade County has been sued in this case,
11 correct? Do you agree with that?

12 A. Yes, sir.

13 Q. The subject matter of the case, and we'll
14 get into this in a few minutes, has to do with the
15 airport. There's no dispute about that, correct?

16 A. Correct.

17 Q. And it has to do with the telecommunications
18 facility at the facility. You'd agree with that,
19 correct?

20 MR. HOPE: Objection to form.

21 Q. You'd agree with that, correct?

22 A. Yes, sir.

23 Q. OK. Now, who from the county or the airport
24 to your knowledge given your position has
25 responsibility for making decisions with respect to

1 this lawsuit?

2 A. It goes back to what I said earlier.
3 Ultimately as it applies to the airport it's the
4 aviation director. As it applies to
5 telecommunications and dealing with telco issues,
6 it's myself.

7 Q. Have you had any discussions with the
8 aviation director -- Ms. Giddens, is that correct?

9 A. Yes, sir.

10 Q. -- with respect to this lawsuit?

11 A. No, sir, I have not.

12 Q. Have you had any discussions with any of
13 your supervisors that you outlined previously with
14 respect to this lawsuit?

15 A. Yes, sir.

16 Q. Who have you had discussions with?

17 A. My assistant director which is Bobbie
18 Phillips.

19 Q. Anybody else?

20 A. No, sir.

21 Q. On how many occasions have you discussed
22 this lawsuit with Ms. Phillips?

23 A. Only when we have staff meetings and she
24 would bring it up as to what's the status of the
25 BellSouth lawsuit. Other than that there were no

1 other discussions.

2 Q. Did you ever discuss with her aside from the
3 status of the lawsuit the nature of the lawsuit or
4 the claims that BellSouth has brought against the
5 county?

6 A. Yes, sir.

7 Q. On how many occasions have you had
8 discussions regarding the nature of the lawsuit or
9 the claims that the county has brought?

10 A. A couple of times.

11 Q. Take me through those couple of times. When
12 was the first time you had such a discussion?

13 A. When the lawsuit was initially filed.

14 Q. Who was present at the time of that
15 discussion?

16 A. Not sure. I believe it's myself, my
17 assistant director. I'm not sure if counsel was
18 present.

19 Counsel might have been present, but just to
20 raise the issue that there had been a suit filed by
21 BellSouth.

22 Q. Was the substance of the suit discussed?

23 A. Yes.

24 Q. Can you tell me who said what?

25 A. No, sir, it's been a while, I could not.

1 Q. You can't recall that discussion?

2 A. No, sir.

3 Q. At all?

4 A. It has been a while.

5 Q. Were there any notes taken?

6 A. I am not sure.

7 Q. Any documents generated as a result of that
8 meeting?

9 A. I'm not sure.

10 Q. What was the ultimate decision or how did
11 the meeting end with respect to this issue, this
12 lawsuit?

13 A. It was -- the "it" was the lawsuit was filed
14 and we are going to wait and see what happens
15 afterwards.

16 It's been filed, and now the county has been
17 placed on notice or the airport has been placed on
18 notice and we'll go from there. And I think after
19 that I think is when the deposition process started.

20 Q. When was the second time you had a meeting
21 where this lawsuit was discussed?

22 A. I believe when we were going to file the
23 interrogatories, I believe. The responses back to
24 the claims in the lawsuit I think was the second time
25 we had a meeting. Other than maybe like a phone

1 conversation that we were going to respond back to
2 this document.

3 Q. So the first time you had a discussion about
4 this lawsuit with Ms. Phillips was when the lawsuit
5 was filed, and would that be in or about November of
6 2002, approximately?

7 A. I don't know the date.

8 Q. And the second time you had a discussion
9 with Ms. Phillips was with regard to your responses
10 to interrogatories in this case, is that fair to say?

11 A. I believe so.

12 Q. Who was present at the second meeting?

13 A. I don't know.

14 Q. You don't recall?

15 A. Don't recall.

16 Q. Where did that meeting take place?

17 A. I am not sure. I would be like if I told
18 you I remember. I don't know.

19 Q. Can you recall anything of what was
20 discussed at that meeting?

21 A. No, sir. It has been a while.

22 Q. What's your understanding of this lawsuit?

23 A. My understanding of it as told to me by
24 BellSouth is that the department is operating as an
25 utility and should not be providing service without a

1 two-thirds vote of the populous of Dade County, or
2 something along those lines.

3 Q. You said, as told to you by BellSouth. What
4 do you mean to that?

5 A. That's how it was outlined to me by Mr. Tito
6 Gomez when he mentioned that to me.

7 Q. When did he mention this to you?

8 A. I think we were having a conversation one
9 day and that's when he told me he felt that the
10 department, how we did STS services was in violation
11 of the county charter.

12 Q. Was that the first time that you were ever
13 made aware of BellSouth's position that the county's
14 operation of telecommunications facility at the
15 airport violated the charter?

16 A. Yes, sir.

17 Q. Do you recall when that meeting was with Mr.
18 Gomez?

19 A. No, sir.

20 Q. Let me see if I can give you some
21 benchmarks. Was it after the lawsuit was filed?

22 A. No, sir.

23 Q. It was before the lawsuit was filed?

24 A. I would say so.

25 Q. But it was certainly after the county

1 entered into its agreement with Nextera to purchase
2 all of its assets and take over the operation of the
3 telecommunications facility, is that correct?

4 MR. HOPE: Objection to form.

5 A. Please restate the question or --

6 MR. GOLDBERG: Mike, read it back please.

7 (Question read by the court reporter)

8 A. Yes.

9 Q. Was that a yes?

10 A. Yes, sir.

11 Q. So the first time you ever had knowledge of
12 the allegation that there was a violation of the
13 county charter for operating the telecommunications
14 facility was after the county purchased Nextera's
15 assets?

16 MR. HOPE: Objection to form.

17 Q. Correct?

18 A. Please restate. Violation. I don't think I
19 violated anything.

20 MR. GOLDBERG: Read it back.

21 (Question read by the court reporter)

22 A. Yes.

23 Q. Do you recall the month and year when the
24 county entered into its purchase agreement with
25 Nextera? If I handed you a document, would that

1 perhaps refresh your recollection?

2 A. No, I'm looking back at the year because I
3 remember it was -- because I gave up a football game
4 for it.

5 Q. Why don't I help you out.

6 THE WITNESS: When was the Rose Bowl game?
7 2001 I think.

8 Q. Let me help you out. Let me hand you a
9 document. I won't even mark it as an exhibit. It is
10 for the purpose of refreshing your recollection.

11 After reviewing that document is your
12 recollection refreshed as to the approximate date of
13 the transaction with Nextera?

14 A. Yes, sir.

15 Q. Approximately when did the transaction take
16 place with Nextera?

17 A. January 29 of 2002.

18 Q. So the first time that it ever came to your
19 attention that there was an alleged violation of the
20 charter was after January of 2002, correct?

21 A. Yes, sir.

22 Q. Prior to January 29, 2002, and I mean prior
23 to the execution of the agreement with Nextera to
24 purchase its assets, are you aware of any
25 consideration given to whether or not such a

1 transaction would violate the county charter?

2 MR. HOPE: Objection to form.

3 A. You have to read that one back to me again.

4 (Question read by the court reporter)

5 A. I believe so, yes. I need to go back and
6 look at a couple of things here. OK.

7 I have some recollection. After some
8 recollection I think I might have to make some
9 adjustments to some statements that were made.

10 Q. What do you recall?

11 A. Because I recall doing presentations by the
12 parties that submitted the bid when this went out,
13 which was BellSouth, Nextera and I believe Unisys.

14 There was a question posed in I believe in
15 the orals to BellSouth that, given if you won this
16 bid that you competed on there's a lawsuit that may
17 be pending, how are you going to address that. I
18 believe that was prior.

19 Q. I think you may have misunderstood my
20 question. Let's just get the chronology correct at
21 least on the record.

22 That bid process that you are referring to,
23 didn't that bid process take place, number one, after
24 the lawsuit was filed, do you recall?

25 A. It's a possibility. I think so.

1 Q. And certainly that bid process took place
2 after the county entered into its resolution to have
3 the county enter into a telecommunications data
4 network and shared airport tenant services management
5 agreement with Nextera and the county's purchase of
6 Nextera's assets, correct?

7 A. You have to run that by me one more time.
8 I'm sorry please.

9 (Question read by the court reporter)

10 Q. Did you understand that question?

11 A. Uh-huh. No.

12 Q. The bid process -- the bid process that you
13 are referring to was that not to determine who may
14 replace Nextera as the manager?

15 A. Yes, sir.

16 Q. Of the telecommunications facility?

17 A. Yes, sir.

18 Q. OK. That was certainly after the county
19 back in January of 2002 adopted a resolution and
20 authorized the entry into the initial management
21 agreement with Nextera as well as the purchase of
22 Nextera's assets. Am I correct about that?

23 A. Yes, sir, you are. OK.

24 Q. So we have from a chronology standpoint,
25 just to get everybody on the same page, in January of

1 2002 you have the county's resolution that in says,
2 and I am short circuiting this, did two things: One,
3 authorized the county to purchase Nextera's assets
4 and two, allowed the county to enter into a
5 management agreement with Nextera for a two-year
6 period I believe it was. Correct?
7 A. Yes, sir. Yes, sir.
8 Q. And then subsequent to that there was a bid
9 process to see who would take over for Nextera at the
10 end of that two-year period?
11 A. Yes, sir.
12 Q. Which I think ended in approximately
13 February or March of 2004. Is that accurate?
14 A. Yes, sir.
15 Q. While I'm on that topic did anybody take
16 over for Nextera? What happened with that? Is
17 Nextera still managing the operation?
18 A. Yes.
19 Q. Was the bid awarded to Nextera?
20 A. Yes, sir.
21 Q. So do they now have an additional two-year
22 term to manage the facility for the county?
23 MR. HOPE: Objection to form.
24 A. I believe the term is, I think it is three
25 to five years. Not two.

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1 Q. Fair enough. So now we have our chronology
2 set. Your testimony so far is the first time you
3 were made aware that there was an alleged violation
4 of the county charter was after January 29, 2002,
5 after the county purchased Nextera's assets and
6 managed, and entered into a management agreement with
7 Nextera, correct?

8 A. Yes, sir.

9 Q. Because I am referring to the conversation
10 you had with Mr. Gomez.

11 A. Correct.

12 Q. But you are saying it was before the lawsuit
13 was actually filed, is that correct?

14 A. Yes, sir.

15 Q. Now, with that background, here's my next
16 question. Prior to January 29, 2002 are you aware of
17 any consideration that the county, MDAD, or the
18 airport gave to whether or not entering into the
19 management agreement with Nextera or, more
20 importantly, the purchase of Nextera's assets would
21 violate the county charter?

22 MR. HOPE: Objection to form.

23 A. No, sir.

24 Q. So to your knowledge there was no
25 consideration given to whether or not the county

1 charter would be violated by the purchase of Nextera
2 assets and the county's operation of the
3 telecommunications facility as of January 29, 2002?

4 MR. HOPE: Objection to form.

5 A. No, sir.

6 Q. No consideration that you are aware of at
7 all, correct?

8 MR. HOPE: Objection to form.

9 A. No, sir.

10 Q. So is it safe to say when you had the
11 conversation with Mr. Gomez, Mr. Tito Gomez from
12 BellSouth, his suggestion to you, again the
13 suggestion to you that the county charter was being
14 violated was a surprise to you?

15 MR. HOPE: Objection to form.

16 A. Yes, sir.

17 Q. Being surprised at that suggestion by Mr.
18 Gomez, what did you do with respect to that issue?

19 MR. HOPE: Objection to form.

20 A. Nothing. Mr. Gomez mentioned to me that it
21 was more of a legal issue than it was a technical
22 issue, and I left it as such.

23 Q. Did you advise --

24 THE VIDEOGRAPHER: I didn't get the answer.

25 A. Mr. Gomez mentioned to me it was more of a

1 legal issue than it was a technical or operational
2 issue, so I left it as such.

3 Q. Is it safe to say that Mr. Gomez's
4 conversation with you was the first time anybody at
5 the county to your knowledge was made aware of this
6 allegation by BellSouth that the charter was being
7 violated?

8 MR. HOPE: Objection to form.

9 A. Yes, sir.

10 Q. Now, he tells you about this allegation that
11 the county charter is being violated by your
12 operation of a telecommunications facility at the
13 airport. What did you do to address that allegation?

14 MR. HOPE: Objection to form.

15 A. As I mentioned, it was a statement by Mr.
16 Gomez and he mentioned to me it was more of a legal
17 issue than it was a technical operational issue, and
18 I left it as such.

19 Q. So you didn't discuss that issue with
20 anybody at the county?

21 A. Not that I recall. If I mentioned it I'm
22 not sure if I mentioned it to anyone, but I don't
23 recall mentioning it.

24 Q. Did you put a memorandum together or ask for
25 advice as to whether or not the airport was violating

1 the charter?

2 A. I'm not sure. I might have.

3 Q. You'd agree with me when he told you this it
4 is a pretty serious issue if the county is violating
5 its own charter, wouldn't you correct?

6 MR. HOPE: Objection.

7 A. I'm sorry. You would agree with me when
8 Mr. Gomez suggests to you that the county is
9 violating its own charter that that's a pretty
10 serious issue, correct?

11 MR. HOPE: Same objection.

12 A. Yes, sir.

13 Q. It is not often where somebody tells you in
14 your position out at the airport that you are
15 essentially violating the law by operating a
16 telecommunications facility, correct?

17 MR. HOPE: Objection to form.

18 A. Yes, sir.

19 Q. Doesn't happen every day, right?

20 MR. HOPE: Objection to form.

21 A. No, sir, it doesn't.

22 Q. So can you explain to me why you didn't go
23 back to anybody associated with the county, the
24 airport or MDAD and have a serious discussion about
25 that issue?

1 A. Two things. My original statement, I'm not
2 sure if I mentioned this to anybody or not, so I have
3 to go back. I don't recall taking any notes to that
4 discussion that I had.

5 And Mr. Gomez mentioned to me it was a legal
6 issue. I left it. If it was a legal issue he would
7 take it up via attorney to attorney or through legal
8 channels.

9 Secondarily, when I came on to this airport
10 in 1988, these services were being provided and
11 ongoing. So if it's going on for the last twelve
12 plus years it was more of a surprise that I am
13 hearing this now than before.

14 So I left that with Mr. Gomez as he
15 mentioned it to me that if he raised the issue and it
16 was a legal issue that it would be an attorney to
17 attorney discussion than it was what I am responsible
18 for.

19 Q. Did you ask for a legal opinion at any time
20 on this issue?

21 A. I don't recall. I might have.

22 Q. Let me show you what I will mark as MJ3 and
23 have you review that document.

24 MR. HOPE: What did you mark as MJ2, just
25 the resolution package to refresh Maurice's

1 recollection?

2 MR. GOLDBERG: I did. And for purposes of
3 record, MJ2 is a package that includes a
4 resolution and the nonexclusive
5 telecommunications, et cetera, agreement between
6 Nextera 1 and Miami-Dade County and associated
7 exhibits.

8 (Resolution and attachments marked Exhibit
9 2, and memo from counsel to M. Jenkins marked Exhibit
10 marked for identification)

11 Q. Do you recognize that document, Mr. Jenkins?

12 A. Yes, sir.

13 Q. What is that document?

14 A. It is a memorandum from counsel to me
15 reference BellSouth.

16 Q. It is dated March 5, 2002, correct?

17 A. Yes, sir.

18 Q. How did it come to be that this document was
19 generated?

20 A. BellSouth -- I'm presuming BellSouth may
21 have sent me a formal document of some sort, or maybe
22 my discussion with Mr. Gomez propagated me to I guess
23 make a request for an opinion from our attorney.

24 Q. Does this document refresh your recollection
25 as to whether you went to the county attorney's

1 office asking for their thoughts?

2 A. No, sir, it doesn't. I'm looking at March
3 2002. I have been dealing with a lot of things
4 between then and now in July, August of 2004.

5 Q. Let me first ask, have you ever seen this
6 document before?

7 A. I recall seeing it, yes.

8 Q. But you don't recall exactly -- well, do you
9 recall the circumstances as to how it was generated?

10 A. No, sir, I don't remember.

11 Q. When you got this document what did you do
12 with it?

13 A. I don't know.

14 Q. Did you have any discussions with Mr. Hope
15 about it?

16 A. I'm not sure, sir.

17 Q. Did you share this document with anybody
18 else at the county or the airport?

19 A. I don't know. I don't remember. I don't
20 remember. I don't recall.

21 Q. It's copied to Abigail Price Williams down
22 below. Do you know who she is?

23 A. Yes, sir.

24 Q. Did you have any discussion regarding this
25 issue with her that you recall?

1 A. No, sir.

2 Q. But it's safe to say, is it not, that this
3 document arose after BellSouth first informed you of
4 their allegation that the county charter was being
5 violated?

6 MR. HOPE: Objection to form.

7 A. I -- read the question back.

8 (Question read by the court reporter)

9 A. I don't know.

10 Q. In this memorandum Mr. Hope says BellSouth
11 is incorrect in its communication to you regarding
12 the charter. Who at the county or airport or MDAD
13 made a decision that Mr. Hope was either correct or
14 incorrect with respect to his analysis in the March
15 5, 2002 document?

16 MR. HOPE: Objection to form.

17 A. Please repeat the question.

18 (Question read by the court reporter)

19 A. It would be the department, it would be the
20 aviation department.

21 Q. Who?

22 A. The individual was, it would be the director
23 or myself.

24 Q. Did you make the decision that Mr. Hope was
25 correct in his view and therefore the county should

1 go ahead and litigate this lawsuit?

2 MR. HOPE: Objection to form.

3 A. Yes. Wait a second -- I believe "yes" is
4 the answer I want to give you. But let's try it
5 again.

6 Q. Do you want the question repeated?

7 A. Yes.

8 (Question read by the court reporter)

9 A. I believe so. I want to say yes.

10 Q. If you say "yes," my next question is when
11 did you make that decision?

12 A. I don't know. Might have been after I got
13 his opinion back.

14 Q. On what basis did you make that decision?

15 A. Not sure. If it's going against the
16 accusation that we are violating the charter, if his
17 opinion states that we are not, then my decision
18 would be to go forward.

19 Q. Was your decision to go forward based on
20 Mr. Hope's March 5, 2002 document?

21 A. Not sure. Might have been that or other
22 things. I'm not sure.

23 Q. Well, are there any other things that you
24 recall?

25 A. Not at this time, no, sir.

1 Q. Again, it is a pretty serious issue. One
2 would think that you would recall what you based such
3 an important decision on, correct?

4 MR. HOPE: Objection to form.

5 A. Yes, sir.

6 Q. But you don't recall?

7 A. No, sir.

8 Q. As you sit here today, just to make the
9 record clear, you are not aware of any other analysis
10 or facts or any other grounds for such a decision,
11 correct?

12 MR. HOPE: Objection to form.

13 A. Yes, sir.

14 Q. You said you have been deposed previously.
15 How many times have you been deposed in the past?

16 A. Maybe three or four.

17 Q. When was the most recent time you were
18 deposed?

19 A. I think my divorce.

20 Q. We are not going to talk about that. Let's
21 go to the next --

22 A. I did that three or four times, so that's
23 the majority of my depositions.

24 Q. Let me ask you this question and I apologize
25 for you having answered it that way.

1 Have you ever been deposed as it relates to
2 any of the operations at Miami-Dade county airport?
3 Obviously I am excluding your divorce.

4 A. No, sir.

5 Q. So is this the first deposition where you
6 have been asked to answer questions concerning the
7 airport's operations?

8 A. Yes, sir.

9 Q. Have you ever have you ever been retained as
10 an expert in telecommunications?

11 A. Clarification please.

12 Q. Have you ever been retained or hired by any
13 third party, entity, business, corporation to be an
14 expert with respect to telecommunications or airport
15 operations?

16 A. No, sir.

17 Q. Let me ask you a couple of more questions
18 and it might be time for a quick break. Are you OK
19 to --

20 A. I'm fine.

21 Q. Let me show you what I'll mark as MJ4 which
22 is a second amended complaint in this lawsuit.

23 (Second amended complaint marked Plaintiff's
24 Exhibit MJ4 for identification).

25 Q. I'll give you a second to look at that. But

1 my question is going to be have you ever read that
2 document before? Let me substitute this copy for
3 that.

4 A. I remember seeing it. It's been a while but
5 I remember it, yes, sir.

6 Q. Just to be clear. This second amended
7 complaint, MJ4, was just filed relatively recently in
8 May of 2004. There have been two other versions of
9 the complaint.

10 A. OK.

11 Q. This is the most recent version, May 2004.
12 So with that clarification, not wanting to -- I don't
13 want to mislead you in anyway, have you read the
14 second amended complaint filed in May 2004?

15 A. I don't think so.

16 Q. Likewise, let me show you what I will mark
17 as MJ5.

18 A. Yes, sir.

19 Q. MJ5 is Miami-Dade county's answer and
20 affirmative defenses to the second amended complaint
21 which you just looked at which was marked MJ4.

22 You'll see at the back of the document it is
23 signed by Mr. Hope twice. My question to you is,
24 have you ever reviewed that document?

25 (Answer and affirmative defenses marked

1 Exhibit MJ5 for identification)

2 Q. While you ponder that question just for
3 record purposes and to help you out, Mr. Hope signed
4 that document on or about July 19 of 2004.

5 A. I'm not sure whether I read that document or
6 not. I don't think so.

7 Q. So your answer is no?

8 A. Yes, sir.

9 Q. Next question is, did you have any role in
10 reviewing the second amended complaint and
11 determining what Miami-Dade County's answer should be
12 either admitting or denying the allegations in the
13 second amended complaint?

14 A. No, sir.

15 Q. Are you aware of anybody at the county other
16 than Mr. Hope who was involved in making the decision
17 to either admit or deny the allegations in the second
18 amended complaint as are referenced in the county's
19 answer, MJ5?

20 A. No, sir.

21 Q. Is it your understanding that Mr. Hope
22 answered the complaint on his own?

23 MR. HOPE: Objection to form.

24 A. I'm sorry. Run that by me.

25 Q. Is it your understanding that Mr. Hope

1 answered the complaint on his own?

2 A. No, sir.

3 Q. But you can't tell me from your knowledge as
4 to who he may have met with or consulted with if
5 anybody regarding the answer, is that correct?

6 A. Yes, sir.

7 Q. Is there anybody else in a better position
8 than you with respect to this lawsuit who I could ask
9 that question to or who would know who he met with
10 and who was overseeing this lawsuit?

11 A. Depending on the questions, anybody could be
12 asked, depending on what the questions are.

13 If they are technically related, then those
14 questions would come to either myself or Pedro
15 Garcia. If they are policy or statute related, that
16 does not fall within the realm of my divisions.

17 Q. Let me show you what I will mark as MJ6.
18 This is the county's response to BellSouth's request
19 for contention interrogatories.

20 (Defendant's response to interrogatories
21 marked MJ6 for identification)

22 Q. In simple, BellSouth asked a number of
23 questions of the county and the county responded.
24 You have seen this document before, have you not?

25 A. Yes, sir.

1 Q. Let me direct your attention to the last,
2 next to last page of that document. It has your
3 signature on it?
4 A. Yes, sir.
5 Q. You would agree with me that the answers in
6 this document or the responses respond to certain
7 questions that BellSouth asked in this case, correct?
8 A. Yes, sir.
9 Q. Did you type this document?
10 A. No, sir.
11 Q. Did you write the answers that are contained
12 in this document?
13 A. I provided information that went into this
14 document.
15 Q. How did you provide information that went
16 into the document? Can you tell me the process that
17 you went through before you signed this document?
18 A. We met or I met, the staff met with counsel
19 and we discussed the questions and then therefore
20 presented the answer -- not the answers, the
21 responses going back to the requests.
22 Q. Who was present at that meeting?
23 A. To the best of my knowledge it would be
24 myself, Pedro Garcia and counsel.
25 Q. Did you make any notes during that meeting?

1 A. Don't know.

2 Q. Did you present counsel with any documents?

3 A. It's a possibility. We have file folders
4 going back from day one with BellSouth.

5 Q. After you had that meeting, what was the
6 next step in how this document was prepared?

7 A. All information requested or discussed was
8 turned over to counsel to formulate the responses.

9 Q. Were the responses provided back to you to
10 sign?

11 A. Yes, sir.

12 Q. Did you read them before you signed them?

13 A. Yes, sir.

14 Q. Did you make any changes or revisions before
15 they were signed?

16 A. I don't think so. No, sir.

17 Q. So everything in these answers was
18 absolutely accurate and needed no revision on your
19 part?

20 A. To the best of my knowledge, yes, sir.

21 Q. Do you recall approximately how long you met
22 with Mr. Garcia and counsel?

23 A. No, sir.

24 Q. Let me show you what we will mark as MJ7.

25 A. Do you want this back?

1 Q. Sure. Would you put it in the pile here.
2 Thank you. Why don't you take a look at that
3 document and I am going to ask you if you recognize
4 it.

5 (Affidavit marked Exhibit MJ7 for
6 identification)

7 Q. This is an affidavit that you signed in this
8 case, correct?

9 A. Yes, sir.

10 Q. How was this affidavit prepared?

11 A. With discussion with counsel.

12 Q. Anybody else present when you had that
13 discussion with counsel?

14 A. Maybe the counsel's secretary. I'm not
15 sure. Mr. Garcia may have been present, but I
16 believe it was just myself, counsel and his
17 secretary. But I'm not sure.

18 Q. Did you review any documents when you met
19 with counsel?

20 A. I'm sorry?

21 Q. Did you review any documents when you met
22 with counsel to prepare this affidavit?

23 A. Not to my knowledge, sir. I don't think so.

24 Q. Was the affidavit then presented back to
25 you?

1 A. Yes, sir.

2 Q. Did you make any changes or revisions to it
3 before signing it?

4 A. I'm not sure.

5 Q. Not sure or no?

6 A. I'm not sure. There might have been a typo
7 or a definition that maybe didn't look right, but I'm
8 not sure if I made any -- outside of syntax, changes
9 in syntax I don't think I made any changes.

10 Q. And you don't recall reviewing any documents
11 in preparation of this affidavit, correct?

12 A. Yes, sir.

13 Q. Were you working at the airport in 1982?

14 A. No, sir.

15 Q. You were actually at the University of Miami
16 before and before you got to the University of Miami,
17 correct?

18 A. Yes, sir.

19 Q. Have you ever seen the county resolution,
20 the 1983 county resolution awarding a contract to
21 Sentel?

22 A. Yes, sir, I have seen it.

23 Q. When have you seen that document?

24 A. Several years ago.

25 Q. Do you know what that document authorized

1 Sentel to do?

2 A. I believe so, having to do with provisioning
3 of phone service or separation of service to the
4 airport hotel.

5 Q. Have you seen the 1990 county board
6 resolution as it relates to telecommunications
7 services at the airport?

8 A. I believe I have seen it.

9 Q. When did you last see it?

10 A. Sorry, I don't remember.

11 Q. If you look at paragraphs 2 through 4
12 there's a long discussion of both the 1982 and 1990
13 agreements.

14 If you didn't review any documents and you
15 didn't have any revisions to the affidavit, how would
16 you know that what you are signing is true, accurate
17 and complete?

18 A. Sorry. Run that by my again.

19 (Question read by the court reporter)

20 A. Data was gathered not just from myself,
21 these are published documents, counsel has access to
22 them, and I have staff that has access to them.

23 So I'm assuming that they were reviewed as
24 well. I also rely on staff to provide information.

25 Q. So in essence you were relying on Mr. Hope

1 for the accuracy of some of these past documents and
2 some of these paragraphs, correct?

3 MR. HOPE: Objection to form.

4 A. Mr. Hope and staff, yes, sir.

5 Q. Who on the staff?

6 A. We have Maria Perez, who has been with us
7 for a while, and Pedro Garcia.

8 Q. Did in fact Ms. Perez have any participation
9 in the preparation of this affidavit?

10 A. I don't know. I don't know.

11 Q. I thought you stated previously that Mr.
12 Garcia was not present at your meeting with Mr. Hope
13 to prepare this affidavit?

14 A. My statement was I don't know who else was
15 there. I said myself, his secretary, Mr. Hope and I
16 don't know who else was there.

17 Q. But it is safe to say that you were relying
18 on others in your view or making some assumptions
19 that this information was correct when you signed the
20 affidavit, is that a fair statement?

21 MR. HOPE: Objection to form.

22 A. Yes, sir.

23 MR. GOLDBERG: Why don't we take a
24 ten-minute break if that's OK with you.

25 (Recess in the proceedings)

1 BY MR. GOLDBERG

2 Q. Mr. Jenkins, are you prepared to proceed and
3 continue with your deposition?

4 A. Yes.

5 Q. I've placed back in front of you an
6 exhibit -- you are ready to proceed with your
7 deposition?

8 A. Yes, sir.

9 Q. I have placed back in front of you Exhibit
10 MJ6, which is a response to requests for contention
11 interrogatories. If I could ask you to turn to the
12 second page of that document.

13 Again, this is a document that you signed
14 and attested that everything was true and correct
15 therein, is that right?

16 A. Yes, sir.

17 Q. Let me direct your attention to the response
18 that is listed under number 3 regarding interrogatory
19 number 3. It says in the second paragraph, second
20 sentence, BellSouth provides MDAD with dial tone for
21 local service. Do you see that?

22 A. Yes, sir.

23 Q. And it's correct, is it not, that MDAD
24 provides its customers local service at the airport,
25 correct?

1 MR. HOPE: Objection to form.

2 A. No, sir.

3 Q. Going back to the statement, BellSouth
4 provides MDAD with dial tone for local service, what
5 do you mean by the words "local service"? Can you
6 define that for me?

7 A. Local service for a user of a
8 telecommunications device be it a phone that once the
9 user picks up the phone and gets a dial tone can
10 initiate a phone call, a local phone call.

11 Q. What is a local phone call?

12 A. One that does not incur long distance
13 charges.

14 Q. Is there any other definition of local
15 service that you would ascribe to your use of local
16 service in this response to the interrogatory?

17 A. No, sir.

18 Q. So if I understand you, and correct me if I
19 am wrong, local service to you as used here is an
20 individual's ability to place a local call that's not
21 a long distance call from a phone at the airport?

22 MR. HOPE: Objection to form.

23 A. Yes, sir.

24 Q. But again let me ask you, local service as
25 you use it is I guess a local phone call and not a

1 long distance phone call that involves a two-way
2 communication, is that accurate?

3 MR. HOPE: Objection to form.

4 A. I'm sorry.

5 MR. GOLDBERG: Can you repeat.

6 (Question read by the court reporter)

7 Q. So is local service one service that MDAD
8 provides to its customers?

9 MR. HOPE: Objection to form.

10 A. No, sir.

11 Q. Why do you answer "no"?

12 A. I don't provide local service.

13 Q. Why don't you provide local service?

14 A. I don't. I'm not a phone company. I don't
15 provide local service.

16 Q. Explain, number one, why it is that your
17 telecommunications facility does not provide local
18 service?

19 MR. HOPE: Objection to form.

20 A. My statement is we are not a phone company
21 and we do not provide that service. We are, we are
22 -- don't provide local service and we don't provide
23 long distance service.

24 Q. You have customers at the airport, correct?

25 A. Yes, sir.

1 Q. They can make local phone calls, correct?

2 A. Yes, sir.

3 Q. They can make local phone calls using
4 equipment and assets that the county owns, correct?

5 A. Yes, sir.

6 Q. And why is it not correct that the placement
7 of a local phone call via the use of the county owned
8 equipment does not constitute local service, the
9 provision of local service?

10 A. In order to make a phone call you must go
11 out through a line or a trunk line as they deem it
12 -- well, there's a demarcation within the aviation
13 department of our infrastructure of what we manage
14 and maintain.

15 To get outside to make that phone call
16 requires the ability to generate a dial tone and
17 manage that call of which we do not do.

18 And the entity making a phone call, when
19 they pick up the phone they get a dial tone, they are
20 going through. The dial tone they are getting they
21 are getting from a provider, whoever that provider
22 may be. And that's what they subsequently pay for.

23 Q. So it is your position that the county is
24 not providing a dial tone to its customers in any
25 way, shape or form?

1 A. We are giving -- no.

2 Q. Why do you answer no?

3 A. Because we are not giving them a dial tone.
4 We are giving you a hand set, we are giving you
5 connectivity, hardware to get to I guess what they
6 call the demarcation point at which you can get that
7 point to get that dial tone.

8 Q. Let's talk about that demarcation point.

9 What is that demarcation point? Explain it
10 to me and to the judge who may watch this videotape.

11 A. Our internal facility that we manage, our
12 internal facility that controls how we route
13 information goes to a point or several points that
14 providers have either on our facility or off of our
15 facility. We just provide the pathway to get to that
16 facility which allows a user to make a phone call.

17 That's why when you pick up the phone call
18 you get the dial tone. Outside of that, if we did
19 not accessibility to that provider there would be no
20 dial tone to make outside phone calls or local phone
21 calls.

22 Q. You made reference to an internal facility
23 and you also made reference to a pathway, correct?

24 A. Yes.

25 Q. Let me break it down. What is the internal

1 facility that you are referencing?

2 A. We have what's called a -- can't really call
3 it a phone system, they call it a PBX in which we
4 manage what we deploy out to our users, aviation
5 department users, to be able to use the phone to be
6 able to make phone calls to other divisions, four
7 digit extension types so you can call internally.
8 And we have that availability in what we provide.

9 So we manage that PBX. From that PBX you
10 would then go out via a pathway or directional point
11 to get the dial tone necessary to make a phone call.

12 Q. PBX as a definition or acronym, what does
13 it stand for?

14 A. I believe it's public broadcast exchange.
15 I'm not sure.

16 Q. Does the county own what's known as a
17 switch?

18 A. Yes.

19 Q. What does a switch do or not do -- strike
20 that.

21 What does the switch allow the county to do
22 with respect to the provision of telecommunications
23 services?

24 MR. HOPE: Objection to form.

25 A. Doesn't do anything to allow us to provide

1 any services, telecommunications services.

2 Q. The switch has no effect?

3 A. Restate the question for me.

4 Q. What does the switch do, then?

5 A. What we do is, the switch itself serves as a
6 component by which we can concentrate its
7 utilization -- it allows us to -- let me put it in
8 straight layman's terms.

9 You can, allow us to I guess, basically if
10 you look at it this way, allows you to maximize
11 utilization of your infrastructure.

12 So case in point. If you have four
13 individuals that would need access going out, let's
14 say, to make a phone call, to get dial tone, you
15 would not need to have four direct connections at all
16 times because those individuals aren't using the
17 phone at the same time.

18 So you can go through a switch, and the
19 switch can manage whether those four individuals can
20 have the ability to at any point in time to be able
21 to utilize the phone system and capitalize on the
22 benefits that you can get from it.

23 Q. So you have the PBX which you are referring
24 to as your internal facility, correct?

25 A. Yes.

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1 Q. Is there anything else that makes up what
2 you are referring to as the internal facility?

3 A. No, we just have one big room with a whole
4 bunch of devices.

5 Q. Then you made reference to a pathway. That
6 pathway goes from your facility to your customers,
7 correct?

8 A. No, the pathway goes to what we call almost
9 like a demarc to get to our service provider.

10 Q. Where -- you tell me, where does the path
11 way go?

12 A. There's, I think there's a room called 300X
13 that's on the facility that goes to like a BellSouth
14 closet. From there that's how you get the dial tone
15 to go out.

16 Q. What takes the dial tone from your equipment
17 that you own to your customers?

18 A. I'm sorry? What takes the dial tone from my
19 equipment to the customers?

20 Q. Yes.

21 A. There is the connectivity that goes from the
22 PBX to, via this pathway to BellSouth's facilities.

23 Q. So I just want to see if I understand this.
24 You are saying that to go from your PBX, you agree
25 that you own the PBX, what you are referring to as

1 the internal facility, correct?

2 A. Yes, sir.

3 Q. And you would also agree that that was
4 purchased from Nextera in 2002?

5 A. Yes, sir.

6 Q. And that PBX, how does a call get from the
7 PBX to one of your customers at the airport such as
8 Eddy's Ice Cream or Cafe Versaille or what have you?

9 A. I'm not sure they are customers. But we
10 wire or we run cable, conduit to get to the customer
11 or to the department to get to that facility and
12 provide the hand set, and that's what we do from the
13 PBX.

14 From the PBX, you then route it to local
15 provider's facility for them to be able to utilize
16 the phone system.

17 Q. Let's make it very clear. Going from the
18 PBX to your clients, let's take clients in the
19 airport terminal, it goes over cable, right, that the
20 county owns, correct?

21 MR. HOPE: Objection to form.

22 A. Yes, sir.

23 Q. So the equipment that is utilized for a
24 customer to receive dial tone is entirely owned by
25 the county from the point that it goes from what you

1 are referring to as the PBX to your client's
2 telephone that they hold in their hand, is that
3 correct?

4 MR. HOPE: Objection to form.

5 A. Yes, sir.

6 Q. So BellSouth or any other carrier does not
7 own any of that equipment from the point of the PBX
8 to your customer's telephone that they hold in their
9 hand, correct?

10 A. That is correct.

11 Q. What else is needed for a customer to make a
12 local telephone call at the airport outside of the
13 equipment that the county owns both the PBX and the
14 cabling and the telephones?

15 A. What else is needed?

16 Q. Yes.

17 A. You need a provider at the other end to be
18 able to make the call. You need the provider that's
19 going to provide you with the dial tone to make a
20 call. Without that you just cannot make one.

21 Q. Does the county provide dial tone according
22 to you?

23 A. No, sir, we do not.

24 Q. Who provides dial tone according to you?

25 A. BellSouth, Sprint, AT&T, MCI.

1 Q. The dial tone that comes in, does the dial
2 tone come into the PBX equipment that you now own at
3 the airport, your internal facility?

4 You have a telecommunications facility,
5 correct?

6 A. Yes.

7 MR. HOPE: Objection to form.

8 Q. Does dial tone come in from outside to that
9 telecommunications facility?

10 MR. HOPE: Objection to form.

11 Q. It does, doesn't it?

12 A. I would say yes.

13 Q. OK. And the next question is, who provides
14 that dial tone into the PBX equipment that you own?

15 A. Who provides the dial tone into the PBX --

16 Q. Yes.

17 A. BellSouth provides the dial tone into the
18 PBX.

19 Q. And once it hits your PBX and your equipment
20 don't you control where that dial tone goes or
21 doesn't go or how that internal facility works?

22 MR. HOPE: Objection to form.

23 A. Don't I control where the dial tone goes or
24 how the facility works?

25 Q. Correct.

1 A. Yes.

2 Q. So on what basis do you state that the dial
3 tone once it goes into your wholly owned PBX or
4 internal telecommunications facility still belongs to
5 BellSouth or other carriers?

6 MR. HOPE: Objection to form.

7 A. Because we are not the provider of dial
8 tone. It is provided by said entity coming into the
9 facility.

10 Q. But according to you, you don't believe you
11 are providing dial tone to your customers at the
12 airport?

13 A. Yes, sir, I am not providing dial tone to my
14 customers at the airport. Customers -- we pay you
15 for the dial tone, for the use of local service.

16 Q. When you say "you" you are referring to
17 BellSouth or somebody --

18 A. BellSouth or any other telco provider
19 because users within the airport can utilize whoever
20 they want to for the provision of services.

21 Q. What do you pay BellSouth or any other
22 provider for dial tone?

23 A. I have not looked at the bills. When the
24 bills come we review them, I sign them or we sign
25 them. I'm not sure exactly what the numbers are.

1 Q. Your clients, let's say, the airlines, are
2 your clients at the airport, correct? Some air lines
3 are your clients at the airport, correct?

4 A. Some of them, yes.

5 Q. If one airline employee wants to call
6 another airline employee how do they make that call?

7 A. Currently it's a four digit dialing within
8 the facility.

9 Q. Is that local service?

10 A. Even though it is internal within the
11 facility, I'm not sure. I believe it might be.

12 Q. Who provides that local service?

13 A. If it's local service it's provided by
14 BellSouth or whoever the -- if it is not four digit
15 dialing. We offer it for utilizing our
16 infrastructure.

17 If you are not utilizing our infrastructure,
18 it is whoever the carrier opts to use.

19 Q. Anybody who makes an intercom call at the
20 airport, are they not using your infrastructure, your
21 equipment, your PBX, your pathways?

22 A. Not anyone. It depends on who you are using
23 and -- there's nobody within the airport who is
24 obligated to use the department's infrastructure to
25 get to the outside or to be able to make local calls

1 or long distance calls. There's no carriers that's
2 obligated or no management company that's obligated.
3 They can use whoever they want to.

4 Q. Because you are competing with other
5 carriers for customer base, correct?

6 MR. HOPE: Objection.

7 A. No, I am not competing. We offer a service
8 because we manage the facility and we have
9 infrastructure at the facility.

10 Q. You are not in competition with anybody in
11 the telecommunications industry out at the airport,
12 is that your testimony here today? I just want to
13 make sure.

14 A. I'm not in competition with any telco
15 provider because I don't provide dial tone.

16 Q. So do you compete, does the airport, MDAD,
17 compete in any way in your view in the
18 telecommunication industry?

19 MR. HOPE: Objection to form.

20 A. I don't think, I don't think we're
21 competing. We offer a service of putting in a common
22 infrastructure that anyone can utilize to perform
23 your functions.

24 And it is entirely up to the carrier as to
25 what they choose to do or to the management company

1 or to whoever who they choose to use.

2 Q. We are using a lot of phrases. Who do you
3 mean by the carrier?

4 A. The airline.

5 Q. A customer?

6 A. A carrier being an airline. Not necessarily
7 a customer. They don't have to be a customer of the
8 department.

9 Q. Let's talk about customers of the
10 department.

11 A. All right.

12 Q. The customer of the department makes an
13 intercom call, four digit call inside the airport.
14 Is that local service according to you?

15 A. I -- I'm not sure.

16 Q. Why are you not sure?

17 A. Don't know.

18 Q. Previously you testified that you don't
19 provide local service at all. Why are you now not
20 sure?

21 A. My statement, we don't provide local
22 service, and my statement is if you are making a four
23 digit call if you are internally within the facility
24 routing through our PBX I am not sure whether that is
25 deemed to be a local service call.

1 But we don't provide local service. That's
2 a definition that I can't answer.

3 Q. And am I correct in summarizing your
4 position is you don't provide local service because
5 according to you you don't provide dial tone?

6 A. Yes. Yes, sir.

7 Q. Yet you would agree with me if somebody in
8 the airport facility, one of your customers, makes an
9 intercom call they are using dial tone?

10 MR. HOPE: Objection to form.

11 Q. Correct?

12 A. That's a possibility.

13 Q. What's the other possibility?

14 A. Well, yes. Yes.

15 Q. And if they are using dial tone to make an
16 internal intercom call, then why are you unsure,
17 according to you, whether or not that's local
18 service?

19 A. I'm not sure. I don't -- all right. My
20 statement -- not my statement.

21 I look -- to answer your question if you
22 make an intercom call or four digit call and you pick
23 up the phone and you do get dial tone, is that deemed
24 to be local service or not, I, I would have to go
25 back and look. I would have to go back and check.

1 But I believe if that is the case, then so
2 be it, it's local service. We are not providing it
3 because we are paying for that. We do get billed by
4 Bell and we pay our bills. All right.

5 I'm not giving you a roundabout answer, so
6 if you want to rephrase the question we with go from
7 there.

8 Q. I thought I understood you to say well if it
9 is local service, which you previously said it wasn't
10 we are still not providing it. Is that what you are
11 saying?

12 A. Yes.

13 (Pause)

14 Q. You said in an answer to one of your prior
15 questions about the intercom service, you thought it
16 was local service you need to check with somebody.
17 Who would you need to check with?

18 A. I would go back and check with my
19 telecommunications folks to make sure.

20 Q. And Mr. Pedro Garcia is one of your
21 telecommunications folks, correct?

22 A. Yes, sir.

23 Q. In fact he heads that group that reports to
24 you, correct?

25 A. Yes, sir.

1 Q. So from a technical perspective you would
2 agree with me that he has a little bit more
3 knowledge, and I don't mean disrespect, as to the
4 provision of service or what local service is or is
5 not, correct?

6 A. Yes, sir.

7 MR. HOPE: Objection to form.

8 Q. And given that he has, again without any
9 disrespect, more knowledge about what local service
10 is or is not, can you tell me why he's not here today
11 and you are, particularly in response to our requests
12 that the corporate representative with the most
13 knowledge of local service be present?

14 MR. HOPE: Objection to form.

15 A. When I got the fax and I looked at what it
16 was requested I opted to come and do the deposition.

17 Q. And that's fine and that was your decision.
18 But you'd agree with me that, as we discussed, local
19 service and the issues that are raised by the notice
20 of taking deposition Mr. Garcia would have more
21 knowledge than you, correct?

22 MR. HOPE: Objection to form.

23 A. Yes.

24 Q. Is there any reason that you are aware of
25 that would have precluded his appearance at this

1 deposition today?

2 A. No, sir.

3 Q. Was he available to come if you wanted him
4 to?

5 A. I don't know.

6 Q. You never checked?

7 A. No, sir.

8 MR. GOLDBERG: Why don't we take a break
9 now.

10 (Luncheon recess)

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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.,
a foreign corporation,

Plaintiff,

vs.

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

Defendant.

VIDEOTAPE DEPOSITION

OF

MAURICE JENKINS

100 Southeast 2nd Street
Suite 1200
Miami, FL 33131

Thursday, August 5, 2004

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

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A F T E R N O O N S E S S I O N

(1:40 p.m.)

BY MR. GOLDBERG

Q. Mr. Jenkins, are you ready to proceed with your deposition?

A. Yes, sir.

MR. GOLDBERG: Before we do so, I want to put our position on the record, the position which arises from the testimony that preceded the break we just took and the conversation I had with your attorney Mr. Hope as to this issue.

First, we believe that the testimony is very clear and makes clear for the court that the county has not produced the appropriate corporate representative in response to the notice of taking video deposition marked MJ1.

I believe Mr. Jenkins's testimony that Mr. Pedro Garcia has more knowledge than he does regarding local service and the aspects of local service that are identified in the notice of taking deposition warrants that Mr. Garcia be produced instead of Mr. Jenkins.

I have asked Mr. Hope during the break if he would agree to adjourn this deposition and substitute Mr. Garcia in Mr. Jenkins's place to

1 proceed. Mr. Hope did not agree to that request.

2 Mr. Hope did represent that should we want
3 to take Mr. Garcia's deposition on these issues
4 we can notice his deposition again as an
5 individual, not the corporate rep, and proceed
6 with that deposition without objection from
7 Mr. Hope.

8 Therefore, it is our position that we are
9 going to proceed with this deposition of Mr.
10 Jenkins, but we are going to do so without waiver
11 of any of our arguments that we can make to the
12 judge concerning the appropriateness of Mr.
13 Jenkins being produced here today and also based
14 on the representation made by Mr. Hope that
15 notwithstanding how the judge rules on that
16 issue, if we deem necessary we may take again the
17 deposition of Mr. Garcia.

18 Mr. Hope, is there any comment you want to
19 make with respect to that before we proceed?

20 MR. HOPE: Sure. The only comment that
21 needs to be made is the county has produced the
22 corporate representative pursuant to the notice
23 of deposition.

24 As I did state to Mr. Goldberg, if indeed
25 BellSouth wants to specifically notice Pedro

1 Garcia for questions that are different from his
2 previous deposition the county has no problems
3 producing Pedro Garcia or any other person
4 identified by BellSouth.

5 MR. GOLDBERG: Well, I want to make it clear
6 and see if I understand your position.

7 Mr. Garcia was previously deposed. I have
8 not read his transcript recently. But obviously
9 he may have answered some questions concerning
10 various services provided by the county. He may
11 have testified about local service in response to
12 a couple of questions, although I don't believe
13 that was by any stretch the large majority of his
14 deposition.

15 Is it your position that if he talked about
16 local service at all that that would preclude our
17 ability?

18 MR. HOPE: No, not at all. I just want to
19 make sure that if indeed you notice Pedro Garcia
20 to be redeposited, that the majority of the
21 deposition be new questions and new material not
22 previously covered as opposed to a rehash of his
23 previous deposition.

24 MR. GOLDBERG: Fair enough.

25 BY MR. GOLDBERG

1 Q. Mr. Jenkins, sorry about taking that break
2 to put those issues on the record. Let me ask you
3 before we get back into where we left off, I had
4 asked you whether you had met with Mr. Hope prior to
5 this deposition and your answer was no; is that
6 correct?

7 A. Yes, sir.

8 Q. Did you ever speak to Mr. Hope about this
9 deposition or the questions that may be asked of you
10 or the answers that you may provide?

11 A. No, sir.

12 Q. You didn't speak to him on the phone
13 regarding this deposition in any way, shape or form?

14 A. I spoke to him on the phone, not about
15 questions. We spoke to the phone that this
16 deposition was coming up. He asked me if we wanted
17 to meet and I told him no, I didn't need to.

18 Q. Why did you feel you didn't need to meet?

19 A. I looked at what was being asked of within
20 this request, which is MJ1, and I thought I can
21 answer the questions that related to that.

22 Q. So you did not speak to him about the
23 substance of this deposition at all, correct?

24 A. Yes, sir.

25 Q. Let me go back with you. You identified, we

1 were talking about some of the equipment out at the
2 airport that you own including the PBX and pathways,
3 correct?

4 A. Yes, sir.

5 Q. We were also talking about how your
6 customers at the airport get dial tone, correct?

7 A. Yes, sir.

8 Q. BellSouth, if BellSouth were to cut off or
9 stop transmitting dial tone into your PBX, wouldn't
10 you, meaning the airport, MDAD, still be able to
11 provide dial tone, deliver dial tone to your
12 customers at the airport?

13 MR. HOPE: Objection to form.

14 A. You're talking internally amongst ourselves,
15 not going out to the outside? I'm not sure what your
16 question is.

17 MR. GOLDBERG: I hate TO do this to you.

18 Can you read it back.

19 (Question read by the court reporter)

20 A. I'm not sure.

21 Q. Who would be able to answer that question?

22 A. My management company who is managing our
23 telecom infrastructure for us now. So anyone within
24 Nextera, my voice folks, or some of my telecom folks
25 that work for me.

1 Q. To your knowledge would Mr. Pedro Garcia be
2 able to answer that question?

3 A. Probably. I'm not sure.

4 Q. You don't think he would be able to answer
5 that question?

6 A. I don't know. You have to ask Mr. Garcia.
7 I don't know.

8 Q. Describe to me what happens technically from
9 a technical perspective when one of your customers at
10 the airport picks up their phone and wants to dial
11 another customer at the airport.

12 A. Pick up the phone, dial 9 to get an outside
13 line, and they dial the ten digits for the number
14 that they are calling.

15 Q. Let me repeat my question because I think
16 you misunderstood it.

17 Describe to me from a technical perspective,
18 and in your description and explanation I want you to
19 reference what equipment is utilized, but describe
20 for me from a technical perspective exactly what
21 happens when an MDAD customer at the airport picks up
22 the phone and wants to dial another MDAD customer at
23 the airport.

24 A. Said individual picks up the hand set and --
25 there we go again.

1 MDAD customer picks up the phone, you get a
2 tone and you subsequently dial the number. The
3 number that you dial, if it is an internal aviation
4 department to aviation department that has four digit
5 dialing, or customer to customer that has four digit
6 dialing, that tone -- well, let's do this again.

7 From the hand set you dial the number, goes
8 to the PBX, that addresses the extension that you
9 want to go to, and subsequently it rings on the other
10 end. So that then creates that connection to have
11 that discussion.

12 Q. You say the person picks up the phone.
13 There is a dial tone there?

14 A. Yes, sir. Well, there's a tone -- you have
15 a tone, yes.

16 Q. Is there any other tone besides a dial tone
17 that you could hear when you pick up the phone?

18 A. No.

19 Q. So then the answer to the question is yes,
20 there's a dial tone there, right?

21 A. Yes, sir.

22 Q. Customer picks up the phone, hears the dial
23 tone. That dial tone comes from your PBX that you
24 own, correct?

25 MR. HOPE: Objection to form.

1 A. No, sir. It comes from our provider which
2 is your client. Dial tone is provided -- dial tone
3 is not provided by the department. I do not provide
4 dial tone.

5 A. For local service --

6 Q. And the basis for your statement -- I want
7 you to identify all the facts that you are aware of
8 that support your statement that MDAD, the county,
9 the airport, does not provide or deliver dial tone to
10 its own customers.

11 A. Sorry to trouble you again one last time, if
12 you can read that back.

13 (Question read by the court reporter)

14 MR. HOPE: Objection to form.

15 A. The department provides a common
16 infrastructure by which these signals are passed
17 through that allows one entity to communicate via a
18 hand set to another. Now, in order to be able to do
19 that dial tone is required to provide that service.
20 We do not provide dial tone for local service.

21 Q. Yet you say that, but you can't answer the
22 question that even if BellSouth were to cut off the
23 dial tone that comes in you don't know whether you
24 could provide or deliver dial tone to your customers?

25 MR. HOPE: Objection to form.

1 A. Based upon our internal PBX no, I can't
2 answer that question. I'm not sure. I'd have to
3 check.

4 Q. If the answer to that question were yes,
5 even if BellSouth were to turn off the dial tone that
6 comes into your PBX and you could still provide and
7 deliver dial tone to your customers, wouldn't that
8 undercut and completely erase your position that you
9 are not providing or delivering dial tone to your own
10 customers?

11 MR. HOPE: Objection to form.

12 A. I would say no. Our customers within the
13 aviation department, you deem that my customers, the
14 business they conduct require them to get access to
15 communicate to their main offices and the outside
16 world. If I don't, dial tone being provided by
17 BellSouth or any other telco provider then they
18 cannot conduct their business outside of the
19 facility.

20 Q. You were equating, were you not, dial tone
21 with local service, correct?

22 A. I was equating dial tone with local
23 service -- well, it goes back to the question, you
24 posed the question to me before whether internal four
25 digit dialing and I had dial tone was that considered

1 dial tone or not and I told you I did not know. So I
2 don't know.

3 Q. Customer picks up, one of your customers at
4 the airport, MDAD customer picks up their phone, has
5 a dial tone and dials a four digit call.

6 That call goes to your PBX, correct?

7 A. Yes, sir.

8 Q. And then it gets rerouted to another one of
9 your customers, MDAD's customers, correct?

10 A. Well, it's a combination yes and no. I'm
11 not sure what goes on in the back office. So I can
12 go back and check.

13 At the ticket counters right now with the
14 phones that we have put in you can do four digit
15 dialing from one ticket counter to the next, so yes.

16 Customer to customer you can do that with
17 communications. In the back offices, whether the
18 customer is using, if one customer is using us going
19 through our PBX and another customer isn't, then you
20 cannot, the routing process is different. You are
21 going to have to go out to come back in.

22 Q. Do you know the answer to the question I
23 asked, or are you speculating?

24 A. I'm not speculating, I'm trying to answer
25 your question based on the question you asked unless

1 I am missing something.

2 MR. GOLDBERG: Can you read back the prior
3 question.

4 (Question read by the court reporter)

5 Q. Yes or no?

6 A. Yes.

7 Q. In that situation, you would agree with me,
8 would you not, that there is no access to BellSouth's
9 network or equipment at all, correct?

10 MR. HOPE: Objection to form.

11 A. I would say yes.

12 Q. What happens technically in a situation
13 where an MDAD customer picks up the phone, has dial
14 tone, and places a ten digit call to Coral Gables,
15 how does that occur from a technical perspective?

16 A. From the hand set you dial 9 to get an
17 outside line, you dial the 10 digit number, it goes
18 from the PBX through Bell's switch room, and from
19 there it goes to the outside to connect to the
20 individual that person is calling. That's it.

21 Q. Let me ask you this question. And the
22 question is limited to MDAD customers at the airport.

23 For MDAD customers at the airport, if the
24 county did not own its PBX and its pathways and we
25 are not in the business that its in how would the

1 customers get dial tone?

2 MR. HOPE: Objection to form.

3 A. They would call, contact BellSouth, request
4 service and Bell would come in, survey location,
5 determine whether they have service at said location.
6 If not BellSouth would be required to run whatever
7 hardware is required to get service to that customer
8 facility.

9 Q. And that would all be using BellSouth's
10 equipment, correct?

11 A. Yes, sir.

12 Q. But for MDAD's customers that currently
13 exist, they are getting telecommunications service
14 because you own the equipment and facility, correct?

15 MR. HOPE: Objection to form.

16 A. Yes, sir.

17 Q. So it must be true that if the county didn't
18 own its telecommunications facility and equipment,
19 it's current MDAD customers would not have telephone
20 service unless they went to some other
21 telecommunications company, correct?

22 MR. HOPE: Objection to form.

23 A. Yes.

24 Q. Are all local calls made by MDAD customers
25 routed through MDAD's switch?

1 A. Yes.

2 Q. Absent routing through MDAD's switch, isn't
3 it true that MDAD's customers would not have a dial
4 tone?

5 A. Yes.

6 Q. And absent routing over a pathway belonging
7 to MDAD that's emanating from MDAD's switch to an
8 MDAD customer, the MDAD customer would not have dial
9 tone, isn't that correct?

10 MR. HOPE: Objection to form.

11 A. Yes.

12 Q. Does MDAD as part of the service it provides
13 as a telecommunications facility, don't you have the
14 ability to assign telephone numbers to your
15 customers?

16 MR. HOPE: Objection to form.

17 A. Yes.

18 Q. What happens technically if a BellSouth
19 customer in Hialeah wants to call one of your
20 customers, MDAD's customers at the airport?

21 A. They dial their ten digit number of the
22 customer themselves, because it comes into
23 BellSouth's demarcation which I think there's 300X
24 room, and from there to our PBX, and then it gets
25 routed to the customer extension to the number that

1 they are dialing.

2 Q. What exactly technically does your PBX do
3 once it gets that call into that piece of equipment?
4 There's a number of things that happen, isn't it,
5 that are solely within your control?

6 MR. HOPE: Objection to form.

7 A. Yes.

8 Q. Can you explain what happens for the court
9 and for this case when that call comes in to your
10 particular piece of equipment, the PBX?

11 A. Call comes in, we verify that you are
12 dialing an extension or a number that does exist, and
13 if it does exist it gets routed to that location.

14 If that location doesn't pick up or depends
15 on what we put on it, it can go to voice mail. We
16 allow that call to be routed somewhere else to insure
17 that it gets picked up.

18 Q. Maybe we are saying the same thing, but see
19 if you would agree with me.

20 Once that call comes into your PBX, doesn't
21 your PBX in essence interpret that telephone number
22 and translate that telephone number so that you then,
23 your equipment redirects that telephone call to the
24 specific facility and specific phone at your
25 customer's office?

1 MR. HOPE: Objection to form.

2 A. Yes, sir.

3 Q. There's no dispute about that, right?

4 A. Yes, sir.

5 Q. In the documents that we have reviewed in
6 this case including the airport rental agreement,
7 that's the terminal rental agreement, it states that
8 the county provides a number of telecommunications
9 service.

10 One service is called switch access, switch
11 access; is that correct?

12 A. I believe so, yes.

13 Q. Can you explain what switch access is?

14 A. In it's clear definition, no, sir, I cannot.

15 Q. Why can't you?

16 A. I don't have a clear definition or exact
17 definition to give you as to what switch access is.

18 Q. Who would be able to provide that answer for
19 us?

20 A. The majority of the folks working at my
21 telecom unit or my telco provider -- not the telco
22 provider, the guys that manage the PBX within
23 Nextera.

24 Q. Obviously Nextera is a separate entity from
25 the county, correct, they are a separate corporation?

1 A. Yes, sir.

2 Q. So with respect to your telecom group again,
3 Pedro Garcia is the head of that telecom group,
4 correct?

5 A. Yes.

6 Q. So he would be able to answer that question,
7 correct?

8 A. It's a possibility.

9 Q. Would you be concerned if he couldn't answer
10 what switch access is?

11 A. Not necessarily.

12 Q. No? Can you describe for us what network
13 access is?

14 A. The ability for any of our users who utilize
15 our network services to be able to complete a
16 function, to be able to get connectivity to go from
17 point A to point B.

18 Q. When it refers to network access what
19 network are you referring to?

20 A. The aviation department network. Our
21 physical data network.

22 Q. Is that the PBX?

23 A. No, sir.

24 Q. What is it then if it's not the PBX?

25 A. PBX covers voice. We have a voice and a

1 data convergence. But the network itself is our
2 physical data network that we have, that connection
3 service and workstations to allow them to have access
4 ability to functions and services.

5 Q. What allows your customer to have voice
6 service? Is it switch access or network access?

7 A. If the switch is the switch that connects to
8 the PBX it would be switch access.

9 Q. But you are not sure about that?

10 A. Not a hundred percent, no.

11 Q. So the local calls we have been talking
12 about in this deposition, the ones that are internal
13 to the airport or the ones that go to Hialeah or
14 Coral Gables in my examples, you are not sure whether
15 that involves switch access or network access, is
16 that correct?

17 MR. HOPE: Objection to form.

18 Q. Let me rephrase it. You are not, finish the
19 end of the question, you are not sure whether that
20 involves switch access?

21 A. I believe it does but I'm not a hundred
22 percent sure. The network access, as my original
23 statement, is for our data network.

24 Q. Are you familiar with the term single line
25 local access?

1 A. I can't say that I am.

2 Q. Have you ever seen that term used in any
3 documents at the airport, single line local access?

4 A. Possibility. Can't recall.

5 Q. You can't tell me what it means or what it
6 denotes as we sit here today?

7 A. No, sir.

8 Q. Let me hand you what we'll mark as MJ8 and
9 for the record this is the airport rental agreement
10 and its associated exhibits. I shouldn't say
11 exhibits. Attachments or schedules.

12 (Airport rental agreement marked Exhibit MJ
13 8 for identification).

14 Q. Let me direct your attention when you are
15 done looking at the document to the first paragraph.
16 I am going to read a portion of that paragraph to
17 you.

18 It says "The county agrees to deliver
19 install, rent and maintain telecommunications systems
20 and services consisting of, one, switch access to its
21 common telecommunications switching equipment and
22 software which will be shared by the Miami-Dade
23 Aviation Department and its tenants at the airport,
24 'unquote switch access' and, two, network access to
25 the local telephone exchange carrier, 'network

1 access.'"

2 Going back, I know you answered some
3 questions before about network access. Let me just
4 be more clear. Can you explain to me what two means,
5 network access to the local telephone exchange
6 carrier?

7 A. We have a network switch or -- I have to
8 look at the -- it has to do with the configuration of
9 how our PBX and how or voice, what we could define
10 as, we have a voice network -- haven't read this
11 document in a while -- what we deem to be a voice
12 network and via that network from what I am seeing is
13 what we use to get access to local exchange, to get
14 out.

15 So our statement to you when you asked me
16 originally when you asked me what network access was,
17 because with this rental agreement we also provide
18 network access, so I look at it as data, not voice.
19 So I guess it is a misstatement that I made.

20 But go ahead.

21 Q. Can you clarify what the misstatement is
22 that you made so the record is clear?

23 A. My interpretation, when you asked me network
24 access, this rental agreement determines what we
25 provide data network access to our customers, those

1 that may need network providing or accessibility to
2 the networks or applications or things of that nature
3 we also provide.

4 So when you said network access my focal
5 point was on the data within apparently that we do
6 have and I never looked at it that way that there is
7 a voice network that's also what they deem to be a
8 network or my telco guys use as being a network as
9 well.

10 Q. It does say network access to local
11 telephone exchange carrier. So having shown you this
12 document I would like you to explain to me
13 technically how this network access works. What
14 exactly is the service that's provided? Can you
15 answer that question?

16 A. No, sir, I cannot.

17 Q. Would Mr. Garcia, Pedro Garcia be able to
18 answer that question?

19 A. Probably so.

20 Q. You say you haven't seen this airport rental
21 agreement in some time. How long has it been?

22 A. Not sure. I believe it might have been
23 revised. But I can't tell you the last time I've
24 seen it to read the document itself. I'm not sure,
25 sir.

1 Q. Isn't this the blood and guts of your
2 telecommunications business at the airport?

3 MR. HOPE: Objection to form.

4 A. It is the revised document. Well, it's a
5 document that we use to establish customer
6 agreements.

7 Q. Isn't that your business?

8 MR. HOPE: Objection to form.

9 A. What's -- what is my business? I'm sorry.

10 Q. Isn't that how you make money, by entering
11 into these agreements with customers at the airport
12 so they will pay you for your telecommunications
13 service?

14 MR. HOPE: Objection to form.

15 A. Yes, sir.

16 Q. Isn't this a critical document in your
17 business?

18 A. Yes.

19 Q. How is it that you are not able in your
20 position to identify for me and explain to me one of
21 the basic, one of the three basic services provided
22 by MDAD to your own customers?

23 MR. HOPE: Objection to form.

24 A. I have staff who has a responsibility for
25 reviewing, crafting and conveying back to me content

1 that is applicable. That's what staff is for.

2 Q. Don't you supervise your staff?

3 A. Yes, sir.

4 Q. And as part of your supervision of your
5 staff shouldn't you know what they do on a day-to-day
6 basis and what basic services are providing to your
7 customers?

8 MR. HOPE: Objection to form.

9 A. I know what my staff does, yes.

10 Q. I'm asking about your knowledge. Shouldn't
11 you know about the basic services that your staff and
12 your telecommunications business provides to your
13 customers each and every day?

14 MR. HOPE: Objection to form.

15 A. I -- no. I'm not on top of my staff each
16 and every day. Their job is to go out and provide
17 and do their due diligence each and every day. So I
18 am not on top of my staff every day.

19 Q. You'd agree with me just from the face of
20 the document, not asking you about any other
21 knowledge you may or may not have, but you'd agree
22 with me that the purpose of this airport rental
23 agreement is to have your customers pay you for
24 switch access, network access and what is also termed
25 here telecommunication terminal equipment, et cetera,

1 which is outlined on Exhibit 1?

2 MR. HOPE: Objection to form.

3 A. Yes.

4 Q. So is it fair to say because you cannot
5 detail for us, and again I say this with respect, you
6 cannot detail for us here today any of the basic
7 services that are provided, you would also not be
8 able to tell us what exactly the customer is paying
9 for or not paying for, correct?

10 MR. HOPE: Objection to form.

11 A. Yes.

12 Q. Stated another way, you would agree that you
13 can't tell us here today what a customer is being
14 charged for or not being charged for, correct?

15 MR. HOPE: Objection to form.

16 A. No, incorrect.

17 Q. So you can't tell me what they are paying
18 but you can tell me what they are being charged for?

19 A. I can tell you what's, not a hundred percent
20 what's entailed in their bills because I don't write
21 their bills. I don't know exactly -- I don't look at
22 invoices and I don't issue bills, so.

23 Q. You don't do invoices and don't do bills?

24 A. I don't do than invoices and I don't do
25 bills.

1 Q. Because you have staff that does it?

2 A. Yes, sir.

3 Q. But you'd agree with me that under this
4 agreement you are charging, you were charging your
5 customers for switch access and network access, and
6 because you can't detail for us what switch access is
7 or network access is you can't testify under oath
8 today what exactly they are being charged for or not
9 charged for, you'd agree with that, correct?

10 MR. HOPE: Objection to form.

11 A. Yes.

12 MR. GOLDBERG: Take a break.

13 (Recess in the proceedings)

14 BY MR. GOLDBERG

15 Q. Mr. Jenkins, are you ready to continue with
16 your deposition?

17 A. Yes, sir.

18 Q. Thank you. Can you explain to me what --
19 strike that.

20 Does MDAD, the county or the airport
21 partition its trunks?

22 MR. HOPE: Objection to form.

23 Q. Do you understand my question?

24 A. Yes, we do.

25 Q. Now, before I get into your answer that yes,

1 you do partition trunks, can you explain technically
2 to the court and us here at this deposition what
3 partitioning trunks means?

4 A. Simplest analogy is you have a pipe -- not a
5 pipe, you have a series of cables that are available
6 for utilization. If the utilization is not that
7 great you do not need all of those cables so to
8 speak, by which then you are allowed to allow
9 multiple points of access to a particular cable to
10 utilize said service.

11 How can I get into the layman's
12 discussions --

13 Q. Would drawing a diagram help?

14 A. Yes. I can show it to you and then you can
15 send it back.

16 Q. I will give you yellow sheet of paper and
17 you have a pen if that will help you explain it.

18 A. If you look at it that you have this pipe
19 that sits here and I have, call it four users who
20 need to have access to the PBX or the phone system.
21 Not all have or require a hundred percent access all
22 the time to said system.

23 So what we do is consolidate into one
24 smaller pipe the ability for these four to have
25 access knowing that they all will not be utilizing

1 the system at the same time. So it gives us more --
2 some more flexibility and doesn't cost as much.

3 Q. On this diagram just that you are writing
4 you have a rectangle, a long rectangle. Does that
5 represent the PBX?

6 A. Yes, sir.

7 Q. Can you just write PBX inside there so we
8 are clear. And the four squares, they represent
9 customers?

10 A. No, this he would be hand sets.

11 Q. Telephones you mean?

12 A. Yes.

13 Q. Write down "hand sets". That would be
14 great.

15 And then the smaller column that you drew,
16 is that the partition? What would you call that?

17 A. Yes, I refer that to being I say the
18 partition based upon your question of how we would,
19 instead of utilizing the whole piece it's a portion
20 thereof to give you the same functionality.

21 MR. GOLDBERG: I am going to mark this as
22 MJ9.

23 (Diagram marked Exhibit MJ9 for
24 identification)

25 Q. What benefit does partitioning trunks have

1 for you, MDAD?

2 A. It's more manageability and cost savings, I
3 guess if you look at it that way.

4 Q. When did you first partition trunks? Let me
5 put it in context.

6 We know that on January 29, 2002,
7 approximately, the county purchased all the assets
8 and equipment from Nextera. Were the trunks
9 partitions at the time that the county made that
10 purchase?

11 A. I don't know.

12 Q. We any trunks at the airport first -- when
13 were any trunks at the airport first partitioned?

14 A. I'm sorry.

15 Q. Sorry. Let me rephrase it. When were any
16 trunks at the airport first partitioned?

17 A. I'm not sure. I have not made any changes
18 except for software upgrades to our PBX. We have not
19 made any changes in a while, so.

20 Q. Are there certain trunks that are
21 partitioned and certain trunks that are not
22 partitioned at the airport?

23 A. I don't know.

24 Q. Who would know that?

25 A. Anyone that's within my voice services,

1 either my Nextera folks or other individuals that
2 work in my telecommunications unit.

3 Q. And you'd agree that Mr. Pedro Garcia would
4 know that answer?

5 A. I would say so, yes.

6 Q. Would he also -- strike that.

7 Do you know why the trunks were partitioned
8 at the airport?

9 A. No, sir.

10 Q. Are you aware of any documentation that we
11 could look at that would explain why trunks were
12 partitioned at the airport?

13 A. Not that I'm aware of.

14 Q. How do you know for a certainty that trunks
15 are partitioned at the airport?

16 A. I believe it's been mentioned in I guess one
17 of my telecom meetings, I believe the discussion has
18 come up once or twice.

19 Q. So you are just relating it from a
20 discussion or two that you had at a meeting with
21 staff?

22 A. Yes, sir.

23 Q. You haven't been actively involved in any
24 endeavor that you had to actually deal with
25 partitioning or not partitioning trunks at the

1 airport, is that correct?

2 MR. HOPE: Objection, form.

3 A. Yes, sir.

4 Q. Do you know whether the trunks had been
5 partitioned at the airport based on the type of
6 customer that those trunks go to?

7 A. I can't answer that question.

8 Q. Would Mr. Garcia be able to answer that
9 question?

10 A. Probably so.

11 Q. Can you explain the reasons why you may
12 partition trunks for one type of customer at the
13 airport and not another?

14 A. No, I can't.

15 Q. How would we determine for a fact that the
16 trunks, any trunks are actually partitioned at the
17 airport, aside from relying on your statement here
18 today?

19 A. You could look at our design drawings, our
20 PBX diagrams, how our PBX is configured to determine
21 whether we have actually done that or not and
22 discussions with staff.

23 Q. The design diagrams, which group that
24 reports to you would those design diagrams be found
25 in?

1 A. Nextera.

2 Q. Nextera. They are not a group that reports
3 to you, are they?

4 A. Well, I manage them, yes. They report to
5 me.

6 Q. And Nextera is, you have entered into an
7 agreement, just so we get it on the record, correct
8 me if I am wrong, you have entered into an agreement
9 with Nextera to manage your telecommunications
10 facility at the airport, correct?

11 A. Yes.

12 MR. HOPE: Objection to form.

13 Q. Who does Nextera directly report to, is it
14 you day-to-day or is it somebody else who reports to
15 you?

16 MR. HOPE: Objection to form.

17 A. It's a combination, but primarily it's
18 someone else on day-to-day activities.

19 Q. Would that person be Mr. Pedro Garcia?

20 A. Yes, sir.

21 Q. Let me show you what I am going to mark as
22 Exhibit as MJ10 and MJ11.

23 (Customer lists marked Exhibits MJ10 and
24 MJ11 for identification)

25 Q. Let's take a look at MJ11 first. It's on

1 your left.

2 A. OK.

3 Q. Have you seen that document before?

4 A. Yes, I have.

5 Q. Is it correct that as of February 7, 2002
6 this roughly depicts customers, MDAD customers who
7 were receiving telecommunications service at the
8 airport?

9 MR. HOPE: Objection to form.

10 A. Yes, sir.

11 Q. Let me ask you the same question about MJ10.
12 Does that accurately depict your customer list as of
13 February, 2003, about a year later?

14 A. Yes, sir.

15 Q. Since February of 2003 when MJ10 was
16 produced, would it be accurate to say that the number
17 of customers has increased or decreased?

18 A. From March of '03 I believe we lost some
19 customers.

20 Q. Have you gained some?

21 A. It's possible --

22 Q. Before I even ask that I should ask, do you
23 have enough knowledge to answer those questions?

24 A. Yes, I do.

25 Q. So have you gained some as well as lost

1 some?

2 A. I believe we have gained some as well as
3 lost some.

4 Q. At the present time can you tell me how many
5 customers you have at the airport?

6 A. Exact number, no, I cannot.

7 Q. How about approximate number?

8 MR. HOPE: Objection, privileged as we
9 stated earlier. Instruct deponent not to answer.

10 As we brought up earlier, you asked the same
11 question in terms of quantity and our position is
12 that you can talk about provision of services and
13 do we have customers, but I know that certain
14 documents you already have and I can't stop that
15 now, but in terms of specific customers and what
16 we do and total number of customers that is
17 something that's privileged.

18 MR. GOLDBERG: The number of customers is
19 privileged?

20 MR. HOPE: Yes. What would give you
21 anything that you need in terms of knowing the
22 number of our customers?

23 MR. GOLDBERG: I just want to make it clear.
24 You are instructing him not to answer about the
25 number of customers?

1 MR. HOPE: Correct, which is what I
2 instructed earlier.

3 Q. It's fair to say that all the customers
4 listed on MJ10, Mr. Jenkins, pay for your
5 telecommunications service, correct?

6 MR. HOPE: Objection, form.

7 A. Yes.

8 Q. There's no question that having these
9 customers benefits the county financially, correct?

10 A. There's some benefit, yes.

11 Q. There's some benefit?

12 A. Yes, sir.

13 Q. Let me show you what I am going to mark as
14 MJ12 and 13, two photographs.

15 (Photographs marked Exhibits MJ12 and 13 for
16 identification)

17 Q. MJ12 is a picture of Cafe Versaille,
18 correct?

19 A. Yes, sir.

20 Q. That's one of the customers listed, one of
21 your customers listed on MJ10, that's correct? I am
22 pointing to it here.

23 A. Yes, sir.

24 Q. MJ13 -- by the way, are there a number of
25 Cafe Versailles in the airport?

1 A. I believe there are two. Maybe more.

2 Q. Just for the record, because people may read
3 this or see this videotape and don't know what Cafe
4 Versaille is. Can you explain what it is?

5 A. It's a concession within the airport that
6 provides coffee, Danish, pastries.

7 Q. MJ13 depicts a Bacardi shop, correct, or
8 store where you can buy Bacardi liquor?

9 A. It is a restaurant/bar type, yes.

10 Q. It's in the business of selling liquor, is
11 that correct, and food?

12 A. Yes, sir.

13 Q. Do you know whether Bacardi is currently an
14 MDAD customer?

15 MR. HOPE: Objection. Instruct the deponent
16 not to answer.

17 Q. Let's assume since you have been instructed
18 not to answer that question I'll ask you to assume
19 that they are a customer, they are out at the
20 airport.

21 Again I go back to my question: Having Cafe
22 Versaille and potentially Bacardi as clients at the
23 airport, the purpose is, is it not, to derive income,
24 revenue from them in return for your provision of
25 telecommunications service?

1 MR. HOPE: Objection to form.

2 A. Yes.

3 Q. Is there any other benefit that they provide
4 the airport as a customer other than financial?

5 MR. HOPE: Objection to form.

6 A. I'm sorry, you got to repeat that one.

7 Q. Sure. Other than providing you with revenue
8 and increasing the money that you make off of the
9 telecommunications business, is there any other
10 benefit that they provide MDAD?

11 A. These entities?

12 Q. Yes.

13 A. They provide the customers with a product.
14 The customer, the traveling public gets a benefit
15 from these entities.

16 Q. Fair enough. The customers who purchase
17 food or drinks?

18 A. Food, pastries, coffee, yes, sir.

19 Q. But does that provide the airport with a
20 benefit? Does the airport receive any other benefit
21 from having these shops there? No, right?

22 MR. HOPE: Objection to form.

23 A. The benefit to the airport is if we bring
24 quality products to the airport our customers who
25 travel through MIA will choose MIA in comparison to

1 Fort Lauderdale or anywhere else. It is a branding
2 of product a product and service.

3 Q. So it is a marketing tool as well I guess?
4 I don't want to put words in your mouth, but you are
5 essentially saying if you have quality shops you are
6 hoping you will get more passengers, is that the --

7 A. Yes, sir.

8 Q. Any other benefit?

9 A. No, sir.

10 Q. Are there any studies that you have reviewed
11 or come across that say if you have quality stores
12 you'll get more traffic, they will choose Miami over
13 Fort Lauderdale as you said?

14 A. I don't, I don't have studies and I haven't
15 done anything. But we have a commercial ops division
16 that you can speak with. Their goal is to bring
17 quality merchandise, quality products to the facility
18 to give us what we need to be a world class facility.

19 And the traveling public, I think they have
20 done -- not "they have" but industry has done studies
21 or surveys as to what the traveling public wants to
22 see when they go through a facility, like Miami
23 International Airport and as it is compared to
24 Atlanta, Jacksonville, Tampa, Houston, DFW, anywhere
25 else for that matter.

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1 Q. You would agree that having a Bacardi shop
2 or have a Cafe Versailles doesn't make the airport a
3 safer place to be, though it may bring more people
4 but doesn't make it a safer place; you have to rely
5 on security or other measures, correct?

6 MR. HOPE: Objection to form.

7 A. Yes, sir.

8 Q. And you also agree that having a Bacardi
9 shop or Cafe Versailles or any of the other
10 concessions stands, concessions on these lists
11 doesn't help move freight or passengers more
12 efficiently through your airport, correct?

13 MR. HOPE: Objection to form.

14 Q. Except get more passengers there?

15 A. Yes, sir.

16 Q. Let me ask you this. If John Q Public
17 wanted to come into your airport and purchase Cafe
18 Versailles how would John Q Public go ahead and
19 purchase that concession technically, do you know?

20 A. For John Q Public to purchase Cafe Versailles
21 has nothing to do with the airport. For John Q
22 Public to purchase Cafe Versailles you need to deal
23 with the enterprise or the entity that owns those
24 rights.

25 Cafe Versailles I think is owned by La

1 Caretta, the parent company, so you need to deal with
2 them as a franchise or operation.

3 If you want to perform a service or sell a
4 product within the airport you contact our commercial
5 operations folks and you talk to them that you are
6 willing, you are looking to do business within the
7 airport and they tell you where you need to apply,
8 what the airport is looking for, and you, whatever
9 comes up to bid you bid on.

10 So there's a formal process nothing having
11 to do anything with the --

12 Q. With your operation?

13 A. With my operation. They can do whatever
14 they want to do.

15 Q. But I guess I am trying to understand, if
16 John Q Public wanted to come in and let's say go to
17 La Caretta --

18 A. I think La Caretta is the parent company.
19 They are both owned by the same parent company.

20 Q. They would have to go to the parent company
21 and say basically I want to buy you out of your
22 airport space at the Miami Airport, correct, and
23 let's say the answer from the parent company was
24 fine, are there any other licenses or permits that
25 somebody needs to go in and lease this space?

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1 A. That's out of my bailiwick. That's entirely
2 within commercial operations.

3 There's a process by which is required to
4 build out, permits, contracts have to be entered into
5 before you can even start doing business. And then
6 what the rental rate would be and what the pay back
7 to the department would be in regards to utilizing
8 that space.

9 Q. You said that's totally out of your
10 bailiwick. Whose bailiwick is it in?

11 A. It belongs to property and operations.
12 There's a commercial unit within the division, within
13 the department that's responsible for bringing in
14 business as well as managing or maintaining what
15 these guys deem to be our customers and what they
16 provide and what they do.

17 Q. But the details of how John Q Public gets in
18 there is something you don't feel comfortable from a
19 knowledge base answering, is that fair to say?

20 A. Yes, sir.

21 Q. So then I'll move on and ask you this. At
22 least you'd agree with the general proposition, would
23 you not, that John Q Public if he meets all, goes
24 through the hoops and meets the requirements he can
25 come in and operate a concession or a store at the

1 airport, right?

2 MR. HOPE: Objection to form.

3 A. As long as he's complied and submitted his
4 bid and he's awarded and approved, yes, he can.

5 Q. And that bid process as far as you know is
6 at least open to the public, right, anybody who wants
7 to bid?

8 A. Yes, sir.

9 Q. There's no discrimination or anything along
10 those linings, anyone that wants to bid can bid?

11 A. Yes, sir, as long as you meet the minimum
12 qualifications or whatever qualifications are
13 established that goes out with the bid.

14 Q. Let's assume John Q Public takes over Cafe
15 Versaille. They are going to be able to purchase
16 your telecommunications services, correct?

17 A. If they want to, it's entirely up to them.

18 Q. But if they want to your services are
19 available to John Q Public, correct?

20 A. Yes, sir.

21 Q. And if John Q Public wants to obtain
22 telecommunications service from you at the airport
23 John Q Public is going to enter into one of these
24 rental agreements that we discussed earlier, correct?

25 A. Yes, sir.

1 Q. And then John Q Public is going to pay for
2 that telecommunications service, correct?

3 A. Yes, sir.

4 Q. And that telecommunications service that you
5 offer that we discussed before includes two way
6 communication capabilities, correct?

7 MR. HOPE: Objection to form.

8 A. Yes, sir.

9 Q. Let me mark a couple of more of these
10 because I have another follow-up question. I am
11 going to mark MJ14, MJ15, MJ16, MJ17, MJ18, MJ19,
12 MJ20, MJ21, MJ22. Let me show you what I have marked
13 as Exhibits MJ14 through and including MJ22 and just
14 have you take a look at those photographs.

15 (Series of photographs marked Exhibits MJ14
16 through MJ22 for identification)

17 A. OK.

18 Q. Are those, as far as you can tell, accurate
19 depictions of various stores and/or services as they
20 presently exist at the Miami Airport?

21 A. Yes, sir.

22 Q. And I am just going to walk through them
23 real quickly if you don't mind me looking over your
24 shoulder just to put them on the record because the
25 record can't see the pictures.

1 Correct me if I am wrong as I walk through
2 these. MJ12 is Cafe Versaille, MJ13 is Bacardi, MJ14
3 is?
4 A. They are both the same --
5 Q. Eddy's ice cream. MJ15 shows Eddy's Ice
6 Cream as well, Hebrew National hot dogs. MJ16 is
7 duty free stop.
8 MJ17 is TCBY and Cinnabon. MJ18 is Bacardi,
9 a Burger King and Frankly Gourmet. MJ19 is Sunglass
10 Hut. MJ20 is the company you mentioned before, Cafe
11 La Caretta?
12 A. Right.
13 Q. MJ21 is basically a mall of shops, correct?
14 A. Yes, sir.
15 Q. And the mall of shops includes Barber Beauty
16 and Nails, a Kleen cleaners --
17 A. No, that's a shoe shine.
18 Q. I'm sorry, shoe cleaner?
19 A. And then the ice cream place.
20 Q. Yes.
21 A. You didn't mention this one.
22 Q. MJ22 is a leather store?
23 A. Yes, sir.
24 MR. GOLDBERG: Showing his counsel where he
25 can go shopping.

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1 Q. That leads me to the next question. There
2 is nothing that prevents Mr. Hope here or John Q.
3 Public or anybody else from going into the Miami
4 International Airport to these mall of shops or any
5 of the other stores that we have depicted here in the
6 photographs, purchasing their product, using their
7 services and then leaving without taking a flight or
8 booking a flight or traveling anywhere?

9 A. Right.

10 MR. HOPE: Objection to form.

11 Q. There's no dispute about that, they can walk
12 in, do those things and walk out without traveling?

13 A. Yeah, if they want to.

14 Q. And there's also no dispute, although your
15 counsel is telling you not to answer certain
16 questions, but there is no dispute that you are
17 providing service to some or all of those shops or
18 those type of shops at the airport, correct?

19 MR. HOPE: Objection to form.

20 A. Yes, sir.

21 Q. Can you tell me what the county, or MDAD, or
22 the airport exactly pay for to provide either switch
23 access or network access as those terms are used in
24 the airport rental agreement?

25 MR. HOPE: Objection to form.

1 A. What we actually pay for?

2 Q. Yes. What costs are involved in providing
3 those services to your customers.

4 A. What costs are provided, I'm not sure I
5 understand the question.

6 Q. OK. Obviously you charge your customers for
7 the telecommunications service, correct? We
8 established that. That's not an issue, is it?

9 MR. HOPE: Let me stop you there. I am
10 going to object. If you are now going to try and
11 get an itemization of the specific costs that the
12 airport incurs and then at some point, which I
13 think this is something that you asked before and
14 you might be able to get a hold of the rental
15 agreements, which shows what we charge, then you
16 can come up with our profit margins, which you
17 are not entitled to.

18 Just like when we requested specific request
19 from BellSouth and you said you are not going to
20 turn them over because it is internal to your
21 rates of return, that would be the same thing.

22 So unless you can show why you need specific
23 cost information or specific costs that we incur
24 like what BellSouth charges us this whole line of
25 questioning is inappropriate and privileged and I am

1 instructing the deponent not to answer.

2 MR. GOLDBERG: So just so the record is
3 clear, you instructed him not to answer that last
4 question?

5 MR. HOPE: Correct. Unless you can show to
6 me --

7 MR. GOLDBERG: It doesn't matter what I
8 show. Your instruction needs to stand or doesn't
9 stand. That's how it works.

10 MR. HOPE: I understand how it works.

11 Q. I am going to show you once again and let me
12 follow up with, I will show you what has been marked
13 as MJ6 which is the response to interrogatories again
14 and again point you if I can to the response under
15 number 3. I am going to borrow Ms. Liebman's copy
16 please. Thank you.

17 In the middle of the second paragraph
18 there's a sentence there that says as follows "MDAD
19 does not charge MDAD tenants for local service." Can
20 you explain that to me please?

21 A. The cost or whatever is incurred that's
22 passed to us from BellSouth, the charge for having
23 local service provision, we pass that cost directly
24 back to the tenant. We do not mark that up.

25 Q. All right. So isn't it a fact then that you

1 are charging MDAD tenants for local service, correct,
2 albeit without a markup, correct?

3 MR. HOPE: Objection to form.

4 A. It's a yes or no, I can't say it's yes. The
5 cost that we incur that is passed to us from Bell we
6 pass it to the customer directly to pay the bill.

7 Q. Aren't you charging the customer for that
8 cost, according to you?

9 A. We are -- the cost that we incur is what's
10 being passed to the customer to pay without markup.

11 Q. What is difficult about my question? Strike
12 that.

13 Are you not then charging your customer for
14 that local service? Yes-or-no question. Please
15 answer the question.

16 MR. HOPE: Objection to form.

17 A. Yes.

18 Q. Thank you. Therefore, the statement in this
19 interrogatory response is incorrect and not true,
20 correct?

21 MR. HOPE: Objection to form.

22 A. I'm reading this.

23 Q. Mr. Jenkins, take your time.

24 A. Go ahead and restate your question please.

25 Read it back.

1 MR. GOLDBERG: Please.

2 (Question read by the court reporter)

3 MR. HOPE: Objection to form.

4 A. No, it's not correct.

5 Q. The statement in the interrogatory response
6 that you signed under oath verifying it that it was
7 true is in fact not true, correct?

8 MR. HOPE: Objection to form.

9 A. I'm not sure how that question reads. My
10 statement that I signed under oath states that we do
11 not charge tenants for local service.

12 Q. Is that a true or not-true statement?

13 A. It is a true statement.

14 Q. So it is your testimony today that MDAD does
15 not charge MDAD tenants for local service, is that
16 what you are saying?

17 A. Yes, sir, I don't charge them for local
18 service.

19 Q. And you don't believe that conflicts with
20 your testimony not less than 90 seconds ago?

21 A. Which my statement was that the cost that is
22 passed to us from BellSouth is what the customer pays
23 without any markup from the department.

24 Q. But you are still charging your clients a
25 sum of money for local service, correct?

1 MR. HOPE: Objection to form.

2 A. I am charging them for costs that are
3 incurred by our dial tone provider.

4 Q. So therefore you are charging them for local
5 service?

6 A. I am charging -- I am issuing a bill to a
7 customer for costs that were incurred -- that is
8 incurred by the department by our local provider.

9 Q. We will talk about amounts on the charge in
10 a minute. So let's separate amounts out.

11 First let's deal with the basic
12 understanding that you are charging MDAD tenants for
13 local service. Whether or not that amount is your
14 cost or some markup is a separate question we'll talk
15 about in a second. But I want to make it very clear
16 that you are charging MDAD tenants for local service.
17 That is a correct statement, right?

18 MR. HOPE: Objection to form.

19 A. If that's what you feel to be correct. I
20 don't think I'm charging my customers for local
21 service. I'm not a provider of local service. I'm
22 not providing customers with local service.

23 Q. Just accepting for a second what you say,
24 you would then agree that at least you are charging
25 your customers for local service at your cost?

1 MR. HOPE: Objection to form.

2 Q. Correct?

3 A. It sounds right.

4 Q. Want to make sure it is right. Do you want
5 to think about it some more?

6 A. No, it sounds right, so, yes.

7 Q. It is right, correct?

8 A. Yes, sir.

9 Q. When MDAD charges an MDAD customer for local
10 service at your cost, where does that show up on your
11 customer's bill?

12 MR. HOPE: Objection to form.

13 A. I don't know.

14 Q. Who would know that?

15 A. Our financial department and Nextera, who
16 generates the invoices.

17 Q. How is the cost of local service allocated
18 to your customers?

19 A. How is the cost allocated? I'm not sure.

20 Q. Would Mr. Garcia know that?

21 A. I'm not sure. It's a possibility.

22 Q. How do you know that the charge you are --
23 strike that.

24 How do you know that what you are charging
25 your customers is actually at cost and includes no

1 markup? How do you know that?

2 A. I don't know that for a hundred percent.

3 Q. I didn't hear you. I'm sorry?

4 A. I said I do not know that for a hundred
5 percent. But since we are not providing or selling
6 telco services we do not, the staff would go ahead
7 and reverify that back to me in discussions.

8 But we do not mark up costs incurred for
9 dial tone or local services, or long distance
10 services for that matter.

11 Q. But again my question is, and maybe I
12 misheard you, are you saying you don't know for a
13 fact that there's no markup associated with the
14 charge for local service?

15 A. I don't know that a hundred percent for a
16 fact, right.

17 Q. Did you say for a hundred percent or a
18 hundred percent?

19 A. I do not that for a hundred percent to be
20 factual.

21 Q. So therefore you wouldn't be comfortable
22 testifying to such under oath, is that correct?

23 A. At this time, yes.

24 Q. How long do you believe MDAD has not
25 charged -- strike that, MDAD has charged its clients

1 for local service only at cost if in fact that is
2 what is happening?

3 MR. HOPE: Objection to form.

4 A. I would believe should have been since its
5 inception of creating STS, but I don't know that to
6 be a hundred percent factual. I have to check the
7 invoices.

8 Q. In January of 2002, I should say since
9 January of 2002?

10 A. There should not be any markup, but unless I
11 look at an invoice what the actual bills were I
12 couldn't answer that question a hundred percent, no.

13 Q. Pricing to customers, how much you charge
14 customers for various services, who makes the
15 decisions on that in your entity?

16 A. Currently we look at the industry -- the
17 current charges or current costs that are assessed to
18 date are based on the assessments or charges that we
19 have used in the past or that were used in the past.
20 So they were established by our service provider when
21 I first came on board.

22 Q. OK. As we sit here today, though, as we sit
23 here today who makes the final decision as to how
24 much you are going to charge a customer for this
25 local service, whether it be cost or not, call

1 forwarding, voice mail, network access, switch
2 access? Who makes that decision, final decision?

3 MR. HOPE: Objection to form.

4 Q. Is that you?

5 MR. HOPE: Objection to form.

6 A. It's the department. I would say the
7 recommendation cost allocations would come from our
8 provider.

9 Q. I'm not talking about cost allocations. I
10 am talking about charges that you bill your customer.

11 A. Those are cost allocations.

12 Q. Maybe I misunderstood your word. OK.

13 Now, if you want to use cost allocations
14 that suggests, just want to ask you rightly or
15 wrongly, that suggests that you are doing nothing
16 more than passing the cost of doing business on to
17 your customers without any allocation for profit. Is
18 that true?

19 MR. HOPE: Objection to form.

20 A. No.

21 Q. OK. So the term cost allocation is a bit
22 misleading, correct?

23 MR. HOPE: Objection to form.

24 A. I don't see how that's misleading, no.

25 Q. You don't see how calling what you charge

1 your customers cost allocations is not misleading
2 because it would tend to have a reasonable prudent
3 person in the public conclude that you are not making
4 any profit off of your business?

5 MR. HOPE: Objection to form.

6 A. I didn't say I wasn't making a profit off of
7 my business.

8 Q. So why do you hesitate or sort of contest my
9 use of the word charge? What are you charging your
10 clients for these services?

11 MR. HOPE: Objection to form.

12 Q. Do you contest the use of the word charge?

13 A. No, sir.

14 Q. OK. Let's go back to my question. Who
15 determines at the airport, and tell me if it is you
16 or somebody else, what you all typically charge your
17 customer for the various services that get provided
18 including local service, switch access, and the like?

19 A. As I stated before, we are still operating
20 based upon a pricing structure that was established
21 some seven, ten years ago. We have not modified or
22 changed that. We are looking at that. So it hasn't
23 been changed.

24 So when those pricing structures or cost
25 allocations or whatever you want to put to it was

1 established the department has not changed from that
2 pricing model or structure. So it's been there and
3 was approved. So if you want to go back and pose
4 that question --

5 Q. Who approved it?

6 A. The previous director at the time who was
7 probably maybe Rick Elder, who knows, that approved
8 the contract when it was first put in place based
9 upon the existing pricing model would have been it.
10 But it has not been changed since then. And we are
11 looking at that now.

12 Q. And if you look at that now and there's a
13 change that you want to make, would you be the final
14 person who makes that decision as to the change?

15 A. No, sir.

16 Q. Who would that be?

17 A. The board of county commissioners.

18 Q. MDAD sends invoices to its customers on a
19 monthly basis charging for the various services,
20 correct?

21 A. Yes, sir.

22 Q. The customers when they get the invoice pay
23 MDAD for the services, correct?

24 A. Yes, sir.

25 Q. Just like if I have BellSouth as my carrier

1 at my home and they send me a bill I remit a check to
2 BellSouth, you are sending bills to your customers
3 and the customers are paying you, correct?

4 A. Yes, sir.

5 Q. Likewise, if a customer has a repair problem
6 on their phone, your customer has a repair problem on
7 their phone at the airport they are going to call you
8 to fix it, correct?

9 A. Yes, sir.

10 Q. Just like if I have BellSouth at my home and
11 I have a repair problem I would call them. There's
12 really no difference, correct?

13 A. No, sir.

14 Q. And obviously when -- we just talked about
15 MDAD billing the customers and receiving payment.
16 That wasn't always the case, correct?

17 A. True. Yes, sir.

18 Q. When did that change?

19 A. Right after the, January 2002, the buyout of
20 Williams.

21 Q. It is the case now the customers call you to
22 repair the phones, correct? Just talked about that,
23 the customers now call MDAD if they have repair
24 problems, correct?

25 A. They contact both the department as well as

1 a call center number as well.

2 Q. With respect to the invoicing and payments
3 that changed in 2002. Prior to 2002, isn't it the
4 case that the prior owner of the equipment and
5 operator Nextera was invoicing the clients and
6 receiving payment?

7 A. Yes, sir.

8 Q. And the county was not involved in that
9 process at all?

10 A. Yes, sir.

11 Q. Let me show you what I will mark as MJ
12 Exhibit 23.

13 (Pricing document marked Exhibit MJ23 for
14 identification).

15 Q. Have you seen this document before?

16 A. No, sir.

17 Q. Let me direct your attention to the first
18 page. As you see it separates in graph form pricing
19 components into two charges, network charge and a
20 port charge. Do you see that?

21 A. Yes, sir.

22 Q. The network charge includes in the box on
23 the left local company lines. Isn't it correct that
24 MDAD is charging for local lines or local service as
25 part of its network charge?

1 A. I cannot answer the question.

2 Q. Who would be best to answer that question?

3 A. Nextera or the voice technicians, the
4 manager in Nextera that handles the voice or PBX, or
5 some of the guys within my telecommunications unit.

6 Q. Including Mr. Pedro Garcia?

7 A. Yes, sir.

8 Q. Let me ask you to go to page 2. Actually,
9 let me ask you to page 1. Can you tell me what the
10 IPE equipment represents or means?

11 A. We have seven of those. What it allows us
12 to do is, simplest terms, it gives us the
13 interconnectivity back to the PBX going out, based on
14 where our PBX is located within the airport facility.

15 We use this to process. These are the
16 meridians, options.

17 In its clearest technical terms, no. I know
18 what they do, but in clearest technical terms, I
19 cannot.

20 Q. Would Mr. Garcia be able to answer that
21 question what IPE equipment is?

22 A. Yes, sir.

23 Q. Can you detail for me the distinction
24 between the network charge, the port charge and the
25 phone charge that you charge your customers that are

1 referenced at the bottom of this document?

2 A. Can I distinguish?

3 Q. Tell me what the differences are between the
4 network charge, the port charge and the phone charge.

5 A. There is a cost for the operation and
6 maintenance of the hand sets and the functionalities
7 and the cost for said purchase of the phones or the
8 hand sets.

9 The port which is going from the wall to the
10 closet that leads back to where this IP equipment is,
11 that has to be maintained and supported operations
12 and maintenance. So there is a cost for that.

13 On the network charge, I can't give you a
14 clear definition.

15 Q. Why doesn't MDAD, the airport or the county
16 mark up, according to you, let's assume that they are
17 just charging MDAD the customers at cost for local
18 service. Why is that? Why not mark it up if in fact
19 they are not?

20 MR. HOPE: Objection to form.

21 A. I'm not sure but since we are not a phone
22 company we are not selling phone service, so we don't
23 mark up services that we receive.

24 Q. Is there any documentation whatsoever that
25 supports that statement that you just made?

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1 A. Not that I'm aware of. I have to look at
2 some.

3 Q. Do you have any documentation at the airport
4 in any form that tells you that you are not a
5 telephone company or telecommunications company or
6 would support your prior testimony?

7 A. Not that I'm aware of.

8 Q. Is there any documentation that we can
9 review that would address MDAD's decision to mark up
10 or not mark up its charge for local service?

11 A. Not that I'm aware of.

12 Q. Just so we are clear, by documentation I'm
13 talking about minutes of meetings, notes of any
14 person at the airport, memos, correspondence,
15 letters, e-mails, resolutions, county correspondence,
16 all that is included. Are you aware of any such
17 documentation that goes, that would go to that issue?

18 A. Not that I'm aware of.

19 Q. We can go to the second page, new pricing
20 for MDAD STS customers. Do you see that in bold at
21 the top, 9/30/02?

22 A. Yes, sir.

23 Q. I thought you just testified under oath that
24 there's been no pricing changes since a number of
25 years ago, seven, eight, nine, ten years ago.

1 Can you explain this document?

2 A. No, I can't. My statement to you is that I
3 was aware that there has been -- you asked me who
4 made the decision with regards to pricing whether it
5 is billed or not billed. I told you my statement to
6 you that was established when the contract was first
7 established.

8 Q. You didn't testify that the prices haven't
9 changed for seven, eight, nine, ten years, that
10 wasn't your testimony a little while ago?

11 A. It was a response to your question. So yes,
12 that was a statement that I made.

13 Q. Is that statement incorrect after looking at
14 this document right now?

15 A. Probably so.

16 Q. OK. Who made the decision to increase or
17 change the pricing on September 30 of '02?

18 MR. HOPE: Objection to form.

19 A. It could have been done with the
20 negotiations or part of putting new packaging
21 together of addressing STS customers. As to when
22 that was done, I don't know.

23 Q. By your own testimony you are the CIO of the
24 telecommunications company that's operating at the
25 airport, how can pricing be changed September 2002

1 without you knowing about it?

2 MR. HOPE: Objection to form.

3 A. Staffing makes a recommendation to make a
4 change. I can let staff know to go back and review
5 and make said recommendation to make the change and
6 go do it.

7 Currently, right now there's some things
8 that I don't deal with in its minute points on a
9 day-to-day basis. And as a CIO I govern almost \$130
10 million worth of work.

11 So yes, I'm dealing with a multitude of
12 items. I also rely upon my senior managers to make
13 decisions and effectuate change.

14 Q. Do you get evaluated or reviewed in your job
15 as to the bottom line financial performance of your
16 telecommunications facility?

17 A. No, sir.

18 Q. Do you --

19 MR. HOPE: Objection to form.

20 Q. Do you look at any time as to how your
21 telecommunications facility is doing from a financial
22 standpoint?

23 MR. HOPE: Objection to form.

24 A. On occasion, yes.

25 Q. What's on occasion? Once a week? Once a

1 day?

2 A. Every couple of months I'll do an inquiry as
3 to where we are and what we have billed to date.

4 Q. And wouldn't anybody in your business with a
5 business background understand that a major component
6 of how you are going to do financially is revenue?

7 MR. HOPE: Objection to form.

8 A. Yes.

9 Q. Revenue is the amount of money that your
10 business is taking in on a daily or monthly basis,
11 correct?

12 MR. HOPE: Objection to form.

13 A. Yes.

14 Q. In any financial statement that you may see
15 that's the top line on a financial statement, right?

16 A. I would say so.

17 Q. And in the simplest form a financial
18 statement to determine how you are doing is going to
19 take the revenue minus any expense to get to an
20 operating profit, correct?

21 A. I would say yes.

22 Q. OK. So what you are saying to me today, and
23 I just want to make sure that the record is very
24 clear, is that you are not aware of or have knowledge
25 of significant changes in your revenue stream?

1 MR. HOPE: Objection to form.

2 A. I am aware of changes that -- it's not my
3 revenue stream. I don't manage revenue. I don't
4 manage billing, I don't manage revenue, I don't
5 manage collections. That is done by our financial
6 department and our business management group who is
7 concerned about the bottom line.

8 My concern is providing IT and telecom
9 services to my users. That's my primary focus as the
10 CIO. My role as the CIO is not to bring money in the
11 balance sheet. It is make sure that I maintain
12 operations for my facility. That's my role.

13 Q. The people you supervise and as a result you
14 don't deal with your customers and negotiate prices
15 and charges?

16 A. No, I do not.

17 Q. You don't personally is what you are saying?

18 A. Yes, sir.

19 Q. How about people who work for you?

20 A. No.

21 Q. In all the groups we mentioned that doesn't
22 occur?

23 A. Negotiating of pricing, no, my guys don't do
24 -- they don't do that. We come up with a pricing
25 structure and that is it. We cannot arbitrarily --

1 we don't have the ability to arbitrarily make pricing
2 changes.

3 Q. But people you supervise and therefore you
4 come up with a pricing structure, correct?

5 A. We come up with a recommendation. That
6 would have to be approved.

7 Q. Bottom line is you have no knowledge of this
8 document which seems to indicate new pricing for STS
9 customers as of September 30, '02?

10 A. I don't recall seeing the document.

11 Q. Does this refresh your recollection about
12 new pricing that occurred in September, '02?

13 A. To be honest with you, no.

14 Q. OK. It lists on page 2 MDAD costs. Who was
15 charging MDAD for the IPE, the DLC, the super loop
16 and the common equipment at the amounts indicated on
17 this document?

18 A. I believe that is Nextera, what would it
19 cost us to purchase.

20 Q. What it cost to purchase Nextera's equipment
21 under the purchase agreement that was consummated in
22 February of 2002, or January of 2002?

23 A. I believe that to be true, yes.

24 Q. So then you come down, this is for voice
25 line costs. What's voice line?

1 A. That's telephone services.

2 Q. Two way telecommunication service, correct?

3 A. Yes, sir.

4 Q. And you have a total equipment cost in
5 providing the voice line to your customers, correct,
6 is that correct?

7 A. Yes.

8 Q. You have an interest carrying cost, a
9 maintenance cost and then you add on profit, correct?

10 A. Yes, sir.

11 Q. And you come up with a voice line charge per
12 month of 930, is that correct?

13 A. Yes, sir.

14 Q. Are you familiar with how this gets
15 calculated?

16 A. No, sir, I'm not.

17 Q. May I ask you to go to the page that has
18 network access costs. I understand you couldn't
19 detail for me what network access is, but let me ask
20 you in the middle of this page figured into MDAD's
21 cost for network access there's a local line cost of
22 \$60,000. Do you see that?

23 A. Yes, I see it.

24 Q. And it does say next to it based on \$500 per
25 month per PRI. Can you tell the judge and us what a

1 PRI is?

2 A. No, I cannot.

3 Q. Would Mr. Pedro Garcia know what a PRI is?

4 A. I would say yes, I guess.

5 Q. But I guess that might be an unfair
6 question. I apologize but it's hard to know what he
7 would know if you don't know what it is to begin
8 with, right?

9 A. It's a possibility.

10 Q. Explain to me what the local line cost is.

11 A. Can't answer that question for you.

12 Q. What's a local line?

13 A. I believe one of my definitions was -- well,
14 I'm not recalling right now. I'm not sure.

15 Q. Would Mr. Garcia be able to answer that
16 question?

17 A. It's a possibility.

18 Q. It's more than a possibility, isn't it?

19 A. As I said, sir, it's a possibility.

20 Q. Again, it's a possibility because you don't
21 know what local line is, right?

22 A. Yes.

23 Q. Local line sounds like local service to me,
24 doesn't it?

25 A. Your interpretation, sir. I don't know.

1 Q. Is there any fact, any document, any
2 information that you have in your possession that
3 would contradict my interpretation that local line
4 sounds like local service?

5 MR. HOPE: Objection to form.

6 A. Not to my knowledge, sir.

7 Q. Back on that page, network access cost,
8 directly below the local line cost of \$60,000 is an
9 entry of 15 percent profit, correct?

10 A. Yes, sir.

11 Q. So MDAD adds 15 percent profit or in this
12 case \$25,000 figure to its cost for network access,
13 correct?

14 A. Yes, sir.

15 Q. And that's over and above the number that's
16 been ascribed to local line cost, correct?

17 A. Yes, sir.

18 Q. So wouldn't you conclude that the \$15,000
19 profit is a markup to the cost for network access?

20 MR. HOPE: Objection to form.

21 A. The \$15,000 profit?

22 Q. Yes.

23 A. Which \$15,000 are you referring to?

24 Q. Sorry. Wouldn't you agree that the 15
25 percent profit is a markup to the cost depicted for

1 network access?

2 A. Yes, sir.

3 Q. So, therefore, you'd agree that the 15
4 percent profit also is a markup in part for the local
5 line cost or what I've said is local service?

6 MR. HOPE: Objection to form.

7 A. I don't know that to be factual. You have
8 to take these costs, total them, calculate 15 percent
9 on the profit and determine whether that's included
10 in 60 grand or not.

11 Q. Well, --

12 A. Or however the formula was calculated.

13 Q. OK. We'll come back to that. But you'd
14 agree that the 15 percent, if the \$25,000 is 15
15 percent of all the numbers starting with \$4,352 down
16 to and including the local line cost of \$60,000, then
17 you are in fact according to this document marking up
18 local line cost and/or local service, correct?

19 MR. HOPE: Objection to form.

20 A. I don't know the fact that local line cost
21 and local service are the same thing.

22 Q. Let's just assume for purposes of this
23 deposition that they are. You'd agree then that you
24 are marking up local service?

25 MR. HOPE: Objection to form.

1 A. Yes, if that's indeed factual.

2 Q. And again, as we sit here today, there is
3 nothing that you have as the corporate representative
4 with the most knowledge of what MDAD charges or
5 doesn't charge for local service, there's nothing in
6 your knowledge base to contest otherwise, correct?

7 MR. HOPE: Objection to form.

8 A. Yes, sir.

9 Q. Let me show you what has been marked as
10 MJ24.

11 (Proposal marked Exhibit MJ24 for
12 identification)

13 Q. Have you seen this document before?

14 A. Yes, I've seen it before.

15 Q. What is this, please?

16 A. It's a proposal, voice proposal that would
17 probably go to potential customer.

18 Q. In this case, just so the record is clear
19 and for Dorian who is probably having a hard time
20 understanding what we are looking at, the top of this
21 document is Information Systems and
22 telecommunications Miami-Dade Aviation Department and
23 it says XYZ Airlines, and it is a voice proposal,
24 correct?

25 A. Yes.

1 Q. And then going down the document it proposes
2 charges to the airlines for switch access, network
3 access, system terminal equipment and system other,
4 correct?

5 A. Yes, sir.

6 Q. And the outline of this proposal is very
7 consistent with the airport rental agreement that we
8 went over earlier in terms of the various charges
9 that are outlined this that agreement, correct?

10 MR. HOPE: Objection to form.

11 A. Yes, sir.

12 Q. Now, let me direct your attention to the
13 network access itemization for this airlines. The
14 first line there is single line local network access.
15 What does that stand for?

16 A. I'm not sure.

17 Q. It has an \$18 fee associated with it,
18 correct?

19 A. Yes, sir.

20 Q. How is that \$18 arrived at?

21 A. I'm not sure. There's a formula that exists
22 as to what we charge customers.

23 Q. But if you don't know what single line local
24 access is, you can't tell me how the \$18 gets arrived
25 at, is that fair?

1 A. Yes, sir.

2 Q. What is the distinction between single line
3 local network access and the third item down, network
4 access?

5 A. I don't know.

6 Q. And similarly you would not be able to tell
7 me how the \$49 charge associated with network access
8 is arrived at, correct?

9 A. Correct.

10 Q. Would Mr. Garcia be able to answer these
11 questions?

12 A. Most likely.

13 MR. GOLDBERG: Why don't we take ten
14 minutes.

15 (Recess)

16 BY MR. GOLDBERG

17 Q. Mr. Jenkins, we are back on the record. Are
18 you prepared to continue with your deposition please?

19 A. Yes, sir.

20 Q. Thank you. Let me just go back to a
21 document that we were looking at when we took a
22 break, and that is MJ Exhibit 24. Do you have that
23 in front of you, correct?

24 A. Yes, sir.

25 Q. Just a couple of more questions about that.

1 If you look at the Switch Access, it is not a column
2 but do you see where it says Switch Access?

3 A. Yes, sir.

4 Q. And there are three entries or line items
5 under the switch access?

6 A. Yes.

7 Q. The first one reads Meridian 1 port and
8 there is a charge for \$12. What is a meridian 1
9 port?

10 A. The meridian is our box that -- it's, it
11 goes back, it's that IP unit that you were asking
12 about, that's a meridian 1. And the ports that come
13 from the closet feed into that meridian box. So we
14 charge apparently \$12 from the port to get access to
15 the meridian box.

16 So it goes from the phone to the closet, the
17 closet to the meridian to the box itself and then
18 generally it gets you to the PBX.

19 Q. So we go from the phone at the client,
20 customer's office, right --

21 A. To the wall.

22 Q. You said a closet?

23 A. Right, because the wiring itself goes from
24 the wall plate to normally goes to a closet. If not
25 it is run back to the PBX or the meridian, depends on

1 the location. But normally it would go back to a
2 closet. If not to a closet, it would go directly to
3 this port. Depends on the location of where we are
4 running.

5 Q. But whether or not it goes through a closet
6 it ultimately go backs to the PBX?

7 A. It goes to this meridian box.

8 Q. Where is the meridian box located?

9 A. They are strategically placed throughout the
10 facility. They are in different parts of the
11 airport.

12 Q. On the meridian box there's a port?

13 A. Yes, there are ports inside of them. Yes,
14 sir.

15 Q. Is that where the line goes into?

16 A. It would run back to that line, yes, sir.

17 Q. What travels into that port?

18 A. Travels into that port?

19 Q. What goes into that port, just from a
20 layman's perspective? I might be missing it.

21 A. The voice signal itself.

22 Q. The two way telecommunication?

23 A. Yes, sir.

24 Q. And the dial tone if there's not a voice
25 goes into that port?

1 A. The dial tone --

2 Q. Does the dial tone go into that port too?

3 A. It comes back this way, so, yes, sir.

4 Q. The dial tone goes both ways, in and out of
5 that port?

6 A. It is routed, so, yes, sir.

7 Q. Without the port would you have dial tone?
8 The answer is no, right?

9 A. The answer is no. It needs to be run back.
10 So no, you wouldn't.

11 Q. Without dial tone there would be no need for
12 the port, right?

13 A. Yes, sir.

14 Q. Now, the port, that's part of a piece of
15 equipment?

16 A. Yes, sir.

17 Q. What piece of equipment is the port part of?

18 A. It's part of the meridian box itself.

19 Q. Is there another name for a meridian box?

20 A. There is model numbers. That's the only
21 thing I could tell you.

22 Q. Do you charge for the use of the meridian
23 box?

24 A. Yes, sir.

25 Q. Separate and apart from the port?

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1 A. Can't answer that question. If I'm not
2 mistaken the port is connected to the box so it is
3 part of the box. I'm looking at that's where the
4 cost is coming from.

5 Q. Separate and apart from this meridian 1 port
6 charge of \$12, does MDAD charge for use of the box,
7 the meridian box?

8 A. Outside of the use of that on this, no, I
9 don't think we do.

10 Q. Not just on this document but on any -- and
11 I only want you to answer if you know.

12 A. OK. I'm not sure. I would have to look at
13 some other proposals as to the content, what the
14 customer is asking for. So I would say no at this
15 point, I'm not sure.

16 Q. Your phone is ringing. Do you need to get
17 that?

18 A. No.

19 Q. On this airlines proposal at the end after a
20 subtotal it has a line for discount. Do you see
21 that?

22 A. Yes, sir.

23 Q. It says "if applicable." Who determines
24 whether a customer gets a discount?

25 A. As there's nothing on there now, at one

1 point when the service was being directly provided by
2 our management entity if a customer engaged in
3 long-term lease or long-term contract discount
4 counts were issued to the entity.

5 So if they sign a five-year agreement for
6 the provision or to get services from us or from the
7 entity providing the service they get a discount.
8 But since it's different from that now, so I believe
9 we are not -- I don't think we are doing it any more.

10 Q. Also there is a line for cable and conduit
11 if applicable. What is that for if you know?

12 A. If we need to get it to a customer premises
13 and there are no facilities there, the cost to get to
14 that premise is allocated as well to the customer.

15 Basically it's if you were in this building
16 and there was no service and you were on the
17 penthouse floor there would be a cost incurred to you
18 to bring conduit to you, to bring service to you
19 before you could get service. So that's the cost
20 that's associated.

21 Q. Essentially in this proposal it is fair to
22 say that there's a charge for everything that's
23 associated with providing telecommunications service
24 to your customers, correct?

25 MR. HOPE: Objection to form.

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1 A. Yes, sir.

2 Q. The bottom line is that your
3 telecommunications business has a goal of increasing
4 its profitability and making money for the county,
5 correct?

6 MR. HOPE: Objection to form.

7 A. Yes, sir.

8 Q. And so it behooves you and your entity to
9 charge the customers for all of your costs and
10 including marking up all of those costs to an
11 appropriate profit percentage, correct?

12 MR. HOPE: Objection to form.

13 Q. You can answer.

14 A. To what -- yes.

15 Q. I mean, in fact, it is your goal to grow
16 this telecommunications business to reap revenues
17 four, five times what it's presently making in the
18 years 2003, 2004, correct?

19 MR. HOPE: Objection to form.

20 A. That's speculation. I never looked at it
21 that way.

22 Q. You have never contemplated growing the
23 business multi-fold?

24 A. To make it four, five times, no. We looked
25 at making sure that we provide a service and we

1 maintain that service.

2 It's offered and if an entity wants it.
3 What we looked at primarily is to let our customers
4 know, or potential customers, that we are on the
5 airport facility and we could provide this. It's up
6 to you whether you opt to use it or not, but if you
7 do you're a customer and if not no. But it's not
8 looked at to grow this five, ten fold. I don't make
9 that much money off it to my knowledge in comparison.

10 Q. Are you saying under oath that you have had
11 no knowledge or discussion about growing the revenue
12 for your telecommunications facility three, four,
13 five fold over the years?

14 MR. HOPE: Objection to form.

15 A. No, sir, not growing it three, four, five-
16 fold.

17 Q. Let me show you what we'll mark as MJ25.

18 (Two e-mails, Warner to Jenkins and Stout to
19 Jenkins, marked Exhibit MJ25 for identification)

20 Q. This is an e-mail, actually two e-mails.
21 The Tom one is from Howard Warner to Leonard Stout,
22 yourself and Pedro Garcia. But the bottom one, which
23 is an earlier e-mail, is from Leonard Stout to
24 yourself because you are the first addressee, Howard
25 Warner and Pedro Garcia. And this e-mail reads, and

1 it is directed to you, correct?

2 A. Yes, sir.

3 Q. You are Maurice, right?

4 A. Yes, sir.

5 Q. "Maurice, I think you will like the numbers
6 in this spread sheet. Present STS via Nextera 1 is
7 about \$2.1 million per year." And I summarized the
8 number. "Future estimates total \$15,864,000 per year
9 present Nextera 1 operations. I would think these
10 levels could be achieved by the end of the present
11 CIP construction schedule. I think we should recast
12 Maria's document into a shared services tenant report
13 and include this table in the report then transit via
14 Bo to the director. Let me know what you want done
15 with regards to the above."

16 A. OK.

17 Q. Isn't, doesn't this document completely
18 contradict your sworn testimony 15 seconds ago this
19 that you have had direct discussions regarding
20 growing the revenues of your telecommunications
21 facility not three-fold, not four-fold, not five-fold
22 but even seven-fold?

23 MR. HOPE: Objection to form.

24 A. Don't recall having the discussion.

25 However, the consultant that sent me back this e-mail

1 with his recommendations, that was his thought
2 process when he came up with such statements, one.

3 Two, not taking into consideration that some
4 of the services that were provided by Nextera at the
5 time are no longer provided, so it cuts into that
6 dollar amount. And with the CIP ending in 2007 I
7 don't see how we could make \$15 million.

8 I understand what you said here and I go
9 back to my statement. I don't recall reading this
10 e-mail. Now that you are bringing it back to my
11 attention fine and dandy but this is over two years
12 ago, so I did not recall.

13 Q. Well, a couple of questions. Number one,
14 the e-mail asked you directly about something that
15 should be sent to the director of the airport which
16 is three or four levels above you. I mean, in any
17 organization where you are asked to present
18 information to your ultimate, ultimate supervisor and
19 boss, isn't that a pretty serious issue or important
20 issue for you to pay attention to?

21 MR. HOPE: Objection to form.

22 A. Yes, it is, but it still needs to be
23 validated. This is one consultant's recommendation
24 or discussion point at the time wherein we were
25 looking at our telecommunications plus IT operations

1 within the airport. Because if I am not mistaken,
2 shortly after that, some of this information wasn't
3 totally validated and Mr. Stout since left the
4 airport.

5 Q. You would agree that growing the business,
6 increasing revenue at the airport is something that
7 gets discussed and it is a major goal of yours and
8 MDAD's correct?

9 MR. HOPE: Objection to form.

10 A. Generating business, yes, I would say yes.

11 Q. And to generate business you would agree
12 that you need to increase your customer base,
13 correct?

14 A. Yes, sir.

15 Q. And in addition, to generate more revenue
16 you could increase your rates that you charge your
17 customers, correct?

18 A. It's a possibility.

19 Q. OK. And to increase your customer base
20 you'd agree that MDAD, the airport, would need to
21 successfully compete with other telecommunications
22 companies for the customer base that you serve,
23 correct?

24 MR. HOPE: Objection to form.

25 Q. Strike that. For the geographical territory

1 that you serve.

2 MR. HOPE: Objection to form.

3 A. Yes.

4 Q. I mean, you would agree that you want to get
5 as many customers as possible within the territory
6 that you are providing service to, correct?

7 MR. HOPE: Objection to form.

8 A. Yes, sir.

9 Q. There's no doubt about that, right?

10 A. No, there's no doubt about that.

11 Q. And your territory is Miami International
12 Airport and its associated buildings and the other
13 county owned airports, correct?

14 MR. HOPE: Objection to form.

15 A. Yes.

16 Q. Are you aware of any marketing strategies
17 that have been put in place to market and sell your
18 telecommunications service within that territory?

19 MR. HOPE: Objection to form.

20 A. Yes, sir.

21 Q. Who produces those marketing strategies to
22 affect the territory?

23 MR. HOPE: Objection to form.

24 A. Nextera as part of their agreement, their
25 marketing group is charged to do that.

1 Q. Who is Leonard Stout?

2 A. He was a consultant with one of our
3 management companies.

4 Q. Which management company?

5 A. Dade Aviation Consultants.

6 Q. Who is Howard Warner?

7 A. He's a special projects administrator that
8 works for me.

9 MR. GOLDBERG: Let the record reflect that
10 Mr. Tubaugh is leaving the room as he needs to
11 catch an airplane.

12 A. I wish him well.

13 Q. Who is Kendrick Kouts?

14 A. He's one of my project managers overseeing
15 some of my other IT related business systems for the
16 airport. Works for DAC as well. He's a Dade
17 aviation consultant employee.

18 Q. What was Leonard Stout charged with and why
19 was he charged to come up with this projection?

20 MR. HOPE: Objection to form.

21 MR. GOLDBERG: Yes, those are two questions.

22 Q. So let me ask you this. Why was Leonard
23 Stout asked to come up with these projections?

24 A. I'm not sure. He was asked to do some level
25 of forecasting. His original scope of work when he

1 came on board with the department was to come and
2 evaluate and look at the design/implementation of a
3 work order management system for the airport in
4 addition to some additional IT related duties.

5 Q. I will show you what has been marked as
6 MJ26. Do you recognize that document?

7 A. No, sir.

8 (Invoice marked Exhibit MJ26 for
9 identification)

10 Q. Have you ever seen a document that looks
11 like this before?

12 A. No, sir.

13 Q. This is ARBGS let me ask you, does it state
14 on the document it's an invoice?

15 A. Yes.

16 Q. And it appears to be an invoice from the
17 Aviation Department Metropolitan Dade County MIA to a
18 particular customer the name of which has been
19 blacked out, correct?

20 A. Yes, sir.

21 Q. Are you saying you are not familiar with the
22 form of the invoices rendered by your
23 telecommunications facility?

24 A. That is rendered by the finance department,
25 not by my telecom facility.

1 Q. And is this rendered by the finance
2 department of the county?

3 A. Of the aviation department.

4 Q. Of the aviation department. What's the full
5 name of the aviation department?

6 A. It's the Miami-Dade County Aviation
7 Department.

8 Q. What's the purpose of that department?

9 A. We own and operate Miami International
10 Airport and general aviation facilities.

11 Q. Let me show you what -- Does the finance
12 department of the aviation department handle all
13 billing to your telecommunication facility's
14 customers?

15 MR. HOPE: Objection to form.

16 A. I believe so, yes.

17 Q. Could you tell me when you look at this
18 document, MJ26, what is included in the 81.75 that's
19 being billed where it says "missed charge monthly
20 rental for telephone and maintenance"?

21 A. What's included in it, it's monthly rental
22 for the telephone and the hand set itself as well as
23 the maintenance that goes along with that to deal
24 with our customers if they have a problem. So that's
25 from the hand set to the port that leads back to the

1 PBX.

2 Q. Is access billed in this invoice?

3 A. Access to?

4 Q. Well, we have talked about network access,
5 talked about switch access. Are any charges included
6 on this invoice for those services?

7 A. I'm not sure. I would need to look at the
8 detail that may have come along with it.

9 Q. Let's try another example. Let me show you
10 what I will mark as MJ27.

11 (Invoice marked Exhibit MJ27 for
12 identification)

13 The first page of this document is another
14 invoice similar to MJ26, correct?

15 A. Yes, sir.

16 Q. You want it take a look. This amount is for
17 \$85.75, correct?

18 A. Yes.

19 Q. Dated July 1, 2002, correct?

20 A. The total amount is \$91. The first item you
21 are talking about?

22 Q. You are right.

23 A. 85.75.

24 Q. And the sales tax is 5.57 for a total of
25 91.32, correct?

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1 A. Yes.

2 Q. And if you turn to the second page of this
3 composite exhibit. This a form that also is entitled
4 Miami-Dade Aviation Department standardized form. Who
5 produces this form?

6 A. I believe it's -- I'm not sure. It either
7 comes from us or comes from Nextera. I believe it
8 comes from the department.

9 Q. From the department, aviation department?

10 A. Yes, sir.

11 Q. And you see that the amount on there the
12 total, 85.75, equals the first line item on the
13 previous invoice?

14 A. Yes, sir.

15 Q. And then if we go to the third document,
16 that is a contract invoice that has Nextera 1's logo
17 on there, that also is for rental monthly of 85.75,
18 the same amount that we have seen on the prior two
19 documents, correct?

20 A. Yes, sir.

21 Q. Does Nextera 1 complete or make this
22 document, the third page?

23 A. Yes.

24 Q. The 85.75 in this instance for this customer
25 during the month for service during the month of May

1 because it says billing period from 5/1 to 5/31/02,
2 is made up of these three line items, correct?

3 A. Yes, sir.

4 Q. Meridian 1 port, you had previously
5 testified that that was a line that went back into
6 the meridian box, correct, or that's actually a port
7 in the box?

8 A. Yes, sir, that was the statement I made.

9 Q. How many ports are in a meridian box?

10 A. I think 256 but I'm not sure. I don't know.

11 Q. Not sure. All right. And here, they are
12 charging for four ports. What does that mean?

13 A. Four ports I believe would be four hand
14 sets. I'm not sure. Unless they are using -- well,
15 the four ports, they have four access ports that
16 could be used either one for fax, one for a phone,
17 two other ports for data if I'm not mistaken. I
18 would assume that to be that.

19 Q. Below it has single line access and I think
20 before you testified you don't know what single line
21 access means?

22 A. No, sir.

23 Q. Do you have an explanation why you would
24 need two single line access when you have four
25 meridian 1 ports?

1 A. No, sir.

2 Q. What's a 2500 set on the third line?

3 A. I believe that's a hand set but I'm not
4 sure. It's a telephone, I believe, but I'm not sure.

5 Q. So if there's four meridian 1 ports are we
6 saying according to your testimony here today that
7 there's four lines that have dial tone?

8 A. That is a possibility.

9 Q. Do you know that for a fact?

10 A. For a hundred percent certain, no, I do not.

11 Q. Let me show you now what I'll mark as MJ28.
12 This is also a composite exhibit. And you correct me
13 if I am wrong but just for the record this a
14 Miami-Dade County Aviation Department STATS billing
15 form for the period dated March 29, '02, correct?

16 A. Yes.

17 Q. For a billing period of February 7 through
18 March 6 of '02, correct?

19 A. Yes, sir.

20 (MDAD billing form marked Exhibit MJ 28 for
21 identification).

22 Q. The amount in total is \$689.59, correct?

23 A. Yes, sir.

24 Q. Let's go to the next sheet in that exhibit.
25 This again is a Nextera 1 document, correct?

1 A. Yes, sir.

2 Q. And the coverage says "full serve." What
3 does full serve mean?

4 A. I'm assuming full service. I'm not sure
5 what definitions, the acronyms are.

6 Q. On this bill you are charging for 28
7 meridian 1 ports. How is that or why is that?

8 A. It depends on the customer and the
9 requirements of the customer. I don't know unless I
10 know what the customer is and what they have asked
11 for.

12 Q. Then they are charged for advance features.
13 I want to talk to you about advance features, call
14 waiting, conference call. Is that something that
15 your telecommunications business provides as a
16 service to your customers?

17 MR. HOPE: Objection to form.

18 A. Yes, sir.

19 Q. And do you charge for each particular
20 feature that the customer orders?

21 A. Yes, sir.

22 Q. So there would be a charge for call waiting,
23 there would be a charge for conference calling, a
24 charge for call forwarding?

25 A. Sometimes they are bundled. Most of the

1 times they are individual items. They would be
2 billed as individual items. Also, including like
3 voice mail.

4 Q. And those are features or services that you
5 and only you, I mean MDAD and only MDAD, billed and
6 provided to your customers, correct?

7 MR. HOPE: Objection to form.

8 A. Yes.

9 Q. And you recognize that carrier such as
10 BellSouth or Worldcom or other telecommunication
11 companies also provide these features as well to
12 their customers, correct?

13 A. I know BellSouth does. I'm not sure if
14 Worldcom offers it.

15 Q. But at least BellSouth does, correct?

16 A. I use it at home.

17 Q. What's rotary system access?

18 A. I'm not sure.

19 Q. What are the items depicted as M208HFD and
20 M208B and M208D on this document?

21 A. They are products. I would have to look
22 into our inventory and what we have to tell you
23 exactly what those individual items are.

24 Q. Your telecommunications company also has and
25 offers voice mail to your customers, correct?

1 MR. HOPE: Objection to form.

2 A. Yes, sir.

3 Q. And that's depicted on this bill as well,
4 correct?

5 A. Yes, sir.

6 Q. That's a service that other companies such
7 as BellSouth provide to its customers, correct?

8 A. Yes, sir.

9 Q. Then if we can go to the next page, can you
10 tell me that this document is?

11 A. It's a call detail that we -- it's a call
12 detail of the phone --

13 Q. Who produces this call detail report?

14 A. We have the ability to do it, we being
15 within my telecom unit we have access to a device
16 that we can run calls through, incoming calls and
17 outgoing calls.

18 Q. So does this call detail, is it limited to
19 local calls or long distance calls or both?

20 A. No, there's no limitation. Every number
21 that a phone dials, there's a detail with regards to
22 that phone call, the number -- I'm sorry.

23 Every number that you dial from a hand set
24 at the airport outlines -- that data is captured in
25 regards to the time of the call, where the call was

1 made to and the duration of the call.

2 Q. So whether it's local, a local call or a
3 long distance call, your telecommunications company
4 tracks that call, times that call and can charge for
5 that call, is that correct?

6 MR. HOPE: Objection to form.

7 A. No, sir.

8 Q. What's incorrect about that statement?

9 A. We look at -- we analyze that and see what
10 calls were made. It's available, but we are not
11 charging for the calls. We use it for several
12 things.

13 County staff when they use our phone system
14 calling Information if it is not for work and
15 personal use that money is due back to the county
16 because they are using it for personal use.

17 If you use our phone system to make a long
18 distance phone call to call a family member or friend
19 in another city or another country and it comes up in
20 our reports that money if it is a personal call is
21 due back. There's a county ordinance against misuse
22 of county property --

23 Q. Let me interrupt. For county employees?

24 A. Yes. For our customers we outline that if
25 their calls that are made that are not part of I

1 guess the standard service that you are being billed
2 for, if it is long distance or calling Information
3 and there is a fee for it, that fee is passed to the
4 customer to pay.

5 Q. This bill is not for a county employee,
6 correct?

7 A. No, it's -- no it's not.

8 Q. So your explanation about charging an
9 employee for a call to Information or if it was
10 personal doesn't fit this document or a reason why
11 it's charged here, correct?

12 A. No, it doesn't.

13 Q. OK. What we see here, do we not, is MDAD
14 charging for a local call? 305-555-1212 is
15 information, correct?

16 MR. HOPE: Objection to form.

17 A. The user called Information. That cost that
18 the user -- that was incurred for making that call
19 was passed to the user.

20 Q. Is it your testimony that MDAD incurred
21 \$1.40 charge for that call that was placed to
22 Information 305-555-1212, is that your testimony?

23 A. February 18 of 2002 that's the cost that --
24 yes, sir.

25 Q. How do you know that that's the cost?

1 A. I don't know what the rate is for calling
2 Information. I would have to go back and look and
3 see but I don't know what the cost of calling
4 Information is.

5 Q. Do you ever call information from your home
6 at any time?

7 A. I try not to.

8 Q. When you do do you get charged for it?

9 A. Yes, sir, I believe so. Yes, sir, I do.

10 Q. Have you ever seen a charge for \$1.40 on
11 your bill for one call to get a phone number?

12 A. Not that I recall.

13 Q. Wouldn't you agree common sense, prudence
14 and our life's experiences here in Miami that \$1.40
15 is not the cost --

16 MR. HOPE: Objection to form.

17 Q. I'm not done with my question. That \$1.40
18 is not the cost of a call to Information?

19 MR. HOPE: Objection to form.

20 A. I don't know what the cost is for calling
21 this number in comparison to let's say 411.

22 Q. Notwithstanding whether \$1.40 is the cost or
23 not, the fact remains, does it not, that you are
24 charging a customer for a local phone call, correct?

25 MR. HOPE: Objection to form.

1 Q. That's a yes-or-no question.

2 A. No.

3 Q. So it is your testimony that that document
4 does not indicate that you are charging the customer
5 for a local phone call?

6 A. No -- yeah, that's my statement to you.

7 Q. OK.

8 A. That's an office --

9 Q. Let me ask you this. If a customer at the
10 airport picks up his phone, dials 305-555-1212,
11 explain to me technically what happens with that
12 call, where does it go and how does it get answered?

13 A. From a pay phone?

14 Q. No, one of your clients, customers at the
15 airport, this customer, for example, this customer at
16 the airport picks up his phone and dials
17 305-555-1212. How does that call get placed
18 technically?

19 A. Like any other phone call. It's picking up
20 the phone, he's dialing the ten digit number, nine
21 plus the ten digit, nine for the outside line,
22 dialing the ten digit number, gets run through the
23 PBX.

24 Q. Your PBX, and goes through the BellSouth
25 switch and to its location. This 555-1212, it is a

1 service that you are paying for. So it's billed as
2 such. What you just described is a call that travels
3 on your system to your PBX, then gets routed out on
4 to the BellSouth system to wherever the 305-555-1212
5 is, correct?

6 A. Yes, sir.

7 Q. And that's a local phone call by your
8 definition during this deposition, correct?

9 A. Yes, sir.

10 Q. And here, this is evidence that you were
11 charging for that local phone call, correct?

12 A. No, sir. You are being billed. If I dial
13 9-411 from my phone, if I dial 9 to get outside line
14 and then 411 for information, I am billed for calling
15 information.

16 And 555-1212 is Information. You are
17 getting bill for calling Information, not for making
18 a local call.

19 Q. What's the difference between making a local
20 phone call and making a local phone call calling
21 Information?

22 A. Because if you picked up the phone and you
23 dialed your office, my cellphone, this would not
24 appear on here. You don't charge people to call you.

25 Q. BellSouth doesn't charge in this instance

1 anything for this phone call, correct?

2 A. I don't know that to be true.

3 Q. Do you have any facts in your knowledge base
4 to suggest that they do charge?

5 A. I believe I've seen it in the past in which
6 people who have called that number, I think 555-1212,
7 is like nationwide information. But I know for a
8 fact if you are dialing standard information of 411
9 you do get billed for it.

10 Q. Are you suggesting here today that the \$1.40
11 is simply the cost that you are billed for this
12 informational call that you are billed from whatever
13 the information service is, is that what you are
14 testifying to?

15 A. I believe that to be true, yes, sir.

16 Q. Do you have any facts or specific knowledge
17 that would support your belief that that's true?

18 A. No, sir.

19 Q. Let me ask you to flip two more pages to the
20 Nextera 1 document almost towards the end.

21 A. Two pages?

22 Q. Two more pages. Keep going please, I'll
23 show you. That document right there. If you go down
24 and this is another item sayings for the bill. If
25 you go down four entries it has single line local

1 network access.

2 A. Yes, sir.

3 Q. We talk about that a couple of times and I
4 know you testified you don't know exactly what that
5 is but let me ask you a different question about it.

6 If I could ask you to, if you don't mind me
7 reaching over I could maybe help you on a prior
8 exhibit --

9 MR. HOPE: 26 and 27 were the prior bills.

10 Q. Do you have 27 in front of you?

11 A. Yes, sir.

12 Q. Why don't you turn to the last page of 27
13 and compare it to the page we were at on 28.

14 Exhibit 27 is invoice from May of '02 and
15 Exhibit 28 is an invoice from February of '02. Do I
16 have that correct?

17 A. Yes, sir.

18 Q. On Exhibit 28 the line description is single
19 line local network access. Yet on 27 the description
20 is single line access. The word local is dropped.

21 Can you explain to me why that is?

22 A. No, sir. Could be typing, clerical. No, I
23 cannot. Don't know.

24 Q. Let me show you what I'll mark as MJ Exhibit
25 29.

1 (Invoice marked MJ29 for identification).

2 Q. This is a composite exhibit where the first
3 document is a similar STAT standardized billing form
4 dated September 18, 2002, correct?

5 A. Yes.

6 Q. And the total is \$207.23, correct?

7 A. Yes, sir.

8 Q. If we could ask you to flip to the second
9 page where it says Nextera 1 itemized bill. And then
10 I am going to direct you to go further, if I could
11 ask you to keep going and I'll stop you on a
12 particular page that's not marked. It's at the top.
13 It's a detailed bill, STS detailed?

14 A. ABS within the last month?

15 Q. Actually, the number at the bottom
16 right-hand corner is 9358.

17 A. Page 3. Got it.

18 Q. What is this document?

19 A. It's -- these are bills. Well, it's call
20 detail for a customer based upon his phone, his phone
21 number.

22 Q. Is this long distance detail or local or
23 what?

24 A. This is, whatever is deemed to be long
25 distance out of our calling area. Long distance

1 international calls that were made.

2 Q. So this would be a long distance document,
3 correct?

4 A. Long distance international calls, yes, sir.

5 Q. Do you mark up long distance charges?

6 A. No, sir, we do not.

7 Q. What is the authorization code on the
8 right-hand side?

9 A. Well, some of our customers, depending on
10 who they are, mostly carriers are given authorization
11 codes or access codes to allow them to make long
12 distance calls and international calls to avoid
13 misuse, abuse, fraud, and so forth.

14 Q. Understood. Since we noticed this
15 deposition for local service, I won't ask any more
16 questions about that document. So you can put that
17 aside. We'll save that for another day since the day
18 is getting shorter now.

19 MR. GOLDBERG: David, what I think I am
20 going to do is take a five-minute break and see
21 what else I have. Is that with you?

22 MR. HOPE: That's fair.

23 (Recess)

24 Q. Mr. Jenkins, are you ready to continue with
25 your deposition?

1 A. Yes, sir.

2 Q. Let me just ask you this. Is MDAD or the
3 county providing any form of telecommunication
4 service at other county owned airports aside from
5 MIA, because we have talk about MIA extensively here
6 today?

7 A. Are we providing any other telco service?

8 Q. Yes.

9 A. To customer -- I'm sorry. To staff or to
10 customers or STATS customers?

11 Q. Let me rephrase it. Is MDAD and the county
12 providing any form of telecommunication service at
13 other county owned airports other than MIA?

14 A. Yes, sir.

15 Q. First of all, let me ask you, are you the
16 best person to question about the telecom services
17 being provided at other county owned airports?

18 A. It depends on what the questions are, but
19 yes, sir.

20 Q. What services are being provided at the
21 other county owned airports?

22 A. Their telecom services to aviation
23 department staff that have offices or facilities at
24 the county owned airports.

25 Q. Is this a subject matter that you e-mailed

1 Pedro Garcia about or you asked Pedro Garcia about to
2 which he responded in e-mail form?

3 A. I did inquire about that, yes.

4 Q. Would you agree that Pedro Garcia is best
5 suited to testify about that service at other county
6 owned airports?

7 A. I'm not sure. When he posed -- well, I'm
8 not sure, reason being when I posed the question to
9 him he said let me go back and get back with you.
10 Which means he did not know offhand, which means he
11 had to go look for the information as well.

12 Q. Do you know where he got it from?

13 A. No, sir, I do not.

14 Q. After some discussion with Ms. Liebman, let
15 me ask you this question which may clarify things.

16 Is MDAD or the county providing
17 telecommunication services to tenants at other county
18 owned airports other than MIA?

19 A. No, sir.

20 Q. So the telecom services are being provided
21 at the other county owned airports are only to
22 internal county employees and/or staff?

23 A. Yes, sir.

24 Q. And just for my edification, what type of
25 services are going to your own employees or staff at

1 the other county owned airports?

2 A. They have hand sets, they have phones,
3 standard telecommunications, voice and data, network;
4 they have the whole gamut of services that we have at
5 the airport.

6 Q. Are they connected to you via e-mail?

7 A. Yes, sir, they have access to e-mail, access
8 to phones, access to voice mail, access to the
9 network to send and receive e-mails in addition to
10 access, computer applications if necessary to do
11 their jobs that may not be stored or available
12 locally at the GA.

13 Q. Am I correct in concluding that there are no
14 commercial tenants receiving telecommunication
15 service from MDAD at the other county owned airports?

16 A. Yes, sir.

17 Q. Are there any commercial tenants at the
18 other county owned airports?

19 A. Yes, sir. We have what's called our fixed
20 base operators conducting business.

21 Q. Airlines and such. Let me ask what are
22 fixed base operators?

23 A. A flight school is a fixed based. A
24 concessionaire at an airport at Tamme Amy is a
25 concession owned operator.

1 Whatever else is out there, Opa Locka. Any
2 other facility. I think there is a jump school at
3 Homestead General. You have those things that are
4 sitting out there.

5 Q. Why doesn't the county or MDAD provide
6 telecommunication service to those commercial tenants
7 at the other county owned airports?

8 A. Don't know. I guess we haven't gotten
9 around to either discussing or asking.

10 Q. Are you aware of any plans to do that?

11 A. I haven't had any discussions with my guys
12 about it yet.

13 Q. When you say your guys, have you had any
14 discussions with anybody who you report to about
15 that?

16 A. Oh, no, sir.

17 Q. Who does Angela Giddens report to?

18 A. County manager.

19 Q. Who is who right now?

20 A. Mr. George Burgess.

21 Q. How long has he been the county manager?

22 A. He just came back. I'm not sure.

23 Q. Recently?

24 A. Yes.

25 Q. Are you aware of any discussions with the

1 current county manager with respect to this lawsuit?

2 A. No, sir.

3 Q. Are you aware of any discussions with the
4 prior county manager with respect to this lawsuit?

5 A. No, sir.

6 Q. Are you aware of any meetings that have
7 taken place regarding this lawsuit that you have not
8 been in attendance at?

9 A. No, sir.

10 Q. Would you expect to be at any meeting where
11 this lawsuit was discussed?

12 A. I guess it depends. I'm not sure if I need
13 to attend. I don't know.

14 Q. Why did the county enter into the
15 transaction it did in January of 2002 to purchase the
16 assets of Nextera?

17 A. It was, if I recall properly, based upon an
18 audit and a review by county auditors, as well as
19 there was an individual that came from the police
20 department that was there temporarily, I believe it
21 was Tom Arnold, that looked at processes from law
22 enforcement and looked at processes and looked at the
23 agreement and other things and said it would be in
24 the county's best interest to buy out and own and
25 operate rather than the existing way we were doing

1 business at that time.

2 Q. What was the existing way that you were
3 doing business at that time?

4 A. It was a managed services agreement in which
5 Nextera provided the service, did the billing and
6 operated, supported the MDAD voice network or voice
7 system, voice network as it stood and they managed
8 and operated, and there's a management fee.

9 There was I think a percentage of the share
10 tenant revenue that came back. Whatever was
11 generated came back to the department.

12 Q. So before January 2002, Nextera owned and
13 operated the telecommunications facility, correct?

14 MR. HOPE: Objection to form.

15 A. They owned it. They operated it under a
16 management agreement with the department, yes, sir.

17 Q. And then after January of 2002 the county
18 owned and operated the facility, correct?

19 A. The county owned the facility and we
20 contracted to have someone operate it for us.

21 Q. But aren't we saying the same thing. If the
22 county is operating the facility after 2002, albeit
23 through a management agreement, the county is still
24 operating the facility? You are operating it,
25 correct?

1 A. We are still operating it, yes.

2 Q. There is no dispute about the fact that you
3 are operating it, correct?

4 A. All right.

5 Q. And you weren't operating it before January
6 2002 because Nextera was?

7 A. Yes, sir.

8 Q. There's no dispute about that, correct?

9 A. Yes, sir.

10 Q. Meaning there's no dispute, you agree with
11 me, right? Sorry. You do agree with me, there is to
12 dispute, right?

13 A. I concur with your last statement.

14 Q. Thank you. I appreciate that.

15 MR. GOLDBERG: No further questions.

16 Mr. Hope.

17 MR. HOPE: None.

18 MR. GOLDBERG: You have a right after every
19 deposition once the court reporter prepares a
20 transcript, it is your right to elect to either
21 read the transcript to make sure that it's
22 accurate or to waive reading of the transcript.
23 I'm sure Mr. Hope --

24 MR. HOPE: We want to read.

25 MR. GOLDBERG: He has said you are going to

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read.

(Deposition concluded at 5 o'clock p.m.)

MAURICE JENKINS

Sworn to and subscribed before
me this ____ day of _____, 20__

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

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

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

BELLSOUTH TELECOMMUNICATIONS,
INC., a foreign corporation,

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

Plaintiff,

v.

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

**NOTICE OF TAKING
VIDEOTAPED DEPOSITION**

Defendant.

TO: David S. Hope, Esq.
Assistant County Attorney
County Attorney's Office
P.O. Box 592075
Miami, FL 33159-2075

Plaintiff, BellSouth Telecommunications, Inc., by and through the undersigned attorneys, hereby gives notice that it will take the videotaped deposition of the following person at the times and places set forth below:

NAME	DATE & TIME	LOCATION
Defendant's Corporate Representative with the most knowledge of (1) MDAD's provision of local service at County owned airports and the tenants to which such local service is provided; and (2) MDAD's statement in its Response to Interrogatory No. 3 dated March 1, 2004, that "MDAD does not charge MDAD tenants for local service."	August 5, 2004 at 10:00 a.m.	Lash & Goldberg LLP Bank of America Tower Suite 1200 100 Southeast 2 nd Street Miami, Florida 33131

BANK OF AMERICA TOWER
SUITE 1200
100 SOUTHEAST 2ND STREET
MIAMI, FLORIDA 33131-2158
305 347 4040 • 305 347 4070 FAX

LASH & GOLDBERG LLP
ATTORNEYS AT LAW
www.lashgoldberg.com

PLAINTIFF'S
EXHIBIT
MJ-1

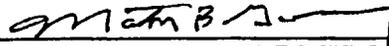
FT
914 384 2700 • 914 384 2510 FAX

upon oral examination before Kresse, Valdes-Prieto & Associates, Notary Public, Court Reporter, and Video for the Legal Profession, Videographer, or any other Notary Public or other officer authorized by law to take depositions in the State of Florida.

The oral examination will continue from day to day until completed. The videotaped deposition is being taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the Florida Rules of Civil Procedure.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by facsimile & U.S. mail to the above-named addressee this 21st day of July, 2004.

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100 Southeast 2nd Street
Miami, Florida 33131
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Attorneys for BellSouth Telecommunications

By: 
MARTIN B. GOLDBERG
Florida Bar No. 827029

In Accordance with the Americans with Disabilities Act of 1990 (ADA), disabled persons who, because of their disabilities, need special accommodation to participate in this proceeding shall contact the Attorney ADA Coordinator, Martin B. Goldberg, at telephone number 305/347-4040 or telephone voice/TDD 1/800/955-8770, via Florida Relay System, not later than five business days prior to such proceeding.

cc: Kresse, Valdes-Prieto & Associates (Court Reporters)
Tel: 305/371-7692 Fax: 305/371-3525
Video for the Legal Profession (Videographer)
Tel: 954/920-6253 Fax: 954/920-6238

Approved Ray Seal 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 NEXTRAONE, 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)¹ 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 WilTel Communications System ("WilTel"), and in 1997, Williams Communications Solutions, LLC was created from the merger of WilTel 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 ("PSIG"), 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

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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

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**NON-EXCLUSIVE TELECOMMUNICATIONS,
DATA NETWORK, AND SHARED AIRPORT
TENANT SERVICES MANAGEMENT
AGREEMENT**

made as of the _____ day of _____ 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
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 1/22/02

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BS V. MDC(7) 000004



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
Department¹

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, LLC¹ ("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

¹ 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.

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

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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.

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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.

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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

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MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: January 29, 2002

FROM: *[Signature]*
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(A)(1)(D)

Please note any items checked.

- "4-Day Rule" (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
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

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- EXHIBIT 2 - EQUIPMENT LOCATIONS TO BE MAINTAINED AND SERVICES TO BE PROVIDED
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- EXHIBIT 7 - SATS AIRPORT RENTAL AND CUTE AGREEMENTS, SOFTWARE LICENSES, AND PERMITS
- ATTACHMENT NO. 1 - MDAD SINGLE EXECUTION AFFIDAVITS AND CERTIFICATIONS

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BS V. MDC(7) 000012

**NON-EXCLUSIVE TELECOMMUNICATIONS, DATA NETWORK, AND SHARED
AIRPORT TENANT SERVICES MANAGEMENT AGREEMENT**

THIS MANAGEMENT AGREEMENT (the "Agreement") is made this _____ day of _____, 2002 by and between **MIAMI-DADE COUNTY** (the "County"), a political subdivision of the State of Florida, by and through its Board of County Commissioners (the "Board"), and **NEXTIRAONE, LLC** (the "Contractor") a Delaware limited liability corporation, authorized to do business in the State of Florida.

WHEREAS, 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;

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;

WHEREAS, 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;

WHEREAS, negotiations were undertaken between the County and the Contractor (collectively, the "Parties") to: (i) resolve various claims arising out of the ELM Agreement and SATS Agreement, and (ii) negotiate the acquisition of the voice and data infrastructure and systems, hardware and software, and permits and licenses necessary to provide telecommunications and data network services, and shared airport tenant services at Miami International Airport ("MIA") and its other owned or operated general aviation airports from the Contractor;

WHEREAS, the County will acquire, in accordance with the principles delineated in this Agreement, title to all telecommunications, data, and common use terminal equipment ("CUTE") infrastructure, software, licenses, permits, and other assets as detailed or used in connection with the ELM Agreement or to provide services pursuant to the SATS Agreement as described on Schedule A to the ELM Agreement and Schedule E to the SATS Agreement, as of February 6, 2002;

WHEREAS, Contractor will assign to the County all existing tenant SATS and CUTE agreements entered into by Centel or its successors or assigns with tenants at MIA or its other owned or operated general aviation airports;

WHEREAS, it is the County's intention to issue a Request for Proposal ("RFP") for the Miami-Dade Aviation Department's ("MDAD") telecommunications requirements; and

WHEREAS, the Contractor has agreed to become the interim telecommunications

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infrastructure manager, to provide for the design, installation, maintenance, repair, management, and operational support services for all voice and data network infrastructure for MDAD and the shared airport tenant services ("SATS") customers at MIA in order to assist the County until the new provider is selected.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, the COUNTY and CONTRACTOR hereby agree as follows:

INTRODUCTION

The Parties acknowledge and agree that the County will acquire from the Contractor title to all telecommunications, data, and CUTE infrastructure, software, licenses, permits, and other assets as detailed or used in connection with the ELM Agreement or to provide services pursuant to the SATS Agreement (each agreement as of February 6, 2002), as such assets are described on Schedule A of the ELM Agreement and Schedule E of the SATS Agreement and the Contractor will assign to the County all existing SATS and CUTE agreements entered into by Centel or its successors or assigns with tenants at MIA or other County owned or operated general aviation airports. All remaining disputes and claims, with the following exceptions, between the Parties have been satisfied upon execution of this Agreement and complete payment of all outstanding amounts and obligations. The Contractor agrees to provide reports of shared tenant services revenues due to the Department, audited by the independent certified public accounting firm approved by the Department and in the format required by the Department, for the contract years ended February 6, 2001 and 2002. The Contractor and the County also agree to remit to the other all amounts shown as due in those audited reports.

ARTICLE 1
DEFINITIONS

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

- 1.1 **Acceptance Date:** Shall refer to February 6, 2002.
- 1.2 **Accept or Acceptance:** Is defined as complying in all material respects with manufacturer's published specifications.
- 1.3 **Airport:** Any of the airport property in Miami-Dade County, Florida, which the County owns and operates, which presently includes Miami International Airport ("MIA"), and the following general aviation airports ("GAA"): (i) Kendall Tamiami Airport; (ii) Homestead Airport; (iii) Opa-Locka Airport; (iv) Opa-Locka West Airport; and (v) Training and Transition Airport.

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- 1.4 **Agreement:** This non-exclusive telecommunications, data network, and shared airport tenant services management agreement between the County and the Contractor, including all of its terms and conditions, attachments and exhibits, Amendments, and work orders issued by the County.
- 1.5 **Amendment:** A written, signed, and approved by the authorized party or his or her designee, modification to this Agreement, executed by the Contractor and the County covering changes, additions, or reductions in the terms of this Agreement.
- 1.6 **Board:** Board of County Commissioners of Miami-Dade County, Florida
- 1.7 **Business Day:** Monday through Friday, excluding Contractor's Holidays. The Contractor shall provide the County a list of such holidays annually.
- 1.8 **CAD Manager:** Shall mean the manager of MDAD Technical Support.
- 1.9 **Calling Services:** Shall mean the mechanical process of placing, timing, and pricing each long distance or otherwise chargeable telephone call placed with a carrier or other suitable means and for which the County charges a resale fee to the equipment user.
- 1.10 **Contractor:** The named entity on page 1 of this Agreement.
- 1.11 **Contractor Holidays:** The Contractor's calendar year 2002 holiday schedule - New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day. The Contractor Holidays are subject to change for calendar year 2003 at the sole discretion of the Contractor.
- 1.12 **Contractor Project Manager:** Shall refer to Contractor's assigned Project Manager to oversee all telecommunications aspects as is determined and defined within this Agreement. The Contractor shall from time to time provide written notice to the County designating the assigned Contractor Project Manager.
- 1.13 **County:** Miami-Dade County acting through the Department.
- 1.14 **County Manager:** County Manager of Miami-Dade County, Florida.
- 1.15 **Days:** Calendar days.
- 1.16 **Department:** Miami-Dade Aviation Department ("MDAD"), a department of Miami-Dade County, represented by and acting through the Director or his or her designee(s).

Dated 1/22/02

- 1.17 Director:** The director of the Miami-Dade Aviation Department or authorized representative(s) designated in writing with respect to a specific matter(s) concerning the Services.
- 1.18 Documentation:** Is defined as all records, procedures, schematics, diagrams, and manufacturer and Contractor manuals customized or created specifically for the County.
- 1.19 Equipment:** Is defined as all telecommunications and data information systems products purchased from or serviced by the Contractor pursuant to this Agreement. Equipment shall also include hardware, Software, licenses, and permits.
- 1.20 Equipment Charges:** Shall mean all charges including flat rate local telephone service, related to the rental, sale, or provided equipment serviced from the Airport's System to MIA tenants or users, other than MDAD.
- 1.21 Existing System:** Shall have the meaning provided in Section 4.B(i) in Article 3.
- 1.22 Gross Revenues:** Shall mean all moneys paid or payable to, or consideration of determinable value received by the County from Calling Services and/or Equipment Charges paid by tenants and users of SATS provided at the Airport, for transactions or telecommunications services provided or rendered in connection with such calling services and/or equipment, for connection to the public telecommunications network, regardless of when or where the order therefore is received, or the goods delivered, or services rendered, whether paid or unpaid, whether on a cash or credit basis, or in consideration of any other thing of value.
- 1.23 MAC:** Is defined as move, add, change work performed by Contractor pursuant to proper authorization from the County.
- 1.24 Maintain:** Preventive maintenance, repair or replacement, as deemed appropriate in Contractor's reasonable business judgment, of any installed equipment with the understanding that the Contractor will provide the labor and the County will supply the equipment.
- 1.25 Manager:** The manager of MDAD Information Systems and Telecommunications Division. The County shall from time to time provide written notice to the Contractor designating the assigned Manager.
- 1.26 Notice to Proceed:** A written notice to proceed issued by the Project Manager authorizing Contractor to proceed with the work described in this Agreement.
- 1.27 Personal Property:** The property owned by Contractor and not included within the Equipment, including but not limited to office equipment, test equipment, and office furnishings.

Dated 1/22/02

- 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. 1st 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 1/22/02

MDAD Airports under lease with the County or MDAD or otherwise engaged in the activities of serving Airport users, passengers, or the movement of cargo.

1.37 Unsatisfactory Work: Work or performance that is defined as failing to comply in any material respect with the manufacturer's published specifications, or to the scope of work as defined by either MDAD or a SATS customer in its work order.

ARTICLE 2
ABBREVIATIONS

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

<u>ABBREVIATION</u>	<u>EXPLANATION OF ABBREVIATED TERM</u>
AFF	Above Finished Floor
ASM	Airport Systems Manager
ATB	Automatic Ticket and Boarding Pass Printer
ATM	Asynchronous Transfer Mode
AWG	American Wire Gauge
Bellcore	Bell Communications Research
BHCA	Busy Hour Call Attempts
BICSI	Building Industry Consulting Service International
BGR	Boarding Gate Reader
BTP	Bag Tag Printer
CAD	Computer Aided Design
CIP	Capital Improvement Program
CCS	Centum Call Seconds

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Check-In Counter	A "ticket counter" which is used for departure control but not ticket purchases. The only difference between a check-in counter and a ticket counter is the use (hardware complement shall be the same for both)
Customer	Shared Tenant Services user
CRC	Call Receipt Center. Available twenty-four (24) hours a day and seven (7) days a week, that users can access to report troubles associated with their voice, data and network services. Access to the Call Receipt Center can be by telephone, e-mail, or any other oral or written request.
CUTE	Common Use Terminal Equipment
DCS	Departure Control System
DOC	Document Printer
EIA	Electronics Industry Alliance
FIDS	Flight Information Display System
FDDI	Fiber Distributed Data Interface
Gate Counter	Counter used for passenger check-in located in the gate area, typically containing two workstations, one boarding pass printer, one bag tag printer, and one general purpose printer
GPS	Global Positioning Satellite
GUI	Graphical User Interface
HVAC	Heating, Ventilation and Air Conditioning
IACS	Integrated Airport Communications System
ICEA	Insulated Cable Engineers Association

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IDF	Intermediate Distribution Frame
IMO	Information Management Outlet
IPE	Intelligent Peripheral Equipment (Nortel's term)
ISO	International Organization for Standardization
IVR	Interactive Voice Response
Jetway Podium	Podium used for boarding passengers located at the entrance to the Jetway. These podiums will have a workstation and a boarding pass reader
LAN	Local Area Network
LBS	Local Boarding System – Application which provides for passenger reconciliation via a boarding gate reader
MIA	Miami International Airport
MDF	Main Distribution Frame
MTBF	Mean Time Between Failure
NEC	National Electric Code
NIST	National Institute of Standards and Technology
OSHA	Occupational Safety and Health Act
OTDR	Optical Time Domain Reflectometer
MUFIDS	Multi-User Flight Information Display System
PBX, PABX	Private Automatic Branch eXchange, (Telephone Switch)
PDS	Premises Distribution System
PNL	Passenger Name List

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POS	Point of Sales
QBE	Query By Example
REA	Rural Electrification Administration
SNMP	Simple Network Management Protocol
SATS	Shared Airport Tenant Service.
TAMS	Total Airport Management System
Tenant	Shared Tenant Service Customer
TDR	Time Domain Reflectometer
TIA	Telecommunications Industry Association
Ticket Counter	Counter used for departure control and ticket purchases. Typically, has two workstations, one boarding pass printer, and one bag tag printer
TP - PMD	Official name for CDDI ("Copper Distributed Data Interface")
UPS	Uninterruptible Power Supply
WS	Workstation

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ARTICLE 3
NON-EXCLUSIVE AGREEMENT

Notwithstanding any other provision of this non-exclusive Agreement, the County is not precluded from retaining or utilizing any other contractor or its own staff to perform any services within the contract limits defined in the Agreement. The County may elect to competitively bid and contract any infrastructure or system additions and changes, including, but not limited to 1) outside plant extensions, 2) major changes in network architecture, 3) inside plant work associated with new facilities, and 4) other telecommunications infrastructure changes. The Contractor shall have no claim against the County as a result of the County electing to retain or utilize such other contractor(s) to perform any such services, provided that the County shall instruct all other contractor(s) that they must not act in a way which would disrupt or interfere with Contractor's performance of its duties, and take all other reasonably possible steps to avoid any such disruption or interference.

ARTICLE 4
SCOPE OF SERVICES

1. General Requirements and Services to be Provided

The Contractor shall provide for the design, installation, maintenance, repair, management and operational support services for all voice and data network infrastructure for MDAD and the SATS customers at the Airport. The scope of services includes the provisioning of voice and data network services and maintenance of existing and future voice and data network infrastructure equipment and facilities, at the Airport, and the management of SATS for the County, including CUTE, to Tenants and users at the Airport. The Parties agree that this scope of services describes the Contractor's obligations and responsibilities, and is deemed to include labor, materials, equipment, and tasks as and to the extent set forth in this Agreement.

The Contractor will be required to provide the following (the "Scope of Services"):

- A. Manage the existing voice, data, CUTE and network infrastructure, and maintain 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 IDF level for existing structure installed prior to February 7, 2002 and to the jack level for installations completed after February 6, 2002.
- B. Manage the turn-key installation of new voice, data and network services such as user training on equipment provided, project scheduling, appropriate billing to MDAD, billing user customers for services, and also for the specified Equipment, including when specifically requested by appropriate work order, needs assessment, system design, procurement of equipment and parts, Documentation, record keeping and inventory, and any other functions related to the provisioning of the

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services.

- C. Execute work orders and the work associated with these work orders for new services or routine installations, and for moves, adds and changes from MDAD.
- D. Upon receipt of an appropriate work order, provide to MDAD proposals at MDAD requested level of detail outlining cost to MDAD and schedules for larger installations where additional equipment or cable infrastructure is required. Coordinate with MDAD assigned Project Manager for the implementation of the services required.
- E. Resolve all troubles and outages involving Services in a timely manner, following the priorities established in this Agreement, to minimize disruption, reduced performance level, and interruption of Services.
- F. Operate and manage a CRC, available twenty-four (24) hours a day and seven (7) days a week, that users can access to report troubles associated with their voice, data and network services. Access to the CRC can be by telephone, e-mail, or any other oral or written request.
- G. Perform industry standard and/or vendor recommended preventive maintenance on all voice, data and network Equipment and Systems in an effort to prevent malfunctions.
- H. Perform periodic traffic studies to properly size trunking facilities, data network utilization for the backbone and individual segments, and provide written reports to MDAD.
- I. The County and the Contractor shall jointly work on a plan for disaster recovery and develop contingency plans for major outages, utilizing the Contractor's off-premise resources as required to mitigate the problem.
- J. Conduct periodic meetings or as required by MDAD to inform the Department on service issues, and the status of pending work on projects.
- K. The Contractor shall not provide communications services to other entities using the MDAD telecommunications infrastructure without the written consent of MDAD. During their respective work hours, Contractor's on-site employees shall only engage in activities on behalf of MDAD and the SATS customers of the Department as provided in this Agreement.

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2. Existing Telecommunications Infrastructure

A. Voice Equipment and Services

The scope of work for the voice service includes the existing voice services currently provided at the Airport as detailed or used in connection with the ELM Agreement or to provide services pursuant to the SATS Agreement as described on Schedule A to the ELM Agreement and Schedule E to the SATS Agreement, as of February 6, 2002. This consists of: (i) two (2) Nortel 81Cs, (located in Building 3030 C wing, and in the Concourse E switch room E2386 (collectively, the "Core Rooms")); (ii) the telephone equipment (Option 11s and the Norstars) located around MIA; and (iii) the telephone equipment (Option 11s and the Norstars) located at the Opa Locka, Kendall-Tamiami, Homestead general aviation facilities (reflected in the current Voice Topology Drawing), and the Homestead Air Reserve Base.¹

The number of ports in use are currently:

- Meridian PBX, Option 81 located in the Terminal Building: 2,990 ports in use
 - Meridian PBX, Option 81 located in Building 3030: 908 ports in use
 - Eight (8) Intelligent Peripheral Equipment (IPE) systems located in 8 different locations:
 - Served from terminal PBX: 1,760
 - Served for Building 3030 PBX: 1,404
-
- Total 7,062 ports in use

B. Data Network

The scope of work for the data network includes the existing data network currently provided at the Airport, interface with the new security network, all CUTE equipment, and the associated CUTE network.

The existing data network at the Airport (reflected in the current Network and CUTE Topology Drawing) consists of a fiber optic ring interconnecting eight (8) Centillion 100 switches. These hubs are located in equipment rooms located in Building 3030, Building 5A, Building 100, the Cargo Clearance Center ("CCC"), the Satellite Building, the Landside Administrative Offices on the Ground Floor of the Dolphin Garage, the Concourse C computer room, and the fourth floor Terminal equipment room. The network includes eighteen (18) Nortel 5000NT boxes, six (6) Nortel 5000BH boxes and twenty-one (21) 450 switches. The network also consists of two (2) Nortel BCN ATM routers located in Building 3030 and the Concourse C computer room. This network will be eventually interconnected with the new security network ("New Security Network") and the CUTE network, effectively

¹ See attached Exhibit 1 for the CD Building 3030 source book and the CD Main Terminal source book.

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producing one logical network.

The installed network conforms to IEEE 802.3 and IEEE 802.5 standards for switching. The installed switches are capable of concurrent switching of all protocols specified in this Agreement, and support dual mode FDDI, Token Ring (IEEE 802.5, 4 and 16 Mbps), AUI Ethernet (IEEE 802.3, 10BaseTX and 100BaseTX), and Asynchronous Transfer Mode ("ATM") media connections.

- i. The Local Area Networks conforms to the following standards:
 - a) IEEE 802.3 10BaseT, 100BaseT
 - b) IEEE 802.5 16 Mbps Token Ring
 - c) ANSI X3T9.5 FDDI
 - d) ATM Standard
- ii. The installed network has the capability to interface with and will conform to the following networking protocol standards:
 - a) TCP/IP (RFC 793 / RFC 791)
 - b) OSI (ISO)
 - c) IPX/SPX (to be phased out with Novel IP)
 - d) ATM

The installed network conforms to IEEE 802.3 and IEEE 802.5 standards for transparent routing. The installed routers are capable of routing all protocols specified in this document, and support dual mode FDDI, Token Ring (IEEE 802.5, 4 and 16 Mbps), AUI Ethernet (IEEE 802.3, 10BaseTX and 100BaseTX), and ATM media connections.

C. CUTE Network

The CUTE network consists of 175-200 CUTE terminals and network, the airline terminal emulators, an interconnecting network and wide area network links to airline reservation system host computers, includes preventive maintenance on CUTE printers.

3. Future Plans²

Exhibit 2 identifies all Equipment at locations to be maintained and Services to be provided under this Agreement, if and when the future expansions and projects described therein are implemented and ready to receive the services. Based upon County requirements, new Equipment or locations may be added. As new Equipment items or locations are added to the MDAD telecommunications infrastructure, the items will automatically become

² It is not expected that these services will be implemented during the term of this Agreement.

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a part of this Agreement upon written mutual agreement of both the County's Project Manager and the Contractor.

Future planned expansions or projects at this time that may impact the services requested are:

A. The Premises Distribution System ("PDS").

This is a planned cabling/distribution system that runs throughout the Airport. The PDS will provide a new cabling infrastructure, required for all telecommunications systems to effectively communicate. It will also provide the physical connections for access to existing legacy systems, the wide area network, and the Internet. The PDS will consist of single-mode and multi-mode fiber optic cabling; copper cabling (enhanced Category 5 UTP) and possibly infrared, wireless or other distribution materials/media such as, color spectrum fiber optic switches. The PDS will utilize Information Management Outlets ("IMOs"), which consist of two (2) voice and two (2) data jacks (all RJ-45 modular jacks). In addition, the PDS will be designed to accommodate the Department's anticipated future growth requirements. The scope of work includes the management of the proposed PDS and the associated cable management system. The scope of work includes the data entry of "as built", or other drawings or documentation information into the cable management system as on-going work identifies the information.

Note: Some cable conduit and cable trays required to install the PDS cabling will be installed and will be utilized wherever possible. Certain applications will arise where the Contractor will be required to install new raceways and cables. All new work shall require prior approval from MDAD.

B. Network Management System

The scope of work will include the management of the data network utilizing a standard Network System Manager ("NSM"). The existing NSM is hosted on a SUN Microsystems workstation using HP's OpenView software. The NSM monitors all network components using standard SNMP applications. An audit trail of system operations and configuration changes shall be maintained by the Contractor using the NSM. The Contractor may be required to provide the following network management functions using the NSM applications:

- i) Fault management.
- ii) Configuration management.
- iii) Performance monitoring management.
- iv) Accounting management.
- v) Security management.

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All network components shall be SNMP manageable and conform to RFC 1157. Online system health monitoring shall be provided for verifying the health status of major network components and to support software and hardware maintenance activities.

C. Security Network

MIA will be implementing a new security network system ("NSNS"). The NSNS is composed of a high speed fiber optic based ATM network, fifteen (15) (expanding to 22) equipment rooms, CCTV and Intercom switching equipment, and CCTV and Intercom recording equipment. The rooms will be linked via a new security network. In the future this network will be expanded to accommodate interface with the future PDS. The PDS will provide CAT5e cabling from the network hubs located in these rooms to all devices requiring an IP address and network connection. The Contractor shall take over the management, maintenance, and operations responsibility, unless directed otherwise by MDAD, once the three (3) year management and operation contract with the NSNS Manager is over.

The main backbone of the New Security Network system will be comprised of multiple fiber optic loops, which will create multiple distinct data areas in the Main Terminal area. A main loop will run through the main Terminal through the equipment rooms.

The main loop will have a four (4) room ATM configuration (rooms C4121, B3017, A3129, and H1472) with an OC-48 data rate. The ATM shelves in the four (4) equipment rooms will connect to switches at an OC-12 (ATM) data rate. The switches in the remaining eleven (11) equipment rooms (H3730, G1107, G1764, F1540, F1770, E1502, E1803, S1558, D3917, A3820, and A3105) will be capable of connecting to multiple network protocols (i.e., FDDI, ATM, and Ethernet). Two (2) separate backbone loops (a primary OC-12 backbone and a secondary OC-12 backbone) will connect the eleven (11) rooms to the four (4) OC-48 equipment rooms via separate diverse routes.

D. Wireless Network

In conjunction with the PDS, wireless antennas located approximately three hundred (300) feet apart will be located throughout the Terminal at MIA. This system will improve the use of cellular phones throughout the terminal areas. The new technology plans of tenant airlines are envisioning more wireless customer service devices similar to what rental car companies use today when checking in cars. The CIP may require wireless CUTE and FIDS to be movable for changing locations under construction. Airlines are anticipating that their customer base will increase the use of wireless Internet devices for telecommuting while in airports and on airplanes. All of this points to the need to put in a system in the terminal that will handle the wireless traffic and place MDAD in the position of controlling this part of the telecommunications infrastructure. The Contractor will have to interface with the Wireless System provider to provide network services via the PDS and interfaces with the network backbone and other service providers.

E. The scope of work may also include the management of approximately four

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thousand (4000) new stations (to be installed in a new or existing equipment room) if American Airlines becomes a SATS customer.

4. Description of Services to be Provided

The services to be provided by the Contractor may include, but may not be limited to the following:

A. Move, Add and Change Service ("MAC")

- i) Move, Add and Change Services will include, but shall not be limited to:
 - a. Install and program new telephone station equipment.
 - b. Disconnect old service and update records accordingly.
 - c. Install new station cabling and outlets for voice, data, video and wireless services.
 - d. Relocate existing services in response to MDAD/Tenant work orders.
 - e. Manage work order and invoicing process.
 - f. Remove and/or disconnect unused cabling and outlets.
 - g. Submit updated information for the MDAD Cable Management System or PDS database.

ii) Order Taking and Records

The Contractor will be responsible for receiving work orders from MDAD Telecommunications staff to coordinate and perform MAC services. Contractor's technicians are not authorized to perform MAC work unless these work orders have been properly submitted to Contractor. Depending on the size of the request, Contractor personnel may be required to perform surveys in order to facilitate the requested work. The Contractor is solely responsible for scheduling all work directly with the MDAD or SATS customer under the direction of MDAD Telecommunications who may periodically escalate various work orders or priorities associated with different requests. The Contractor shall also coordinate access issues directly with the MDAD or SATS customer. The Contractor shall assign personnel with project management skills to large scale MAC projects and/or larger tenants to facilitate the timely completion of the Contractor's portion of the work.

iii) Installation Time Intervals

Routine additions, deletions and relocations (also known as moves, adds, and changes) shall meet the following standards depending on their number, assuming that conduit, power, and other required facilities are existing at the time of the work order: Non-reimbursable MAC coverage shall be provided between 8:00 A.M. and 5:00 P.M., Monday through Friday, excluding

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Contractor Holidays.

<u>No. of MACs</u>	<u>Response Time</u>
1 to 5	one (1) business day from receipt of work order
6 to 10	four (4) business days from the date of the work order
11 to 50	seven (7) business days from the date of the work order
Over 50	individual case basis to be mutually negotiated

At a minimum, the Contractor is expected to keep staffing levels and technicians on hand to meet the above completion requirements. The Contractor is responsible for directly coordinating with the customer and/or local service provider until the MAC is complete.

iv) Priority Changes

Priority moves, adds and changes are those that are designated a "Priority" by MDAD in accordance with the Prioritizing of Work subarticle of this Agreement. Priority work must have written justification and be approved by the Project Manager. Priority work orders will supersede other work orders and will be worked on and completed as soon as possible by the Contractor. The due date for routine work orders will be adjusted for delays caused by priority work orders. For all conflicts of schedule, MDAD will be the final authority on the final timing and have responsibility for the resulting impact on other work and Equipment. Contractor shall notify MDAD of known potential impacts of priority changes.

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B. Maintenance and Trouble Resolutions

i) Existing Network Infrastructure

The Contractor shall provide a complete operation and maintenance plan for all elements of the MDAD telecommunications network. This work shall include all components of inside plant, outside plant, active and passive electronic equipment, and ancillary equipment that is part of the telecommunications infrastructure currently serviced by Contractor and any additional Equipment added as provided hereinafter. Contractor shall also provide maintenance for all Systems and Sub-Systems in place as of February 6, 2002 (the "Existing System"), as well as any and all additional Systems, Sub-Systems, Equipment, or switches or products added in the future, when requested by the County. As to additional Systems, Sub-Systems and other Equipment that are added, maintenance for these items shall be under this Agreement upon the acceptance by County of the relevant System, Sub-System or additional Equipment and shall be compensated for in accordance with the Payments and Cost Reimbursements article of this Agreement.

ii) Levels of Performance

The Contractor for the telecommunications Infrastructure operations and maintenance shall guarantee specific levels of performance and availability for each segment of the network. The Contractor is not responsible for degradation of performance due to the actions of a third party vendor not under the control of the Contractor, or due to the County's reduction in Contractor's staff. These segments and their required level of availability are as follows:

a.	Voice Circuits	99.98%
b.	Data Circuits (Point-to-Point)	99.98%
c.	LAN Circuits	99.98%

Availability shall be calculated on a monthly basis. Availability shall be calculated based on the following formula:

$$\text{Availability} = \frac{\text{Available Time} - \text{Downtime}}{\text{Available Time}} \times 100$$

where:

Available Time: The number of circuits of a given type multiplied by the number of hours in the month.

Downtime: The sum in hours of all circuit outages or performance degradation commencing when the trouble is reported and ending when the

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trouble ticket is completed and closed out. For aggregate services such as T1 circuits downtime shall be the sum of the outage duration times the number of active channels (24) contained in the aggregate circuit. LAN downtime shall be the outage duration times the number of ports, which are reported as out of service or suffering from degraded operation.

iii) Preventive Maintenance

The Contractor shall perform all the preventive maintenance as specified by the equipment manufacturers. A quarterly report shall be submitted to MDAD detailing the preventive maintenance performed in the previous quarter and specifying the preventive maintenance planned for the upcoming quarter.

Preventive maintenance shall include, but is not limited to:

- a. Visually inspect batteries condition and voltages.
- b. Check power supplies voltages.
- c. Routine replacement of lamps, indicators, protectors, and other components which may fail through normal use.
- d. Perform annual trunk traffic studies and implement corrective action if required.
- e. Perform annual voice mail port utilization study and configuration.
- f. Inspect cabinets.
- g. Periodic cleaning of filters.
- h. Perform database dumps and reviews quarterly and perform corrective procedures if needed.

iv) Preventive Maintenance Plan

The Contractor shall develop a comprehensive routine and preventive maintenance plan, which includes each of the following elements:

- a. Each element of voice or network systems equipment, shall be monitored for performance on a continuous basis. In addition to reporting of failed equipment, thresholds shall be established to report traffic problems or abnormal latency. Statistics will also be required for management reports that outline system capacities and utilization levels.
- b. Regular periodic performance testing shall be provided for each element of active electronic equipment, which is not continuously monitored. This periodic testing shall be performed in accordance with manufacturer's published preventive maintenance procedures. Where no published preventive maintenance plan exists, measures, which are acceptable to MDAD Telecommunications, shall be implemented. The Contractor shall make special provisions (whether

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self-performed or via subcontract) to clean optical fiber connectors, battery cable terminations and other connections, which require periodic cleaning to avoid performance degradation.

Note: Each telecommunications equipment room shall be provided with periodic cleaning to ensure an environment, which is suitable for the equipment. This cleaning (whether self-performed or via subcontract) shall ensure a dust free environment, removal of debris and cleaning of equipment, cabling and terminations for the two (2) Core Rooms.

- c. The preventive maintenance plan shall include routine replacement of lamps, indicators, protectors, batteries, DC power plant equipment, 48VDC powered inverters and other components, which may fail through normal use. The preventive maintenance plan shall not include requirements for replacement of equipment room lighting components, air conditioning filters, ceiling tiles and other components, which are part of the building and are not related to the network itself. The preventive maintenance plan shall require that these latter items be reported to MDAD Facilities Maintenance if found to be defective or in need of repair. The preventive maintenance plan shall include operation and maintenance of DC plant in IDF rooms that support switching equipment.
- d. The operations and maintenance plan shall include provisions for non-scheduled maintenance and repair of equipment that may fail or degrade during normal operation.

v) Problem Reporting and Escalation

The Contractor will be responsible for maintaining coverage in accordance with this article in the Agreement, of the CRC for MDAD or SATS customers at the Airport, in order to coordinate repair services. The Contractor shall issue service tickets in order to track repair requests, contact the assigned personnel, and respond to perform such repairs for major or minor failures in accordance within the time frames in the Response and Repair Time Requirements article of this Agreement. The dispatched personnel will be responsible for having the appropriate repair stock equipment and also for properly returning the equipment for repairs or replacements. The dispatched personnel will be responsible for keeping the CRC informed of problems, and reporting to MDAD a real-time status of repair progress. After hour calls will be routed to a twenty-four (24) hour customer service center or local contact to coordinate repair efforts.

The Contractor's dispatched personnel will coordinate with MDAD, local service provider, or SATS customer as required and MDAD will make the determination as to the type and quantity of resources required to correct the

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problem, if necessary.

Should a major outage be related to the local operating company's network, the Contractor's personnel will act as the County's agent to open a repair ticket with the local exchange company and work on behalf of the County, as commercially reasonable and necessary, to troubleshoot the problem until the major outage is corrected. The Contractor shall also coordinate access issues directly with the user. The County requires the Contractor to propose spare parts levels for the various systems in order that the repairs can be made in a timely fashion based on the classification of the repair as described in the Types of Failures subarticle of this Agreement.

In case of emergency during after hours, Contractor shall proceed to attempt to repair while continuing an attempt to contact MDAD per the escalation notification list to be provided by the Contractor.

vi) Agreements with Vendors

The Contractor shall maintain maintenance and technical support agreements with vendors associated with the telecommunications systems. The Contractor shall be responsible and pay for all maintenance contracts and support contracts necessary to perform the services outlined in this Agreement (collectively, the "Agreements with Vendors"). The County shall compensate the Contractor in accordance with the Payments and Cost Reimbursement article of this Agreement. The Contractor is solely responsible for hands-on management of the systems. These third party agreements shall include at a minimum, when available from the third party and requested by MDAD:

- a. Post-warranty service agreements;
- b. advanced replacement agreements;
- c. software and hardware revision/update provisions; and
- d. technical support agreements that allow the Contractor to speak directly to engineer/technical support as required.

In the event of an emergency, MDAD reserves the right to take a hands-on approach to fix the problem if the Contractor's personnel are not available. A strict configuration and change management process will be adhered to, which documents all changes to the respective network. The Contractor shall submit a configuration and change management procedural plan on a yearly basis for review and approval by MDAD.

vii) Types of Failures

Troubles reported to the Contractor's CRC by the users will fall into two (2) categories: a) Major Failures, and b) Minor Failures.

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- a. **Major Failures** are those that severely impact the operation of the Airport or severely impede the ability for a Tenant 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 over five percent (5%) of the trunks or station lines to function.
 - 3. A failure of network components that will render over five percent (5%) of work stations inoperable.
 - 4. An indication of a major alarm condition as defined by the manufacturer in any of the switching or power equipment.
 - 5. Any failure of an individual station identified in Exhibit 3 furnished to Contractor's Project Manager, who has signed a receipt therefor, that impacts the operation of the Airport.
- 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.

viii) Response and Repair Time Requirements

Based on Trouble classification, the Contractor will respond 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).

Contractor must immediately begin remedial maintenance for a major malfunction, which may consist of remote diagnostics during the first fifteen (15) to thirty (30) minutes, after repair notification time by the County to the Contractor, via the Contractor's tracking processes with the appropriate service ticket number, however, if not corrected, the Contractor'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 documented by the County. Any service between 11 P.M. – 7:00 A.M.

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on weekends and Contractor Holidays will be compensated on a per call basis as described in the compensation article. Contractor shall start immediately and work continuously until the problem is resolved. Contractor will abide with the Problem Reporting and Escalation article of this Agreement, in order to resolve a major outage. Contractor shall make all commercially reasonable efforts to complete repairs within eight (8) hours from the time the County reported the incident and is documented via the Contractor's tracking processes with the appropriate service ticket number.

Contractor is responsible for providing the Project Manager with a revised escalation procedure to include all appropriate levels of management with their associated contact numbers at the time this Agreement is executed, and immediately thereafter whenever a change occurs. In the event the Contractor should fail to respond in accordance with the time frames stated herein, the County shall be entitled to liquidated damages in accordance with the Performance and Liquidated Damages article of this Agreement.

b. **Minor Failure** - Response within eight (8) business hours.

Contractor will begin any repair not defined as a major failure as expeditiously as possible, and shall make all commercially reasonable efforts to complete repairs within one (1) business day from the time the County reported the incident and is documented via the Contractor's tracking processes with the appropriate service ticket number. 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 CRC. Contractor shall respond to minor service interruptions within eight (8) business hours and follow an escalation procedure in accordance with the Problem Reporting and Escalation subarticle of this Agreement. In the event the Contractor should fail to respond in accordance with the time frames stated herein, the County shall be entitled to liquidated damages in accordance with the Performance and Liquidated Damages article of this Agreement.

c. **After Hours Coverage, Emergency Service, and Contractor's Required Response Specifications:**

Service for a major failure shall be available twenty-four (24) hours a day, seven (7) days a week, and 365 days per year. In the event the Contractor does not commence repairs for a major failure within two (2) hours after notification, the County shall have the right, at any time thereafter, to notify the Contractor of such nonperformance, and if emergency repairs shall not have commenced within two (2) hours from the time the Contractor's technical personnel arrives on site, then the County shall have the right to call in any qualified and certified service organization to perform the necessary repairs.

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"Respond" is equated to having technical support and/or troubleshooting the problem within aforementioned times. Note that during the troubleshooting process, the Contractor is coordinating directly with the user and/or the local service provider until the problem is resolved.

ix) System Availability Reporting

The Contractor shall provide a monthly circuit availability report to MDAD Telecommunications which states the required level of availability for each of the classes of circuits listed in the Levels of Performance subarticle of this Agreement. This report shall include the actual level of availability for each class of circuit, based upon the calculation method listed in Levels of Performance subarticle of this Agreement. The difference between the required level of availability and actual availability for each class of circuit shall be identified in the report.

x) Equipment/Facilities Covered

Equipment covered under this section include the following components:

- a. PBX switches.
- b. Electronic key systems.
- c. Any other voice systems.
- d. Ethernet.
- e. ATM.
- f. All network components maintained by Contractor.
- g. All inside and outside plant to include both copper and fiber optic cabling.
- h. Special systems such as IVR's.
- i. Future wireless systems.

xi) Specification Compliance

If repair requirements arise on existing cable plant that is not installed according to manufacturer or industry specifications, the Contractor is required to provide notice and an estimate to the County to bring such infractions to specification while accomplishing the repair.

The Contractor is liable for circuit continuity, from the local service provider demarcation point to the station jack. In many instances, the Tenant has a Key Service Unit ("KSU") or other devices in the middle of this cable path and the existing cable records may or may not have records showing these outlets. Under these circumstances, the Contractor is expected to document any non-specification issues, provide notice to MDAD and jointly work with MDAD and/or the Tenant to upgrade this infrastructure to County

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specification and document said upgrade in the cable records. The Tenant will incur the expense of bringing such facilities up to County specification.

xii) Coverage

The provider shall have adequate resources to provide the following: 1) On-site manned call receipt function 7:00 A.M. – 6:00 P.M. Monday through Friday, except Contractor Holidays; 2) Remote call receipt function 6:00 P.M. – 7:00 A.M. weekdays, and 24 hours on weekends and Contractor Holidays; 3) Technical staff on-site 7:00 A.M. – 11:00 P.M. Monday through Friday.

The Contractor shall have "on call" trained personnel to cover all of the systems as specified in the Response and Repair Time Requirements of this article. The Contractor shall provide MDAD with a general description of its daily staffing requirements which will apply over the term of this Agreement, which shall be approved by MDAD. Any material changes to those requirements shall be subject to the approval of MDAD as provided herein.

xiii) Prioritizing of Work

The Contractor's technical personnel will be dispatched on jobs in a "first in-first out" fashion as long as the user deadline can be met. MDAD will review and authorize all work orders and reserves the right to prioritize various activities that the Contractor undertakes in order to meet deadlines. MAC activity will take a lower priority to repair activities pending the circumstances surrounding the given situation. The County reserves the right to mandate that the Contractor reallocate resources between 8:00 a.m. and 5:00 p.m., Monday through Friday (excluding Contractor Holidays), on a daily basis to deal with the various repair or MAC requests. The Manager or Project Manager has the authority to instruct and/or authorize work. In situations where emergency intervention is required, the County reserves the right to change configuration settings in systems, as coordinated with the Contractor.

xiv) Equipment Failure

If any Equipment malfunction is determined by the Contractor to be the fault of any other company, the County will so notify said company and request appropriate repairs and alterations. The County, Contractor, and the other company, if pertinent, must mutually determine the point of failure and the party responsible for payment. Notwithstanding the foregoing, if there is an emergency, the Contractor shall repair same in accordance with the Problem and Reporting Escalation subarticle in this Agreement and if during off hours or a weekend or Contractor Holidays, the County shall compensate the Contractor as provided herein and seek reimbursement from the other company: if the Equipment malfunction is associated with the Contractor's failure to install the Equipment properly or according to the Manufacturer's specifications, the Contractor shall pay all costs.

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- xv) Maintenance of Equipment, Systems, or Sub-systems Purchased from Others

In the event the County adds or purchases equipment, systems or sub-systems from other contractors or vendors, the County shall timely notify the Contractor in writing of the installation of said equipment, systems or sub-systems. After installation, and unless otherwise notified by the County, the Contractor will be responsible for maintaining the equipment, systems, or sub-systems, pursuant to the Scope of Services article of this Agreement.

C. Project Management Services

- i) The telecommunications infrastructure at MIA will continue to expand and evolve with new development at the airport. This evolution involves design and construction projects, some are exclusively limited to telecommunications systems, and others involve a multi-discipline effort. Both types of projects may require management of the telecommunications portion of the project by the Contractor as part of this work. For such projects, the Contractor will also provide consulting and project management services.

Project Management services will include, but shall not be limited to:

- (a) Needs Assessment.
 - (b) Design telecommunications systems to meet user requirements.
 - (c) Design Inside/Outside Plant and network changes and extensions.
 - (d) Competitively bid sub-contracts for execution of this work.
 - (e) Manage telecommunication construction related activities and coordination with related work contractors.
 - (f) Update MDAD as-built CAD drawings for the managed infrastructure.
- ii) New projects will be authorized, on a work order basis by the Manager or agent authorized in writing by the Manager. Each authorization will be accompanied by a written scope of work, and conceptual drawing where appropriate. No projects are to be undertaken without this authorization. In the case of new buildings where services do not exist, or additional services to existing buildings, the County will either provide the contractor with conduit or a suitable path to access the service demarcation point, or have the selected contractor provide such conduit at a cost approved in writing by the County. If, at the request of the County, the contractor provides the conduit, the County will reimburse the contractor for the approved cost of providing the conduit. Upon the request of the County and advise as to work to be

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performed by the contractor, the Contractor shall manage same in accordance with clause (i) above.

- iii) Once a project has been authorized, the Contractor shall execute and coordinate the design and estimate the cost of construction. On projects that involve only the telecommunications systems, the design shall be coordinated with MDAD Telecommunications. On multi-discipline projects this coordination shall include designers of other disciplines or other MDAD Divisions that may be involved in the project. Design and estimating services may be provided directly by the Contractor or under a sub-contract agreement with a qualified telecommunications design firm. MAC or day-to-day operation of the system shall not be affected as a result of the Contractor's role in new projects.
- iv) All design work performed under the awarded contract shall be in full compliance with MDAD, EIA/TIA, BICSI and other applicable standards. Drawing files for existing portions of the system shall be obtained from MDAD staff. These drawings shall be modified and supplemented as required to include the new work. These drawings are to be supplemented with specifications, standards and other information to form a competitive bid package for the work. In all cases, new work shall be specified to be uniform with existing installations and equipment of similar nature at MIA. Any deviation or changes must be approved in advance by the MDAD Telecommunications Section.
- v) Subcontractors shall only be used, subject to prior written approval from the Department, when the Contractor's existing work force is unable to perform project management services within established time frames.

Where subcontracting is required, all new design packages shall be competitively bid by a minimum of three (3) qualified telecommunications contractors. The Contractor shall conduct and manage this bid process in a fair and professional manner. Unless otherwise approved by MDAD Telecommunications, the Contractor shall accept the lowest responsive bidder in each subcontract category for execution of the work. If required by MDAD, the Contractor shall provide appropriate documentation to MDAD to verify the process.

All projects shall be segmented into elements of design, bidding and negotiation, and construction administration services. The cost of this work to the County shall be the sum of the lowest responsive subcontractor bids plus an amount equal to fourteen percent (14%) of the price of the subcontractor's work.

- vi) Construction Administration Services. The construction administration work for authorized projects shall include attendance of construction meetings,

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Miami-Dade Aviation Department
Finance Division
Suite 300
Building 5A
4200 N.W. 36 Street
Miami International Airport
Miami, Florida 33122

By First Class Mail – To: Miami-Dade Aviation Department
Finance Division
P.O. Box 592616
Miami, Florida 33159

By Express Mail – To: Miami-Dade Aviation Department
Finance Division
Suite 300
Building 5A
4200 N.W. 36 Street
Miami, Florida 33122

By Wire Transfer: In accordance with wire transfer instructions
provided by MDAD Finance Division

4. The Contractor shall submit a proposed tariff schedule for all SATS, that the Contractor plans to use to ensure optimal billings of all gross revenues (the "Gross Revenues").
5. The Department shall approve the tariff schedule and SATS billing rates.

E. Training and Transition Program Services

1. Contractor may be requested to provide on-site training to related to voice mail, such as voice mail personal greetings, and all other instructions that the telephone users may need during the term of this Agreement.
2. In lieu of training at a distant site, Contractor may be requested to provide on-site technical training courses for County's technical personnel. The County will provide the Contractor with a sixty (60) day notice to arrange for training at County's premises. When an on-site technical training course is requested, the County will pay for the charge for the training class and the Contractor's instructor's air-fare, lodging and meals during the training session, in accordance with Section 112.061, Florida Statutes.
3. **Transition Plan:** For the period of this Agreement between eighteen (18) months and two (2) years, the Contractor will be required to implement a transition program which commences one hundred and twenty (120) days prior to the termination date,

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upon being given one hundred and twenty (120) days notice of the termination from the Department. The purpose of the transition program is to ensure that either the new vendor or the Department's qualified operating and maintenance personnel are trained in all aspects of the System, provided that the Contractor's sole responsibility shall be to implement a program in good faith and in no event shall the Contractor have any liability or responsibility for whether the new vendor or the Department's qualified operations and maintenance personnel actually are competent to perform the Services to which they are assigned. As part of this transition plan, the Contractor will be required to ensure that all applicable equipment and systems are operational and installed in accordance with plans and specifications, and ensure that Documentation is submitted to the Department as stipulated in this Agreement, including, but not limited to, as-built/record documents and manufacturer's operations and maintenance manuals, and operational procedures specific to MDAD.

4. **Limited Transition Plan:** If the County desires to terminate and provide notice of less than one hundred and twenty (120) days, but in no event less than thirty (30) days, the Contractor will take all reasonable steps to assist the County in effecting a smooth transition to a new provider, such as the staffing overlap of managerial, administrative, or technical personnel from the Contractor, with the incoming new provider or the Department's personnel. to ensure that either the new vendor or the Department's qualified operating and maintenance personnel are trained in all aspects of the System. The support would be provided in the areas that pertain to the County, rather than internal Contractor operations. Any overtime work required to support such a transition overlap would be incurred by either the County or the new provider. In addition, the County may negotiate with the Contractor for a contract extension for such a transition program, which would include compensation to the Contractor, which may be paid by either the County or the new provider.

ARTICLE 5
OFFICE SPACE AND PARKING ARRANGEMENTS

A. Existing Operations / Engineering Space

1. Based on thirty-eight (38) assigned personnel, MDAD will provide to the Contractor its existing workspace as described in Exhibit 4 (the "Space"), plus loading dock access and storage space for cables, to the Contractor at no cost. No additional space will be provided by the Department in its facilities for the personnel of the Contractor or any of its subcontractors.
2. **Custodial Service for Office Areas:** MDAD will provide routine custodial service for the Contractor's offices and engineering area. This service shall include cleaning of floors, and emptying of waste paper and recycled paper containers. This custodial service shall not include the routine cleaning of the two (2) Core Rooms. These locations shall be cleaned and maintained by the Contractor.

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3. Maintenance and Repair: The Contractor will preserve the Space in good working order and condition, subject to ordinary wear and tear.
4. Alterations and Signs: The Contractor shall not alter the support space in any way whatsoever, erect any signs nor permit any advertising of any nature without prior written approval from the Department.

B. Parking Arrangements

County shall furnish parking permits for Contractor's assigned staff for the term of this Agreement. Construction vehicles and equipment will only be authorized at the job site and at pre-assigned parking areas. The County shall reimburse the Contractor for parking in the Park 8 garage for its employees, or other assigned facility provided by the County, if a parking expense is incurred.

C. Furniture and Supporting Equipment

The Contractor shall use their existing office furniture and supporting office equipment, including but not limited to, copiers, personal computers ("PCs"), facsimile machines, in its operations and maintenance rate structure. No separate compensation for furniture and equipment in this subarticle shall be considered.

D. Office Supplies and Consumable Items

All office supplies and consumable items used in performance of the Contractor's work shall be provided by the Contractor.

E. Telecommunications Costs

MDAD will provide telephones and related services for all Contractor's operations and maintenance work within MDAD, including local calling within Miami-Dade County area. The Contractor will be provided telephone service (local service and voice mail) using the MDAD telephone systems. This will include limited extensions and phone sets that support its operations at MIA. The Contractor shall be responsible for all long distance telephone charges of a personal nature or those non-related to MDAD business, made from its telephones. A monthly reimbursement to MDAD will be made by the Contractor to compensate the County for any such long distance charges. If the Contractor decides to use the local service provider, it will be entirely responsible for any initial and recurring charges associated with these lines. Any special circuits required for additional functionality will be provisioned and paid for by the Contractor. Paging service will be provided by the Contractor to allow for paging of Contractor's key individuals as alarm conditions are experienced. Cellular phones (or radios) required for technicians and key management personnel will be entirely at the Contractor's expense.

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F. Computer Network/Technical Systems

The Contractor will be provided local area network ("LAN") access to the County operated LAN at MIA. MDAD will provide one (1) network connection to each Contractor's staff member. MDAD further agrees to provide email service to the Contractor as well as access to the MDAD electronic records of as-built drawings. Conversely, the Contractor shall provide MDAD Telecommunications with access to the work order and trouble ticketing system via this LAN connection. The Contractor will also be responsible to provide and maintain technical systems hardware and software associated with the management of the Ethernet backbone. In addition, the Contractor will be required to provide and maintain computer hardware and software associated with the cable record systems, and any billing system the Contractor chooses to employ subject to approval by the MDAD. The Contractor shall provide a billing system that is compatible with MDAD's financial systems. These management systems will be maintained and operated at a level suitable to maintain the quality of service or additional requirements outlined in other sections of this Agreement. Back-ups will be performed and maintained off-site by the Contractor on all key technical systems to ensure data integrity.

ARTICLE 6
PERFORMANCE STANDARDS AND JOB SITE REQUIREMENTS

A. Installation Service Requirements

1. **Work Practices.** All work performed shall be performed in accordance with the following standards, as applicable:
 - a. Any and all Federal, State and Local laws, building code requirements, statutes, ordinances, rules and regulations. Ignorance on the part of the Contractor or subcontractor will not exempt, excuse, or waive the Contractor from responsibility.
 - b. Manufacturer or vendor's instructions about installation and service.
 - c. Generally accepted engineering principles and industry standards, as provided below.
 - d. Installation practices guidelines as described elsewhere in this document.
 - e. Americans with Disabilities Act.
2. Contractor to perform County needed voice/data cabling. Contractor or subcontractor must possess one (1) of the following licenses and State registrations (if applicable), and provide proof of such to the County:

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STATE:

- a) Electrical Contractor, or
- b) Low Voltage Specialist

COUNTY:

- a) Master Electrician (State registration required), or
- b) Communications Electrician

- 3. Contractor or subcontractor shall be proficient in all phases of telephone and data wiring as related to cable and wiring architectures in telecommunications spaces. All work performed by the Contractor, after June 1, 2002, shall be supervised by a Registered Communications Distribution Designer ("RCDD") certified person. RCDD certification is required for the Contractor or subcontractor by June 1, 2002.
- 4. Permits and Licenses: Contractor shall be responsible for obtaining all necessary permits and licenses required for installation and operation of the Equipment. Contractor shall cooperate and comply with any inspections required by all OSHA, Federal, State, and County codes, ordinances, statutes, and laws.

Any fines levied by the above mentioned authorities because of inadequacies to comply with this requirement shall be borne solely by the Contractor.

- 5. The systems specified in this document shall be designed and implemented in accordance with the requirements of the latest revision of the documents listed below:

<u>REFERENCE</u>	<u>DESCRIPTION</u>
ANSI X 3T 9.5	The ANSI Committee responsible for FDDI
EIA/TIA 568	The commercial building-wiring standard. It defines a generic wiring system for a multi-product, multi-vendor environment
EIA/TIA 568B	The Commercial Building Telecommunications Cabling Standard. RJ.45 pin configuration defined in EIA Standard 568. Equivalent to AT&T 256A
EIA/TIA 569	The commercial building standard for telecommunications pathway and spaces. It defines the minimum requirements for ducts, closets and other spaces needed for data and telecommunications wiring

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FCC Part 68	Federal Communication Commission document relating to connection of Premise equipment and wiring to the network
IEEE 241	Institute of Electrical and Electronic Engineers recommended practice for Electric Power Systems in commercial buildings
IEEE 802.1	IEEE Committee that defines the LAN Management and bridging standards
IEEE 802.3	Physical layer standard specifying a linear (bus) LAN using CSMA/CD access method
IEEE 802.5	Physical layer standard that specifies a ring topology LAN with a token-passing access method
NEMA 250	Enclosures for Electrical Equipment (1000 Volts Maximum)
NFPA 70	National Fire Protection Agency Standard for National Electrical Code ("NEC")
RFC 1157	Request for Comment for SNMP Standardization
RS - 232	EIA physical interface standard for use between data communications equipment and data terminal equipment
RS - 422	EIA standard for the physical interface between data communications equipment and data terminal equipment over circuits with their own ground leads
RS - 455	EIA standard for Fiber Optics - Fiber, Cables, Truducers, Connecting and Terminating
TSB 40A	Technical Systems Bulletin the provides additional transmission specifications for unshielded twisted pair connecting hardware
TSB 67	EIA/TIA standard for Transmission Performance Specifications
TSB 72	EIA/TIA standard for Centralized Optical Fiber Guidelines
UL144	Underwriter's Laboratories listing of Communications Cable as required by NEC

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PSC 5137

B. Circuit Engineering and Documentation**1. Standards**

MDAD, EIA/TIA and BICSI standards shall be utilized in the engineering of all inside wiring, outside plant and circuit engineering. The Manager must approve any deviation from these standards.

2. Special Engineering

- a. *Custom Circuit Types* shall be defined as circuit types that have not been previously engineered or provisioned at the Airport. The Department shall supply end-to-end specifications for these circuits to the Contractor. The Contractor shall engineer these circuits at the Department's request and thereafter add these circuits to the catalog of available circuit types.
- b. *Repeaters, special conditioning equipment and circuit terminating equipment* necessary for the successful performance of these circuits shall be properly documented. This equipment shall be installed, tested and commissioned at the Department's cost. Test results for the circuit shall be documented and compared against the engineering worksheet for each specially engineered circuit.
- c. *Special Maintenance Spares*. It is recognized that special circuits may require equipment that is presently not part of the spares inventory. In cases where this occurs, the Contractor shall be permitted to purchase a quantity of repair parts sufficient to maintain the circuit in the event of component failure. These maintenance spares shall be included in the MDAD master component list as long as one or more of the circuits is in use.

3. Documentation

The following Documentation shall be provided by Contractor:

- a. **Cable Management System** - All voice, data, video and other circuits shall be engineered and documented in the MDAD cable management system presently in existence today. This engineering includes circuits which are provisioned over copper and fiber facilities and virtual LAN and wireless circuits which are provisioned over the MDAD local area networks.

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- b. Circuit Engineering Worksheets shall be provided for all circuits either as part of the cable management system application or as part of a separate database. These worksheets shall reflect the beginning, end and all intermediate points of connection for each circuit and parameters such as loop resistance, attenuation, optical loss, etc. which are relative to the type of circuit being engineered.
- c. As-Built Drawings - Any work performed by the Contractor, which involves (i) additions or changes or deletions to equipment, (ii) cabling, or (iii) raceways shall be reflected in the as-built drawings provided by MDAD. These drawings will be made available to the Contractor in read-only form on the MDAD server. With each change, the Contractor shall download the appropriate drawings, incorporate the latest changes, and mark the drawing with the next revision level and date. The Contractor shall transmit the revised drawing to both the CAD Manager and the Manager. The CAD Manager, after reviewing the changes will replace the previous version of the drawing on the write protected server. One plot of the revised drawing will be transmitted to the Contractor via inter-office mail for the purpose of updating the PDS record set of drawings.
- d. The Contractor shall provide complete technical and systems documentation. The extent of the documentation required shall include, but not be limited to, all technical manuals, key sheets, system's printout, cable records up to the IDF level for existing structure installed prior to February 7, 2002 and to the jack level for installations completed after February 6, 2002, sketches, blueprints, CAD drawings with soft copy and as-built documentation provided by MDAD, and users handbook. The Contractor shall establish and maintain complete project documentation and documentation of all Equipment, including installation instructions, if appropriate, and shall deliver same to the County throughout the course of this Agreement. All documentation shall be available to the Project Manager at any time during this Agreement upon request. All documentation when delivered with any Equipment purchased by the County will be available to the County in a designated area, agreed upon by both the County and the Contractor. The Contractor represents that the manuals described are the only manuals necessary for the operation of the System by individuals with the requisite knowledge and experience. Contractor will execute any and all documents needed or requested by the County to perfect the County's right, title or interest in the System documentation and any other records.
- e. Telecommunication Topology drawings as requested by the Department.

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PSC 5139

4. Uniformity and Standardization of Components

All components used in circuit engineering shall be of the same type and manufacture as other components used for the same purpose in existing portions of the telecommunications infrastructure. These components shall be maintained in a database of standard component types and costs that is used for costing of all changes. The Manager must approve, in writing, any proposed changes to this component list due to obsolescence or other reasons.

5. Configuration, Change, Asset Management

The Contractor will be required to adhere to sound "configuration, change, and asset" management principles. Detailed drawings will be maintained that summarize various system layouts. Prior to changing equipment settings or configuration beyond the scope of routine day to day maintenance or troubleshooting, the Contractor will be required to provide written notice and/or drawings to MDAD of details surrounding the changes. The Contractor will be required to notify and coordinate approval of all scheduled outages with Tenants and/or MDAD Telecommunications.

6. Standard Circuit Specifications

Circuits engineered at MIA and GAA shall conform to the same specifications as similar circuits installed in the regulated telephone environment. The Contractor shall compile a complete catalog of circuit offerings at the Airport including circuit type, description, worst case circuit parameters, thresholds where the circuit will be deemed unusable and in need of repair and special requirements for end user provided terminating equipment. The Contractor shall update this catalog for its own use. One updated copy of this catalog shall be maintained at MDAD Telecommunications for reproduction and distribution to Tenants, agencies and other users of the MDAD telecommunications facilities.

7. Installation Practices Guidelines.

- a. All existing Federal Communications Commission ("FCC") rules and regulations apply as related to demarcation points and proper installation procedures.
- b. Each telephone instrument shall have a "home-run" back to the distribution closet.
- c. All blocks and instruments shall be labeled by the Contractor upon installation and fully documented. The instrument tags will be provided by MDAD.

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- d. Each cable installed must be of the type designed for the application and environment in which it is to be utilized.
- e. All unterminated cable ends, either in wallboxes or surfaces must be fitted with covers designed for that purpose.
- f. All cables/wiring, wherever possible, will be concealed inside existing walls, ceiling finishes, or run inside wire mold.
- g. All connectors must be concealed in wall boxes and should not be left laying on the floor or be obstructive.
- h. Laying cables on suspended ceilings or using the support wires of suspended ceilings to support any cable is strictly prohibited and is a violation of the National Electrical Code ("NEC"). Using electrical conduits or other building infrastructure services such as air conditioning ducts, fire sprinkler pipes, is a violation of the NEC. All cables, wires, and equipment for voice and data services shall be installed in conduit or have independent support systems from the building structure, and any deviation from these rules will result in the Contractor having to redo the work at its expense.
- i. Exposed cables shall be stretched and stapled at even distances to remove wrinkles, twists, and kinks.
- j. For any underground or overhead cable installation, no in-house type cable can be used, whether temporary or permanent. Only cables designed for these kinds of installation must be used, preferably polyethylene, rodent protected and jelly filled.
- k. All cables connecting two (2) or more buildings together, must be protected at each entrance, using three (3) element gas filled protection and properly bonded and grounded.
- l. Station Location - all telephone sets will be installed at locations pre-determined by the using agency.
- m. All equipment and component parts purchased shall be new at the time of delivery unless otherwise approved by MDAD.
- n. All telephone equipment shall comply with the specifications set forth in the FCC Rules and Regulations, Part 68.
- o. All electrical work shall be performed according to the NEC and all applicable State, County, and local codes.

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- p. Where existing cables are found and available for re-use, they may be re-used provided that they are of the proper size (no in-line splice or connectors will be allowed), length, and meet proper installation standards.
- q. Upon completion of every task, the Contractor must leave the site cleared of all cables and other materials. Furthermore, the work sites must be cleaned up daily and at the end of each installation.
- r. All telephone station equipment utilized must be compatible in color as far as possible with existing equipment and must also be "plug compatible".
- s. All equipment removed from service and deemed reusable, must be packaged and properly stored for future use when necessary. The Contractor must complete the applicable inventory forms showing deletion or additions of telephones.
- t. As required, the Contractor will complete key sheets on new installations and store them for reference when the projects are completed.
- u. The Contractor shall not deviate from proper installation standards at the request of the SATS customer or user, nor shall it accept and perform work beyond the initial requests from the SATS customer or user, in accordance with the approved work order. Changes to work orders will only be approved by MDAD Telecommunications. If the Contractor performs work beyond the initial request without the approval by MDAD, it does so at its own risk and may not be paid for the work performed.

C. Examination of Work Sites, and Specifications.

Where applicable and appropriate, the Contractor shall:

1. Examine all specifications, drawings, directions and conditions relating to the work.
2. Visit the job site.
3. Investigate any difficulties encountered in performing the work.
4. Notify the County of any discrepancies, conflicts or other field conditions that will affect the work to be performed.

Contractor has actual knowledge of the construction and labor conditions under which the work is to be performed, has inspected the sites, and has read and is reasonably familiar with this Agreement and its exhibits, documentation, and plans provided by County prior to the execution of this Agreement for the buildings in

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which the work is to be performed. It is acknowledged that substantial construction and renovation is occurring on a continuous basis at the Airport and that Contractor's knowledge is limited to its actual knowledge of existing conditions at the time the work is requested. Failure to read or become familiar with said Agreement, documents, plans or specifications shall neither exempt, excuse, nor relieve the Contractor of its obligations to furnish all necessary Equipment, Services, and labor necessary to satisfy the Contractor's obligations under this Agreement and to complete the work for the consideration set forth herein.

Contractor shall at all times make commercially reasonable effort to conduct its work so as to insure the least possible obstruction to the County and the least inconvenience to the vicinity of the work site. The Contractor will assume full and complete responsibility for, and all risks in connection with the Services.

D. Special Conditions at the Sites

1. All material for the installation of services shall be delivered and the work conducted so as to minimize any interference with concurrent work of others and normal operations in existing MDAD facilities. Every effort shall be made to limit dust, noise and fire hazards during installation.
2. Debris due to work under this Agreement shall be cleaned and carted away by the Contractor prior to leaving the premises.
3. At the job sites, noise from equipment shall be kept to a minimum by use of adequate mufflers or other acceptable means. Noisy installation of equipment shall be scheduled when disruption to MDAD, SATS customers and the public will be minimal and cause the least inconvenience.
4. The Contractor shall conform to applicable fire regulations.
5. The Contractor shall protect against injury to persons, and damage to pipes, conduits, trees, fences or other visible structures.
6. Precautions shall be exercised at all times for the protection of persons and property. The Contractor and its subcontractors shall conform to all OSHA, Federal, State and County regulations while performing under this Agreement. Any fines levied by the above mentioned authorities due to failure to comply with any requirements shall be borne solely by the Contractor.

E. Hardware/Software Configuration

The Contractor shall be responsible for configuring software and hardware as may be required for the projects or jobs assigned, to provide a turnkey system. If the Contractor does not have the expertise in-house to configure software/hardware on

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any of the above systems, it may upon approval by the County, utilize the services of subcontractors, provided they are factory certified to work on the System. In any event, the Contractor shall provide the MDAD with the appropriate Documentation detailing software and hardware configurations provided.

F. Power Supplies

The Contractor will be required to install, replace, analyze and repair chargers, rectifiers, inverters, uninterrupt power supplies ("UPS"), power supplies for PBX and data systems with voltage dividers (taking 110/220VAC converting to DC or vice versa). The Contractor must be versed in the repair, analysis and solutions to power system problems. Knowledge of grounding of power supplies and equipment cabinets is of primary importance. The Contractor: (i) must be able to follow manufacturer's specifications for grounding; (ii) must have appropriate test equipment, and be able to test systems for differences in ground potentials; and (iii) correct systems that do not meet manufacturer's specifications.

G. Penetrations in Concrete or Other Structural Members

Core drilling of poured concrete slabs, walls, beams, and the like, shall be performed in a safe and workmanlike manner, to minimize danger and damage to personnel and/or equipment and property, and dust production. All core drilling shall be completed in all telecommunications closets, MDF, IDF, before cable placement begins. Periodic clean-up and removal of debris generated during core drilling operations shall be performed by the Contractor.

The Contractor shall temporarily plug all slab penetrations as they are drilled to prevent dust and debris from the floor above from damaging any facilities on the floor below. Core drilling shall be scheduled and reviewed with the appropriate Building Manager before commencement.

H. Main PBX/Switch Rooms

For telephone rooms, the Contractor shall comply with ANSI EIA TIA Commercial Building Standard for Telecommunications Pathways and Spaces.

I. Telephone Distribution Points

The Contractor, when requested by the County, shall comply with the following:

1. Telephone distribution to areas distant from main telephone rooms requires an additional telephone closet or closets. Access to these spaces have the same requirements as telephone rooms as specified in the EIA/TIA 568 Standard. In addition, since many distribution points are in shallow closet-type areas, free access space in front of telephone backboards must be provided. This area must be kept clear for maintenance personnel for a

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minimum distance of three (3) feet.

2. A plywood backboard, 3/4" exterior grade, painted black or blue with a minimum size of four feet by four feet (4'-0" x 4'-0") shall be installed at all telephone distribution points.
3. A minimum of one (1) four-outlet (quad) receptacle on a dedicated circuit shall be installed at the telephone and data backboard. This outlet shall be at a minimum height of sixty (60) inches AFF.
4. Adequate lighting shall be supplied at all telephone distribution points.
5. Each telephone distribution point shall be supplied with a suitable earth ground. The minimum size wire shall be number 4 AWG and shall terminate on a grounding bus at the lower right or left side of backboard.

J. Access

The County agrees to permit and arrange for access to the MDAD premises as it deems necessary for Contractor's technicians to perform the Services set forth in this Agreement. Access to Tenant premises shall be coordinated by the Contractor with the Tenants.

The County shall at all times have access to all Equipment, Systems, Sub-Systems, and work areas.

K. Contractor's Responsibility to Reconstruct Work Areas as Originally Found

Upon completion of any MAC, maintenance, or repairs, the Contractor shall reconnect any utilities, equipment, or appliances removed by the Contractor in the course of work, and replace all furniture, and objects moved by the Contractor for the performance of the work. Debris and rubbish created by the Contractor shall be removed and the premises left clean. This includes dust caused by the removal of ceiling tiles. Contractor will be responsible for replacing any ceiling tiles that are broken by its personnel or subcontractors.

L. Coordination

Contractor shall fully cooperate, and when directed by the County, coordinate the installation of all Systems, Sub-Systems, and Equipment with any other contractor under contract with County, and with County personnel for work related to, but not included in, this Agreement. Contractor shall not modify the work of any other contractor or the County without the express, written consent of the Project Manager.

M. Uniformity and Standardization of Components

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All components used in service provisioning shall be of the same type and manufacture as other components used for the same purpose in existing portions of the network. The Project Manager, must approve, in writing, any proposed changes to this component list due to obsolescence or other commercially acceptable reasons.

N. Removal of Unused Cabling and Equipment

During remodeling efforts or furniture rearrangements within existing space, new MAC requests are submitted by the customers of MDAD. Existing outlets are to remain during this process, unless specifically identified in the request for removal. In addition, when walls are removed, the jacks shall be disconnected and cable records amended to reflect that change. In order to maximize existing cable plant, the Contractor shall avidly pursue disconnecting unused jacks for cross-connects to backbone cabling. Associated blocks shall be re-labeled and cable records updated where affected. The Contractor is responsible for opening and re-sealing fire rated assemblies when such assemblies are involved with the removal of unused cable and equipment.

O. Existing Utilities/Cable/Duct Locate Services

The utilities at MIA are covered under a blanket locate agreement for incidental jobs. The Contractor shall provide on-site cable locating support to augment the current locate service provider in situations where cable depth must be determined, or where direct buried facilities which fall outside of the provider service must be located. In addition, the Contractor's locate capability will be used to meet delivery schedules of MAC or repair service.

Existing Utilities:

1. Before performing any utility modifications, utility shutdowns, or any hot work on existing utilities within a building, or performing any excavation drilling holes, performing any vibroflotation (vibrocompaction) work, hot work on any underground utility, or driving piles, the Contractor shall contact all concerned utilities.
2. Contractor shall complete the Underground Utilities Clearance Sign-Off sheet and submit to the Project Manager.
3. Complete the Shut Down Request form and submit it to MDAD Maintenance Engineering in accordance with the form's instructions.
4. Before initiating hot work, the Contractor shall submit the hot work permit application. Hot work includes, but is not limited to, brazing, cutting, grinding, soldering or thawing of utility pipes, torch applied roofing, and welding.

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P. Unsatisfactory Work

The County will inform the Contractor within ten (10) business days of Unsatisfactory Work. The Contractor has thirty (30) calendar days, commencing from the notification to remedy and cure the Unsatisfactory Work (the "Cure Period"), prior to the County withholding payment for the work. The County may extend the Cure Period.

ARTICLE 7
PROCUREMENT OF MATERIAL, EQUIPMENT AND INVENTORY

Except when the County requires the Contractor to provide competitive bids, the Contractor will be required to procure all parts, equipment, and software necessary to perform the work under this Agreement. These items are to be funded by the Contractor, and will be reimbursed and paid when the Department pays the invoice associated with the maintenance, MAC, and or project management services. The Contractor will maintain, in consideration for the payment of an annual spare parts carrying charge as provided in the Payment and Cost Reimbursements article, high use items "on-hand" in order to complete routine maintenance and MAC services within the aforementioned times. The Contractor will recommend and control a spare parts inventory list that will be solely used for maintenance repairs and MAC work. "Special order" parts are those that are not routinely used or are large enough that a "just in-time" approach suffices to the procurement of these materials. Parts will be designated to specific service requests or projects as they arrive. Any residual, excess, or left over material will become property of the County upon termination of the Agreement. Large item storage will be authorized in secured designated outdoor areas. **THE CONTRACTOR SHALL NOT USE MDAD COMMUNICATION ROOMS AS STORAGE AREAS.** The Contractor must adhere to all escort and security requirements in regards to delivery personnel.

A. Spare Parts Inventory

The Contractor shall maintain a spare parts inventory (the "Spare Parts Inventory") in a County designated secured area (which would be within the Space), to support both scheduled and non-scheduled maintenance and repair, to ensure prompt repair of Equipment and for MAC services. From time to time it may be necessary to add or delete certain items from the Spare Parts Inventory due to equipment obsolescence or changes in network configuration which preclude the need for these materials. The Contractor shall regularly monitor the Spare Parts Inventory and recommend the addition and/or deletion of specific items. MDAD Telecommunications will review the Contractor's recommendations and where appropriate, issue written direction for the addition and/or removal of items from the Spare Parts Inventory.

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MDAD will purchase when and as required during the term of the Agreement all parts necessary for the ongoing operation and maintenance of all telecommunication, data and CUTE systems. Upon termination of this Agreement, MDAD will purchase the Contractor's remaining stocked spare parts inventory that the County deems necessary to the ongoing operation of its telecommunications, data network, and CUTE systems at the State of Florida contract or other agreed fixed price.

The Project Manager reserves the right to request that the stocked spare parts be modified, based upon supply and demand to service the Airport. The Contractor shall supply refurbished and remanufactured equipment if said equipment is requested by the County and is available via the Contractor's general product provider.

B. Capital Outlay Expenditures

1. **Capital Expenditure Approval:** The Contractor shall not make any capital expenditures except as expressly pre-approved by the Department in accordance with the Expenditure Authority article of this Agreement.
2. The Contractor shall continue to utilize its existing vehicles, furniture and supporting office equipment including copiers, personal computers, facsimile machines in its operations structure, and title to these materials shall remain with the Contractor.
3. **Installed Inventories:** The Contractor shall provide serial numbers and locations for the Equipment, to the extent they exist. The Contractor shall establish appropriate controls, subject to review and approval by the Department, to deter pilferage, theft, conversion, disappearance, or other losses of County property from inventory. The Contractor, throughout the term of this Agreement, shall maintain a current and up-to-date perpetual inventory listing. Following the completion of each inventory required herein, except that required prior to the effective date of this Agreement, the Contractor shall pay to the County the net book value of any losses from inventory resulting from the negligence of the Contractor. Nothing contained herein shall be construed to authorize the Contractor to dispose of any capital property of the County without the prior written approval of the Department.

C. Purchasing Procedures

1. The Contractor will be required to sell to the County, at State of Florida contract price, or other agreed fixed price, whichever is lower, or at a mutually agreed upon price if there is no State of Florida price applicable, all parts and equipment necessary to perform the work under this Agreement.

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The Contractor shall pass on to the County any additional discounts offered by the equipment vendors and invoice MDAD for the actual cost paid for such equipment or parts by the Contractor.

2. At MDAD's option, the Contractor shall provide to MDAD a minimum of three (3) qualified bids, if available, for MDAD's acquisition of specified parts, equipment, wiring, cables, materials, supplies, systems, sub-systems, or software necessary to provide the Services under this Agreement.
3. The Contractor shall submit to MDAD on or before February 12, 2002, the State of Florida contracts price or other Contractor fixed price, in a pre-approved pricing exhibit for items expected to be purchased.
4. The dollar threshold for purchasing equipment and parts, and appropriate authority levels are as described in the Expenditure Authority article of this Agreement. The Contractor shall obtain prior written approval in accordance with this schedule prior to purchasing any equipment or parts.
5. Procurement of major purchases, like a new PBX system, if not included in any of the existing contracts above, may necessitate the issuing of a separate solicitation document.

D. Deliveries and Shipping Costs

1. Deliveries of material will be scheduled and handled solely by the Contractor and MDAD will provide loading dock facilities. The Contractor assumes all responsibility for the delivery of all purchased items. Contractor shall make all deliveries of equipment and supplies in such manner and at such times and locations as may be reasonably approved. Emergency deliveries may be made at other times subject to prior arrangements with MDAD Telecommunications.
2. Shipping Costs: All shipments shall be via standard freight carriers and expedited shipment shall be utilized only when required and requested by MDAD.

E. Material storage space

The Contractor will be provided storage space.

F. Instrument Inventory and Labeling

All telephone instruments and telecommunications equipment installed or stored shall be inventoried, labeled and tagged using MDAD provided labels, as required

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by the County.

- G. Contractor shall provide new Equipment under this Agreement. If the County requests refurbished or remanufactured Equipment, the Contractor shall provide County with the cost for the refurbished or remanufactured Equipment and shall provide the refurbished or remanufactured Equipment upon County request. Contractor shall supply refurbished or remanufactured equipment only if said equipment is available via the Contractor's secondary market provider.
- H. If Equipment is rejected by the Project Manager or his or her designee, the validity of rejection must be reviewed, determined and mutually accepted by the Project Manager and the Contractor, in accordance with the Unsatisfactory Work subarticle of this Agreement. Contractor, if determined to be at fault, will as soon as practicable correct the Equipment. Failure of the Contractor to correct the problem(s) within the Cure Period, in accordance with the Unsatisfactory Work subarticle, gives the County the right to cease use of the Equipment and return it to the Contractor for full credit. Any installed but rejected Equipment shall be disconnected and removed by Contractor from the original installation site of the Equipment, provided however, that the Contractor shall not be required to accept the return of Equipment that has been damaged by County. Upon Equipment removal, the Contractor shall use all commercially reasonable efforts to return the site to its original condition.
- I. The County reserves the right to request the Equipment manufacturer be brought on-site to provide technical support for the Contractor, if or when necessary.
- J. **Title**
Title to Equipment and/or parts shall pass to the County upon the County's reimbursement to the Contractor of the cost of the particular item.

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ARTICLE 8
WARRANTY

A. New System or Equipment Warranty

Contractor shall warrant that, in accordance with the manufacturer's warranty, the Equipment, Systems, Sub-Systems, and Software purchased by or from the Contractor under this Agreement, from and after February 7, 2002, shall function in all material respects in accordance with the manufacturer's published specifications. Contractor will make all commercially reasonable efforts required to ensure that the Equipment, Systems, Sub-Systems, and Software operate in all material respects in accordance with the manufacturer's published specifications. The Contractor will be responsible for enforcing warranties of the equipment purchased from other contractor(s) and vendor(s), provided that litigation will only be required at the Department's request and expense for enforcement of a warranty.

B. MAC Warranty

Contractor shall warrant that the Equipment purchased for moves, additions, and changes from the Contractor under this Agreement shall function in all material respects in accordance with the manufacturer's published specifications for ninety (90) days from the date of completion of the installation. Contractor will make all commercially reasonable efforts required to ensure that the Equipment installations will function in all material respects in accordance with the manufacturer's published specifications.

C. Warranty Service

Contractor agrees to provide to the County for the Equipment or parts purchased from Contractor, warranty service to keep or maintain the Equipment or parts in, or restore the Equipment or parts to the condition necessary to operate according to the manufacturer's specifications. If the Contractor is unable to repair any defective items, the Contractor will replace and reinstall such replacement items. Warranty service includes: (i) preventive maintenance based upon the specific needs of the individual items of the Equipment or parts; (ii) unscheduled, on-call remedial maintenance; and (iii) adjustments and replacement of Equipment or parts deemed necessary by Contractor at no cost to the County.

D. Contractor agrees that during the one (1) year warranty period, all subsequent or future Documentation and revisions to existing Documentation developed for the Equipment or system will be furnished to the County at no additional cost.

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ARTICLE 9
PERSONNEL

The Contractor shall provide for a staff of thirty-eight (38) persons as of February 6, 2002, which the Contractor recommends is necessary to support the operations, management, maintenance, service, support and equipment and supplies of the telecommunication and data network infrastructure, hardware and software systems as herein described in this Agreement. It is assumed that subcontractors shall only be used, subject to prior written approval from the Department, when the existing work force is unable to perform the maintenance, MAC, and project management services within established time frames.

1. Categories of Labor to be Provided by the Contractor

The Contractor must provide, either through its own staff or through subcontractors, the labor competent to perform the following described work, as needed to perform the services required by the County. The Contractor shall provide a list of all personnel assigned to this Agreement that includes their title and job responsibilities. Any changes in staffing shall be approved in advance by the Department. If additional personnel are needed to perform the services, the Contractor shall submit a staffing proposal request that includes justification and a cost proposal to the County for its consideration and approval. The County reserves the right to review the Contractor's operations, and if the System requirements decrease, can correspondingly reduce the Management Fee, provided that in no event shall the Management Fee be reduced as a result of the County's decision to retain or employ a third party to perform the portion of the System requirements which had been reduced from this Agreement. The Management Fee may be correspondingly reduced as a result of the County's decision to retain or employ its' own personnel, up to a maximum of six (6) people, to perform a portion of the System requirements.

A. Engineering and Project Management Staff

The Contractor shall be experienced with private and public telephone and data network systems environments and be familiar with the design and implementation of:

- 1) PBX systems, electronic key systems, 1A2 key systems, ACD systems, Auto Attendants/Voice Mail systems, Voice Response units.
- 2) Data communications systems.
- 3) Transmission systems such as T1, Frame Relay, ISDN, ATM, ADSL.
- 4) Single and multi-zone paging systems.
- 5) Outside plant design including applicable LEC practices.
- 6) Inside plant including telephone rooms and closets, riser systems, MDFs, IDFs, and backboards according to Miami-Dade County specifications.
- 7) Power plants, including UPS and battery banks.
- 8) Floor plans, including equipment layout for the installation of telephone

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- systems and computer floors.
- 9) Environmental requirements, including air conditioning requirements, power requirements, grounding, and fire protection.
 - 10) Traffic analysis.
 - 11) Any other industry defacto requirements as the technology changes require for all subsequent sections.

B. Telephone Technician/Installer

The Contractor shall provide technicians/installers that are totally familiar with the installation, repair, and maintenance of various types of telephone systems. This Agreement requires installers that have expertise in the installation of intercoms, paging systems, speaker phones, answering machines, call sequencers, announcers, voice response units, electronic key systems, PABXs, and all types of voice and data cabling and telephone instruments.

The technician/installer performing the work must be factory certified in the installation and repair of telephone and network systems installed in the Airport and be equipped with standard installation tools and test equipment.

The telephone technician/installer shall be equipped with diagnostic tools appropriate for the equipment being tested and materials being installed. All test equipment shall be certified for the systems and circuits being tested.

C. Data Technician/Installer

The Contractor shall provide data technicians/installers who are knowledgeable in the following areas related to Local and Wide Area Networks:

- 1) The following layers of the Open System Interconnect ("OSI") open network architecture:
 - a) The Physical Layer and equipment such as repeaters.
 - b) The Data Link and equipment such as bridges.
 - c) The Network Layer and equipment such as routers.
- 2) Medium and connectors for Ethernet, token ring, FDDI, such as Category 5 and fiber optic cables.
- 3) Installation practices of the Physical Media per EIA/TIA 568A, 569, 606, 607, TSB 67 and any other standards as they are published.
- 4) Safety and fire codes such as the National Electrical Code, as they apply to grounding, power, and fire stopping.
- 5) Data communications equipment such as modems, CSUs/DSUs, and

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multiplexers.

6) Communications circuits such as T1, frame relay, ISDN, ATM, and ADSL.

The data technician/installer performing the work shall be knowledgeable and experienced in the installation of data communications cabling and equipment as per the technical specifications identified above. The data technician/installer shall be equipped with diagnostic tools appropriate for the equipment being tested and materials being installed. All test equipment shall be certified for the systems and circuits being tested.

D. Cable Splicer

The cable splicer shall be proficient in installing, splicing and trouble-shooting various kinds of inside and outside plant cables, both underground and overhead, to include fiber optic, CAT 3, CAT 5, shielded cables and any other specified cable infrastructure.

E. Customer Service Representative ("CSR")

The Contractor's CSR will interface between MDAD and SATS users of telephone equipment and the County's common carriers in providing a range of telephone and data services to MDAD and SATS users. The Contractor's CSR shall be experienced in interacting with public and privately owned telephone companies, public and private sector executives and dignitaries, technical and non-technical individuals, and will be required to have good public relations and interpersonal skills.

F. General Manager

A General Manager or equivalent level person with day-to-day operational responsibility for the competent performance and fulfillment of the duties and responsibilities of the Contractor under this Agreement, and who is authorized to accept service of all notices provided for herein. The General Manager shall be qualified and experienced and must have had at least three (3) years of recent management experience, with similar responsibility for a comparably-sized, similar operation, or equivalent supervisory experience. The General Manager shall be dedicated totally and solely to the fulfillment of the Contractor's obligations at the Airport pursuant to this Agreement, and shall maintain a primary office within the facilities provided by the County at MIA. The Department shall have the right to require the Contractor to replace the General Manager.

2. Personnel

The Contractor shall recruit, screen, and employ such full-time, part-time and Contractor personnel as needed for the Contractor to competently and efficiently fulfill its obligations under the terms of this Agreement. The Department shall have the right to approve personnel to be employed in designated classifications or levels.

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3. Personnel Standards

- A. The Contractor shall only fill positions with personnel who have met all of the personnel provisions of this Agreement and who meet the minimum training qualifications required for each position.
- B. The Contractor shall ensure that all employees present a clean, neat and professional appearance at all times, and perform their duties in a cooperative, courteous, and efficient manner. Contractor employees shall be dressed in manner suitable for the type of work they are to perform.
- C. **Removal of Staff**

The County reserves the right to request the Contractor to remove from the Contractor's staff, within thirty (30) days of receipt of written notice, any individual performing services under this Agreement, whose performance, behavior, or conduct is found unsatisfactory to the County or MDAD. The Contractor shall supply competent employees. The County may require the Contractor to remove an employee the County deems careless, incompetent, insubordinate or otherwise objectionable, and whose continued employment on County property is not in the best interest of the County. Any employee of the Contractor's staff in violation of the security provisions will be subject to immediate removal from the Contractor's staff assigned to perform the duties under this Agreement.

4. Employees are the Responsibility of the Contractor

All employees and subcontractors of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction, and neither employees nor agents of the County. Each Contractor employee shall have and wear proper identification.

5. Tips and Gratuities

No employee of the Contractor shall be permitted, directly or indirectly to solicit, accept, or request any form of tip or gratuity from anyone.

6. Employee Relations Expenses

The Contractor shall not be reimbursed by the Department for any legal or other services with respect to employee relations matters applicable to employees of the Contractor, unless prior written approval is granted by the Department.

7. Language Requirements

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The Contractor's supervisors, who must be able to take instructions from its management or, in the event of an emergency, from the Department, must be able to communicate in English.

8. **Other Agreements**

The Contractor shall not, without the specific advance written approval of the Department, which approval may be withheld without stated cause, enter into any contract, agreement or arrangement of any kind, which would or could in any way serve to (a) increase Reimbursable Operating Expenses for wages or fringe benefits, (b) modify or change the duties, work rules, working hours or responsibilities of reimbursable employees of the Contractor hereunder, or (c) delegate or assign to any other party the right to make decisions as to such matters.

9. **Labor Activity**

If any strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against the Contractor at the Airport, which results in the curtailment or discontinuance of services performed hereunder, the Department shall have the right, during said period, to cause the services required to be provided under this Agreement to be performed by others without any liability to the County. During such period, this Agreement may be abated at the sole discretion of the County. If such strike, boycott, work stoppage, slowdown, or other adverse labor activity continues for a period to thirty (30) days, the County shall have the right to terminate this Agreement for cause.

10. **Competing Employment**

Contractor's on site employees shall not engage in any type of activities for the provisioning of services outlined in this Agreement to entities other than MDAD and the SATS customers of the Department during the employees' working hours under this Agreement, and the employees will be dedicated totally and solely to the fulfillment of the Contractor's obligations at the Airport required by this Agreement, during said working hours. Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such other parties has been approved or endorsed by the County, but Contractor is not precluded from listing County as a customer. The Department will not directly solicit the Contractor's employees, and will not tell other competitors of the Contractor to solicit the Contractor's employees.

ARTICLE 10
AIRFIELD OPERATIONS AREA ("AOA") SECURITY

1. Contractor acknowledges and accepts full responsibility for compliance with all

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applicable rules and regulations of the FAA and MDAD as set forth from time to time relating to Contractor's work at the Airport. Contractor fully understands and acknowledges that any security measures deemed necessary by the Contractor for the protection of jobsite, or equipment and property and access to the AOA through the jobsite shall be the sole responsibility of the Contractor and shall involve no additional cost to MDAD. All such security measures by the Contractor shall be in accordance with FAR 107 and the MIA security plan.

2. MDAD authorized identification badges will be issued to all Contractor employees working in the security identification display area ("SIDA") or any other secured area of MIA. All such employees will be issued photo identification badges and will be subject to Federal Bureau of Investigation ("FBI") fingerprint based criminal background investigation. Unless otherwise specified, identification badges will not be required or issued by MDAD for work performed at the GAAs.
3. The Contractor shall be responsible for requesting MDAD to issue identification badges to all employees whom the Contractor requests be authorized access to the SIDA and shall be further responsible for the immediate reporting of all lost or stolen identification badges and the immediate return of the identification badges of all personnel transferred from MIA assignment or terminated from the employ of the Contractor or upon final acceptance of the work or termination of this Agreement. Contractor will be responsible for fees associated with lost and unaccounted badges as well as the fee for fingerprinting and identification issuance.
4. All employees of the Contractor and its subcontractor(s) who must work within MDAD secured areas at MIA shall be supplied with MDAD identification badges as specified above, which must be worn at all times while within the secured area. Badges shall be worn on outer garments above the waist so as to be clearly visible in order to distinguish, on sight, employees assigned to a particular Contractor. The MDAD Security and Safety Division shall provide the identification badges to the Contractor. Each employee must complete the SIDA training program conducted by MDAD and comply with all other FAA or MDAD requirements as specified by the MDAD at the time of application for the identification badge before an identification badge is issued. At the present time, MDAD Security and Safety Identification Section regularly provides SIDA Training.
5. Ramp permits will be issued to the Contractor authorizing vehicle entrance to the AOA through specified MDAD guard gates for the term of this Agreement. These permits will be issued only for those vehicles (including vehicles belonging to the subcontractor(s)) that must have access to the site during the performance of the Agreement. These permits will be only issued to Contractor owned vehicles or to Contractor leased vehicles (leased from a commercial leasing company). AOA decals, passes or permits to operate within the AOA will not be issued to privately owned or privately leased vehicles. All vehicles operating within the AOA must have conspicuous company identification signs (minimum of three (3) inch lettering displayed on both sides of the vehicle.

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All vehicles operating within the AOA must be provided with the Automobile Liability Insurance required in this Agreement. Proof of such insurance shall be provided to MDAD Airside Operations Division upon request. Unless otherwise specified in the Agreement, ramp permits will not be required or issued by MDAD for work performed at the GAAs.

6. Before the Contractor shall permit any employee with pictured identification to operate a motor vehicle on the AOA without MDAD escort, the Contractor shall require such employee to have a current, valid, appropriate Florida driver's license and to attend and successfully complete the AOA Driver Training Course conducted periodically by the Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department because of violation of AOA driving rules or loss of Florida driver's license.
7. The Contractor agrees that its personnel, vehicles and other personal property are subject to being searched when attempting to enter, leave or while on the AOA. It is further agreed that MDAD has the right to prohibit an individual, agent or employee of the Contractor or subcontractor(s) from entering the AOA, based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage or other unlawful activities, including but not limited to repeated failure to comply with MDAD, and FAA SIDA and AOA access control policies, rules and regulations. Any person denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a review hearing before the Director or his or her authorized designee within a reasonable time. Prior to such hearing, the person denied access to the AOA shall be advised, in writing, of the reasons for such denial.

The Contractor acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of thefts, cargo tampering, aircraft sabotage and other unlawful activities at MIA and to maximize compliance with MDAD and FAA access control policies and procedures.

8. The Contractor understands and agrees that vehicles shall neither be parked on the AOA in areas not designated or authorized by MDAD, nor in any manner contrary to any posted regulatory signs, traffic control devices or pavement markings.
9. The Contractor understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies shall not be employed by the Contractor in areas under the jurisdiction or control of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies who enter such areas are subject to fines,

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which shall be borne entirely by the persons and/or the Contractor.

10. Notwithstanding the specific provisions of this article, MDAD shall have the right to add, amend or delete any portion hereof in order to meet reasonable security requirement of MDAD or FAA.
11. The Contractor shall ensure that all employees so required participate in such safety, security and other training and instructional programs, as MDAD or appropriate Federal agencies may from time to time require.
12. Contractor agrees that it will include in all agreements with its subcontractor(s) an obligation by such parties to comply with all security requirements applicable to their operations at MIA. Contractor agrees that in addition to all remedies, penalties and sanctions that may be imposed by MDAD or the FAA upon the Contractor's subcontractor(s) and its individual employees for a violation of applicable security provisions, the Contractor shall be responsible to MDAD for all such violations and shall indemnify and hold MDAD harmless for all costs, fines and penalties arising therefrom which shall include reasonable attorneys' fees.
13. AOA Security at GAAs: The Contractor and its subcontractor(s), and suppliers shall "sign in" and "sign out" at the airport's manager's office or his designated representative whenever the Contractor is performing work at a GAA.
14. In the event the Contractor is assigned a project within the Customs area and the Contractor is required to obtain an Airport Customs security bond, the Department shall reimburse the Contractor the cost of the premium for such bond, as substantiated by the invoice.

ARTICLE 11
BUDGETING, MEETINGS AND REPORTS

1. Preliminary Budget Estimate

Annually, on or before October 1st, the Contractor shall provide the Department with a preliminary budget estimate (the "Preliminary Budget Estimate") for all expenses anticipated to be needed to provide for the Scope of Services in the following fiscal year under this Agreement. The estimate shall be established in good faith, but shall not be a warranty or assurance of any kind regarding the actual expenses which will be incurred.

The preliminary budget estimate is intended to allow the Contractor to work with the County in order to assist it in its budgeting for expenses related to the Scope of Services in the following fiscal year. The Contractor shall also provide a projected SATS billing report for the following fiscal year.

The Contractor's price proposal for the Scope of Services (except for Future Plans) for the System, will be the initial Preliminary Budget Estimate, which is attached to this Agreement

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as Exhibit 5.

The Preliminary Budget Estimate shall include comparisons to the current fiscal year with a summary of all recommended changes in compensation and staffing, if any, and include the following:

- (A) The total number of employees of Contractor under this Agreement.
- (B) A classification title and job description of each job to be performed by employees of Contractor hereunder.
- (C) The total number of employees who will be performing each job classification hereunder.
- (D) The total wages or salary to be paid each employee hereunder according to job classification.
- (E) The total fringe benefits including holidays and holiday pay, annual, sick and other types of leave, hospital and life insurance, retirement plan, and the like.
- (F) Total prices for Agreements with Vendors.
- (G) Estimated total subcontractor prices.
- (H) Estimated total parts and materials prices.
- (I) Total spare parts carrying costs.
- (J) Estimated total Reimbursable Expenses.

2. **Pricing of Employee Expenses by the Contractor**

Contractor shall not change, alter or modify any of the following, without the prior written approval of the Department:

- A. The total number of employees of Contractor used to perform the services hereunder.
- B. The classification and job description of each job to be performed by employees of Contractor used to perform the services hereunder.
- C. The number of employees who will be performing each job classification hereunder.
- D. The wages or salary to be paid each employee hereunder according to job

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classification.

- E. The fringe benefits including holidays, holiday pay, overtime policy, annual, sick, and other types of leave, and health and life insurance.
- F. The maximum number of entry level employees retained by the Contractor during any twelve-month period.

3. **Changes in Employee Expenses by the Department**

The Department may, at any time, upon fifteen (15) days written notice, require the Contractor to change, alter or modify any or all of the following:

- A. The total number of employees of Contractor paid for by the County according to the provisions hereunder, subject to the provisions of the Personnel section of this Agreement, article 9, subarticle 1.
- B. The classification title and job description of each job to be performed by employees of Contractor hereunder, provided that the County shall compensate the Contractor for any increased compensation due employees as a result of an increase in title or job description.
- C. The number of employees who will be performing each job classification hereunder, provided that the County shall compensate the Contractor for any increased compensation due employees as a result of an increase in the number of employees, and that no reduction occurs which causes the number of employees performing in a different job classification to become insufficient, to perform the services required in that other classification.

If any such change, alteration or modification results in an increase or decrease in employee expenses, then the compensation as defined in the Payments and Cost Reimbursements article shall be adjusted accordingly by the Department.

4. **Meetings and Reports**

- A. Meetings. The Contractor's management team will be required to attend periodic meetings as required with Tenants and MDAD to discuss on-going status of various projects. This also includes daily exposure to Tenants and MDAD users to perform field surveys and determine the scope of work required to provide requested services for various projects as well as routine day to day MAC service requests. The Contractor shall maintain daily contact with the Tenants when appropriate, to ensure the timely completion of service requests.
- B. Reporting. The following list represents mandatory reports that the County requires at the listed interval or as requested by MDAD. Samples and

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formats of the reports shall be provided by the Contractor no later than fifteen (15) days after the execution of the Agreement. The format of all reports shall be approved by the Department.

(i) OCCURRENCE REPORTS

- Parts Price List - *As Requested.*
- Circuit Cut-Sheets - *As Requested.*
- Custom Cable Record Reports - *As Requested.*

(ii) MONTHLY REPORTS

- Average response time for major and minor failures categorized by regular and after hour activity.
- Percent of work orders completed within specific time frames.
- List of completed and pending work orders.
- Order Report which outlines number of hours by labor type and activity for all personnel.
- Availability Reports which outline availability of all circuit types/ports, PBX switches, trunks, fiber links, network and other major systems.
- 30/60/90 Day Invoice
- SATS Billing Report, which will include the following information:
 - (a) Dates of transactions.
 - (b) Dollar values of transactions (both billing rates as well as cost calculations and support).
 - (c) Invoice date and number.
 - (d) Separate CUTE billing.
- Monthly Financial Statement, reflecting SATS expenses and SATS billings incurred pursuant to this Agreement.
- Preventive Maintenance Inspection Reports that outline what is done to maintain manufactured suggested maintenance for equipment covered under this contract.
- Audit Reports that detail results of locations and circuit types tested/audited for cable record accuracy. These activities are aimed at ensuring accurate cable records and recovering existing cable plant not in use.
- Circuit Capacity Reports that outline circuit types / amounts / % capacity for various locations

(iii) QUARTERLY REPORTS

- Reports that outline total amounts invoiced by activity type outlined in Invoice matrix. Reports shall also indicate number of hours expended by labor type towards that specific activity.

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- Equipment Inventory - Includes PBX, network, and Gigabit Ethernet® Components / Systems and sparing levels.
- Contractor Staffing Organization Chart
- Contractor Staffing Contact / Notification List

(iv) ANNUAL REPORTS

- The Contractor shall submit a configuration and change management procedural plan on a yearly basis for review and approval by MDAD.
- Marketing and customer service plan
- Revenue and billing management plan
- Annual budget

5. Other Reports

The Department may request the Contractor to provide other reports which may or may not be generated by the Contractor in the normal course of operations.

6. Records

The Contractor shall deliver copies of all original documents and records required to be maintained pursuant to this Agreement or necessary to perform the Services no later than fifteen (15) days after the request for the documents or records. Upon request and during regular business hours, the Department shall be provided all documents and records required to be maintained pursuant to this Agreement, and permitted to inspect such documents and records. Copies of the specific documents shall be provided at the cost of the Department. Further, if and to the extent that any other records are required to be furnished under Chapter 119, Florida Statutes, the Contractor shall provide same. The Department may require the Contractor to provide all documents and records required to be maintained pursuant to this Agreement, including, but not limited to, inspection reports, progress reports and financial records.

ARTICLE 12
PAYMENTS AND COST REIMBURSEMENTS

The monies paid the Contractor shall be determined as set forth in subarticles 2 and 3 below, and may be greater or less than the Preliminary Budget Estimate.

1. Acquisition costs

- a. The County will purchase on February 6, 2002 and Contractor will transfer the unencumbered title to all assets used in connection with the ELM Agreement as described in Schedule A to that Agreement, in addition to any required licenses or permit transfer fees, upon payment by the County of \$3,250,000 to the Contractor.

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- b. The County will purchase on February 6, 2002 and Contractor will transfer the unencumbered title to all assets used to provide services pursuant to the SATS Agreement as described in Schedule E of the SATS Agreement, in addition to any required licenses or permit transfer fees, upon payment by the County of \$3,100,000 to the Contractor.
- c. The telecommunications, data network, and CUTE infrastructure, software, licenses, permits, and other assets to be purchased by the County on February 6, 2002, (collectively, the "Assets"), shall be in good working order, subject to normal wear and tear. The County recognizes that the Assets are used and that, therefore, the Contractor makes NO OTHER WARRANTY, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY OR THE FITNESS OF THE ASSETS FOR A PARTICULAR USE beyond ninety (90) days, provided that there has been no modification or alteration of the Assets by or at the direction of the County within the ninety (90) period.
- d. The County will on February 6, 2002 pay the sum of \$100,000 to the Contractor in accordance with Article 6C of the ELM Agreement.
- e. The County will on February 6, 2002 pay all ELM Agreement invoices due the Contractor that are outstanding and remitted to the County prior to January 1, 2002. All invoices received on or after January 1, 2002 will be paid on a timely basis. The County is neither liable for nor will pay any portion of an ELM Agreement invoice which either contained or contains a subcontractor labor mark-up of greater than seven and one-half percent (7 ½ %).
- f. The Parties shall, on February 6, 2002, exchange mutual releases of any and all claims arising from the ELM Agreement and the SATS Agreement, except for the monies payable to the Contractor pursuant to clause (e) above and any SATS revenue owed to either the County or the Contractor from the other party based upon the completion of the SATS revenue audit.

2. **Management Fee**

a) **Basic Scope of Services**

Except for the compensation for project management services and reimbursements, the Contractor shall be paid a management fee (the "Management Fee") to provide for all of the operations, management, maintenance, service, support and procurement services, including all Agreements with Vendors associated with the telecommunications systems provided in Exhibit 6, of the telecommunications and data network infrastructure, hardware and software systems as herein described in this Agreement. This Management Fee shall include the Contractor's profit and overhead for these services; a staff transition cost for the first year of this Agreement, and a spare parts carrying charge.

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1. The County shall pay to the Contractor, as consideration for managing and providing the services required herein, an annual Management Fee of \$ 6,144,067 payable in arrears and in equal monthly payments of \$ 512,005.58, upon billing by the Contractor in accordance with this article. The payments for any partial month shall be prorated.

Such Management Fee may be increased only when the existing work force is unable to perform the services without a degradation in the System, and under the following circumstance for additional services rendered:

If, as a result of the County's Capital Improvement Program ("CIP"), the Services provided by the Contractor hereunder increases, and/or when otherwise approved in accordance with this Agreement (for example changes in employees' expenses), the County shall increase the monthly Management Fee in an amount commensurate to the increase in the Contractor's Services. If the Contractor believes that additional personnel are needed to perform the Services, or that Agreements with Vendors need to be added, or that existing Agreements with Vendors need to be changed, the Contractor shall submit a proposal request that includes justification and a cost proposal to the County, and the County may increase the monthly Management Fee accordingly.

The County reserves the right to review the Contractor's operations and if the System requirements increase or decrease, the County may, subject to subarticles 9.1 and 11.3, correspondingly increase or reduce the Management Fee based upon an addition or reduction in the Contractor's staffing requirements, or change in Agreements with Vendors. The Contractor shall calculate changes in the Management Fee by using the base salary of the employee according to job classification ("Direct Salaries") as reported to the Director of the United States Internal Revenue Services, times a 2.73 multiplier of such Direct Salaries and taking into account changes in Agreements with Vendors. The 2.73 multiplier is all inclusive, and compensates Contractor for all expenses directly or indirectly related to that employee's compensation, including but not limited to, social security, medicare, health insurance, unemployment, all benefits, and National Technical Resource Center ("NTRC"), and associated facilities provided to the employee such as vehicles, office equipment, office supplies, furnishing, and test equipment, plus all Contractor's overhead and profit; all of which items are included in the lump sum Management Fee.

2. The above Management Fee includes the Agreements with Vendors compensated by the agreed fixed dollar amount plus fourteen percent (14%).
3. Spare parts carrying charge equal to ten percent (10%) times the Spare Parts cost calculated and payable monthly.

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4. The Management Fee will be adjusted to reflect a four percent (4%) increase in the salaries of the Contractor's personnel for the second year. The Management Fee may be adjusted based upon the total value of the Spare Parts Inventory.

b) **Project Management Services**

When subcontracting is required, authorized in accordance with the Scope of Services article of this Agreement, and the Contractor has competitively bid out the work order(s), the Contractor agrees to an agreed fixed dollar amount of compensation (the sum of the lowest responsive and responsible subcontractor bids) plus fourteen percent (14%) of the price of the subcontractor work, as compensation for the Contractor's management of the work supplied.

The County shall have no obligation to pay the Contractor any additional sum in excess of this lump sum amount, except for a change and/or modification to work order(s) approved and executed in writing by the County and the Contractor.

All Services undertaken by the Contractor before the County's approval of the respective work order shall be performed at the Contractor's sole risk and expense.

- c) The Contractor shall receive compensation of ten percent (10%) of new billings for the term of this Agreement for SATS services as provided in the Marketing and Customer Service Plan. The Contractor's compensation related to SATS customers expires at the termination of this Agreement.

3. **Reimbursements**

All Reimbursable Expenses shall be approved in advance by the Department. The Contractor shall represent and warrant on each invoice that it submits for payment of a reimbursable item, that it has no interests, directly or indirectly, in the reimbursable products or services that have not been disclosed in writing and approved by the County, and that all direct or indirect discounts related to the purchases have been provided to the County. Payment for Reimbursable Expenses may be requested monthly and shall be made on duly certified invoices listing such expenses and substantiated by supporting documentation. The Contractor shall be entitled to the following direct reimbursements without any additional Contractor's mark-up of any kind except where noted:

- a. Procurement of Material, Equipment and Inventory: The Contractor shall submit to Department, for each item purchased, the item, the price and a grand total, including the amount of freight and tax, and the work order number..
- b. ~~Airport Customs security bond.~~
- c. When an on-site technical training course is requested, the County will pay for the

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cost of the training class, Contractor's instructor's air-fare, lodging and meals during the training session, in accordance with Section 112.061, Florida Statutes.

- d. In the event that the Contractor responds to trouble calls from the CRC, the Contractor will be compensated at one and one-half (1.5) times the chargeable rate for that employee (\$100 per hour chargeable for voice personnel and \$130 per hour for data personnel, each multiplied by the applicable amount) for work performed after hours Monday through Sunday and two (2) times the chargeable rate for that employee for work performed on Contractor Holidays.
- e. The Management Fee described above already incorporates the payment of regular hours of all personnel. For the payment of approved overtime, however, the reimbursement to the Contractor will be paid in the amounts provided in clause (d) above, and shall be based upon the chargeable rate for that employee times one and one-half (1.5) for work performed after hours Monday through Sunday and 2.0 for work performed on Contractor Holidays. There shall be no overtime payment for any management and/or supervisory personnel.
- f. Parking reimbursement for Contractor's employees.

4. Subcontractors and Agreement with Vendors

All subcontractors and Agreement with Vendors shall be approved in advance by the Department. The Contractor shall represent and warrant on each invoice that it submits for payment of the following listed items, that it has no interests, directly or indirectly, in the referenced products or services that have not been disclosed in writing and approved by the County, and that all direct or indirect discounts related to the purchases have been provided to the County. Payment for subcontractors and Agreement with Vendors may be requested monthly and shall be made on duly certified invoices listing such expenses and substantiated by supporting documentation, and which shall include the original subcontractor or Agreement with Vendor invoice(s). The Contractor shall be entitled to monthly payments of its invoices related to the following items:

- a. Subcontractors, when approved by the Manager, are necessary for the accomplishment of the Services. Other than the Project Management Services described above, if subcontractor(s) are needed for any Service, the cost of the subcontractor will be reimbursed to the Contractor at cost plus fourteen percent (14%).
- b. The Costs associated with variable Agreements with Vendors will be reimbursed to Contractor at cost plus fourteen percent (14%).

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5. Non-reimbursable Expenses

Unless specifically authorized in writing in advance by the Department, the Contractor shall not be reimbursed for expenses of the following type or kind:

- a. The Contractor's legal and accounting fees.
- b. Charitable and political contributions.
- c. Travel (except when approved in advance for training services) and entertainment.
- d. Corporate public relations, gifts, dues, subscriptions, and memberships.
- e. Any penalties, assessments or fines issued by any court or authorized government entity or agency, unless such penalty, assessment, or fine results from the direct action or inaction of the County, provided however, that the County will not be liable for such amounts when acting in its governmental capacity.

6. Cash Losses or Losses from Employee Theft

All cash losses or losses from employee theft shall be the responsibility of and be reimbursed by the Contractor.

7. Prompt Payment

The Contractor shall be responsible for making prompt and timely payment of all obligations arising out of this Agreement, to maximize the potential for available discounts and rebates, and comply with the Florida Prompt Payment Act, Part VII, Chapter 218, Florida Statutes. All discounts, allowances, and rebates paid or received hereunder shall be to the credit and benefit of the County. The Contractor shall pay from its own funds any penalty, fine or like assessment resulting from any late, delinquent, or delayed payment of an obligation hereunder; provided, the Contractor has not been unduly delayed in making payment of such obligation by action or inaction of the County.

8. Method of Billing and Payment

Contractor may submit monthly statements as set forth in this article on a monthly basis, **but only after** the Services for which the monthly summary statements are submitted have been completed. An original monthly summary statement as set forth in the subarticle below is due within thirty (30) days of the end of the month, except the final invoice which must be received no later than sixty (60) days after this Agreement terminates or expires. Invoices shall designate the nature of the Services performed and/or the expenses incurred.

- a. Prior to submitting its first invoice, the Contractor shall submit a sample format of

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its monthly-itemized summary statement and invoice for the Department's review and approval for use for this Agreement.

The Contractor will provide itemized billings for purchases made on behalf of, and authorized by MDAD. These itemized billings shall be sufficiently detailed to establish the cost to the County of individual components supplied.

All invoices for subcontracted labor costs shall have attached supporting invoices with details of personnel employed, hours worked, amounts paid and such other information as necessary to ensure compliance with the terms of this Agreement.

- b. Invoices and payments are to be mailed to:

Miami-Dade County - MDAD Accounting Division
PO Box 592075
Miami, FL 33159-2075

- c. The County shall pay the Contractor within forty-five (45) calendar days of receipt of the Contractor's invoice, pursuant to Section 218.74, Florida Statutes and Section 2-8.1.4(4)(b), Code of Miami-Dade County, Florida (1994). All invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the Project Manager. Payment may be withheld or delayed for failure of the Contractor to comply with a term, condition, or requirement of this Agreement. Within the time for payment, County shall deliver written notice to Contractor setting forth the specific reasons why any portion(s) of an invoice are not being paid. Interest on improperly delayed payments shall be paid at the rate of one percent (1%) per month, and commence thirty (30) days after the due date of the payment.

Payment shall be made to Contractor at:

NextiraOne, LLC
21398 Network Place
Chicago, IL 60673-1213

- d. Except as specifically permitted under the Subcontractual Relations article of this Agreement, the County shall not offset an amount claimed to be due, against an invoice which otherwise is payable in accordance with this article.

- e. The Parties will comply with Section 196.295, Florida Statutes.

9. Payments to the County

The SATS Agreement will be terminated on February 6, 2002, and the Contractor shall upon completion of the SATS revenue audit currently being conducted, pay to MDAD any amounts found to be due and owing and vice versa if the audit shows an underpayment.

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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 up to and including February 6, 2002.

ARTICLE 13
SOFTWARE LICENSE

The County and the Contractor recognize that title to and ownership of the existing Equipment used in connection with the ELM Agreement or to provide services pursuant to the SATS Agreement as described on Schedule A to the ELM Agreement and Schedule E to the SATS Agreement, as of February 6, 2002 is held by and in the County and that such Equipment is computer hardware and software used for telecommunications and data network purposes. The Contractor has assigned all of its software licenses and permits (collectively, the "Licensed Software") to the County, which are assignable.

1. **Joint Obligations**

a. The County will keep the Software licenses for the Equipment in full force and effect during the term of this Agreement. Contractor will do nothing on its part during the term of this Agreement that will cause such license(s) to be terminated by the licensor or diminish the County's rights to use such license(s) in accordance with the terms and conditions as set forth in the Licensed Software.

b. **Contractor's Warranty and Maintenance Obligations Unaffected**

Nothing contained in this article shall diminish, extinguish, or relieve the Contractor from its responsibilities and obligations to provide maintenance pursuant to this Agreement, including, but not limited to, providing maintenance for the Licensed Software, and the payment of any and all costs for such license maintenance to the licensor, or others as may be required. Contractor's right to maintain the Equipment is conditioned and contingent upon the County's having valid licenses for the Software, or other software, pertaining to such Equipment.

c. Certain software suppliers license on a nonexclusive basis to the Contractor, and the Contractor also develops software or has software developed for it by third parties. All such software is and will remain the property of Contractor or its third party suppliers. Contractor, with respect to the software it develops, and to the extent authorized under the supplier licenses, grants the County, for such software a personal, nontransferable and nonexclusive sublicense to use the software (including related documentation), for the life of the particular System or Equipment to which such software is related, solely to maintain, use and operate such System for which the software is initially furnished, provided the County:

(i) except where required by law, does not allow any aspect of the software to be disclosed to a third party without the Contractor's written consent;

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- (ii) uses the software solely for County's governmental and business purposes in the operation of the Equipment or any new Equipment provided by the Contractor which are part of the System;
- (iii) does not copy or reproduce any of the software without the Contractor's consent, except to the extent necessary for (A) archival and back-up purposes and (B) the operation and/or use of the System to the extent allowed or authorized by the Contractor or third party licenses, and except as allowed by law, does not attempt to develop any source code from the software, nor reverse engineer, decompile, disassemble, reverse translate, or otherwise translate the software into human readable form; and
- (iv) returns to the Contractor or erases or destroys any software and any media being recycled or discarded upon the expiration of the licenses granted hereunder.

2. County to Execute License Agreements

The County understands that suppliers of software including the Contractor may require the County to execute license agreements in order to use the software. Contractor understands that the County is a governmental entity and may not be able to execute such an agreement, as a matter of law or administrative policy among other things, because of the terms and provisions contained therein. In the event Equipment to be supplied by the Contractor requires the County to execute a separate software license agreement, whether with the Contractor or a third party supplier of such software, then the Contractor will notify the County of such circumstances, and provide the County with a copy of the software license agreement. Contractor will not provide the County with any Equipment, System or Sub-System where the operation or use thereof is contingent upon the executed license agreement, unless and until the County has informed the Contractor that the County is willing and able to execute such license agreement.

ARTICLE 14 NATURE OF THE AGREEMENT

The Contractor shall provide the Services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.

The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all work and Services under the Agreement. All things not expressly mentioned in this Agreement, necessary to either enforce or carrying out its purpose and intent are implied, and the Parties shall perform the same as though they were specifically mentioned, described and delineated.

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The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the work and Services that are necessary for the completion of this Agreement. All work and Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.

The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious, fiducial, and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

The Contractor shall not have liability for the immediate or long-term effects of matters related to any action or inaction by the Department. Further, if a lawsuit is brought against the Contractor, by a third party that is neither an employee nor supplier of the Contractor, and the claim is based upon the Contractor's action or inaction which occurs based upon the Department's action or inaction under this Agreement, then the Contractor may bring a Third-Party claim against the County.

ARTICLE 15 MANNER OF PERFORMANCE

The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor acknowledges that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.

The Contractor represents that based upon its initial staffing recommendation, it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the initial requirements under this Agreement. The Contractor agrees to adjust its personnel staffing levels or to replace any of its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inadequate or inappropriate, or that any individual is not performing in a manner consistent with the requirements for the position.

The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, and licenses as necessary to

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perform the Services described herein.

The Contractor shall at all times cooperate with the County, and coordinate its work efforts and those of its subcontractors, to most effectively and efficiently maintain the progress in performing the Services. Similarly, the County shall at all times cooperate with the Contractor and coordinate its work efforts, and those of the County's independent contractors, to most effectively and efficiently maintain the progress in the Contractor's performance of its Services.

The Contractor shall comply with all provisions of all Federal, State and County laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 16
TERM OF AGREEMENT

The Agreement shall become effective on the date written on page 1 and 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 the Contractor, provided however, that the Agreement shall have a minimum term of no less than eighteen (18) months unless terminated earlier for cause.

ARTICLE 17
CONTRACTOR REPRESENTATIONS AND WARRANTIES

The Contractor represents and warrants it shall transfer the unencumbered title to all telecommunications, data, and CUTE infrastructure, software, licenses, permits, and other assets used in connection with the ELM Agreement or to provide services pursuant to the SATS Agreement as described on Schedule A to the ELM Agreement and Schedule E to the SATS Agreement, as of February 6, 2002. For purposes of this Agreement, the Parties recognize that due to the complexity of the network and the many thousands of items contained therein, Schedules A and E do not include every item and may include some items which are not present.

The Contractor represents and warrants it shall assign to the County all of its rights under a license/agreement entered into between WiTel Communications LLC and Societe Internationale de Telecommunications Aeronautique ("SITA") dated August 6, 1997. At MDAD's option, the Contractor shall, rather than deliver an assignment of its rights, terminate its license arrangements with SITA, at the Contractor's expense. The assignment of the SITA license is subject to SITA's consent.

The Contractor represents and warrants the Assets are in good working order, as of February 6, 2002, subject to normal wear and tear. The Contractor indemnifies the County for those assets that are not in good working order, subject to normal wear and tear.

The Contractor shall indemnify the County with respect to any prospective or outstanding

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claims, set off, or payments due, with respect to its operation of the Shared Airport Tenant Services and CUTE systems up to and including February 6, 2002.

The Contractor represents and warrants that all permits and software licenses necessary for the operation of all elements of the telecommunications, data, CUTE, and shared tenant services systems will, at MDAD's option, be issued or assigned to the County. MDAD will pay any transfer fees associated with the transfer of such permits and licenses excluding the Contractor's own costs.

ARTICLE 18
PROJECT MANAGER AND RESOLUTION OF DISPUTES

The County will assign a Project Manager to coordinate all County responsibilities under this Agreement. All instructions from the County to the Contractor, shall be issued by or through the Project Manager. Except for MDAD Information Systems and Telecommunications Division, and SATS customers, the Contractor shall notify any other person who attempts to give instructions that he or she must communicate with the Project Manager or Manager. The authority of the Project Manager is as follows:

- a) The Project Manager will determine: (i) questions as to the value, acceptability and fitness of the Services; (ii) questions as to either party's fulfillment of its obligations under the Agreement; and (iii) questions as to the interpretation of the Scope of Services.
- b) Contractor acknowledges and agrees that the Project Manager has no authority to make changes that would modify the Scope of Services to be provided under this Agreement.
- c) The Contractor shall be bound by the determinations or orders specifically authorized under this Agreement and shall promptly obey and follow every order of the Project Manager specifically authorized under this Agreement, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- d) The Contractor must first seek to resolve every difference concerning the Agreement with the Project Manager, for a period of thirty (30) days or such longer period as agreed upon by the Parties, which shall be a condition precedent to any lawsuit permitted hereunder. In the event the Contractor seeks to contest an issue or difference for which there has been administrative review by the Project Manager, such subsequent lawsuit shall be considered a *de novo* proceeding.

ARTICLE 19
COUNTY EXPENDITURE AUTHORITY

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The dollar thresholds for obtaining project management services, procurement of material, equipment and inventory, and an increase in the management fee and appropriate authority levels are described as follows:

- A. PURCHASES OF GREATER THAN \$500,000**
APPROVAL AUTHORITY: BOARD OF COUNTY COMMISSIONERS
The Board shall award all contracts greater than \$500,000, and approve all contract modifications required of this Agreement.

- B. PURCHASES OF \$100,000 UP TO \$500,000**
APPROVAL AUTHORITY: MDAD DIRECTOR
Each individual purchase of \$100,000 or more and each continuing contract which can reasonably be anticipated to aggregate \$100,000 or more within twelve (12) months.

- C. PURCHASES OF \$5,000 BUT LESS THAN \$100,000**
APPROVAL AUTHORITY: MDAD ASSISTANT DIRECTOR
Each individual purchase of \$5,000 but less than \$100,000 and each continuing contract which can reasonably be anticipated to be within this range within twelve (12) months.

- D. SMALL PURCHASE ORDER (LESS THAN \$5,000)**
APPROVAL AUTHORITY: MANAGER
Each individual purchase request with a total value of less than \$5,000, for a specific commodity, during one (1) fiscal year.

ANY CHANGE, MODIFICATION, ADDITIONAL SERVICE, EQUIPMENT OR PARTS THAT CAUSES THE FINANCIAL OBLIGATION OF THE COUNTY TO EXCEED THE AMOUNT OF AUTHORITY OF THOSE NOTED ABOVE SHALL BE PRESENTED FOR APPROVAL TO THE NEXT HIGHER AUTHORITY LEVEL. IF THE CONTRACTOR FAILS TO OBTAIN THE PROPER AUTHORIZATION AS DESCRIBED ABOVE, THEN THE COUNTY SHALL BE ABSOLVED FROM PAYMENT OF THE LIABILITY.

ARTICLE 20
SUBCONTRACTUAL RELATIONS

If the Contractor will cause any part of this Agreement to be performed by a subcontractor, the provisions of this Agreement will apply to such subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby be discharged from its obligations and liabilities hereunder, but will be liable for all acts, omissions, or negligence of the subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.

The Contractor, before making any subcontract for any portion of the Services, will state

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in writing to the County the name of the proposed subcontractor, the portion of the Services that the subcontractor is to do, the place of business of such subcontractor, and such other information as the County may require. The County has the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved or debarred by the County.

Before entering into any subcontract hereunder, the Contractor will inform the subcontractor of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such services performed by such subcontractor will strictly comply with the requirements of this Agreement.

In order to qualify as a subcontractor satisfactory to the County, in addition to the other requirements herein provided, the subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, license(s), and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type that is required to be performed under this Agreement.

The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All subcontractors are required to protect the confidentiality of the County and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between the Contractor and subcontractors hereunder.

The Contractor shall, where agreed to by the subcontractor, insert a clause for the benefit of the County within each respective subcontract, which permits the County to request completion of performance by the subcontractor of its obligations under the contract. Contractor agrees that the County shall be permitted to request completion of performance by the subcontractor of its obligations under the subcontract, in the event that the Contractor is in breach of its obligations, and the option to pay the subcontractor directly for the performance by such subcontractor. Should either the Contractor or subcontractor(s) violate the terms of this article, the County may order all or any part of the subcontract work stopped, and may elect to complete the work itself or enter into an agreement with a third party to have the work completed. The Contractor's obligation to reimburse the County for the cost to complete the work, will only exist to the extent that said cost exceeds the amount which would have been payable to the Contractor in connection with the work which was stopped. The excess cost to complete the work may be deducted from any unpaid balance payable to the Contractor. If there exists no unpaid balance, or if the completion cost is in excess of the unpaid balance, the Contractor shall reimburse the County for this sum, plus any costs of collection. The Contractor shall be entitled to be paid for work performed to the time the work was stopped by the County. ~~Notwithstanding, the foregoing shall neither denote, connote, nor convey any obligation or liability on the part of the County to any subcontractor.~~

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NOTHING CONTAINED IN THIS AGREEMENT SHALL CREATE ANY CONTRACTUAL RELATIONSHIP BETWEEN ANY SUBCONTRACTOR AND THE COUNTY, OR ANY OBLIGATION ON THE PART OF COUNTY TO PAY ANY SUMS TO ANY SUBCONTRACTOR.

ARTICLE 21
ASSIGNMENT

Neither this Agreement nor any interest herein shall be assigned, or transferred by either party without prior written consent of the other party and said consent shall not be unreasonably withheld.

The Contractor has assigned all of its SATS Airport rental and CUTE agreements, software license(s), and permits to the County as fully described in Exhibit 7 of this Agreement.

1. **Contracts Assignable**

All contracts, purchase agreements, and purchase orders entered into by the Contractor for the purchase of goods, capital equipment and services specifically pursuant to this Agreement, shall be assigned, with the consent of the subcontractor, by the Contractor to the County or others as designated by the Department, upon either the request of the Department or termination of this Agreement. If such contracts, purchase agreements and purchase orders contain language acceptable to the Department, reflecting that they are assignable as provided herein, then upon such assignment, the Contractor shall be relieved from any further responsibility to the County under such contracts, agreements and orders, provided however, that the Contractor shall be liable for and shall indemnify the County with respect to any prospective or outstanding claims, set off, or payments due, with respect to said contracts, agreements, and orders which accrued prior to such assignment to the County.

ARTICLE 22
PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law, Chapter 119, Florida Statutes.

The Contractor acknowledges that all computer software in the County's possession may constitute or contain information or material which the County has agreed to protect as proprietary information from disclosure or unauthorized use, and may also constitute or contain information or material which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

The County acknowledges that software licensed by the Contractor pursuant hereto may constitute or contain information or material which the County has agreed to protect as proprietary information from disclosure or unauthorized use, and may also constitute or

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contain information or material which the Contractor has developed at its own expense, the disclosure of which could harm the Contractor's proprietary interest therein.

During the term of the Agreement, the Contractor and the County, except as required by Chapter 119, Florida Statutes, will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County or Contractor has developed, used or is using, is holding for use, or which is otherwise in the possession of the County (hereinafter the "Computer Software"). All third party license agreements must also be honored by the Contractor and its employees, and by the County, and if the Computer Software has been leased or purchased by the County, all third party license agreements must also be honored by the Contractor's employees. This includes mainframe, minicomputers, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the County and the County shall report to the Contractor, any information discovered or disclosed to the Contractor or the County which may relate to the improper use, publication, disclosure or removal from the other's property of any information technology software and hardware, and will take such steps as are within the Contractor's or the County's authority, respectively, to prevent improper use, disclosure or removal.

ARTICLE 23 PROPRIETARY RIGHTS

All rights, title and interest in and to materials, data, Documentation, certain inventions, designs and methods, specifications and related thereto developed by the Contractor and its subcontractors, customized or created specifically for the County for use in connection with this Agreement (hereinafter referred to as "Developed Works"), shall become the property of the County. The Contractor hereby acknowledges and represents that the County retains all rights, title and interests in and to the Developed Works, and copies thereof furnished by the County to the Contractor hereunder, or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process which are customized or created specifically for the Scope of Services provided herein and which are created as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection of the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such Developed Works on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

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Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced, or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor, or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance under this Agreement, or as required by law. The Contractor may, without use of the County's name, use any of the documentation not included in the Developed Works on any other project in which the Contractor is or may become engaged.

Except as otherwise provided above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that has not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such Licensed Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 24 CONFIDENTIALITY

All Developed Works constitute confidential information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of the Developed Works without the prior written consent of the County.

The Contractor shall advise its employees, agents, subcontractors and suppliers who may be exposed to such Developed Works of their obligation to keep such information confidential and Contractor shall promptly advise the County, in writing if it learns of any unauthorized use or disclosure of the Developed Works by any of its current or former employees, agents, or subcontractors or suppliers. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the

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Developed Works.

It is understood and agreed that in the event of a breach of this article, damages may not be an adequate remedy, and the County shall be entitled to injunctive relief to prevent any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately return to the County all such Developed Works existing in tangible form, and no copies thereof shall be retained by the Contractor's employees, agents, subcontractors or suppliers without the prior written consent of the County. The Contractor may retain copies of the Developed Works for a period of up to one (1) year after the termination of this Agreement.

For the period from one (1) year after the termination of this Agreement through five (5) years after the termination of this Agreement, the copies of the Developed Works will be held in escrow with Iron Mountain, or such other mutually accepted escrow agent, at the cost of the Contractor, and a withdrawal of the Developed Works will require the signature of the Parties. At the conclusion of the five (5) year period, the Developed Works shall be released to the County, unless the Contractor has notified the escrow agent that there is pending litigation, audit, or claim, in which event the Contractor shall have a right to access the Developed Works with the consent of the County which shall not to be unreasonably withheld. This Confidentiality article will survive the termination of this Agreement, and will be in effect for all periods, that the Contractor or the escrow agent retain copies of the Developed Works. The Contractor remains liable to the County for any breach of this article until all copies of the Developed Works have been returned to the County.

ARTICLE 25 **ACCOUNTING RECORDS AND AUDIT PROVISIONS**

The County shall have the right to audit those portions of the Contractor's books and records as necessary to ensure compliance with the Agreement in accordance with its terms, provided that in no event shall the County be entitled to examine records which would disclose information beyond that specifically related to this Agreement and the performance of Services hereunder. Such audit may take place during reasonable business hours for the period of the performance of this Agreement and for three (3) years after the final payment under this Agreement. The Contractor shall maintain as part of its accounting system, records of a nature and in a sufficient degree or detail to enable such audit to determine the payments for Services, personnel hours, personnel costs, and other expenses required to be documented under this Agreement. To the extent, that Chapter of 119 of the Florida Statutes is applicable to the Contractor, the Contractor shall be responsible to comply with same.

ARTICLE 26 **IPSIG AND INSPECTOR GENERAL REVIEWS**

1. Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order No 3-20, the Contractor is aware

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that, when applicable, the County has the right to retain the services of an independent private sector Inspector General (the "IPSIG"), whenever the County deems it appropriate to do so. The County shall be responsible for the payment of these IPSIG services and for the payment of costs of Contractor related to actions by the IPSIG and/or the Office of the Inspector General for clerical staff time for obtaining and copying the documentation, and copying of documentation. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or to review the operations, activities and performance of the Contractor as and to the extent as provided under this Agreement.

2. **Inspector General**

Pursuant to Miami-Dade County Ordinance No. 97-215, the County has established the Office of the Inspector General (the "Inspector General"), which is empowered to conduct random audits on all County contracts throughout the duration of each contract. Nothing herein shall limit the right of the Contractor to contest any action by the IPSIG or the Inspector General on any legal or equitable ground.

ARTICLE 27
EQUAL EMPLOYMENT OPPORTUNITY
NONDISCRIMINATION AND AFFIRMATIVE ACTION

1. **Equal Employment Opportunity**

The Contractor shall not discriminate against any employee or applicant for employment because of age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, nor in accordance with the Americans with Disabilities Act, discriminate against any otherwise qualified employees or applicants for employment with disabilities who can perform the essential functions of the job with or without reasonable accommodation. The Contractor shall take affirmative actions to ensure that applicants are employed and that employees are treated during their employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, or disability. Such actions include, but not limited to, the following: Employment, upgrading, transfer or demotion, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training including apprenticeship.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to the provided by the County setting forth the provisions of this Equal Employment Opportunity clause. The Contractor shall comply with all applicable provisions of the Civil Rights Act of 1964, Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, revised Order No. 4 of December 1, 1971, as amended, and the Americans with Disabilities Act. The Age Discrimination in Employment Act effective June 12, 1968, the rules, regulations and relevant orders of the Secretary of Labor, Florida Statutes 112.041, 112.042, 112.043 and Miami-Dade County Ordinance 75-46, Articles 3 and 4.

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2. **Nondiscriminatory Access to Premises**

The Contractor, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, sex, national origin or ancestry shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (2) that the Contractor shall use the Premises in compliance with all other requirements imposed by or pursuant to then enforceable regulations of the Department of Transportation, as amended from time to time.

3. **Breach of Nondiscrimination Covenants:**

In the Event it has been determined that the Contractor has breached any enforceable nondiscrimination covenants contained in Article – (1) Equal Employment Opportunity and (2) Nondiscriminatory Access to Premises above, pursuant to the complaint procedures contained in the applicable Federal Regulations, and the Contractor fails to comply with the sanctions and/or remedies which have been prescribed, the County shall have the right to terminate this Agreement pursuant to the Event of Default subarticle hereof.

4. **Nondiscrimination**

During the Performance of this Agreement, the Contractor agrees as follows: The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, physical handicap or disability. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to Contractor's books, records, accounts by the county and Compliance Review Agencies for purposes of investigation to ascertain by the compliance with such rules, regulations, and orders. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, and orders, this Agreement may be cancelled, terminated, or suspended in whole or in part in accordance with Event of Default subarticle hereof and the Contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 as amended or by rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

The Contractor will include Article 1 and 2 above in Contractor sub-contracts in excess of \$10,000, unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, so that such provisions will be binding upon each sub-contractor.

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5. **Disability Nondiscrimination Affidavit**

By entering into this Agreement with the County and signing the Disability Nondiscrimination Affidavit attached hereto as Attachment No. 1, the Vendor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R0385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement officer Courts or the County to be in violation of the Act or the Resolution, such violation shall render this Contract terminable in accordance with the Event of Default subarticle hereof. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violated the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

6. **Affirmative Action/Non Discrimination of Employment, Promotion and Procurement Practices (Ordinance No. 98-30)**

In accordance with the requirements of Ordinance No. 98-30, all firms with annual gross revenues in excess of \$5 million seeking to contract with Miami-Dade County shall, as a condition of award, have a written Affirmative Action Plan and Procurement Policy on file with the County's Department of Business Development. Said firms must also submit, as a part of their proposals/bids to be filed with the Clerk of the Board, an appropriately completed and signed Affirmative Action Plan/Procurement Policy Affidavit (Form A-8.2)

Firms whose Boards of Director are representative of the population make-up of the nation are exempted from this requirement and must submit, in writing, a detailed listing of their Boards of Directors, showing the race or ethnicity of each board member, to the County's Department of Business Development. Firms claiming exemption must submit, as part of their proposal/bids to be filed with the Clerk of the Board, an appropriately completed and signed Exemption Affidavit (Form A-8.1) in accordance with Ordinance 98-30. These submittals shall be subject to periodic reviews to assure that the entities do not discriminate in their employment and procurement practices against minorities and women/owned businesses.

It will be the responsibility of each firm to provide verification of their gross annual revenues to determine the requirement for compliance with the Ordinance. Those firms that do not exceed \$5 million annual gross revenues must clearly state so in their bid/proposal.

7. **Contract Measures**

No Contract Measures are applicable for this Management Agreement.

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ARTICLE 28
INDEMNIFICATION

1. Indemnification And Hold Harmless

The Contractor shall indemnify and save the County, its officers, employees, agents and authorized representatives, harmless from any and all claims, liability, losses, damages, and causes of action which may arise out of the performance of this Agreement by the Contractor, except to the extent such act is caused by the County's negligence. The Contractor shall pay all claims and losses of any nature whatsoever in connection therewith and shall investigate and defend all claims, suits, and actions of any kind or nature in the name of the County, its employees, agents and authorized representatives where applicable, including appellate proceedings, and shall pay all costs, judgments and attorneys fees which may be issued thereon. Nothing contained in this provision shall be construed so as to require the Contractor to indemnify the County's employees, agents and authorized representatives for their own negligence. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility of the Contractor to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided. This provision shall survive early cancellation or termination of this Agreement.

2. County Liability

The County is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and agrees to be fully responsible for acts and omissions of its agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity, nor shall it be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any manner whether arising out of this Agreement or any other contract. The County acknowledges that it will not raise sovereign immunity as a defense to a contractual claim under this Agreement.

ARTICLE 29
PATENT AND COPYRIGHT INDEMNIFICATION

The Contractor warrants that to the best of its actual knowledge, all deliverables furnished hereunder, including but not limited to: equipment programs, Documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.

The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trademarks, trade secrets or any other third party proprietary rights, by the use or supplying of any of the Contractor's or Contractor subcontractor's programs, documentation, software, analyses, applications, methods, ways, processes, and the like, used in the course of performance or completion

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of, or in any way connected with, the work or the County's continued use of the deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.

In the event any deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to use its best efforts to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or at Contractor's sole option (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the items(s).

The Contractor shall not knowingly infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Services.

ARTICLE 30 INSURANCE

The Contractor shall furnish to the County's Risk Management Division, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

1. Workers' Compensation Insurance for all employees of the Contractor as required by Chapter 440, Florida Statutes.
2. Public Liability Insurance on a comprehensive basis, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. The County must be shown as an additional insured with respect to this coverage.
3. Automobile Liability Insurance covering all owned, non-owned and hired vehicles, used in connection with the Services, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

The insurance coverages required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Contractor.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class

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V" as to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to approval of the Miami-Dade County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

Certificates of Insurance will indicate that no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

This Agreement is contingent upon the receipt of the insurance documents within fifteen (15) calendar days after Board of County Commission approval. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after Board approval, the Contractor shall be in default of the contractual terms and conditions and this Agreement will be terminated, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this section remain in force for the duration of the Agreement. If insurance certificates are scheduled to expire during the Agreement, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates, which cover the Agreement period, the County shall suspend the Agreement until such time as the new or renewed certificates are received by the County in the manner prescribed in this article; provided, however, that this suspension period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this Agreement.

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ARTICLE 31
PERFORMANCE AND LIQUIDATED DAMAGES

1. Monetary Penalty

The County will impose a monetary penalty on the Contractor for failing to achieve the required level of availability for any class of circuit described in the Maintenance and Trouble Resolutions subarticle, failure to complete scheduled MAC work within the designated time schedule, and other performance measurements as more fully described below:

	Performance Measurement	Liquidated Damages Summary
1	Failure of Contractor to respond to a minor outage.	\$200 per incident, not to exceed \$10,000 in a calendar year.
2	Failure of Contractor to respond to a major outage more than two (2) times in a consecutive six (6) month period.	\$1,000 per incident, not to exceed \$10,000 in a calendar year

The Parties recognize that the extent and calculation of damages may be difficult to ascertain, therefore, they agree that liquidated damages in the amount stated are reasonable and is in lieu of all other remedies.

The monetary penalty shall be deducted from the Contractor's management fee invoice amount for the month. This monetary penalty shall not apply to the Contractor's invoice amounts which are attributable to third party intervention, or any external events outside the Contractor's control.

ARTICLE 32
TERMINATION AND DEFAULT PROVISIONS

1. Termination For Convenience And Suspension Of Work

In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by thirty days (30) written notice to the Contractor, provided however, that this Agreement can only be terminated for cause if the Agreement is in effect for less than eighteen (18) months.

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2. **Actions at Termination**

- a) The Contractor shall, upon receipt of such notice, and as directed by the County:
- i. stop work on the date specified in the notice (the "Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders, but the County shall reimburse Contractor for all costs and expenses of such cancellation, provided that Contractor has, within five (5) business days, advised MDAD in writing that there may be cancellation costs, and to the extent known, an estimate of amount of these costs;
 - iv. assign to the County and deliver to any location designated by the County any noncancelable orders not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and
 - vi. implement a transition plan pursuant to the Training and Transition Program Services subarticle of this Agreement.
- b) In the event that the County exercises its right to terminate this Agreement pursuant to this article, the Contractor will be compensated as stated in the Payments and Cost Reimbursements article, herein, for the:
- i. portion of the Services completed in accordance with the Agreement and the work up to the Termination Date;
 - ii. noncancelable deliverables, that have been specifically developed for the sole purpose of this Agreement but not incorporated in the Services; and
 - iii. any additional charges, incurred by the Contractor, at the direction of the County, not covered in clause (b)(i), above.

NOTE: All compensation paid pursuant to this article is subject to audit.

3. **Surrender of Office and Support Space**

On or before the Termination Date of this Agreement, whether by lapse of time or otherwise, in accordance with the provisions contained herein, the Contractor shall vacate, quit and surrender and shall account for the support space, all furnishings, fixtures, equipment, software, vehicles, records, funds, inventories, commodities, supplies and other property of the County in as good order and condition as they were upon commencement of this Agreement or date of subsequent acquisition, reasonable and normal wear and tear

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excepted.

4. **Removal of Personal Property**

On or before the Termination Date of this Agreement, the Contractor shall remove all of its personal property from the support space. Any personal property of the Contractor not removed in accordance with this article may be removed by the Department for storage at the cost of the Contractor. Failure on the part of the Contractor to reclaim its personal property within thirty (30) days from the date of termination shall constitute a gratuitous transfer of title thereof to the County for whatever use and disposition is deemed to be in the best interests of the County.

5. **Termination For Cause**

- a) The County may terminate this Agreement, if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be disbarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform, and all other reasons set forth in Section 10-38 of the Code of Miami-Dade County, Florida.
- d) The County may terminate this Agreement, if the Contractor fails to cure an event of default timely.

6. **Contractor Event of Default**

- a. A default shall mean a breach of this Agreement by the Contractor (an "Event of Default"). In addition to those instances referred to herein as a breach, an Event of Default, shall include one or more of the following:
 - i. the Contractor has violated the terms and conditions of this Agreement, including failing to respond to major and minor failures on a timely basis, unless the Contractor has paid the damages flowing therefrom, and made all necessary repairs associated with the failure(s);
 - ii. the Contractor has refused or failed, except in case for which an extension of time is provided, to supply a sufficient number of properly skilled personnel;

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- iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law, or the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide adequate assurances as required under subsection b below; or
 - vii. the Contractor has failed in a representation or warranty stated herein.
- b. When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the time frame set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the Services that the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed time frame, the County may:
- i. treat such failure as a repudiation of this Agreement;
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.
- c. In the event the County terminates this Agreement for default, the County or its designated representatives, may immediately take possession of all applicable equipment, materials, products, Documentation, reports, data, or Developed Works.

7. **Notice of Default and Opportunity to Cure**

If an Event of Default occurs, the County shall notify the Contractor (the "Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. The Contractor can cure and rectify the default, to the County's reasonable satisfaction, within thirty (30) days of actual notice of the Default Notice

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(the "Cure Period"). The County may extend the Cure Period and grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as, the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The Default Notice shall specify the date the Contractor shall discontinue the services on or before the Termination Date.

8. **Remedies in the Event of Default**

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

- i. SATS revenues lost to the County;
- ii. the difference between the cost associated with procuring the Services hereunder and the amount actually expended by the County for procurement of the Services, including procurement and administrative costs; and
- iii. such other damages as the County may be entitled.

9. **COUNTY EVENT OF DEFAULT**

The County shall be in default in the event (a "County Event of Default") that one of the following occurs:

- (a)
 - (i) the Contractor tenders all required documentation for payment under this Agreement; and
 - (ii) within fifteen (15) days, the County has neither returned the invoice to the Contractor with an explanation of what is missing or incorrect, nor disputed the amount of the payment due the Contractor; and
 - (iii) the County fails to pay that sum of money as and when due under this Agreement and fails to cure the nonpayment within thirty (30) days following receipt of written notice from the Contractor; or
- (b) it commits a material breach of a nonpayment provision of this Agreement and fails to cure that breach within thirty (30) days after written notice describing the breach.

10. **CONTRACTOR REMEDIES UPON COUNTY DEFAULT**

In the event of a County Event of Default, the Contractor may exercise any right and seek any remedy provided at law or in equity. In the event the Contractor brings suit

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to collect an amount due from the County, then if the Contractor is successful, it shall be entitled to its reasonable attorney's fees.

11. **CONTRACTOR RIGHT OF EARLY TERMINATION**

In the event the County has reduced the level of the Contractor's staff by seven (7) employees or such greater reduction, such that the Contractor believes in good faith that it can no longer effectively discharge all of its duties under this Agreement, then the Contractor shall have the right to terminate this Agreement on thirty-five (35) days written notice to the County, unless the County rescinds the required Contractor staff reduction within ten (10) Business Days of receipt of the notice. The reduction in the Contractor's staff under this subarticle, shall not include the total number of Contractor's staff that the County may reduce given a reduction in the Contractor's Services, pursuant to subarticle 9.1 of this Agreement.

ARTICLE 33
FORCE MAJEURE

If the performance of this Agreement, or any obligation contained in it, is prevented, restricted or interfered with by reason of either

1. fire, explosion, breakdown of plant, epidemic, hailstorm, hurricane, tornado, cyclone, flood, power failure, lightning, water, or other acts of God, or
2. war, revolution, terrorism, civil commotion, acts of public enemies, blockage, or embargo,

then the party affected, upon giving prompt notice to the other party, shall be excused from such affected performance on a day-to-day basis to the extent of such prevention, restriction or interference (and the other party shall likewise be excused from performance of its obligations on a day-to-day basis to the extent such party's obligations relate to the performance so prevented, restricted or interfered with); provided however, that the party so affected shall use its commercially reasonable efforts to avoid or remove such causes of non-performance and the Parties shall perform promptly whenever such causes are removed or ceased.

ARTICLE 34
CONFLICT OF INTEREST

Conflict of Interest Code of Ethics Ordinance: In connection with the terms and conditions of this Agreement, the Contractor agrees to adhere to and be governed by the County, Florida Conflict of Interest Code of Ethics Ordinance (Section 2-11.1 of the Code of Miami-Dade County, Florida). Notwithstanding the provisions of any Federal, State or County law governing the activities of the Contractor hereunder, commencing as of the

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effective date of this Agreement and continuing for the term hereof, the Contractor shall not knowingly enter into any contract or other financial arrangement with any person, corporation, municipality, authority, county, state, country, or any tenant or airline, which would constitute a conflict with interest of the County hereunder or with the Services provided by the Contractor to the County hereunder. The Miami-Dade County Ethics Commission shall make determination(s), binding upon the Parties, as to whether conflicts exist or will exist, and if such relationship will be serious enough to constitute a conflict hereunder.

The Contractor represents that no officer, director, employee, agent, or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.

The Contractor also represents that, to the best of its actual knowledge:

- (a) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other Contractor of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the Services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- (b) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided however, that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- (c) The provisions of this article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

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- (d) In the event the Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, the Contractor shall promptly bring such information to the attention of the Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions the Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 35
MISCELLANEOUS PROVISIONS

1. Binding Effect

The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their successors and assigns. This provision shall not constitute a waiver of any conditions prohibiting assignment or subletting.

2. Contractor Limitation of Liability

- a) The Contractor and its subcontractors shall not be liable for:
- (i) any indirect, incidental, consequential except as it pertains to SATS revenues, special or exemplary damages;
 - (ii) any damages of any kind resulting from unauthorized use of or intrusion into the system, including total fraud. This provision applies to all claims whether based upon breach of warranty, breach of contract, negligence, strict liability in tort where any other legal theory, and regardless of whether the Contractor or its subcontractors have been advised of the possibility of such damage or loss, unless the Contractor or its subcontractors fail to take explicit remedial action based upon the directive of the Department.
- b) If a voice system or any other component thereof supports voice over IP protocol (telephony or transmission control protocol/internet protocol), the County may experience certain compromises in performance, liability and security, even when the System is in good working order. These compromises may become more acute if the County fails to follow the Contractor's or the manufacturer's recommendations for configuration, operation and use of the System. The County acknowledges that it is aware of these risks and that it has determined they are acceptable for its application of the System, and the County will not assert any claim against Contractor for such compromises. The County further acknowledges and agrees that the County is solely responsible for:
- (i) ensuring that its network and systems are adequately secured against unauthorized intrusion; and

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- (ii) backing up its data and files.

3. **Other County Rights**

- a) Contractor shall be liable for any physical damage it causes to the system. This liability is limited to: (i) the Contractor's repair of the system or component thereof, or if the system or component cannot be repaired, replacement with a comparable system or component; and (ii) any other such damages to the County arising from the physical damage caused by the Contractor.
- b) The County may also bring any suit or proceeding for specific performance or for an injunction.

4. **No Estoppel or Waiver**

No acceptance, order, measurement, payment, or certificate of or by a Party or its employees or agents shall estop the other Party from asserting any right of the ensuing Agreement. There shall be no waiver of the right of a Party to demand strict performance of any of the provisions, terms and covenants of this Agreement, nor shall there be any waiver of any breach, default or non-performance hereof by the other Party unless such waiver is explicitly made in writing by the Party. No delay or failure to exercise a right under the ensuing Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time, or of any other right under the Agreement.

5. **Federal Subordination**

This Agreement shall be subordinate to the provisions of any existing or future agreements between the County and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. All provisions of this Agreement shall be subordinate to the right of the United States of America to lease or otherwise assume control over the Airport, or any part thereof, during time of war or national emergency for military or naval use and any provisions of this Agreement inconsistent with the provisions of such lease to the United States of America shall be suspended.

6. **Governmental Authority**

Nothing in this Agreement shall be construed to waive or limit the governmental authority of the County as a political subdivision of the State of Florida.

7. **Headings**

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The headings of the various articles and sections of this Agreement, and its Table of Contents, are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

8. **Independent Contractor**

The Contractor shall perform all services described herein as an independent contractor and not as an officer, agent, servant, or employee of the County. All personnel provided by the Contractor in the performance of this Agreement shall be considered to be, at all times, the sole employees of the Contractor under its sole discretion, and not employees or agents of the County.

9. **Intent of Agreement**

This Agreement is for the benefit of the Parties only and does not: (a) grant rights to third party beneficiaries, or to any person; or (b) authorize non-parties to the Agreement to maintain a suit for personal injuries, professional liability, or property damage pursuant to the terms or provisions of the Agreement.

10. **Joint Preparation**

The Parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort.

11. **Laws and Regulations**

The Contractor shall comply with the Code of Miami Dade County, Florida (the "Code"), including but not limited to Chapter 25 of the Code, Operational Directives issued thereunder, all laws, statutes, ordinances, resolutions, regulations and rules of the United States of America, State of Florida, or Miami-Dade County, all as may be amended from time to time, and any and all plans and programs developed in compliance therewith which may be applicable to its operations or activities under this Agreement.

12. **Modifications**

This Agreement may be modified and revised by written Amendment duly executed by the Parties hereto. **Any oral representation or modifications concerning this Agreement shall be of no force or effect.**

13. **Notices**

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Any notices given under the provisions of this Agreement shall be in writing and shall be hand delivered or sent by Registered or Certified Mail, Return Receipt Requested, or express mail service to:

To the County:

Director
Miami-Dade Aviation Department
Post Office Box 592075
Miami, Florida 33159-2075

To the Contractor:

NextiraOne, LLC
Attn: Contractor Project Manager
Building 3030
Perimeter Road and NW 22nd Street
Miami, Florida 33122

with a required copy to General Counsel

or to such other respective addressees as the Parties may designate to each other in writing from time to time. Notices by Registered or Certified Mail shall be deemed given on the delivery date indicated on the Return Receipt from the United States Postal Service or on the express mail service receipt.

14. **Ownership Of Documents**

Any and all reports, photographs, surveys, provided or created in connection with this Agreement are and shall remain the property of the County. In the event of termination of this Agreement, any reports; such as traffic, inventory, switch audit, service and or MAC logs and photographs, surveys, prepared by the Contractor, whether finished or unfinished, shall become the property of the County, and the Contractor shall immediately remit same to the County.

15. **Order Of Precedence**

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) work order, 2) the Scope of Services, and 3) these terms and conditions other than the Scope of Services.

16. **Press Release Or Other Public Communication**

The Contractor shall not issue or permit to be issued any press release, advertisement or literature of any kind that states or suggests that the County endorses the Contractor or the work being performed hereunder, unless the Contractor first obtains the written approval

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of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable. This article shall not preclude the Contractor from including the County as a representative customer. Except as may be required by law, or with the written consent of County, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such other parties has been approved or endorsed by the County.

17. **Prior Agreements**

The Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. **No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless set forth in writing in accordance with this Agreement.**

18. **Project Fresh Start**

Project Fresh Start has been abated by the County for fiscal year 2001-2002 by action of the Miami-Dade Board of County Commissioners. The Board reserves the right to reinstate this program in the future; if it does, the County will advise the Contractor of the impact, if any, such action may have on this Agreement.

19. **Rights to be Exercised by Department**

Wherever in this Agreement rights are reserved to the County, such rights may be exercised by the Department. Wherever Department approval is required, it shall not be unreasonably withheld.

20. **Security**

Subject to recommendations from the Contractor as to reasonable and prudent security measures needed and approval by the Department, the Contractor shall be responsible for the security and protection of the facilities, and the equipment, furnishings, commodities and supplies provided under this Agreement, for which the Contractor has managerial responsibilities.

21. **Severability**

If any provision of this Agreement or the application thereof to either party to this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of the Agreement which can be given effect without the invalid provision, and to this end, the provisions of this Agreement shall be severable.

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22. **Solicitation**

Except as provided by Section 2-11.1(s) of the Code of Miami-Dade County, Florida, the Contractor warrants that: 1) it has not employed or retained any company or person other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement; and 2) it has not paid, or agreed to pay any company or other person any fee, or commission, gift, or other consideration contingent upon the execution of this Agreement. A breach of this warranty makes this Agreement voidable by the County without liability to the Contractor for any reason.

23. **Survival**

Any obligations of the Contractor and the County which by their terms would continue beyond the termination, cancellation or expiration of this Agreement or any service order shall survive with such termination, cancellation or expiration.

24. **Taxes**

The Contractor acknowledges that the County is a tax exempt entity. The Contractor shall pay all taxes lawfully assessed against its operations at the Airport, provided, however, that the Contractor shall not be deemed to be in default of its obligations under this Agreement for failure to pay such taxes pending the outcome of any legal proceedings instituted in a court of competent jurisdiction to determine the validity of such taxes.

25. **Third Party Beneficiaries**

Neither the Contractor nor the County intend to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement, and that no third party shall be entitled to assert a claim against either of the Parties based upon this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third party or entity under this Agreement.

26. **Governing Law; Venue**

This Agreement shall be governed by the laws of the State of Florida. Venue for all actions and claims arising from this Agreement shall be heard in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida or in the United States District Court in and for the Southern District of Florida.

Registered Officer/Agent; Jurisdiction: The Contractor shall designate a registered office and a registered agent, as required by Florida Statutes, such designations to be filed with the Florida Department of State in accordance with Florida Statutes. If the Contractor is a natural person, he and his personal representatives hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on the alleged breach of this Agreement.

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27. Violations of Laws and Regulations

The Contractor agrees to pay on behalf of the County any penalty, assessment, or fine, issued in the name of the County, or to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the Federal, State or County governments, based in whole or substantial part upon a claim or allegation that the Contractor, its agents, employees or invitee, have violated any law, statute, ordinance, resolution, regulation or rule described in subarticle 8 above or any plan or program developed in compliance therewith.

28. Responsible Wages And Benefits

If construction work in excess of one hundred thousand dollars (\$100,000) is required of, or undertaken by the Contractor as a result of this Agreement, the Contractor must pay laborers and mechanics performing work on the project no less than the hourly rates specified in accordance with Section 2-11.16 of the Code of Miami-Dade County, Florida and Administrative Order ("AO") No. 3-24. The Contractor shall fully comply with the requirements of the Code and AO and shall satisfy, comply with, and complete the requirements set forth in this Agreement.

It is also the policy of Miami-Dade County that in all leases of County-owned land which provide for privately funded construction improvements thereon whose construction costs are greater than or equal to \$1 million dollars, any portion of which are financed by any Federal, State or local governmental entity or by bonds issued by such entities, including the Industrial Development Authority ("IDA"), shall comply, including requiring the lessee to require any Contractor constructing such improvements to pay responsible wages to the same extent as if such improvements were County construction. A lessee must pay the County the monitoring fee(s) for the project according to the sliding scale approved by the Board.

This AO does not apply to County construction contracts less than or equal to one hundred thousand dollars (\$100,000) or blanket County contracts designed to consolidate an indeterminate number of individual smaller construction contracts, repair or alteration activities which may be needed over a fixed period of time, provided the overall blanket contract ceiling does not exceed five hundred thousand dollars (\$500,000) and further provided that no individual work order issued under such blanket contract shall exceed twenty-five thousand dollars (\$25,000) per craft, nor does it apply to County construction contracts which are federally funded or otherwise subject to the Davis-Bacon Act, 40 U.S.C. 276 (a). Furthermore, this AO shall not apply to those privately funded projects on County-owned land for construction or alteration of public buildings or public works which are financed solely through private sources, without one dollar (\$1) or more of financing provided through any Federal, State, County or local government entity or bond sources including IDA bonds or similar type bond funding.

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PSC 5200

29. Entirety of Agreement

The Parties hereto agree that this Agreement sets forth the entire agreement between the Parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except as may be specifically authorized by subarticles 12 and 17 to this article of the Agreement, or by written instrument executed by the Parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first herein above set forth.

Contractor

Miami-Dade County

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest: _____

Attest: _____

Secretary

Clerk of the Board

Approved as to form
and legal sufficiency

Assistant County Attorney

Dated 1/22/02

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PSC 5201

Approved _____ Mayor

Agenda Item No. 6(A)(1)(A)
9-24-02

Veto _____

Override _____

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.

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Agenda Item No. 6(A)(1)(A)
Page No. 2

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	absent
Gwen Margolis	aye	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	nay
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

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MEMORANDUM
OFFICE OF THE COUNTY MANAGER
Agenda Item No. 6(A)(1)(A)

TO: Honorable Chairperson and Members of Board of County Commissioners DATE: September 24, 2002

FROM: Steve Shiver, County Manager SUBJECT: Resolution approving 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 29, 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 now 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 specified 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 in no occasion will any airport rental agreement exceed forty-eight (48) months.

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	\$206.88
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	\$16,142.86

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, LLC¹, 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.

¹ NextiraOne, LLC was the successor or assignee of Centef's rights and obligations (via Williams Communications Solutions, LLC) under both the ELM Agreement and the SATS Agreement.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 24, 2002

FROM: *Robert A. Ginsburg*
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(A)(1)(A)

Please note any items checked.

- "4-Day Rule" (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
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

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 _____ (the "Customer"), conducting business as 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 common telecommunications switching equipment and software which will be shared by the Miami-Dade Aviation Department ("MDAD" 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 executed 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 and advance payments are not provided to the County, the County may, in addition to other damaged rights and remedies, delay customer 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 floor plans and accessible System locations free from environmental hazards; (2) reasonable access for the County; (3) completed copies of database feature forms; (4) necessary conduit, holes and wireways, where not otherwise provided hereto; 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 for reasons that include but are not limited to, strikes, work stoppage, fire, water, wind, acts of God, disruption in service for any carrier, storm, lightning, delays by suppliers and subcontractors, delays of power company, delays of the local exchange carrier, interexchange carrier, or any other carrier, governmental action, or any Customer nonperformance such as: (1) non-payment, or (2) 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, assumption 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) **Payments of Rent.** The rent for the System (the "System Rent") shall be as stated in Schedule I and shall be payable, without notice of 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 this Agreement is assigned to a MIA tenant who assumes all the obligations of this Agreement.

8) **Training.** The County will provide instruction and training to 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 misplacement, loss, abuse, 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, failures or changes resulting from local exchange company, interexchange carrier, failures or changes resulting from local power company, failures 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 OR 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 title to and maintain on such System identifying labels indicating the County's ownership. The System shall remain County 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 mortgage waiver with respect to the System. The Customer shall protect and defend the County's title, and, at the Customer's expense, keep the System and parts thereof free and clear of all liens, encumbrances and security interests other than those arising through the County, and shall not permit the County's rights or interest hereunder to be subject to any lien, charge or encumbrance, including but not limited to: (a) any lien of the owner of real property upon which the System is installed; or (b) of any purchaser of, or future or better obtaining a lien on, said real property. The Customer shall give the County immediate notice of any assignment or judicial process affecting any form 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.

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Additional Terms and Conditions

- 13) **Alterations and Attachments.** The Customer shall not permit any equipment or other items or materials (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/or 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 restore 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.
- 14) **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 which is reported 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 instrumentaries from any and all claims, 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, claims, liabilities, losses, damages, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the Customer or its full, direct or indirect, subsidiaries, or subcontractors, except to the extent such act is caused by the County's negligence. The Customer shall pay all attorney's fees and costs 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 incurred 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 as herein provided, indemnify, keep and save harmless and defend the County or its officers, employees, agents and authorized representatives, and instrumentaries 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 for their own negligence.
- 15) **Return of System.** Upon termination of this Agreement, excepting equipment covered under a rental agreement, the Customer will make the System available for removal which shall be accomplished in a timely 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 remove the System 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.
- 16) **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 documents or certificates furnished to the County in any time, which such failure or inaccuracy shall continue for a period of ten (10) calendar days after notice from the County;
 - Dissolution, 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 appearance 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.
- 17) **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 the 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, wherever 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 contemplated 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 in, possession and use of 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 hereof; 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 upon 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 representation or statement of fact or omission by the Customer 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.
- 18) **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 breach(es). 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.
- 19) **Insurance.** In addition to such insurance as may be required by law, the Customer shall maintain during the term of this Agreement the following insurances:
- 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 damage to the equipment.
- The insurance coverage required shall include those classifications, as listed in the standard liability manual, which most nearly reflect the operations of the Customer as 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 solvency, 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.
- Prior to the commencement of operations hereunder, and annually thereafter, the Customer shall furnish certificates of insurance to Miami-Dade County Aviation Department and the Risk Management Division, which certificates shall clearly indicate: (1) the Customer has obtained insurance in the type, amount and classification as required for strict compliance with this Section 19 (2) any material change or cancellation 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 with respect to the Public Liability coverage.
- The County 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 amend this Agreement effective thirty (30) days after such notice. Compliance with the foregoing requirements shall not relieve the Customer of its liability under any other portion of this Agreement.
- 20) **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 act or 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 additional 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) **Severability.** 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 rental 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, subperson, 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 insert 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, interest at the rates established from time to time by the Miami-Dade Board of County Commissioners under 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 interest 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 completion 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 assignee 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 herein 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 hereunder, 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 the Agreement.
- 27) **Customer's Representations.** The Customer represents that this Agreement is a legal, 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 532076
Miami, Florida 33156-2075

For the Customer:

(Printing Customer Name) _____
 (Customer Address) _____
 (City, State & Zip Code) _____
 (Billing Contact) _____
 (Telephone Number) _____

29) Miscellaneous.

- a) If the Customer uses a purchase order or similar document to order a System or edition 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.
- b) The waiver by either party of any default will not operate as a waiver of any subsequent default.
- c) The Customer will pay all of the County's costs or expenses, including reasonable attorney's and collection fees, incurred in enforcing this Agreement.
- d) Any modification must be in writing and executed by an authorized representative of the party against whom enforcement is sought.
- e) This Agreement shall be binding upon and in use to the benefit of the County and the Customer and their respective successors and assigns.
- f) **Rights to be Exercised by Department:** Whenever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

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Additional Terms and Conditions

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- a) This Agreement binds the Customer when it is executed by the Customer and binds the County when created 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 rent in return for the County performing all delivery, installation, and maintenance obligations. This allocation is recognized by both parties and is reflected in the System Rent. 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 permitting 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: _____

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MIAMI-DADE AVIATION DEPARTMENT

Equipment and Services Schedule I

Rental # _____ Date: _____

With respect 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 additions hereto as described in Paragraphs 11 and 12 of this Schedule. Except as otherwise specified in this Schedule, rental payments pursuant to this Schedule (which 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 enclosures 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 shall designate in writing. Whenever any payment (of System Rent or otherwise) is not made within ten (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 amendments 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 of 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 Deposits: The Customer shall pay two (2) months rent as a security deposit, the same shall be held as long as the Customer is current on its System Rent and applicable taxes, and 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 II).

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 Rate: \$ Per Attached Schedule II
(A configuration sheet may be added if more room is needed)

11) Pre-Cutover 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 Inflation 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, thereby adding to each such document the descriptions and rental information with respect to the equipment and the software indicated in such ICN.

12) Post-Cutover 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 implementation 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 tax laws and regulations.

The term of the Agreement for all CSO additions will commence on the date when such CSO additions are first operated 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 of (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 not 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 price 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 here.

IN WITNESS WHEREOF, the parties hereto have caused this Schedule to be executed by their duly authorized representative and this Schedule shall be incorporated into and made a part of the Agreement.

Miami Dade Aviation Department By: _____ Title: _____ Date: _____	Customer By: _____ Title: _____ Date: _____
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MIAMI DADE AVIATION DEPARTMENT Acknowledgment and Certificate of Acceptance Schedule II

To Miami-Dade Aviation Department

The Customer, _____ acknowledges, represents and warrants to the County that the equipment subject to the Rental Agreement dated _____, 20____ between the County and the undersigned: (a) has been delivered, installed and subjected to all necessary pre-operational testing; (b) has been inspected; (c) is operating in accordance with the manufacturer's specifications; (d) has not been used or made available to be placed in service for its specifically assigned function for the first time prior to the date indicated below as the "Commencement Date"; and (e) was first connected to a public telephone system 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: _____

Dated: _____

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MIAMI-DADE AVIATION DEPARTMENT**Maintenance Schedule III**

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 Saturdays, 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 requested studies) are included.

12⁷



MEMORANDUM

107 07 17A MEMPHANDES-SH-MAT MGT

TO: Maurice Jenkins
Manager, Information Systems/
Telecommunications Division

DATE: March 5, 2002

RECEIVED

SUBJECT: BellSouth

FROM: David Stephen Hope *dsh*
Assistant County Attorney

FEB 07 2002

INFORMATION SYSTEMS

BellSouth is incorrect in its communication to you, that the Miami-Dade County (the "County") Home Rule Charter (the "Charter") prohibits the Miami-Dade Aviation Department ("MDAD") from pursuing revenue opportunities as they relate to telecommunications.

Article - 1, § 1.01(A) grants enumerated powers to the Board of County Commissioners (the "Board") as the legislative and governing body of the County. Specifically subsection 14 allows the Board to "[r]egulate, control, take over, and grant franchises to, or itself operate gas, light, power, telephone, and other utilities, sanitary and sewage collection and disposal systems, water supply, treatment, and service systems, and public transportation systems," Subsubsection (b) of subsection 14 provides however, that "[t]he county shall not operate a light, power, or telephone utility to serve any territory in the county which is being supplied with similar service" (emphasis added).

The provision of telecommunications, data network, and shared tenant services to the tenants at Miami International Airport ("MIA") does not constitute the operation of a telephone utility to serve a territory, prohibited by the Charter unless passed by majority vote of the County electorate. First, the County is not operating a public utility. Second, MIA is not a territory, but property owned and operated by the County as an international airport, which consists of a terminal, buildings, and facilities. Last, the provided shared airport services have no similar service equivalent. The County leases certain areas within the terminal, as well as various buildings. The County provides telecommunications, data network, and shared airport services to MDAD and its MIA tenants, necessary for those entities to operate efficiently. MDAD may charge MIA tenants for such services, and may pursue revenue opportunities as said opportunities relate to telecommunications.

cc: Abigail Price-Williams, Esq., Assistant County Attorney

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PLAINTIFF'S
EXHIBIT
tabbler
MJ-3

BS V. MDC(1) 000453

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 250 STREET
MIAMI, FLORIDA 33131-2158

LASH & GOLDBERG, LLP
ATTORNEYS AT LAW
MIAMI, FLORIDA

WEST



FL LAUDERDALE, FLORIDA 33311

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 more 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

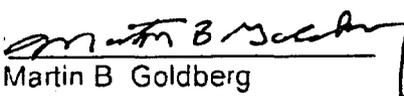
73 There is no room for the County to exercise discretion in the performance of the stated obligations, and the performance thereof is directed by law.

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:

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100 S E 2nd Street
Miami, Florida 33131
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BY: 
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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 27th 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 [Signature] Mayor
Veto _____
Overrule _____

Agency Item No. 6(1)(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)¹ 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 WilTel Communications System ("WilTel"), and in 1997, Williams Communications Solutions, LLC was created from the merger of WilTel and Nortel Communications Systems.

7



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.

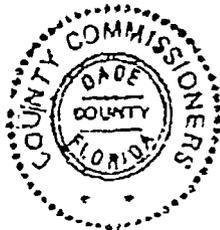
Section 4. Waives competitive bid provisions of Section 4.03(D) of the Home Rule Charter and the requirements of Administrative Order No. 3-2 in connection with the purchase by the County for (i) wiring, (ii) cabling, (iii) fiber optic cables and equipment, (iv) telecommunications

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 Dorrin 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
Dorrin 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

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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, LLC¹ ("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

¹ 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.

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

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.

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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

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MEMORANDUM
OFFICE OF THE COUNTY MANAGER

Agenda Item No. 6(A)(1)(A)

TO: Honorable Chairperson and Members of Board of County Commissioners DATE: September 24, 2002

FROM: Steve Shives, County Manager SUBJECT: Resolution approving 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 29, 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 contract but in no occasion will any airport rental agreement exceed forty-eight (48) months.



10/15/02 JUL 12 12 ITA/RA NO 87071

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	\$16,142.88

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, LLC¹, 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.

¹ 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

Dorria 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	absent
Gwen Margolis	aye	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Dorria D. Rolle	aye	Natacha Seijas	absent
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

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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 _____ (the "Customer"), a corporation/partnership/sole proprietorship, 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 common telecommunications switching equipment and software which will be shared by the Miami-Dade Aviation Department ("MDAD" 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 and advance payments are not provided to the County, the County may, in addition to other delineated rights and remedies, delay or refuse 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 utilities and accessible System locations free from environmental hazards; (2) reasonable access for the County; (3) completed copies of database feature forms; (4) roadway, 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 for reasons that include but are not limited to strikes, work stoppage, fire, water, wind, acts of God, disruption in service for any cause, storms, lightning, delays by 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, assumption 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 I, 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) months 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 assumed 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 I, 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, abuse, 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, failures or changes resulting from local power company failures 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 OR 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 mortgage waiver with respect to the System. The Customer shall protect and defend the County's title and, at the Customer's expense, keep the System and parts thereof free and clear of all liens, encumbrances and security interests other than those arising through the County, and shall not permit the County's rights or interest hereunder to be subject to any lien, charge or encumbrance, including but not limited to (a) any lien of the owner of real property upon which the System is installed, or (b) of any purchaser of, or future creditor obtaining a lien on, said real property. The Customer shall give the County immediate notice of any attachment 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

- 13) **Alterations and Attachments.** The Customer shall not permit any equipment or other items or 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/or 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 restore 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.
- 14) **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 which is reported 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 claims, 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, relating to or resulting from the performance of this Agreement by the Customer or its employees, agents, servants, partners, principals, or subcontractors, except to the extent such act is caused by the County's negligence. The Customer shall pay 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 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.
- 15) **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.
- 16) **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 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;
 - dissolution, 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.
- 17) **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 interest 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.
- 18) **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.
- 19) **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 may be rated no less than "B" as to management, and no less than "V" 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.
- Prior to the commencement of operations hereunder, and annually thereafter, the Customer shall furnish certificates of insurance to Miami-Dade County Aviation Department and the Risk Management Division, which certificates shall clearly indicate: (1) the Customer has obtained insurance in the type, amount and classification as required for third compliance with this Section 19; (2) any material change or cancellation 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 with respect to the Public Liability coverage.
- The County reserves the right to require the Customer to provide such reasonably extended insurance coverage as it deems necessary or desirable upon issuance of notice in writing to the Customer, which notice shall automatically amend this Agreement effective thirty (30) days after such notice. Compliance with the foregoing requirements shall not relieve the Customer of its liability under any other portion of this Agreement.
- 20) **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 which the County deems necessary for the maintenance and preservation of the Systems and the County's bills therefor. 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 additional to the 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) **Severability.** 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 reset 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, interest at the rate 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 interest and the obligation of the Customer to pay same shall be in addition to and not in lieu of the County's rights 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 release 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 herein 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) _____

Miscellaneous

- a. If the Customer uses a purchase order or similar document to order a System or add-on 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.
- b. The waiver by either party of any default will not operate as a waiver of any subsequent default.
- c. The Customer will pay all of the County's costs or expenses, including reasonable attorney's and collection fees, incurred in enforcing this Agreement.
- d. Any modification must be in writing and executed by an authorized representative of the party against whom enforcement is sought.
- e. This Agreement shall be binding upon and in use to the benefit of the County and the Customer and their respective successors and assigns.
- f. Rights to be Exercised by Department. Whenever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

Additional Terms and Conditions

30) 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 rent 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 Form. 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 prohibits 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

Revised: _____ Date: _____

With respect 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 additions hereto as described in Paragraphs 11 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 shall designate in writing. Whenever any payment (of System Rent or otherwise) is not made within ten (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 of 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 II).
- 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 Schedules
(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, thereby 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 tax laws and regulations. The term of the Agreement for all CSO additions will commence on the date when such CSO additions are first operated 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 price 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:

16 5

MI AVIATION DEPARTMENT Acknowledgment and Certificate of Acceptance Schedule 11

To: Aviation Department

The _____ acknowledges, represents and warrants to the
County of _____ equipment subject to the Rental Agreement dated _____, 20____
by _____ and the undersigned. (a) has been delivered, installed and subjected to all necessary pre
operating; (b) has been inspected; (c) is operating in accordance with the manufacturer's specifications
(d) is 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
in a manner permitting calls to be made through the equipment to and from the facility in which
the _____ is located on such Commencement Date.

Commencement Date _____

Customer _____

By _____

Title _____

Date _____

11 6

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 B
SATS Airport Rental and CUTE Agreements

Article Customers (Excluding MDAD)	Customer Number	
1	Abalis International	10391420
2	Aces - CUTE & Voice	10338645
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	Aserca 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	Carnegie Ice Cream Shop	10351663
19	Centers for Disease Control	10396494
20	Centio 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 Marnot	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	10464296
	Expected New Contracts	
	Global Concessions	TBD

MOAD NextraOne Management Agreement
February 7, 2002



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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.

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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

PAGE

PEDRO J. GARCIA

BY MR. BLOOMBERG

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.

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OFFICE OF COUNTY ATTORNEY, MIAMI-DADE COUNTY, FLORIDA



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

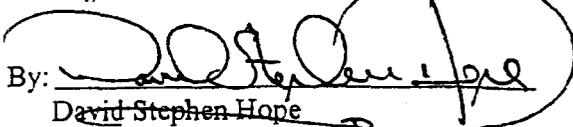
FIRST DEFENSE
(Failure to State a Claim)

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)

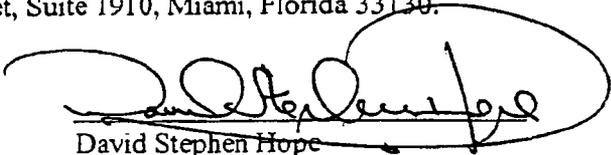
2. The County has operated a telecommunications, data network, and shared airport tenant services infrastructure and system, and provided such services at MIA since circa 1982. BellSouth has had knowledge of said infrastructure and system since its inception. The doctrine of laches is a bar to any and 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 19th 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

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

Case No. . 02-28688 CA 03

**BELLSOUTH TELECOMMUNICATIONS,
INC.**, a foreign corporation,
Plaintiff,

vs.

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,
Defendant.

**RESPONSE TO REQUEST FOR
CONTENTION INTERROGATORIES**

Defendant, Miami-Dade County (the "County"), by and through its undersigned counsel,
hereby serves its answers to the Request for Contention Interrogatories propounded by Plaintiff,
BellSouth Telecommunications, Inc. ("BellSouth"), and states as follows:

1. Regarding Interrogatory No. 1 –

Maurice Jenkins
Information Systems and Telecommunications Manager
Miami-Dade Aviation Department
P.O. Box 592075
Miami, Florida 33159

2. Regarding Interrogatory No. 2 –

Maurice Jenkins; and Pedro Garcia. All persons listed may be reached at Miami-Dade Aviation
Department, P. O. Box 592075, Miami, Florida 33159. All persons listed have knowledge of the
various issues in the lawsuit.

In addition, the County's witness list has not been determined at this date.

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OFFICE OF COUNTY ATTORNEY, MIAMI-DADE COUNTY, FLORIDA



3. Regarding Interrogatory No. 3 –

American Telephone and Telegraph (“AT&T”) provided telephone and related services to MIA since its inception. After deregulation and the creation of the regional “Bell” telephone companies, BellSouth has provided this same service. WorldCom/MCI, SunCom, BellSouth, and AT&T are the authorized long distance providers for MIA.

The Miami-Dade Aviation Department (“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. BellSouth provides MDAD with dial tone for local service. WorldCom/MCI also provides local and short-long distance service (from Miami to Monroe and Broward counties) for the County pursuant to a County contract. MDAD does not charge MDAD tenants for local service. In addition to paying for long distance service, MDAD pays BellSouth to provide network connectivity to the switched public network (local dial tone), dedicated network connectivity, Smart Ring (redundant) switched public network access, wide-area network connectivity, and BellSouth telephone directory listings.

Prior to the sale of title to all telecommunications, data network, and common use terminal equipment (“CUTE”) infrastructures, software, licenses, permits, and other assets (collectively, the “Assets”) to the County, and which Assets are used in the provision of telecommunications, data network, and shared airport tenant services (collectively, the “Services”), NextiraOne LLC¹ (“Nextira” or “Contractor”) provided shared airport tenant services (“SATS” or “STS”) services at Miami International Airport (“MIA”) without a Florida Public Service Commission (“FPSC”) certificate. Neither the County nor MDAD possess a FPSC certificate for the provision of the STS portion of the Services. Airports are exempt from other STS rules and FPSC regulation. The Services are only provided and available for MDAD and MDAD’s tenants.

4. Regarding Interrogatory No. 4 –

The non-exclusive “Telecommunications, Data Network, and Shared Airport Tenant Services” management agreement dated February 1, 2002 (the “Agreement”), between the County and Nextira, governed: (i) the County’s acquisition of the Assets; (ii) the terms and conditions by which Nextira operated as the interim manager of the Assets, including but not limited to the scope of services provided; (iii) Nextira’s compensation, representations, and warranties; and (iv) Nextira’s assignment of all SATS Airport rental and CUTE agreements, software license(s), and permits to the County. Pursuant to the Agreement, the Contractor shall provide *inter alia*, for the design, installation, maintenance, repair, management and operational support services for all voice and data

¹ In 1991, the original vendor, Centel Communication Company, was acquired by WilTel Communications System, and in 1997, Williams Communications Solutions, LLC (“WCS”) was created from the merger of WilTel and Nortel Communications Systems. In April 2001, Platinum Equities acquired WCS. Platinum Equities integrated WCS with Milgo Solutions and the two companies merged operations to form NextiraOne, LLC (“Nextira”) on April 3, 2001. Nextira became the successor or assignee of WCS’ rights and obligations under the existing agreements.

network infrastructure for MDAD and the SATS customers at MIA and the general aviation airports (collectively the "Airport"). The scope of services includes the provisioning of voice and data network services and maintenance of existing and future voice and data network infrastructure equipment and facilities, at the Airport, and the management of SATS for the County, including CUTE, to tenants and users at the Airport. The scope of services describes the Contractor's obligations and responsibilities, and is deemed to include labor, materials, equipment, and additional tasks to the extent set forth in the Agreement.

5. Regarding Interrogatory No. 5 –

Neither MIA nor the general aviation airports are territories in the County. Telecommunications companies shall provide adequate and efficient service to the territory described in its certificate of necessity. Neither the County nor MDAD is required to obtain such a certificate for the provision of the Services, and the Services are only provided to MDAD and MDAD tenants at the Airport. In addition, MIA and the general aviation airports are zoned "Institutional and Public Facility", and are private County owned property.

6. Regarding Interrogatory No. 6 –

First, on March 16, 1982, the Miami-Dade County Board of County Commissioners (the "Board") approved Resolution No. R-361-82 awarding a contract for the installation of a telecommunications system for MDAD at MIA (the "Airport System") and the MIA Airport Hotel (the "Hotel System") to Centel Communication Company ("Centel"), and authorized MDAD to negotiate a final agreement with Centel for the purchase or rental of the telecommunications system. On September 9, 1982, the County finalized two (2) agreements with Centel intended to support the telecommunications needs of MDAD. The Equipment Lease and Maintenance Agreement (the "ELM Agreement") provided for the installation and maintenance of a telecommunications system and related equipment for MIA. The Shared Airport Tenant Service Agreement (the "SATS Agreement") allowed Centel to use the telecommunications equipment and facilities within MIA to provide services to airport tenants for which, Centel paid the County a monthly fee plus a percentage of the gross revenues. On July 24, 1990, the Board approved Resolution No. R-788-90 for the renewal of the ELM Agreement and SATS Agreement with Centel. Pursuant to the ELM Agreement, the parties acknowledged the purchase of the Hotel System and equipment on October 7, 1987. Therefore, the scope of the lease provisions of the ELM Agreement solely pertained to the Airport System. The County retained the option to purchase all or any portion of the Airport System and equipment Centel leased to the County at MIA. If the County purchased all of the equipment, Centel would assign to the County any and all service and lease agreements between Centel and MIA shared airport tenant services users. Centel continued to provide the maintenance and services for both the Airport System and Hotel System. The term of the ELM Agreement and SATS Agreement commenced retroactively from February 7, 1988 for an initial period of four (4) years, with options for the County to renew for five (5) consecutive two (2) year terms. In 1991, Centel, was acquired by WilTel Communications System, and in 1997, Williams Communications Solutions, LLC ("WCS") was created from the merger of WilTel and Nortel Communications Systems. During this time

period, both the ELM Agreement and SATS Agreement were repeatedly renewed without significant modification or updating. Under the ELM Agreement, WCS provided MIA's telephone system, the terminal audio system and a rudimentary, limited and small computer network. The ELM Agreement also provided WCS with a monthly lease amount for all the equipment installed including fiber optic cabling, hardware and software. Pursuant to that contract, all equipment installed remained the property of WCS. When additions were made to the system over the years, the monthly lease payment to WCS increased substantially.

As information technology advanced and MIA grew, telecommunications and data needs changed drastically. The information technology and telecommunications ("ITT") systems grew at MIA in size, complexity and in technology installed and used. MIA began operating a fully digital fiber optics based Asynchronous Transfer Mode ("ATM") network running with NT software and providing service to a variety of sophisticated hardware and software sub-systems. General terminology in the ELM Agreement allowed the installation and lease of other approved systems and related equipment. The ELM Agreement was broadly interpreted to allow the acquisition, by lease, of a variety of additional equipment. The result was the lease of new systems and equipment including, but not limited to: (i) a Flight Information Display System ("FIDS") which receives flight arrival and departure information and displays it through monitors throughout the airport; (ii) CUTE for airlines to set-up or relocate at different gates and access their airline specific information; (iii) Airport-Vision displays which was a system of dynamic signage used to display airline logos; (iv) Audible Information Systems for Elevators which provided audible location information outside the parking garage elevators in two (2) languages; (v) Communications Mobile Command Vehicle, a mobile home-type vehicle equipped with landline telephones, satellite telephones, personal computers, radios, and facsimile machines, and equipped with a power generator and modified to serve as an emergency communications base; and (vi) Communication Switching Consoles used as an interface between the 400 Mhz radios and MDAD telephone switches, to provide communications for landside operations and the MIA Operations Control Room. Upgrades and expansions of existing systems were also leased under the ELM Agreement. This was all done by accessing the lease provisions of the ELM Agreement.

In April 2001, Platinum Equities acquired WCS. Platinum Equities integrated WCS with Milgo Solutions and the two companies merged operations to form NextiraOne, LLC ("Nextira") on April 3, 2001. Nextira became the successor or assignee of WCS' rights and obligations under the existing agreements. In light of the impending deadline for renewal of the Equipment and the Service Agreement, both of which were scheduled to terminate on February 6, 2002, the County decided exercise its buyout option under the ELM Agreement and the SATS Agreement to acquire title to the Assets used in the provision of the Services. On January 29, 2002, the Board approved Resolution No. R-31-02 authorizing payment of \$6,450,000 to Nextira for the purchase of infrastructure to be used and operated by or for MDAD and authorizing the approval and execution of the Agreement with Nextira for an interim two (2) year period. On March 6, 2003, the County put forth an Advertisement for Request for Proposals ("RFP"), RFP No. MDAD-04-01, for a non-exclusive agreement for the provision of telecommunications and network management services agreement for MDAD at the Airport. Pursuant to the terms of the RFP, the successor manager of the Assets, shall be able to furnish all labor, new materials, tools, supplies and other items required for the design, installation, maintenance, repair, management, and operational support services for all (i) voice and

data network infrastructure for MDAD, its users and tenants; and (ii) the management of SATS for the County to tenants users at MIA.

Management duties for the new manager of the Assets include, but are not limited to: (a) the 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 infrastructures; (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; (o) record keeping and inventory; and (p) any other functions related to the provisioning of these services.

The new manager shall also be responsible for providing, installing and maintaining technical systems hardware and software associated with the management of all telecommunications ATM Gigabit Ethernet & ATM infrastructure. In addition, the new manager shall be responsible for maintaining 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 new manager chooses to employ subject to MDAD approval. Back-ups are required to be performed and maintained off-site by the new manager for all key technical systems to ensure data integrity and disaster recovery. Pursuant to the terms of the RFP, the County received sealed proposals from qualified, interested parties based upon the covenants and provisions of the RFP. 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.

Second, "Home Rule" confers to the Board the full power and authority to enact legislation relating to the affairs and property of the County. Said power and authority is liberally construed to conduct a central metropolitan government. The Board is empowered to provide and operate the Airport. The Board determined ownership of the information technology and telecommunications infrastructure and systems was of paramount importance to the County. It was important that MIA take control of its information technology and telecommunications infrastructure. Essentially, this

refers to the transmission pathways that characterize both wired and wireless communication. Relative to wired communication, this includes copper cabling for telephone transmission and both copper and fiber optic cable for data transmission. It also includes conduits, distribution rooms and the duct banks and tunnels between buildings. The wireless infrastructure includes the cable that runs between the transmitters and the antennas, the antennas themselves, and any superstructures that support the antennas. MIA's ownership and control of the infrastructure was needed since it is the foundation for every major telecommunication and technology initiative that occurs.

Third, the County purchased the leased assets used since 1982 to provide the information technology and telecommunications services necessary for the safe and efficient operation of MIA. The Assets were purchased from a private owner. The Services are provided to MDAD and MIA tenants only, and not to the public generally and indiscriminately. The FPSC is a State of Florida regulatory agency.

Last, this answer has also been provided in Interrogatory Nos. 3 and 5.

7. Regarding Interrogatory No. 7 –

BellSouth, is a foreign corporation and not a Miami-Dade County "citizen" or "resident". Given, MDAD pays BellSouth for (i) local dial tone, (ii) long distance services, (iii) network connectivity to the switched public network (local dial tone), (iv) dedicated network connectivity, (v) Smart Ring (redundant) switched public network access, (vi) wide-area network connectivity, (vii) BellSouth telephone directory listings, (viii) terminal construction work, and (ix) the performance of other telecommunications work for MIA tenants, BellSouth has no special injury and therefore no standing to bring this action.

In addition, this answer has been provided in Interrogatory No. 3.

8. Regarding Interrogatory No. 8, this answer has been provided in Interrogatory Nos. 6 and 7.

9. Regarding Interrogatory No. 9, this answer has been provided in Interrogatory Nos. 3, 5, 6, and 7.

10. Regarding Interrogatory No. 10, this answer has been provided in Interrogatory No. 7.

11. Regarding Interrogatory No. 11, this answer has been provided in Interrogatory No. 6.

12. Regarding Interrogatory No. 12, this answer has been provided in Interrogatory Nos. 7 and 8.

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; (v) "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 (viii) "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

operated to serve any territory in the County; and (iii) the territory in which the utility operates is supplied with similar services. BellSouth fails to show all persons have an equal right to the use of the Services. The Services are not tantamount to the operation of a telephone utility to serve any territory in the County supplied with similar services. First, the Services (i) are not available to the public generally and indiscriminately, (ii) do not constitute operation as a public utility, (iii) are exempt from FPSC certification, and (iv) are paid by MDAD to BellSouth and other telecommunications carriers to provide some of the services, therefore the County is not operating a telephone utility. Second, neither MIA nor other County owned general aviation airports are territories as defined by Florida Statutes. Last, BellSouth does not supply similar telecommunications, data network, and shared tenant services, but only a subset of the telecommunications services offered by and to MDAD in the operation of MIA.

Section 1.01(A)(14) of the County Home Rule Charter (the "Charter") allows the Board to "[r]egulate, control, take over, and grant franchises to, or itself operate gas, light, power, telephone, and other utilities, sanitary and sewage collection and disposal systems, water supply, treatment, and service systems, and public transportation systems," Subsubsection (b) of § 1.01(A)(14) provides however, that "[t]he county shall not operate a light, power, or telephone utility to serve any territory in the county which is being supplied with similar service" Section 1.01(B) of the Charter states, "No enumeration of powers in this Charter shall be deemed exclusive or restrictive and the foregoing powers shall be deemed to include all implied powers necessary and proper to carry out such powers...." Section 1.01(A)(2) of the Charter grants the Board power to "[p]rovide and operate air, water, rail, and bus terminals, port facilities, and public transportation systems." Therefore, the Board can do all things necessary to establish, legislate, govern, and operate the County. MDAD's provision of telecommunications, data network, and SATS services, to itself and MIA tenants is a constitutionally permissible exercise of power under the Florida Constitution, the Florida Statutes, and the Charter. The Services enable the County to provide and operate aviation facilities. The construction, improvement, maintenance, and operation of the Services are a governmental and municipal function, exercised for a public purpose and matters of public necessity. BellSouth does not have standing to raise an alleged Charter violation. BellSouth has not shown the clear legal right to declaratory or injunctive relief.

17. Regarding Interrogatory No. 17 -

Laches - On November 19, 1981, the County advertised an RFP for Contract No. 6-T-600 for the manufacture, fabrication, delivery, complete installation, performance verification testing, and two (2) year maintenance of the Airport System and the Hotel System. Proposals were due on or before January 13, 1982. Southern Bell Telephone & Telegraph Company,² parent company of BellSouth, submitted one (1) of the six proposals evaluated. This solicitation culminated in the Board approving Resolution No. R-361-82, to award Contract 6-T-600 to Centel for the purchase or lease of the telecommunications systems.

² N/k/a BellSouth Corporation.

By: *M Jenkins*

STATE OF FLORIDA)
)ss.
COUNTY OF MIAMI-DADE)

BEFORE ME the undersigned authority, personally appeared MAURICE Jenkins who, after first being duly sworn under oath by me, deposes and says that he has read the foregoing Answers to Contention Interrogatories, and that they are true and correct to the best of his/her knowledge, information and belief.

SWORN TO AND SUBSCRIBED before me

this 1st day of March

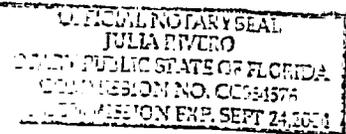
2004, *J.R.*

NOTARY PUBLIC

Julia Rivo

(Print, Type or Stamp Commissioned Name of Notary Public)

My Commission Expires:



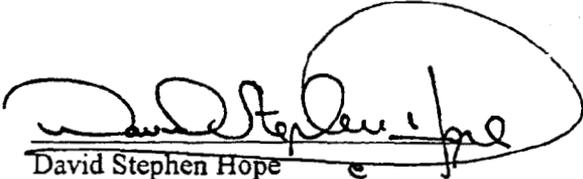
Personally Known X or

Produced Identification _____

Type of Identification Produced:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 1st day of March 2004, to *Martin B. Goldberg, Esq.*, Lash & Goldberg LLP, Bank of America Tower, 100 Southeast 2nd Street, Suite 1200, 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

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 02-28688 CA 03

**BELLSOUTH TELECOMMUNICATIONS,
INC.,**

Plaintiff,

vs.

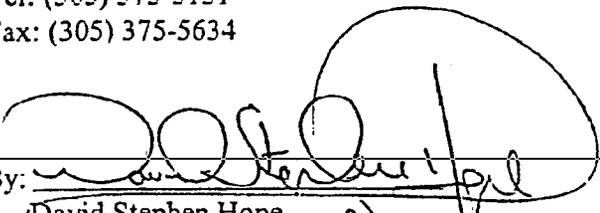
MIAMI-DADE COUNTY, a political
subdivision of the State of Florida,
Defendant.

**MIAMI-DADE COUNTY'S NOTICE
OF FILING AFFIDAVIT OF
MAURICE JENKINS**

Defendant, Miami-Dade County (the "County"), by and through its undersigned counsel, pursuant to Fla.R.Civ.P. 1.510(C), gives notice of filing the affidavit of Maurice Jenkins. This affidavit is in support of its Cross-Motion for Summary Judgment and memorandum of law in opposition to Plaintiff, BellSouth Telecommunications, Inc.'s ("BellSouth") Motion for Summary Judgment in this matter.

Respectfully submitted,

ROBERT A. GINSBURG
Miami-Dade County Attorney
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Miami, Florida 33159-2075
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By: 
David Stephen Hope
Assistant County Attorney
Florida Bar No. 87718

PLAINTIFF'S
EXHIBIT
MJ- 7

AFFIDAVIT OF MAURICE JENKINS

STATE OF)
)SS
COUNTY OF)

BEFORE ME, the undersigned authority, personally appeared MAURICE JENKINS, who after being duly sworn, deposes and says:

1. My name is Maurice Jenkins. I am the Information Systems and Telecommunications Manager at Miami International Airport ("MIA") for the Miami-Dade County Aviation Department ("MDAD") responsible for the maintenance and administration of all operations of the Information Technology and Telecommunications ("ITT") systems group at MIA, the management and expansion of MIA shared tenant services, and the management of the Business Systems projects that are part of MIA's Capital Improvement Program. I have held this position for five (5) years and have worked in the MIA Information Technology Department for fifteen (15) years.
2. On March 16, 1982, the Miami-Dade County Board of County Commissioners (the "Board") approved Resolution No. R-361-82 awarding a contract for the installation of a telecommunications system for MDAD at MIA to Centel Communication Company ("Centel"), and authorizing MDAD to negotiate a final agreement with Centel for the purchase or rental of the telecommunications system. See Ex. A, Resolution No. R-361-82.
3. On September 9, 1982, Miami-Dade County (the "County") finalized two (2) agreements with Centel intended to support the telecommunications needs of MDAD. The Equipment Lease and Maintenance Agreement (the "ELM Agreement") provided for the installation and maintenance of a telecommunications system and related equipment for MIA. The Shared Airport Tenant Service Agreement (the "SATS Agreement") allowed Centel to use the telecommunications equipment and facilities within MIA to provide services to airport

tenants for which, Centel paid the County a monthly fee plus a percentage of the gross revenues.

4. On July 24, 1990, the Board approved Resolution No. R-788-90 for the renewal of the ELM Agreement and SATS Agreement with Centel. *See Ex. D*, Resolution No. R-788-90. Both contracts were attached and made a part of the Resolution in substantial form. Pursuant to the ELM Agreement, the parties acknowledged the purchase of the Hotel System and equipment on October 7, 1987. Therefore, the scope of the lease provisions of the ELM Agreement solely pertained to the Airport System. The County retained the option to purchase all or any portion of the Airport System and equipment Centel leased to the County at MIA. If the County purchased all of the equipment, Centel would assign to the County any and all service and lease agreements between Centel and MIA shared airport tenant services ("SATS" or "STS") users. Centel continued to provide the maintenance and services for both the Airport and Hotel Systems. The term of the ELM Agreement and SATS Agreement commenced retroactively from February 7, 1988 for an initial period of four (4) years, with options for the County to renew for five (5) consecutive two (2) year terms.
5. In 1991, the original vendor, Centel, was acquired by WilTel Communications System, and in 1997, Williams Communications Solutions, LLC ("WCS") was created from the merger of WilTel and Nortel Communications Systems. During this time period, both the ELM Agreement and SATS Agreement were repeatedly renewed without significant modification or updating. Under the ELM Agreement, WCS provided MIA's telephone system, the terminal audio system and a rudimentary, limited and small computer network. The ELM Agreement also provided WCS with a monthly lease amount for all the equipment installed including fiber optic cabling, hardware and software. Pursuant to that contract, all

equipment installed remained the property of WCS. When additions were made to the system over the years, the monthly lease payment to WCS increased substantially.

6. As information technology advanced and MIA grew, telecommunications and data needs changed drastically. The ITT systems grew at MIA in size, complexity and in technology installed and used. MIA began operating a fully digital fiber optics based Asynchronous Transfer Mode ("ATM") network running with NT software and providing service to a variety of sophisticated hardware and software sub-systems. General terminology in the ELM Agreement allowed the installation and lease of other approved systems and related equipment. The ELM Agreement was broadly interpreted to allow the acquisition, by lease, of a variety of additional equipment. The result was the lease of new systems and equipment including, but not limited to: (i) a Flight Information Display System ("FIDS") which receives flight arrival and departure information and displays it through monitors throughout the airport; (ii) Common Use Terminal Equipment ("CUTE") for airlines to set-up or relocate at different gates and access their airline specific information; (iii) Airport-Vision displays which was a system of dynamic signage used to display airline logos; (iv) Audible Information Systems for Elevators which provided audible location information outside the parking garage elevators in two (2) languages; (v) Communications Mobile Command Vehicle, a mobile home-type vehicle equipped with landline telephones, satellite telephones, personal computers, radios, and facsimile machines, and equipped with a power generator and modified to serve as an emergency communications base; and (vi) Communication Switching Consoles used as an interface between the 400 Mhz radios and MDAD telephone switches, to provide communications for landside operations and the MIA Operations Control Room. Upgrades and expansions of existing systems were also leased under the

ELM Agreement. This was all done by accessing the lease provisions of the ELM Agreement.

7. The annual costs incurred by MDAD for the provision of services under the ELM Agreement and the SATS Agreement ranged between \$4,400,000 and \$10,500,000 for the fiscal year periods of 1994 to 2000.
8. In or around mid to late 1998, concerns were first noticed with the management and use of the existing telecommunications contracts with WCS. An analysis of the situation resulted in a management level review being conducted of the WCS contracts by MDAD. We determined that it was important that MIA take control of its information technology and telecommunications infrastructure. Essentially, this refers to the transmission pathways that characterize both wired and wireless communication. Relative to wired communication, this includes copper cabling for telephone transmission and both copper and fiber optic cable for data transmission. It also includes conduits, distribution rooms and the duct banks and tunnels between buildings. The wireless infrastructure includes the cable that runs between the transmitters and the antennas, the antennas themselves, and any superstructures that support the antennas.
9. MIA's ownership and control of the infrastructure was needed since it is the foundation for every major telecommunication and technology initiative that occurs. Whomever controls the infrastructure, has significant power over airport operations and it made good business sense for MIA to be in this position. Based on our experience with other airports across the nation, it is the one factor, more than anything else that can facilitate or impede an airport from controlling its future destiny.
10. In April 2001, Platinum Equities acquired WCS. Platinum Equities integrated WCS with Milgo Solutions and the two companies merged operations to form NextiraOne, LLC

("Nextira") on April 3, 2001. Nextira became the successor or assignee of WCS' rights and obligations under both the ELM Agreement and the SATS Agreement.

11. In light of the impending deadline for renewal of the Equipment and the Service Agreement, both of which were scheduled to terminate on February 6, 2002, the County decided exercise its buyout option under the ELM Agreement and the SATS Agreement to acquire title to all telecommunications, data network, and CUTE infrastructures, software, licenses, permits, and other assets (collectively, the "Assets") used in the provision of telecommunications, data network, and shared airport tenant services (collectively, the "Services"). On January 29, 2002, the Board approved Resolution No. R-31-02 authorizing payment of \$6,450,000 to Nextira for the purchase of infrastructure to be used and operated by or for MDAD and authorizing the approval and execution of a non-exclusive "Telecommunications, Data Network, and Shared Airport Tenant Services" management agreement with Nextira for an interim two (2) year period. *See Ex. E*, Resolution No. R-31-02.
12. Nextira, as the previous owner/operator of the Assets had the requisite knowledge and experience to serve as interim manager of the Assets, while MDAD assessed, formulated, and implemented its ITT systems strategy and objectives.
13. On March 6, 2003, the County put forth an Advertisement for Request for Proposals, RFP No. MDAD-04-01 ("RFP"), for a non-exclusive agreement for the provision of telecommunications and network management services agreement for MDAD at MIA and the general aviation airports. *See Ex. F*, RFP No. MDAD-04-01. Pursuant to the terms of the RFP, the successor manager of the Assets, shall be able to furnish all labor, new materials, tools, supplies and other items required for the design, installation, maintenance, repair, management, and operational support services for all (i) voice and data network

infrastructure for MDAD, its users and tenants; and (ii) the management of SATS for the County to tenants users at MIA.

14. Management duties for the new manager of the Assets include, but are not limited to: (a) the 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 infrastructures; (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; (o) record keeping and inventory; and (p) any other functions related to the provisioning of these services.

15. The new manager shall also be responsible for providing, installing and maintaining technical systems hardware and software associated with the management of all telecommunications ATM Gigabit Ethernet & ATM infrastructure. In addition, the new manager shall be responsible for maintaining 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 new manager chooses to employ subject to MDAD approval. Back-ups are required to be performed and maintained off-site by the new manager for all key technical systems to ensure data integrity and disaster recovery.
16. Pursuant to the terms of the RFP, the County will receive sealed proposals from qualified, interested parties based upon the covenants and provisions of the RFP. After advertisement of the RFP to the general public, on April 17, 2003 the County received four (4) bids in response. BellSouth is 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 will only manage the voice communications activities component of the MSATS. See Ex. G, SITA Executive Summary. Pursuant to its procurement process, the County has put together an evaluation and selection committee to review the submitted proposals and make recommendations to the County Manager for negotiations and eventual award. The first meeting of the evaluation and selection committee is set for July 31, 2003.
17. The Services are only provided and available for MDAD and MDAD's tenants.
18. Neither the County nor MDAD possess a Florida Public Service Commission ("FPSC") certificate for the provision of the STS portion of the Services.

19. Orlando International Airport is another example of an STS service provider without a FPSC certificate.
20. Prior to the sale of the Assets, Nextira provided STS services at MIA without a FPSC certificate.
21. American Telephone and Telegraph ("AT&T") provided telephone and related services to MIA since its inception. After deregulation and the creation of the regional "Bell" telephone companies, BellSouth has provided this same service.
22. 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.
23. BellSouth provides MDAD with dial tone for local service. WorldCom/MCI is the local and short-long distance provider (from Miami to West Palm Beach) for the County pursuant to a County contract. MDAD does not charge MDAD tenants for local service.
24. In addition to paying for long distance service, MDAD pays BellSouth to provide voice mail, telephone terminal equipment, premise inside wiring, local area network connectivity and equipment, internet access, network connectivity to the switched public network, dedicated network connectivity to the work, wide-area network connectivity and yellow pages advertising. Representative bills from BellSouth for (i) long distance telephone service to MDAD for MIA and the general aviation airports, MIA SATS customers, and MDAD Management Companies, for the billing period of June 20, 2003, in the amount of \$14,278.31 and (ii) terminal construction work to enable telephone services at MIA (Job No. 2M2200TIB), on April 30, 2003 in the amount of \$27,433.92 are attached to this affidavit as Ex. 1.

25. BellSouth is free to provide its telephone services, and any of the telephone services MDAD provides, directly to MDAD's tenants.

FURTHER AFFIANT SAYETH NAUGHT.


Maurice Jenkins

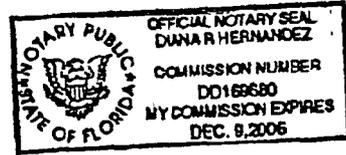
Sworn to and subscribed before me at Miami, Miami-Dade County, Florida this 29
day of July, 2003, by

Who is personally known to me

Who produced identification: _____

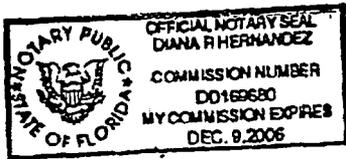
Type of identification


Signature of Notary Public
State of Florida at Large



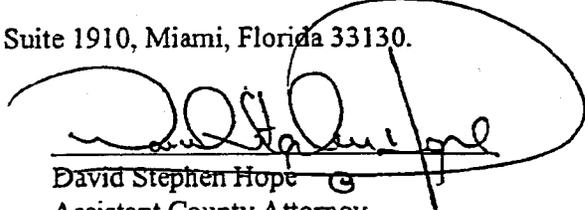
DIANA R. HERNANDEZ
Print, type or stamp name of notary public

My Commission Expires:



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 29th day of July 2003, to *Mitchell R. Bloomberg, Esq.*, Adorno & Yoss, P.A., 2601 South Bayshore Drive, Suite 1600, Miami, Florida, 33133; *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

INDEX OF CURRENT CHARGES BILLED

AN ADDITIONAL CHARGE AT THE RATE OF 1.00% FOR REGULATED CHARGES AND AT THE RATE AS PROVIDED BY YOUR TERMS OF SERVICE FOR UNREGULATED CHARGES MAY APPLY TO AN UNPAID BALANCE AS OF SEP 24.

NONPAYMENT OF REGULATED CHARGES MAY RESULT IN DISCONTINUANCE OF SERVICE. FAILURE TO PAY UNREGULATED AND CERTAIN OTHER CHARGES, ALL OF WHICH ARE IDENTIFIED BY ** ON YOUR BILL, WILL NOT RESULT IN AN INTERRUPTION OF LOCAL SERVICE. THE AMOUNT OF REGULATED CHARGES MAY BE OBTAINED BY CALLING 1 800 945-6500.

CLUB(R) SERVICE CUSTOMERS RECEIVE A USOC SUMMARY, DEPENDING ON THE USOC SUMMARY OPTION YOU HAVE CHOSEN, IDENTIFYING ALL ITEMS INCLUDED IN THE MONTHLY LOCAL SERVICE. PLEASE REVIEW THIS INFORMATION FOR ACCURACY. IF YOU HAVE ANY QUESTIONS, CALL THE BELLSOUTH NUMBER LISTED IN THIS BILL.

CHARGES BILLED FROM DEPARTMENT IDENTIFIER DAC
CHARGES BILLED FROM EARNING NUMBER 305 871-0010
BELLSOUTH

ADJUSTMENTS APPLIED (PAGE 1)
MONTHLY LOCAL SERVICE (ITEM 3) 92.86
TOTAL BILLED FROM EARNING NUMBER 305 871-0010

CHARGES BILLED FROM EARNING NUMBER 305 871-0947
BELLSOUTH

MONTHLY LOCAL SERVICE (ITEMS 2-4) 46.07
OTHER CHARGES AND CREDITS (ITEM 5) 0.11
TOTAL BILLED FROM EARNING NUMBER 305 871-0947 46.18

TOTAL BILLED FROM DEPARTMENT IDENTIFIER DAC 139.04

CHARGES BILLED FROM DEPARTMENT IDENTIFIER FIRE ALARM
CHARGES BILLED FROM EARNING NUMBER 305 W72-0180
BELLSOUTH

MONTHLY LOCAL SERVICE (ITEM 6) 341.02
TOTAL BILLED FROM EARNING NUMBER 305 W72-0180 341.02

TOTAL BILLED FROM DEPARTMENT IDENTIFIER FIRE ALARM 341.02

CHARGES BILLED FROM DEPARTMENT IDENTIFIER MTCE
CHARGES BILLED FROM EARNING NUMBER 786 265-7596
BELLSOUTH

MONTHLY LOCAL SERVICE (ITEMS 7-9) 51.57
OTHER CHARGES AND CREDITS (ITEM 10) 0.11
TOTAL BILLED FROM EARNING NUMBER 786 265-7596 51.68

TOTAL BILLED FROM DEPARTMENT IDENTIFIER MTCE 51.68

CHARGES BILLED FROM DEPARTMENT IDENTIFIER PBX
CHARGES BILLED FROM EARNING NUMBER 305 871-0010

RECEIVED
JUL 07 2003
TELECOMMUNICATIONS

BILLING NUMBER CHARGES

TOTAL MONTHLY LOCAL SERVICE			12,300.65
TOTAL FCC CHARGE FOR NETWORK ACCESS **			154.00
TOTAL FCC CHARGE FOR NETWORK ACCESS			807.52
TOTAL FEDERAL UNIVERSAL SERVICE CHARGE			95.75
TOTAL OTHER CHARGES AND CREDITS			253.45
TOTAL RECURRING OC&C		1,115.41	
DEBITS	630.80		
CREDITS	1,746.21		
TOTAL NONRECURRING OC&C		861.92	
DEBITS	861.92		
CREDITS00		
TOTAL ITEMIZED CALLS			40.04
TOTAL LOCAL USAGE			221.76
7432. TELECOMMUNICATIONS ACCESS SYSTEM ACT SURCHARGE **			7.20
VOLUME DISCOUNT			
Special Services			
7433. BUSINESS SAVER® SERVICE	--		
TOTAL AMOUNT OF ELIGIBLE CALLS	\$12.14		
VOLUME DISCOUNT AT 5.00%			0.61
Total Charge for Itemized Calls	39.43		
DIRECTORY ASSISTANCE			
34. DIRECTORY ASSISTANCE (DA) USAGE			
1637 CALLS TO LOCAL DA AT .45 EA PLUS			
5 CALLS TO 555-1212 AT 1.25 EA PLUS			
88 CALLS TO NATIONAL DA AT 1.25 EA			852.90
SPECIAL SERVICES			
QUICKCOMPLETE™ USAGE - SUMMARY			
(CHARGES INCLUDED IN ITEMIZED CALLS)			
93 LOCAL CALL(S) AT .30 PER CALL		27.90	
EMERGENCY 911 SERVICE **			
7435. EMERGENCY 911 CHARGE. THIS CHARGE IS BILLED ON			
BEHALF OF DADE COUNTY			45.00
TOTAL CURRENT CHARGES FOR BELLSOUTH			14,270.80

BELLSOUTH

BILLING NUMBER 305 W90-0027 145
BILLING PERIOD JUN 20, 2003 00077

CLUB Service

CURRENT CHARGES	
BELLSOUTH	14,270.80
ENHANCED SERVICES BILLING, INC.	5.95
MCI WORLD COM	7.51
EXCEL TELECOMMUNICATIONS	90.56
TELECOM USA	51.82
USBI	540.77
QAN SERVICES, INC.	19.50
ZERO PLUS DIALING, INC.	0.00
SPRINT COMMUNICATIONS CO.	18.37
ILD TELESERVICES, INC.	25.00
CORRECTIONAL BILLING SERVICES	0.44
EBILLIT	28.90
TOTAL CURRENT CHARGES	

~~15,060.59~~
14,270.80

TOTAL AMOUNT DUE IN U.S. FUNDS

11,621.20

THANK YOU FOR CHOOSING BELLSOUTH. WE SINCERELY APPRECIATE YOUR BUSINESS.

How
7-15-03

M. Perez
7/11/03

Carlos. Gama for M. Perez
7/16/03

RECEIVED
JUL 07 2003
TELECOMMUNICATIONS

RECEIVED @ BELLSOUTH

BellSouth Telecommunications, Inc.

JAN 28 2003

DESIGN

RECEIVED

JAN 10 2003

TELECOMMUNICATIONS

December 11, 2002

RETURN SIGNED AUTHORIZATION AND PAYMENT TO:

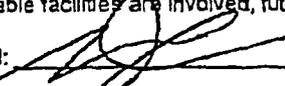
BellSouth
Attention: Manager Bills
250 Williams Street NW, Suite 5020
Atlanta, Georgia 30303

SERVICE DESCRIPTION: Reroute BellSouth service at Concourse C to cut it off the main terminal building as related to Project 745 under Project Manager Felix Perelas.

FOR: Miami-Dade Aviation Department
Attention: Maurice Jenkins
P.O. Box 592075
Miami, Florida 33159 TELEPHONE NUMBER: 305-876-7523 FAX: 305-876-0993

This letter is BellSouth's authorization to proceed with the engineering and construction of facilities necessary to provide the service referred to above:

1. Engineering will start upon BellSouth's receipt of this authorization letter and payment at the above address.
2. The following arrangements will be made by the customer for BellSouth's use as negotiated by the BICS: Conduit as requested on BICS Design Package 870-01-0305 last revised on November 11, 2002.
3. Service will be scheduled for completion within approximately 90 days after:
 - A. Receipt of payment and signed agreement.
 - B. Placement and approval of facilities outlined in item 2, if any.
4. Cancellation of this letter of authority may result in incurred cost being billed to the undersigned.
5. The special construction charge to be billed is: \$ 31,376.37 *
6. If, in the future, it is necessary for said facilities to be relocated, the subscriber does hereby agree to fully reimburse BellSouth for any and all expense(s) incurred by virtue of such relocation.
7. If the cable facilities are involved, future orders for circuits should be referenced to this authorization letter.

Signed: 

Service Order No. - N/A 03-003-S

Title: MANAGER - ISD/TELECOM Job Authorization Number: 2M220077B

Company: MDAD

Case Number: 87-02-1201

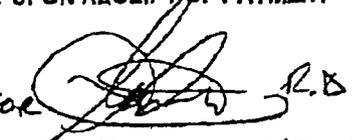
Date: 1/27/03

Facility Specialist: Kenny Wendt 305-889-2823

*This estimated cost is only valid for a period of ninety (90) days from the date of this document.

MANAGER BILLS, PLEASE NOTIFY FACILITY SPECIALIST UPON RECEIPT OF PAYMENT

Project Mgr. Felix Perelas
Project # 745


Bill Rodriguez

T.D. B. FOR NSI 1-30-03

*BBB
1-17-03*

87-02-1201 Cost Breakdown

Material.....	\$9,095.94
Engineering	\$4,672.49
Labor.....	<u>\$17,607.94</u>
Total.....	<u>\$31,376.37</u>

RECEIVED
JAN 2 11 2018
TELECOMMUNICATIONS

Pedro [Signature]

BELLSOUTH

BellSouth Telecommunications, Inc.

MP-15028

MIAMI-DADE AVIATION DEPARTMENT
ATTN: MAURICE JENKINS
PO BOX 592075
MIAMI, FL 33159

Remit payment to:
BellSouth PRO Group - Atlanta
Manager Bills
250 Williams Street, Suite 5000 NW
Atlanta, GA 30303

Bill Number: GSC0304157

Amount Paid \$ _____

(305)876-7523

Please return top portion with your payment. Thank you.

Bill Number: GSC0304157

Billing Date: 04/30/2003

Job Number	Description of Service	Amount
2M220077A	REROUTE SERVICE AT CONCOURSE AND CUST CONCOURSE C OFF THE MAIN TERMINAL BUILDING	\$27,433.92

RECEIVED
MAY - 6 2003

INFORMATION SYSTEMS

Advance Payment: \$0.00

Balance: \$27,433.92

*YPO
#03-0035
Project Man. Felix Pereira
Project # 745*

[Signature]
6/30/03

M. Perez
6/30/03

If you have billing questions, please call: (404) 586-1150

***** Payment Due Upon Receipt *****

[Signature]
2003 JUN 19 PM 3:19
RECEIVED
COURTY ATTORNEY
AVIATION DEPARTMENT

Actual Charges for

2M220077A

	COPPER	ELECTRONICS	FIBER	TOTAL
A. PLANT LABOR		0		
1. Distributed Labor	16,114.91	-	-	16,114.91
2. Motor Vehicle	398.34	-	-	398.34
3. Other Tools And Equipment	329.68	-	-	329.68
Total Plant Labor	16,842.93	-	-	16,842.93
B. ENGINEERING				
1. Distributed Engineering	-	-	-	-
Total Engineering	-	-	-	-
C. PLANT MATERIAL SUPPLIES				
1. Major Plant Items	1,472.46	-	-	1,472.46
2. Less Salvage	-	-	-	-
2. Minor Plant Supplies	4,544.59	-	-	4,544.59
3. Material Provisioning	487.84	-	-	487.84
Total Plant and Material Supplies	6,504.89	-	-	6,504.89
D. CONTRACT BILLING				
1. Contract Labor	-	-	-	-
2. Contract Engineering	-	-	-	-
3. Contract Material	-	-	-	-
4. Contract Other	-	-	-	-
Total Contract Billing	-	-	-	-
E. TOTAL COST	23,347.82	-	-	23,347.82
F. OVERHEAD	4,086.10	-	-	4,086.10
TOTAL COST OF WORK	27,433.92	-	-	27,433.92
G. LESS BETTERMENT	-	-	-	-
H. LESS NON-BILLABLE	-	-	-	-
I. TOTAL AMOUNT	27,433.92	-	-	27,433.92
J. Less SUD ADJUSTMENT	-	-	-	-
K. Less Other Credits	-	-	-	-
Balance Due	\$27,433.92	\$0.00	\$0.00	\$27,433.92

ENTER PERCENTAGES TO FORMULA IN BETTERMENT & NONBILLABLE , ADD OTHER CREDITS
BE SURE TO PUT PERCENTAGES AS CREDITS FOR NONBILLABLE AND BETTERMENT

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, 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 common telecommunications switching equipment and software which will be shared by the Miami-Dade Aviation Department ("MDAD" 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 executed 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 and advance payments are not provided to the County, the County may, in addition to other delineated rights and remedies delay pick-up 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 floor plans and accessible System locations free from environmental hazards; (2) reasonable access for the County; (3) completed copies of database forms, as 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, corruption in service for any cause, storms, lightning, delays by suppliers 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, assumption 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 I; 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, abuse, connection to foreign power, fire, water, wind, storms, lightning, acts of God, acts of public enemies, improper wiring, installation of equipment, errors, omissions or software by the Customer or third parties, failure or changes resulting from local exchange company, failures or changes resulting from local power company, failures 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 OR 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 the 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 provide and defend the County's title and, at the Customer's expense, keep the System and parts thereof free and clear of all liens, encumbrances and security interests other than those arising through the County, and shall not permit the County's rights or interests hereunder to be subject to any lien, charge or encumbrance, including but not limited to: (a) any lien of the owner of real property upon which the System is installed, or (b) of any purchaser of, or future creditor obtaining a lien on, said real property. The Customer warrants the County immediate notice of any attachment 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.

PLAINTIFF'S EXHIBIT
MJ-8

Additional Terms and Conditions

- 13) **Alterations and Attachments.** The Customer shall not permit any equipment or other items or 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/or 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 restore 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.
- 14) **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 which is reported 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 suits, causes of actions or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the Customer or its employees, agents, servants, partners, principals, or subcontractors, except to the extent such act is caused by the County's negligence. The Customer shall pay 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.
- 15) **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.
- 16) **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;
 - Dissolution, 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 inability 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.
- 17) **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, wherever 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 interest 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 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 or remedy 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.
- 18) **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 ends. The Customer may extend the Cure Period. This shall be the Customer's exclusive remedy.
- 19) **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 its leased equipment for the replacement cost and will reimburse the County for any damage 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 "V" 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.
- Prior to the commencement of operations hereunder, and annually thereafter, the Customer shall furnish certificates of insurance to Miami-Dade County Aviation Department and the Risk Management Division, which certificates shall clearly indicate: (1) the Customer has obtained insurance in the type, amount and classifications as outlined for strict compliance with this Section 19; (2) any material change or cancellation 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 with respect to the Public Liability coverage.
- The County reserves the right to require the Customer to provide such reasonably broadened insurance coverage as it deems necessary or desirable upon issuance of notice in writing to the Customer, which notice shall automatically extend this Agreement effective thirty (30) days after such notice. Compliance with the foregoing requirements shall constitute the Customer's obligation of its liability under any other portion of this Agreement.
- 20) **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 which the County deems necessary for the maintenance and preservation of the Systems and the County's bills therefor. 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 additional to the 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) **Severability:** 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 rental 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 insert 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) business days of the due date, interest at the rate 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 interest and the obligation of the Customer to pay same shall be in addition to and not in lieu of the County's rights 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 herein 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 ten (10) 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 33156-2075

For the Customer:

(Billing Customer Name) _____
(Customer Address) _____
(City, State & Zip Code) _____
(Billing Contact) _____
(Telephone Number) _____

29) Miscellaneous

- a) 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.
- b) The waiver by either party of any default will not operate as a waiver of any subsequent default.
- c) The Customer will pay all of the County's costs or expenses, including reasonable attorney's and collection fees, incurred in enforcing this Agreement.
- d) Any modification must be in writing and executed by an authorized representative of the party against whom enforcement is sought.
- e) This Agreement shall be binding upon and in use to the benefit of the County and the Customer and their respective successors and assigns.
- f) **Rights to be Exercised by Department:** Whenever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

Additional Terms and Conditions

30) 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 rent in return for the County performing all delivery, installation, and maintenance obligations. This allocation is recognized in both parties and is reflected in the System Rent. 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 permitting 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 1

Rental # _____ Date _____

With respect 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 additions hereto as described in Paragraphs 11 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 shall designate in writing. Whenever any payment (of System Rent or otherwise) is not made within ten (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 listing, and all other charges of the local exchange company of 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) Systems - Terminal Equipment	\$	Month
4) System - Other	\$	Month

Monthly Rent: \$ See Attached quote # _____
(A construction sheet may be added if more room is needed)
- 11) Pre-Cutover 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, thereby adding to each such document the descriptions and rental information with respect to the equipment and the software included in such ICN.
- 12) Post-Cutover 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 tax laws and regulations. The term of the Agreement for all CSO additions will commence on the date when such CSO additions are first operated 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 not 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 price 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 this Schedule shall be incorporated into and made a part of the Agreement.

Miami Dade Aviation Department

By: _____

Title: _____

Date: _____

Customer

By: _____

Title: _____

Date: _____

M. AVIATION DEPARTMENT Acknowledgment and Certificate of Acceptance Schedule II

To: Aviation Department

I, _____ acknowledges, represents and warrants to the
Company and the undersigned, (a) has been delivered, installed and subjected to all necessary pre
operating; (b) has been inspected; (c) is operating in accordance with the manufacturer's specifications
(d) 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
in a manner permitting calls to be made through the equipment to and from the facility in which
the 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:

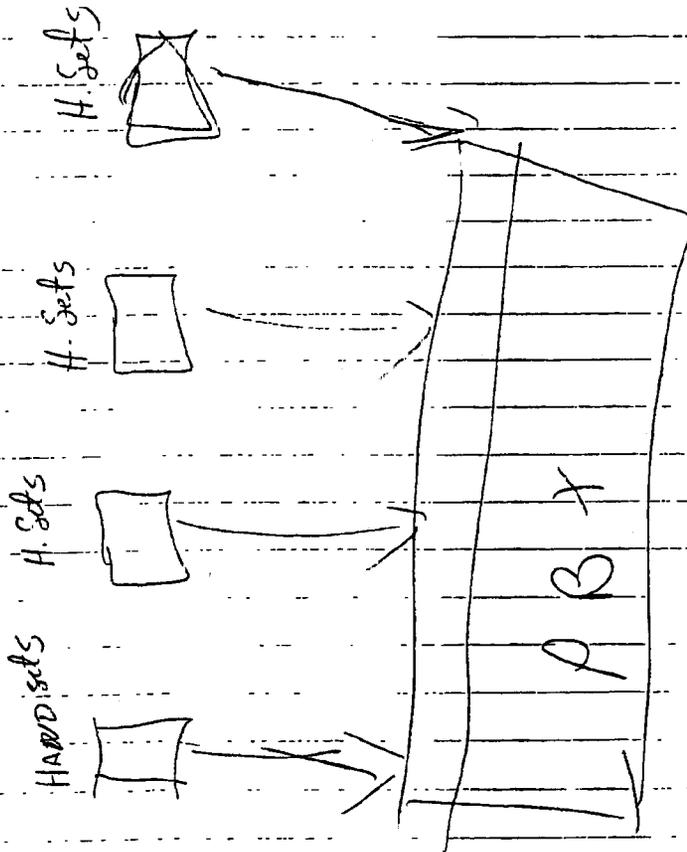
Based on the trouble classification, the response will be in the following manner:

- 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-1 studies) are included.

PLAINTIFF'S
EXHIBIT
MS-9



SATS CUSTOMER LIST AS OF 2/03

AIRLINES GOVERNMENT AGENCIES CONCESSIONS/OTHERS MANAGEMENT COMPANIES

ACES GROUP	CENTER FOR DISEASE CONTROL	ADT	AIRPORT PARKING ASSOCIATES (MEYERS)
AEROMEXICO	TRI-COUNTY COMMUTER RAIL	ASI BAGGAGE	AVIATION CLUB B
AEROPOSTAL	US CUSTOMS	ASIG, MIAMI INC	AVIATION CLUB F
AIR FRANCE	USDA, APHIS	AT&T WIRELESS	CLUB AMERICA TWOV
AIR JAMAICA		CAFÉ VERSAILLES	MIAMI INTERNATIONAL AIRPORT HOTEL
AIR TRAN		CARRIES ICE CREAM	N&KI ENTERPRISES
ALASKAN AIRLINES		COMMUNTEL	NFL MANAGEMENT
AMERICAN AIRLINES		DATO ELECTRIC	QUALITY AIRCRAFT (SKYCAPS)
ASERCA AIRLINES		GLOBAL MIAMI JOINT VENTURE	SHUTTLE SERVICES
ATLAS AIR		GUAVA & JAVA	SIRGANY CENTURY
AVIANCA		HMS HOST	TERMINAL REXALL
BRITISH AIRWAYS		INTERMEDIA COMMUNICATIONS	TOP OF THE PORT
COMMODORE AVIATION		MATRIX SYSTEMS	UNICO
CONTINENTAL AIRLINES		MIAMI DUTY FREE	VISTA BLDG MANAGEMENT
COPA		SIRGANY BENCOMO	
CYBER EXPRESS		SITA	
DUTCH CARIBBEAN AIRLINES		SMARTE CARTE	
EVERGREEN AVIATION		UNDERGROUND CONSTRUCTION	
FLAGSHIP AIRLINES		WORLDWIDE CONCESSIONS	
GULFSTREAM AIRLINES		WORLDWIDE FLIGHT SERVICES	
LAN CHILE			
MARTIN AIR			
MEXICANA			
POLAR AIR CARGO			
SWISS AIR			
TACA INTL			
TAMPA AIRLINES			
UNITED AIRLINES			
VARIG			
VIRGIN ATLANTIC			

BST1507

PLAINTIFF'S EXHIBIT
MJ-10

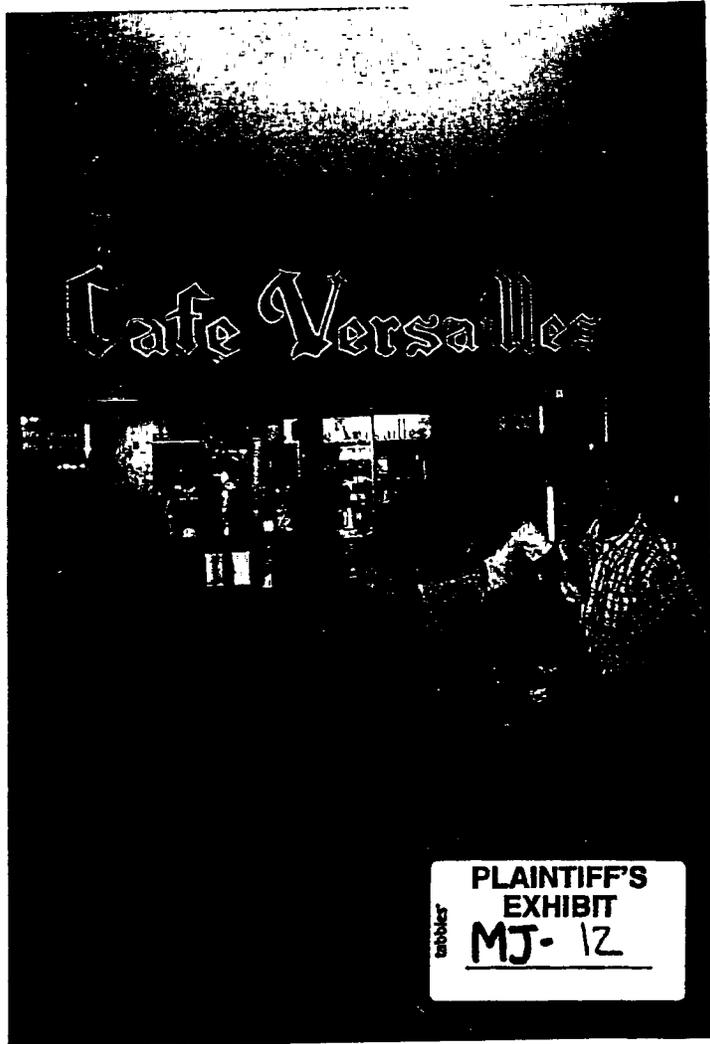
Exhibit 6
SATS Airport Rental and CUTE Agreements

01 of 01 22 of 2	Airtele Customers (Excluding MDAO)	Customer Number
1	Abatis International	10391420
2	Aces - CUTE & Voice	10338645
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	Aserca Airlines	10519350
13	Allas 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	10396494
20	Cinlo Rodriguez d/b/a Bright Additions	10363032
21	Commodore Aviation	10416024
22	Communtel	10404505
23	Continental Airlines	10427360
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 Marmot	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	Sila 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	10464296
	Expected New Contracts	
	Global Concessions	TBD

**PLAINTIFF'S
EXHIBIT**
tabbler **MJ- 11**

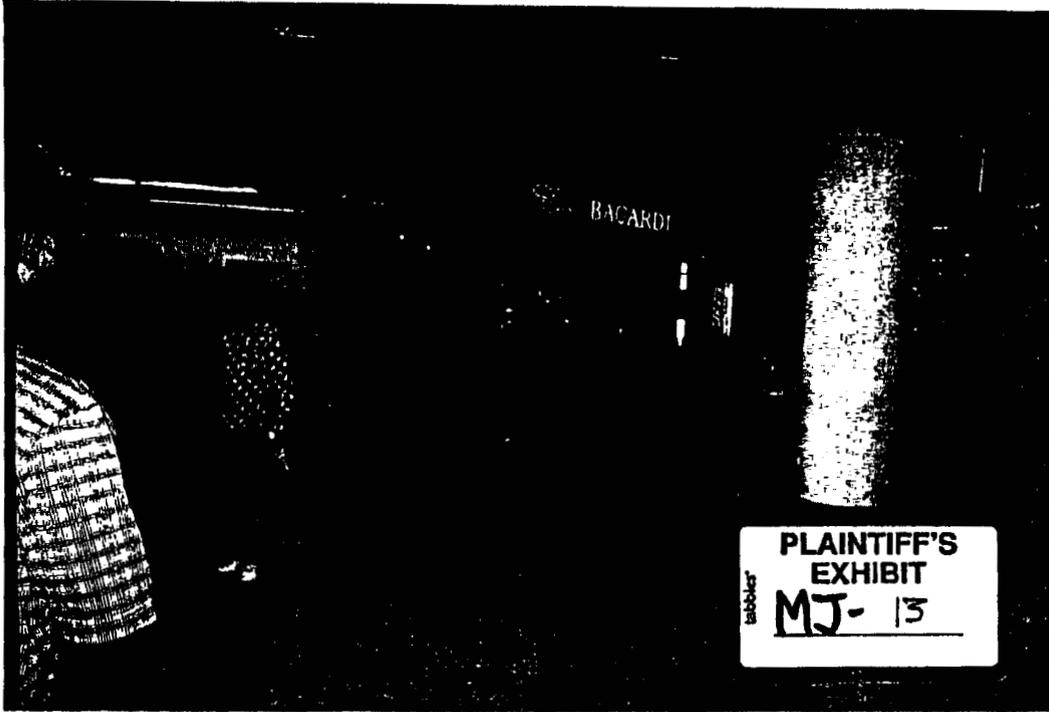
MDAO - NetraOne Management Agreement
February 7, 2002

EXHIBIT
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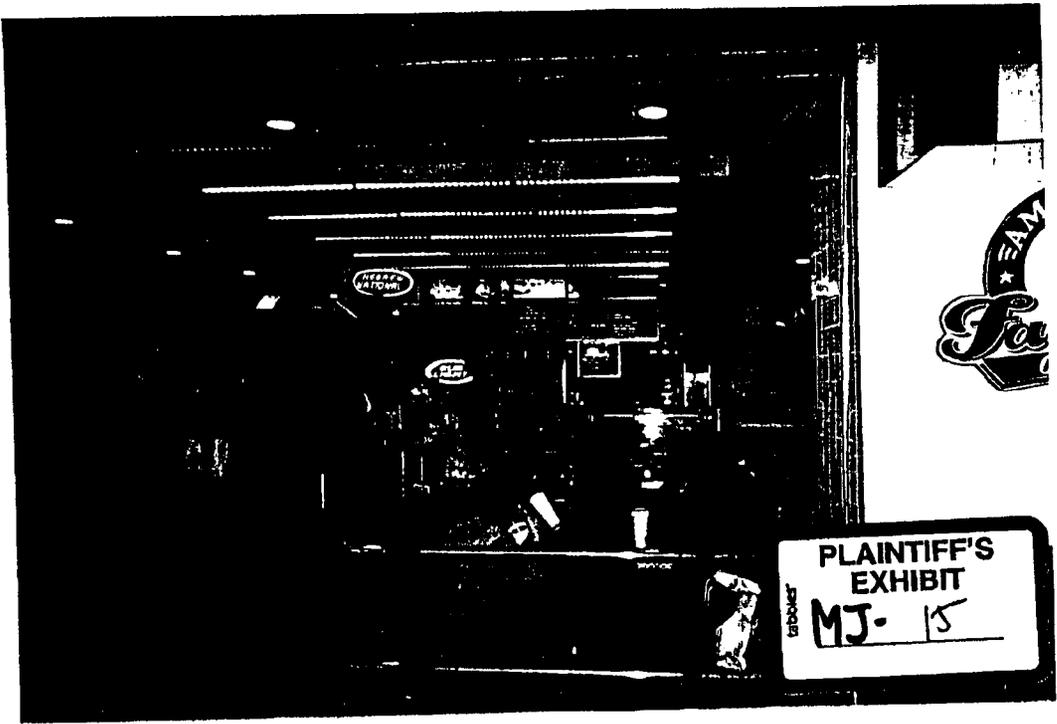
PLAINTIFF'S
EXHIBIT
MJ-12

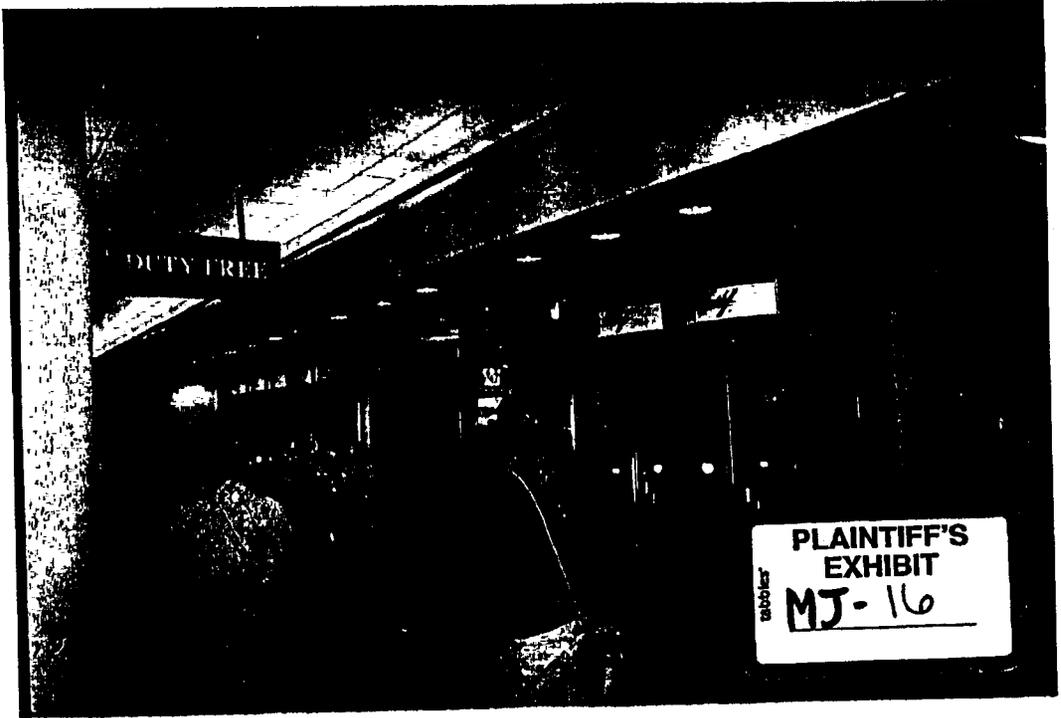
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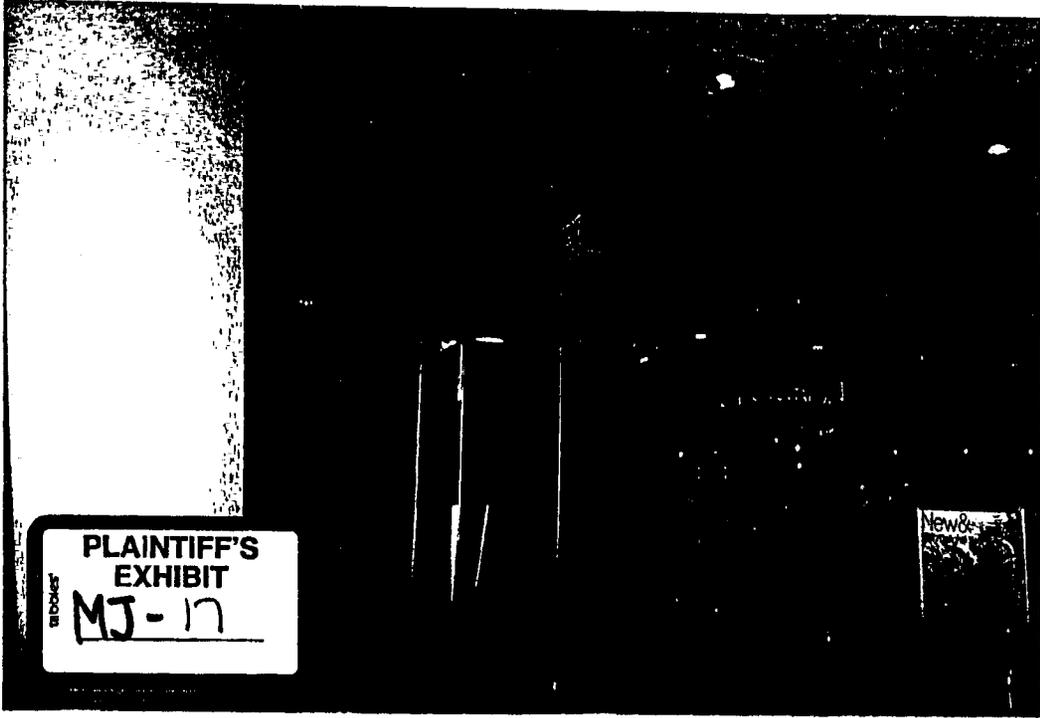


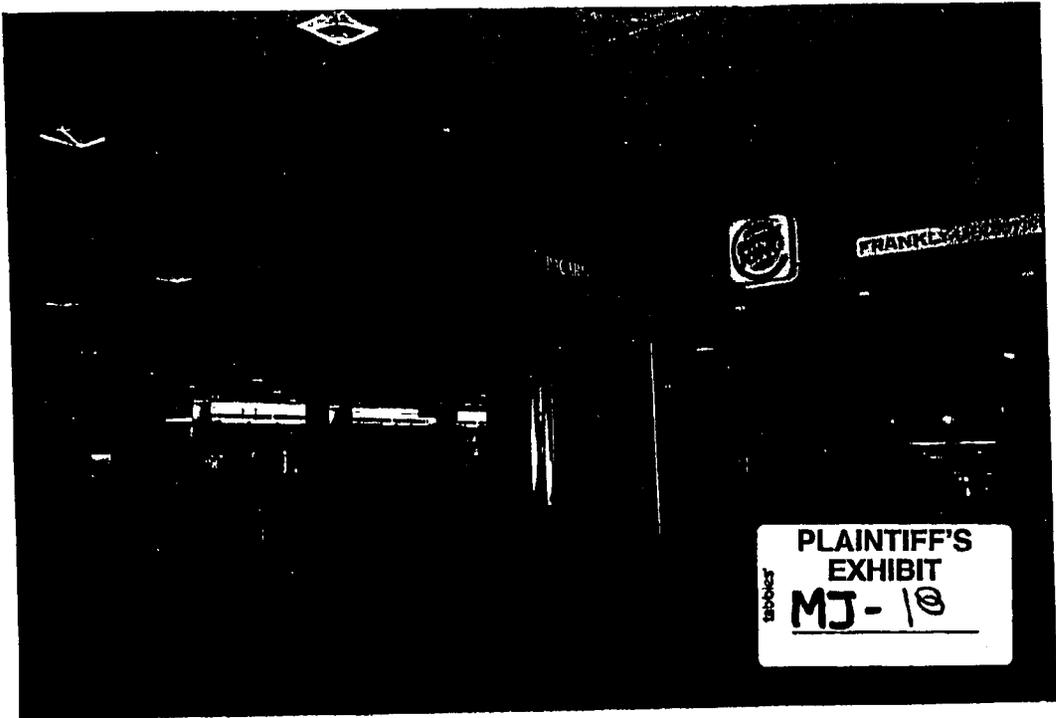
PLAINTIFF'S
EXHIBIT
MJ- 13



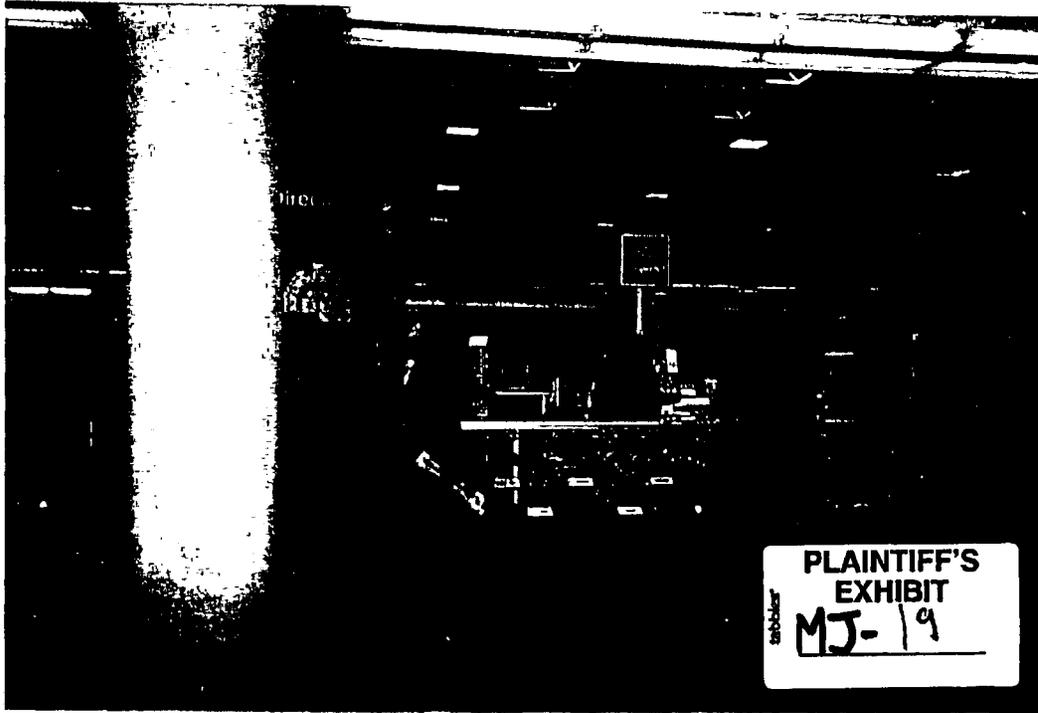




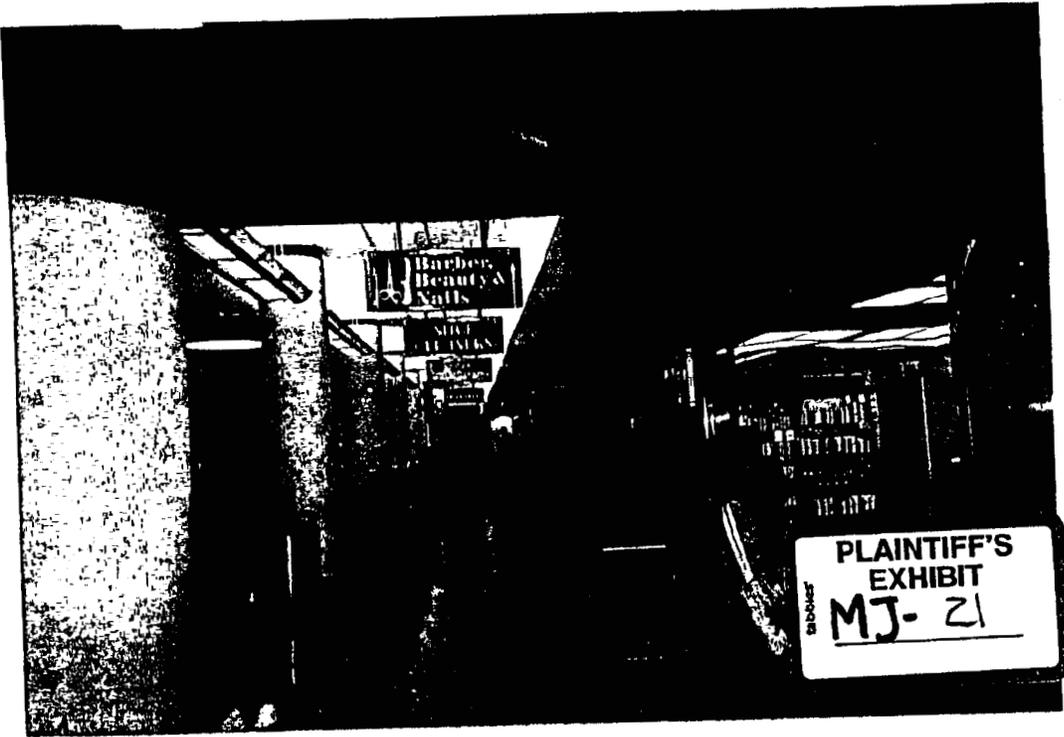




PLAINTIFF'S
EXHIBIT
MJ-10

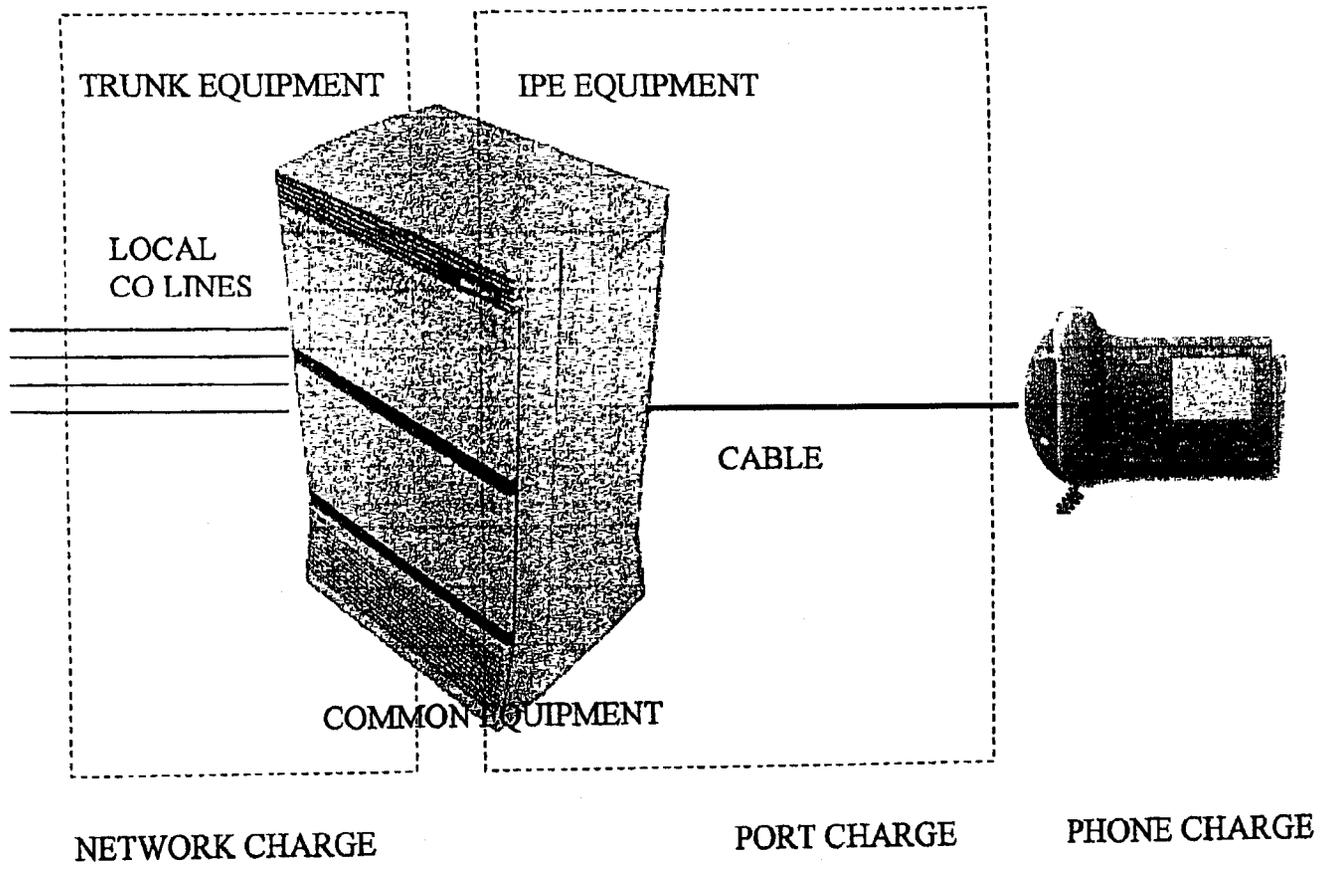








MDAD VOICE PRICING COMPONENTS



PLAINTIFF'S
EXHIBIT
MJ-23

BS V. MDC(1) 000360

New pricing for MDAD STS Customers - 9/30/02

VOICE LINE COST

Purchase Assumptions

Common equipment is estimated. IPE equipment can accommodate 256 digital or analog telephone lines. Eighty percent (80%) of capacity will be utilized which equates to 204 lines.

MDAD Cost

1 IPE	\$ 2,812
16 DLC	\$ 25,696
1 Superloop	\$ 1,640
Common Equipment	<u>\$ 15,000</u>
Total for max 256 lines =	\$ 45,148
Installation Labor	<u>\$ 19,584</u> (1.5 hrs per line times \$51 per hour)
<u>Total Equipment Cost</u>	\$ 64,732
Interest Carrying Cost	\$ 9,778
5 yr maintenance cost	\$ 24,480 (2.00 per port per month)
15% Profit	<u>\$ 14,848</u>
Total 5 year costs	<u>\$113,838</u>
Voice Line Charge Per Month	\$ 9.30 (Total / 60 months / 204 lines)

\$12⁰⁰ Today

BS V. MDC(1) 000361

PSC 5312

PHONE SET COST

Purchase Assumptions

Pricing is for digital sets only. When and if VoIP sets become an issue, pricing will be developed for those sets.

Set Charges

M3904 (replace 2616)	\$ 361
Labor	\$ 102 (2 hrs per set times \$51 per hr)
Total Equipment Cost	\$ 463
Interest Carrying Cost	\$ 100
5 yr maintenance cost	\$ 27 (.45 per month)
15% Profit	\$ 89
Total 5 year costs	\$ 679
Monthly 3904 Set Charge	\$ 11.32 (Total / 60 months) (.03133 per month)

Other Sets Monthly Charges

	<u>COST</u>	<u>MONTHLY CHARGE</u>
M2006	\$ 89	\$ 2.79
M2008	\$ 115	\$ 3.60
M2008 Display	\$ 230	\$ 7.21
M2008 HF	\$158	\$ 4.95
M2008 Display HF	\$ 256	\$ 8.02
M2317	\$ 410	\$ 12.84
M2616	\$ 263	\$ 8.24
M2616 Display	\$ 355	\$ 11.12
M3901	\$ 53	\$ 1.66
M3902	\$ 108	\$ 3.38
M3903	\$ 220	\$ 6.89

NETWORK ACCESS COST

Purchase Assumptions

Common equipment is estimated. Network equipment can accommodate 10 PRIs or T-1. Eighty percent (80%) of capacity will be utilized which equates to 184 trunks.

MDAD Cost

1 Network Shelf	\$ 4,352
5 Dual Port PRI	\$ 26,950
1 Superloop	\$ 1,640
Common Equipment	<u>\$ 15,000</u>
Total for max 230 trunks =	\$ 47,942
Installation Labor	<u>\$ 23,460</u> (2.0 hrs per trunk times \$51 per hour)
<u>Total Equipment Cost</u>	\$ 71,402
Interest Carrying Cost	\$ 10,785
5 yr maintenance cost	\$ 24,480 (3.00 per port per month)
Local Line Cost	\$ 60,000 (Based on \$500 per month per PRI)
15% Profit	<u>\$ 25,000</u>
Total 5 year costs	<u>\$191,667</u>
Voice Line Charge Per Month	\$ 15.66 (Total / 60 months / 204 lines)
Voice Line Charge With features Per Month	\$ 17.22 (Total / 60 months / 204 lines)
5 Voice Line Charge With Features Per Month	\$ 29.27 (Total / 60 months / 204 lines)

DATA PORT COST

Purchase Assumptions

Network equipment will be priced as new. Some existing equipment is manufacturer discontinued. This configuration can support 256 10/100 ports, 4 GBIC Ports and 8 ATM OC-3 Ports. Total users ports equals 260. Eighty percent (80%) of capacity will be utilized which equates to 208 ports.

MDAD Cost

1 Passport 8010	\$ 5,596
2 8600 4 port OC-3	\$ 11,893
1 8672 ATME 2 Slot MDA	\$ 13,997
4 8648TXE 48 Port 10/100	\$ 44,786
2 8632TXE 32 10/100 TX	\$ 21,693
1 8600 Routing Software	\$ 3,497
1 8691SF Switch Module	\$ 10,496
3 8001PS Power Supply	\$ 3,140
1 Misc Items	\$ 916
Total for max 260 ports =	\$116,014
Installation Labor	\$ 23,460 (2.5 hrs per port times \$75 per hour)
<u>Total Equipment Cost</u>	\$164,764
Interest Carrying Cost	\$ 24,887
5 yr maintenance cost	\$ 58,007 (10% per year)
15% Profit	\$ 37,148
Total 5 year costs	\$284,806
Data Port Charge Per Month	\$ 22 82 (Total / 60 months / 208 ports)

Kit #	Part Description	QTY	Pairs Supported	Typical % Utilization	Part Number	NextiraOne Cost	Price to MDAD	Extended Price to MDAD	Extended Price % Utilization	Extend Price 80% Objective
1) Copper Distribution Cable (per pair, per end) [voice]										
	Homaco Frame	1	2000	50%	50M-2000VWL	448.79	560.95	560.95	280.48	
	66 block	1	50	100%	R66M1-50	3.90	4.88	4.88	4.88	
	brackets	1	50	100%	S89B	0.75	0.94	0.94	0.94	
	Total								286.30	228.04
2) Fiber Distribution Kit										
	19" Rack	1	48	100%	RS2-07	385.07	481.34	481.34	481.34	
	Power Strip - 8 outlet rack mount	1	48	100%	190574	153.00	191.25	191.25	191.25	
	Total								672.69	538.07
3) Station Cable: Single Run Cat 3 [voice]										
	Dual Face Plate	1	4	100%	M12AP-262	1.18	1.45	1.45	1.45	
	Dust cover	1	4	100%	M20AP-262	0.12	0.15	0.15	0.15	
	RJ11 connector	1	4	100%	M1BH-H-262	2.88	3.33	3.33	3.33	
	Jack STL Universal Wall Box	1	4	100%	630AC-6-44	2.37	2.96	2.96	2.96	
	Level 3 cable (4 pair, 200ft)	1	4	100%	2012200C	10.00	12.50	12.50	12.50	
	19" rack	1	2000	25%	RS2-07	385.07	481.34	481.34	120.34	
	Power Strip - 8 outlet rack mount	1	2000	100%	190574	153.00	191.25	191.25	191.25	
	66 block	1	50	100%	R66M1-60	3.90	4.88	4.88	4.88	
	brackets	1	50	100%	S89B	0.75	0.94	0.94	0.94	
	Total								337.80	270.24
4) Station Cable: Single Run Cat 5 [data]										
	Dual Face Plate	1	4	100%	M12AP-262	1.18	1.45	1.45	1.45	
	RJ45 connector	1	4	100%	MPS100BH1-262	4.84	5.80	5.80	5.80	
	Dust cover	1	4	100%	M20AP-262	0.12	0.15	0.15	0.15	
	Jack STL Universal Wall Box	1	4	100%	630AC-6-44	2.37	2.96	2.96	2.96	
	Level 5 cable (4 pair, 200ft)	1	4	100%	2015855C	28.00	32.50	32.50	32.50	
	19" rack	1	2000	25%	RS2-07	385.07	481.34	481.34	120.34	
	Power Strip - 8 outlet rack mount	1	2000	100%	190574	153.00	191.25	191.25	191.25	
	48 port patch panel	1	48	100%	OR-851004912	192.00	240.00	240.00	240.00	
	cat 5 patchcords (7ft)	48	48	100%	AT15078Cox	2.34	2.93	140.64	140.64	
	Total								735.09	588.07
5) Station Cable: Dual Run Cat 3 & Cat 5 [voice & data]										
	Dual Face Plate	1	8	100%	M12AP-262	1.18	1.45	1.45	1.45	
	RJ45 connector	1	8	100%	MPS100BH1-262	4.84	5.80	5.80	5.80	
	RJ11 connector	1	8	100%	M1BH-H-262	2.88	3.33	3.33	3.33	
	Jack STL Universal Wall Box	1	4	100%	630AC-6-44	2.37	2.96	2.96	2.96	
	Level 5 cable (4 pair, 200ft)	1	4	50%	2015855C	28.00	32.50	32.50	16.25	
	Level 3 cable (4 pair, 200ft)	1	4	50%	2012200C	10.00	12.50	12.50	6.25	
	19" rack	1	2000	25%	RS2-07	385.07	481.34	481.34	120.34	
	Power Strip - 8 outlet rack mount	1	2000	100%	190574	153.00	191.25	191.25	191.25	
	48 port patch panel	1	48	100%	OR-851004912	192.00	240.00	240.00	240.00	
	cat 5 patchcords (7ft)	48	48	100%	AT15078Cox	2.34	2.93	140.64	140.64	
	66 block	1	60	100%	R66M1-60	3.90	4.88	4.88	4.88	
	brackets	1	50	100%	S89B	0.75	0.94	0.94	0.94	
	Total								734.09	587.27

BS V. MDC(1) 000365

**Information Systems / Telecommunications
MIAMI-DADE AVIATION DEPARTMENT**

XYZ Airlines
Voice Proposal

Description	Qty.	Mo. Unit Rental	Extended Mo. Rental	Unit Install	Extended Install
1) Switch Access					
Mendian One Port	0	\$12.00	\$0.00	\$50.00	\$0.00
Advanced Features (Conference Calling, Speed Calling, Etc.)	0	\$5.00	\$0.00	\$5.00	\$0.00
2) Network Access					
Single Line Local Network Access	0	\$18.00	\$0.00	\$50.00	\$0.00
Rotary Key System Access	0	\$20.00	\$0.00	\$50.00	\$0.00
Network Access	0	\$49.00	\$0.00	\$50.00	\$0.00
T-1 Network Interface	0	\$132.00	\$0.00	\$800.00	\$0.00
3) System - Terminal Equipment					
M2008 Digital Phone (Ash)	0	\$7.59	\$0.00	\$100.00	\$0.00
M2008 W/Display	0	\$11.62	\$0.00	\$100.00	\$0.00
M2008HF Digital Phone (Ash)	0	\$8.76	\$0.00	\$100.00	\$0.00
M2008HF Digital Phone w/Display (Ash)	0	\$14.12	\$0.00	\$100.00	\$0.00
Key Lamp Module W/Footstand	0	\$5.63	\$0.00	\$75.00	\$0.00
M2616 Digital Phone (Ash)	0	\$16.94	\$0.00	\$100.00	\$0.00
M2616 Digital Phone with Display (Ash)	0	\$17.94	\$0.00	\$100.00	\$0.00
2500 Analog Set	0	\$1.75	\$0.00	\$100.00	\$0.00
M3901 Basic Digital Phone - 1 Line	0	\$3.40	\$0.00	\$100.00	\$0.00
M3902 Basic Rel. 3 Digital Phone - 2 Line	0	\$5.96	\$0.00	\$100.00	\$0.00
M3903 Enhanced Rel. 3 Digital Phone - 3 Line	0	\$11.08	\$0.00	\$100.00	\$0.00
M3904 Professional Rel. 3 Phone - 5 Line	0	\$17.94	\$0.00	\$100.00	\$0.00
M3905 Call Center Rel. 3 Phone - 4 Line	0	\$17.94	\$0.00	\$100.00	\$0.00
Tele Strobe or Loud Bell	0	\$6.32	\$0.00	\$100.00	\$0.00
4) System - Other					
Voice Mail Box	0	\$5.00	\$0.00	\$25.00	\$0.00
Authorization Code	0	\$1.00	\$0.00	\$25.00	\$0.00
Level 3 Cable (Modem, Clock, or Fax Programming)	0	\$1.00	\$0.00	\$50.00	\$0.00
Ethernet Port 10 Base T	0	\$60.00	\$0.00	\$400.00	\$0.00
Level 5 Cable	0	\$2.32	\$0.00	Per Quote	\$0.00
Black Filled Copper Cable per pair foot	0	\$0.005	\$0.00	Per Quote	\$0.00
One Stand foot of Fiber	0	\$0.015	\$0.00	Per Quote	\$0.00
Fiber Termination	0	N/A	\$0.00	\$100.00	\$0.00
ST Connector in Fiber Patch Panel	0	\$3.36	\$0.00	\$25.00	\$0.00
Sub-Total			\$0.00		\$0.00
Less Discount (if applicable)					
Cable & Conduit (if applicable)					
Service Order Charge	0	N/A	N/A	\$50.00	\$0.00
Total			\$0.00		\$0.00

Quote #STSXXXXXX

Customer Approval Signature & Date

Notes:

Prepared by NexbraOne, LLC



2/13/03

BS V. MDC(1) 000317

Pedro Garcia

From: Howard Werner
Sent: Thursday, March 14, 2002 9:59 AM
To: Leonard Stout; Maurice Jenkins; Pedro Garcia
Cc: Kenrick Kautz
Subject: RE: Future Shared Tenant Services Estimates.

Looks almost too good. To carry this one step further you might want to document the assumptions for the "Estimated Future." I would suggest using three bands. One being optimistic, two being best guess, and the third being, of course, pessimistic estimate. I would follow this with a series of charts with projected revenue on the y axis and the "sales estimates" on the x axis. This would graphically show the potential bandwidths of revenue.

-----Original Message-----

From: Leonard Stout
Sent: Wednesday, March 13, 2002 4:20 PM
To: Maurice Jenkins; Howard Werner; Pedro Garcia
Cc: Kenrick Kautz
Subject: Future Shared Tenant Services Estimates.

Maurice,
I think you will like the numbers in this spreadsheet. Present STS via NextiraOne is about \$2,172,000 per year. Future estimates total \$15,864,000 per year at present NextiraOne rates. I would think that these levels could be achieved by the end of the present CIP construction schedule.

I think we should recast Mario's CUTE document into a Shared Tenant Services report and include this table in the report, then transmit via Bobbie to the Director.

Let me know what you want done with regards to the above.
Regards,
Len Stout



Pedro Garcia

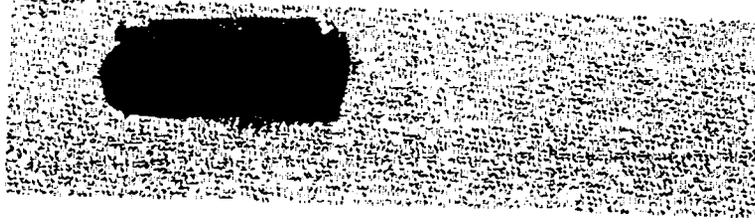
AVIATION DEPARTMENT



METROPOLITAN DADE COUNTY
MIAMI INTERNATIONAL AIRPORT
P.O. BOX 592616
MIAMI, FLORIDA 33159



INVOICE



PAGE	INVOICE
1	93274308
CUST NO	DATE
RODR73	04/11/02

DATE	DESCRIPTION	AMOUNT
04/09/02	2/7 03/06/02 MISC CHARGE MONTHLY RENTAL FOR TELEPHONE AND MAINTENANCE AT MIA 2/07/02-3/06/02	11.75
TOTAL FOR THIS INVOICE - - - - ->		11.75

**PLAINTIFF'S
EXHIBIT**
MJ-26

ORIGINAL INVOICE

BS V, MDC(1) 000182

AVIATION DEPARTMENT

METRO-DADE

METROPOLITAN DADE COUNTY
MIAMI INTERNATIONAL AIRPORT
P.O. BOX 592616
MIAMI, FLORIDA 33159



INVOICE



PAGE	INVOICE
1	93281202
CUST. NO.	DATE
SITA73	07/01/02

DATE	DESCRIPTION	AMOUNT
07/01/02	5/01/02-05/31/02 MISC CHARGE MONTHLY RENTAL FOR TELE AND MAINTENANCE AT MIA COMMUNICATION FULSER	85.75
07/01/02	STATE SALES TAX MISC CHARGE	5.57
TOTAL FOR THIS INVOICE - - - - ->		91.32

PLAINTIFF'S
EXHIBIT
MJ-27

ORIGINAL INVOICE

BS V. MDC(1) 000369

Miami-Dade Aviation Department (SATS Standardized Billing Form)

Invoice Date: 6/14/02 Billing Period: 5/1-5/31/02 Record #: 261 Prepared By: BOCA Telephone #: [REDACTED]
 Customer ID: [REDACTED] Input By:
 Company Name: [REDACTED] Contact First Name: [REDACTED] Phone Number: [REDACTED] 59 Invoice #
 Billing Address: [REDACTED]

Usage Code	Amount
<u>Nexren</u>	<u>\$85.75</u>
	<u>\$0.00</u>
	<u>\$0.00</u>
	<u>\$0.00</u>
Total	<u>\$85.75</u>

Explanation:
 ATTACH COPY OF SCHEDULE E SUMMARY.

BS V. MDC(1) 000370

Contract Invoice

Billing period from 5/1-5/31/02
Monthly rental for telephone & maintenance at MIA
Coverage: Fullserv



Long Distance: \$0.00
Rental Monthly: \$85.75

	QTY	Unit Rental	Extended Rental	Discounted Total
Meridian One Port	4	\$12.00	\$48.00	
Single Line Access	2	\$18.00	\$36.00	
2500 Set	1	\$1.75	\$1.75	
INSTALLATION			\$0.00	

If you have any questions regarding the summary of charges provided by NextiraOne, please contact (305) 869-8523.

Miami-Dade County Aviation Department (SATS Standardized Billing Form)

Date 3/29/02

Billing Period 2/7-3/6/02

Record #:

23

Prepared By:

Tdennis

Telephone #:

(305) 869-8523

Customer ID: [REDACTED]

Company Name:

[REDACTED]

Billing Address

[REDACTED] 31

Contact Name:

[REDACTED]

Phone Number:

[REDACTED]

Input By:

[REDACTED]

Invoice #:

[REDACTED]

Usage Code	Amount
<u>NexRen</u>	<u>\$688.19</u>
<u>NexLng</u>	<u>\$1.40</u>
	<u>\$0.00</u>
	<u>\$0.00</u>

Total: \$689.59

Explanation:

***Please attach Schedule E summary, L/D detail.

BS V. MDC(1) 008646

PLAINTIFF'S
EXHIBIT
MJ-28

Contract Invoice

Billing period from

Monthly rental for telephone & maintenance at MIA

Coverage: Fullserv

Long Distance:

\$1.40

Rental Monthly:

\$688.19

2/7/02-3/6/02

nextiraOne 

	QTY	Unit Rental	Extended Rental	Discounted Total
Meridian One Port	28	\$12.00	\$336.00	\$302.40
Advanced Features (Call Wtg. Conf. Calling,)	4	\$5.00	\$20.00	\$18.00
Single Line Access	5	\$18.00	\$90.00	\$81.00
Rotary System Access	3	\$29.00	\$87.00	\$78.30
Network Access	2	\$49.00	\$98.00	\$88.20
M2008HFD	3	\$14.12	\$42.36	\$38.12
M2008D	3	\$11.62	\$34.86	\$31.37
M2008B	2	\$7.59	\$15.18	\$13.66
Dual Line Analog Phone	3	\$2.75	\$8.25	\$7.43
Voice Mail	5	\$5.00	\$25.00	\$22.50
Authorization Code	2	\$1.00	\$2.00	\$1.80
Level 3 Station Cable (for Fax, Modem, Clock)	6	\$1.00	\$6.00	\$5.40
INSTALLATION			\$0.00	

BS V. MDC(1) 008647

Miami International Airport
STS Detail

SMDR-Date/Time is between 02/07/2002 00:00 and 03/06/2002 23:59 (Inclusive)

Division: 3AER
Department: [REDACTED]

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/02/18 12:15:00	00:00:10	\$1.40	305-555-1212	INFORMATION	FL	INFO	
Totals	00:00:10	\$1.40					

BS V. MDC(1) 008648

Run by kalbano
Printed on 3/14/02 at 7:37:05 AM
Infotel NT Reports, Copyright 1997 ISI INFORTEXT

Page 21

Miami-Dade Aviation Department (SATS Standardized Billing Form)

Invoice Date: 3/26/02 Billing Period: 2/7-3/6/02 Record #: 8 Prepared By: Tdennis Telephone #: (305) 869-8523

Customer ID: [REDACTED]

Input By:

Company Name: [REDACTED]

Contact First Name: [REDACTED]

Phone Number: [REDACTED]

Invoice #

Billing Address: [REDACTED]

Usage Code	Amount
<u>Nexren</u>	<u>\$5,960.75</u>
	<u>\$0.00</u>
<u>Nexrep</u>	<u>\$100.00</u>
Total	<u>\$6,060.75</u>

Explanation:
 ***Please attach copies of CSO, quote, Schedule E summary to invoice repair to MIAACKB062-ATB-reported ribbon keeps breaking. User did not have t left several messages to provide user over the phone service, but user would not re

BS V. MDC(1) 008649

Miami-Dade County Aviation Department (SATS Standardized Billing Form)

Date 3/26/02 Billing Period 2/7-3/6/02 Record #: 15 Prepared By: Tdennis Telephone #: (305) 869-8523
Customer ID: [REDACTED]
Company Name: [REDACTED] Contact Name: [REDACTED] Input By: [REDACTED]
Billing Address: [REDACTED] Phone Number: [REDACTED] Invoice #: [REDACTED]

Usage Code	Amount
<u>NexRep</u>	<u>\$100.00</u>
<u>NexRen</u>	<u>\$5,960.75</u>
	<u>\$0.00</u>
	<u>\$0.00</u>

Total: \$6,060.75

Explanation:

***please attach copies of CSO, quote, Schedule E summary to invoice

Repair to MIAACKB062-ATB- reported ribbon keeps breaking. User did not have the lever down and ribbon was not inserted properly.

Left several messages to provide user over the phone service, but user would not return call., quote STS020325-\$100.00

BS V. MDC(1) 008650

Contract Choice

Billing period from 2/7/02-3/6/02

Monthly rental for maintenance at MIA

Coverage: Cuteserv

Long Distance: \$0.00

Rental Monthly: \$5,960.75



	QTY	Unit Rental	Extended Rental	Discounted Total
Common Area CORE Fee	15	\$25.00	\$375.00	
Back Office CUTE CORE Fee	1	\$25.00	\$25.00	
Meridian one port	2	\$12.00	\$24.00	
Single Line Local Network Access	1	\$18.00	\$18.00	
Common Area IER 557A ATB2 P	11	\$140.00	\$1,540.00	
Common Area IER 512 Bag Tag	11	\$57.00	\$627.00	
Common Area IER 627 Boarding	2	\$125.00	\$250.00	
Common Area CUTE Client Softw	15	\$0.00	\$0.00	
Common Area ATB SITA CUTE F	11	\$0.00	\$0.00	
Common Area SITA CUTE Firmw	11	\$0.00	\$0.00	
Common Area Office Document P	1	\$25.00	\$25.00	
Common Area Workstations (MM	15	\$130.00	\$1,950.00	
Common Area Ethernet Port 10 B	15	\$60.00	\$900.00	
Back Office IER 557A ATB2 Prin	1	\$140.00	\$140.00	
SITA CUTE Client Software	2	\$0.00	\$0.00	
ATB SITA CUTE Firmware Licen	1	\$0.00	\$0.00	
Back Office Document Printer	1	\$25.00	\$25.00	
Ethernet Port 10 Base T	1	\$60.00	\$60.00	
M2500 Phone	1	\$1.75	\$1.75	
INSTALLATION			\$100.00	
1387746	Billable Repair-user error			

BS V. MDC(1) 008651



Williams Communications Solutions, LLC

FORM 104701WC3001F REV 10/21

Customer Service Order

Billable

Customer Number
10341000

Call # / MAC #
8385

Contract Status

Project Number

Customer Name M.D.D. (redacted)	Product/Type Cable	Customer Contact and Title (redacted)	Originator Rita C.
Address (Premises) MIA	Purchase Order Number	Date of Order 3-7-02	Time 11:11
City Miami	State FL	Zip Code 33119	Telephone Number (redacted)
	Trouble Reported ATTN	Trouble Found ATTN	

Scope of Work
MIA CRISO CE Keep in working condition

For prepriced orders (applicable taxes extra)	Equip. \$	Installation \$	Total \$
---	--------------	--------------------	-------------

Material Requested Asset #	Part Number	Description	Unit of MEAS	Issue Qty	Location/Room #	Return Qty.	Pulled from Stock Location	G/D

Issued By	Date	Return By	Date	RMA Number
Issued By	Date	Return By	Date	Date

Technician I.D. Number	Start Time	Arrive Time	Stop Time	Reg	OT	DT	Activity Code	Date Worked
308618	1500	1511	1555					

Work Performed
User did not have the headset down and headset was not reset all the way in - user did not answer the call back so get help was the result.

Work / Material / Hours Accepted By
(Signature)

Work Performed By
(Signature) 3-7-02

Customer Signature _____ Date _____ Williams Technician BS V. MDC(1) 008652

MATERIAL ISSUED (CUSTOMER HEREBY ACKNOWLEDGES THAT WILLIAMS' STANDARD TERMS AND CONDITIONS ON THE REVERSE SIDE, ALSO LOCATED AT <http://www.williams.com>, SHALL APPLY)



IPON 02-028STS

Description	Qty.	Mo. Unit Rental	Extended Mo. Rental	Unit Install	Extended Install
1) Switch Access					
2) Network Access					
3) System - Terminal Equipment					
4) System - Other					
Printer Repair	1	N/A	N/A	\$50.00	\$50.00
Service Order Charge	1	N/A	<u>N/A</u>	\$50.00	<u>\$50.00</u>
Sub-Total					
Total			\$0.00		\$100.00

Quote #STS020325

Holly Klaity
National Accounts Sales Support Consultant

- Notes:
- 1. Quote subject to the terms of the Airport Rental Agreement
 - 2. Billable service ticket for printer repairs.

03/25/02

BS V. MDC(1) 008653

Miami-Dade Aviation Department (SATS Standardized Billing Form)

Invoice Date: 9/18/2002 Billing Period 8/1-8/31/02 Record #: 448 Prepared By: TRACY Telephone #: (305) 869-8523

Customer ID [REDACTED]

Input By:

Company Name [REDACTED]

Contact First Name

Phone Number:

Invoice #

Billing Address:

Usage Code	Amount
<u>Nexren</u>	<u>\$204.76</u>
<u>Nexna</u>	<u>\$2.47</u>
	<u>\$0.00</u>
	<u>\$0.00</u>
Total	<u>\$207.23</u>

Explanation:

Attach Schedule E summary, L/D detail, and CSO's, as required

BS V. MDC(1) 012806

PSC 5331





Contract Invoice

Billing period from 8/1-8/31/02

Monthly rental for telephone & maintenance at MIA

Coverage: Fullserv

Long Distance: \$0.00
Rental Monthly: \$385.38



	QTY	Unit Rental	Extended Rental	Discounted Total
Meridian One Port	9	\$12.00	\$108.00	\$97.20
Advanced Features (Call Wtg. etc.)	4	\$5.00	\$20.00	\$18.00
Single Line Local Network Access	4	\$18.00	\$72.00	\$64.80
Companion Network Access	5	\$29.00	\$145.00	\$130.50
2500 Set	2	\$1.75	\$3.50	\$3.15
Companion Phones C3050	5	\$15.54	\$77.70	\$69.93
Level 3 Cables	2	\$1.00	\$2.00	\$1.80
INSTALLATION				\$0.00

BS V. MDC(1) 012805

If you have any questions regarding the summary of charges provided by NextiraOne, please contact (305) 869-8523.

Miami-Dade Aviation Department (SATS Standardized Billing Form)

Invoice Date: 4/19/02

Billing Period: 3/7-4/6/02

Record #: 127

Prepared By: Tdennis

Telephone #: (305) 869-8523

Customer ID: [REDACTED]

Input By:

Company Name: [REDACTED]

Contact First Name: [REDACTED]

Phone Number: [REDACTED]

Invoice #

Billing Address: [REDACTED]

Usage Code	Amount
<u>Nexren</u>	<u>\$1,003.16</u>
<u>Nexing</u>	<u>\$624.10</u>
	<u>\$0.00</u>
	<u>\$0.00</u>
Total	<u>\$1,627.26</u>

Explanation:

Attach copies of Schedule E summary, L/D to invoice

BS V. MDC(1) 009355

Contract No. [REDACTED]

Billing period from

3/7/02-4/6/02

nextiraOne

Monthly rental for telephone & maintenance at MIA

Coverage: Fullserv

Long Distance: \$624.10

Rental Monthly: \$1,003.16

	QTY	Unit Rental	Extended Rental	Discounted Rental
Meridian One Port	36	\$12.00	\$432.00	\$388.80
Advanced Features (Call Wtg. etc..)	13	\$5.00	\$65.00	\$58.50
Single Line Access	1	\$18.00	\$18.00	\$16.20
Rotary System Access	1	\$29.00	\$29.00	\$26.10
Network Access	6	\$49.00	\$294.00	\$264.60
M2008 Digital Phone	1	\$7.59	\$7.59	\$6.83
M2616 Digital Phone with Display	12	\$17.94	\$215.28	\$193.75
2500 Set, (ext. 3206)	1	\$1.75	\$1.75	\$1.58
Voice Mail	6	\$5.00	\$30.00	\$27.00
Authorization Code	8	\$1.00	\$8.00	\$7.20
Level 3 Cable (Modem, Clock, or F	14	\$1.00	\$14.00	\$12.60
INSTALLATION				\$0.00

BS V. MDC(1) 009356

Miami International Airport
STS Detail
SMDR-Date/Time is within the last 1 Month(s)-Abs

Division: 3A
Department: [REDACTED]

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/04/02 11:11:00	00:00:56	\$0.25	305-411	INFORMATION	XX	INFO	
2002/04/05 15:56:00	00:30:20	\$41.23	011-5716354250	COLOMBIA		INTL	
Totals	00:31:16	\$41.48					

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Miami International Airport
 STS Detail
 SMDR-Date/Time is within the last 1 Month(s)-Abs

Division: 3ACF

Department: [REDACTED]

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/03/07 09:10:00	00:02:20	\$0.16	201-854-9378	UNION CITY	NJ	LD	426987
2002/03/07 09:49:00	00:00:10	\$0.03	787-295-2013			INTL	
2002/03/07 10:06:00	00:04:38	\$3.50	011-5743605087	COLOMBIA		INTL	456398
2002/03/08 11:22:00	00:01:08	\$1.40	011-5745622890	COLOMBIA		INTL	426987
2002/03/08 11:33:00	00:05:18	\$0.33	561-248-4343	W PALM BCH	FL	LD	456398
2002/03/08 11:34:00	00:02:38	\$2.10	011-5745360410	COLOMBIA		INTL	491278
2002/03/08 12:05:00	00:10:28	\$7.70	011-5743605091	COLOMBIA		INTL	
2002/03/08 12:37:00	00:00:50	\$0.06	404-715-3669	ATLANTA	GA	LD	417417
2002/03/08 12:38:00	00:00:12	\$0.02	404-545-8627	ATLANTA	GA	LD	417417
2002/03/08 12:39:00	00:01:42	\$0.11	404-545-8627	ATLANTA	GA	LD	417417
2002/03/08 15:19:00	00:03:02	\$0.47	787-791-0095	ISLA VERDE	PR	INTL	452678
2002/03/08 16:15:00	00:01:54	\$0.12	201-869-5745	UNION CITY	NJ	LD	426987
2002/03/08 17:11:00	00:02:12	\$2.10	011-5726663314	COLOMBIA		INTL	426987
2002/03/09 11:12:00	00:05:32	\$4.20	011-5714148092	COLOMBIA		INTL	491278
2002/03/09 16:07:00	00:01:12	\$1.40	011-5714135511	COLOMBIA		INTL	491278
2002/03/09 16:10:00	00:03:06	\$2.80	011-5714135511	COLOMBIA		INTL	426987
2002/03/09 16:32:00	00:00:12	\$0.70	011-5725518865	COLOMBIA		INTL	426987
2002/03/09 16:33:00	00:04:22	\$3.50	011-5725569115	COLOMBIA		INTL	426987
2002/03/09 17:42:00	00:00:56	\$0.07	718-965-4017	BKLYN NYC	NY	LD	491278
2002/03/09 18:23:00	00:34:00	\$2.21	903-451-9992	PAYNE SPGS	TX	LD	491278
2002/03/09 18:33:00	00:00:26	\$0.03	561-845-4717	W PALM BCH	FL	LD	426987
2002/03/09 19:18:00	00:00:40	\$0.05	718-425-5563	QUEENS NYC	NY	LD	426987
2002/03/09 20:59:00	00:01:36	\$0.10	505-988-5531	SANTA FE	NM	LD	491278
2002/03/09 21:01:00	00:00:26	\$0.03	505-988-1546	SANTA FE	NM	LD	491278
2002/03/10 13:04:00	00:07:32	\$5.60	011-5714148092	COLOMBIA		INTL	426987
2002/03/11 10:22:00	00:02:38	\$2.10	011-5745622890	COLOMBIA		INTL	426987
2002/03/11 11:29:00	00:00:44	\$0.05	815-964-2643	ROCKFORD	IL	LD	426987
2002/03/11 11:31:00	00:09:56	\$0.85	815-885-4214	ROCK CUT	IL	LD	426987
2002/03/11 11:55:00	00:00:52	\$0.06	202-366-3383	WASHINGTON	DC	LD	452678
2002/03/11 11:57:00	00:02:46	\$0.18	410-540-7155	ELKRIDGE	MD	LD	426987
2002/03/11 11:58:00	00:04:04	\$3.50	011-5763360027	COLOMBIA		INTL	426987
2002/03/11 16:10:00	00:03:30	\$0.23	210-224-2749	SANANTONIO	TX	LD	426987
2002/03/12 09:27:00	00:02:26	\$0.16	415-977-2956	SAN FRAN	CA	LD	456398
2002/03/12 09:27:00	00:02:06	\$2.10	011-5743605165	COLOMBIA		INTL	456398
2002/03/12 09:59:00	00:01:10	\$1.40	011-5745622909	COLOMBIA		INTL	426987
2002/03/12 10:02:00	00:02:00	\$0.13	770-396-2922	CHAMBLEE	GA	LD	456398
2002/03/12 10:54:00	00:00:48	\$0.70	011-5745622909	COLOMBIA		INTL	426987
2002/03/12 10:57:00	00:01:22	\$1.40	011-5745622909	COLOMBIA		INTL	426987
2002/03/12 11:00:00	00:01:48	\$0.12	847-318-6161	PARK RIDGE	IL	LD	456398
2002/03/12 11:26:00	00:00:32	\$0.70	011-5743617271	COLOMBIA		INTL	426987
2002/03/12 11:29:00	00:04:12	\$3.50	011-5743617271	COLOMBIA		INTL	426987

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Miami International Airport
 STS Detail
 SMDR-Date/Time is within the last 1 Month(s)-Abs

Division: SACF
 Department: [REDACTED]

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/03/12 11:34:00	00:05:02	\$4.20	011-5743617271	COLOMBIA		INTL	426987
2002/03/12 12:16:00	00:00:34	\$0.70	011-5745622909	COLOMBIA		INTL	426987
2002/03/12 12:41:00	00:09:22	\$7.00	011-5745360410	COLOMBIA		INTL	426987
2002/03/12 14:43:00	00:02:10	\$2.10	011-5714361023	COLOMBIA		INTL	436587
2002/03/12 14:48:00	00:00:40	\$0.70	011-5714361023	COLOMBIA		INTL	436587
2002/03/12 14:48:00	00:00:34	\$0.04	201-760-9232	RAMSEY	NJ	LD	436587
2002/03/12 16:37:00	00:08:06	\$6.30	011-5743605090	COLOMBIA		INTL	417417
2002/03/13 10:40:00	00:02:36	\$2.10	011-5743605011	COLOMBIA		INTL	417417
2002/03/13 10:56:00	00:01:10	\$0.25	411	INFORMATION	XX	INFO	444897
2002/03/13 12:08:00	00:03:18	\$2.80	011-5743605091	COLOMBIA		INTL	417417
2002/03/13 12:36:00	00:01:28	\$1.40	011-5743602237	COLOMBIA		INTL	417417
2002/03/13 13:45:00	00:09:04	\$7.00	011-5743605005	COLOMBIA		INTL	417417
2002/03/13 14:19:00	00:01:48	\$1.40	011-5743605011	COLOMBIA		INTL	417417
2002/03/13 15:21:00	00:01:06	\$0.25	305-411	INFORMATION	XX	INFO	
2002/03/13 15:24:00	00:00:48	\$0.25	305-411	INFORMATION	XX	INFO	
2002/03/13 16:48:00	00:01:04	\$1.40	011-5743605011	COLOMBIA		INTL	417417
2002/03/13 17:16:00	00:11:28	\$0.75	281-233-3220	WESTFIELD	TX	LD	417417
2002/03/14 11:35:00	00:08:16	\$6.30	011-5743860407	COLOMBIA		INTL	426987
2002/03/14 11:55:00	00:02:10	\$2.10	011-5745622909	COLOMBIA		INTL	426987
2002/03/14 13:19:00	00:04:04	\$3.50	011-5714361023	COLOMBIA		INTL	436587
2002/03/15 12:08:00	00:17:22	\$12.60	011-5714148092	COLOMBIA		INTL	456398
2002/03/15 12:30:00	00:02:36	\$2.10	011-5743605091	COLOMBIA		INTL	456398
2002/03/15 12:43:00	00:00:36	\$0.04	336-665-7145	GREENSBORO	NC	LD	456398
2002/03/15 13:30:00	00:00:26	\$0.70	011-5716130189	COLOMBIA		INTL	456398
2002/03/15 13:49:00	00:01:26	\$0.25	411	INFORMATION	XX	INFO	491278
2002/03/15 15:05:00	00:00:12	\$0.02	716-651-6723	LANCASTER	NY	LD	417417
2002/03/15 15:43:00	00:00:14	\$0.02	404-305-6736	ATLANTA	GA	LD	417417
2002/03/15 15:43:00	00:00:24	\$0.03	404-305-6863	ATLANTA	GA	LD	417417
2002/03/15 16:29:00	00:03:14	\$0.21	404-305-6736	ATLANTA	GA	LD	417417
2002/03/15 16:32:00	00:00:16	\$0.02	404-305-6863	ATLANTA	GA	LD	417417
2002/03/15 16:35:00	00:01:14	\$1.40	011-5743605091	COLOMBIA		INTL	417417
2002/03/15 16:51:00	00:06:32	\$4.90	011-5745622909	COLOMBIA		INTL	426987
2002/03/15 17:13:00	00:00:44	\$0.70	011-5743860407	COLOMBIA		INTL	426987
2002/03/16 11:08:00	00:02:14	\$2.10	011-5743617271	COLOMBIA		INTL	426987
2002/03/16 11:11:00	00:01:44	\$1.40	011-5743617271	COLOMBIA		INTL	426987
2002/03/16 11:14:00	00:01:58	\$1.40	011-5743617271	COLOMBIA		INTL	426987
2002/03/18 10:29:00	00:04:56	\$0.50	561-215-1667	PTSTLUCIES	FL	LD	426987
2002/03/18 10:49:00	00:02:36	\$2.10	011-5743605165	COLOMBIA		INTL	
2002/03/18 10:50:00	00:02:34	\$3.99	011-5743605165	COLOMBIA		INTL	456398
2002/03/18 10:55:00	00:05:28	\$7.98	011-5745360410	COLOMBIA		INTL	426987
2002/03/18 10:56:00	00:01:06	\$2.66	011-5745622909	COLOMBIA		INTL	456398

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Miami International Airport
 STS Detail
 SMDR-Date/Time is within the last 1 Month(s)-Abs

Division: 3A05
 Department: [REDACTED]

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/03/18 11:18:00	00:01:28	\$2.66	011-5714135034	COLOMBIA		INTL	426987
2002/03/18 11:40:00	00:04:28	\$1.60	714-438-6509	SANTA ANA	CA	LD	426987
2002/03/18 11:50:00	00:05:40	\$7.98	011-5743860407	COLOMBIA		INTL	426987
2002/03/18 12:25:00	00:00:36	\$0.04	718-286-4110	QUEENS NYC	NY	LD	452678
2002/03/18 14:23:00	00:04:48	\$3.50	011-5742559680	COLOMBIA		INTL	426987
2002/03/18 15:08:00	00:08:54	\$6.30	011-5714148092	COLOMBIA		INTL	426987
2002/03/18 15:40:00	00:03:06	\$2.80	011-5743605165	COLOMBIA		INTL	456398
2002/03/18 16:12:00	00:03:56	\$2.80	011-5743605059	COLOMBIA		INTL	426987
2002/03/18 16:23:00	00:02:04	\$2.10	011-5742557623	COLOMBIA		INTL	426987
2002/03/18 16:26:00	00:04:16	\$3.50	011-5743605091	COLOMBIA		INTL	426987
2002/03/18 16:29:00	00:01:52	\$0.12	202-289-0947	WASHINGTON	DC	LD	426987
2002/03/18 16:34:00	00:05:24	\$1.98	011-442085130881	UN KINGDOM		INTL	426987
2002/03/18 17:35:00	00:04:40	\$0.30	407-460-2560	KISSIMMEE	FL	LD	426987
2002/03/18 21:03:00	00:00:44	\$0.33	011-442074123911	UN KINGDOM		INTL	426987
2002/03/19 09:50:00	00:02:24	\$2.10	011-5743605011	COLOMBIA		INTL	417417
2002/03/19 09:54:00	00:02:02	\$2.10	011-5743605165	COLOMBIA		INTL	417417
2002/03/19 10:31:00	00:10:14	\$7.70	011-5743605091	COLOMBIA		INTL	417417
2002/03/19 10:58:00	00:06:48	\$4.90	011-5743605091	COLOMBIA		INTL	417417
2002/03/19 11:22:00	00:00:26	\$0.03	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/19 11:26:00	00:01:36	\$1.40	011-5745622909	COLOMBIA		INTL	426987
2002/03/19 12:40:00	00:04:20	\$3.50	011-5743605011	COLOMBIA		INTL	417417
2002/03/19 14:32:00	00:03:14	\$2.80	011-5743605164	COLOMBIA		INTL	426987
2002/03/19 14:56:00	00:01:56	\$0.13	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/19 15:02:00	00:00:48	\$0.05	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/19 16:14:00	00:02:36	\$0.16	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/19 16:40:00	00:02:38	\$2.10	011-5743605011	COLOMBIA		INTL	417417
2002/03/19 16:54:00	00:01:30	\$0.23	787-565-2970			INTL	452678
2002/03/19 16:57:00	00:00:12	\$0.02	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/19 16:57:00	00:00:10	\$0.02	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/19 16:59:00	00:00:44	\$0.05	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/19 17:01:00	00:01:40	\$1.40	011-5743605011	COLOMBIA		INTL	417417
2002/03/19 17:03:00	00:02:12	\$2.10	011-5743605011	COLOMBIA		INTL	417417
2002/03/19 17:24:00	00:03:26	\$2.80	011-5743605091	COLOMBIA		INTL	417417
2002/03/19 17:28:00	00:15:26	\$11.20	011-5743605091	COLOMBIA		INTL	417417
2002/03/19 17:53:00	00:00:42	\$0.04	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/19 19:09:00	00:00:12	\$0.02	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/20 07:47:00	00:01:08	\$0.08	605-357-2013	SIoux FLS	SD	LD	426987
2002/03/20 08:15:00	00:01:54	\$1.40	011-5743605090	COLOMBIA		INTL	417417
2002/03/20 08:31:00	00:00:52	\$0.70	011-5743605090	COLOMBIA		INTL	417417
2002/03/20 09:08:00	00:01:40	\$1.40	011-5743605091	COLOMBIA		INTL	417417
2002/03/20 10:12:00	00:01:30	\$0.23	787-565-2970			INTL	452678

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Miami International Airport
 STS Detail
 SMOR-Date/Time is within the last 1 Month(s)-Abs

Division: 3105
 Department: [REDACTED]

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/03/20 10:33:00	00:04:52	\$3.50	011-5743605093	COLOMBIA		INTL	
2002/03/20 10:34:00	00:04:54	\$6.65	011-5743605093	COLOMBIA		INTL	456398
2002/03/20 10:45:00	00:01:52	\$1.40	011-5743605090	COLOMBIA		INTL	417417
2002/03/20 11:09:00	00:29:02	\$21.00	011-5743605091	COLOMBIA		INTL	417417
2002/03/20 11:40:00	00:05:12	\$4.20	011-5743605005	COLOMBIA		INTL	417417
2002/03/20 11:56:00	00:05:18	\$0.34	626-644-3172	PASADENA	CA	LD	456398
2002/03/20 12:45:00	00:01:00	\$0.70	011-5734630214	COLOMBIA		INTL	417417
2002/03/20 14:25:00	00:02:40	\$2.10	011-5713426995	COLOMBIA		INTL	426987
2002/03/20 14:45:00	00:01:40	\$1.40	011-5742553941	COLOMBIA		INTL	452678
2002/03/20 15:34:00	00:01:36	\$1.40	011-5714138477	COLOMBIA		INTL	452678
2002/03/20 15:41:00	00:03:16	\$2.80	011-5743605092	COLOMBIA		INTL	417417
2002/03/20 15:45:00	00:06:32	\$4.90	011-5743605094	COLOMBIA		INTL	417417
2002/03/20 17:34:00	00:03:04	\$0.20	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/20 17:37:00	00:01:42	\$0.11	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/21 11:58:00	00:01:44	\$0.25	411	INFORMATION	XX	INFO	436587
2002/03/21 13:16:00	00:03:02	\$0.20	407-870-1728	KISSIMMEE	FL	LD	491278
2002/03/21 13:35:00	00:00:56	\$0.06	407-870-1728	KISSIMMEE	FL	LD	491278
2002/03/21 14:23:00	00:02:48	\$2.10	011-5743605091	COLOMBIA		INTL	417417
2002/03/21 14:40:00	00:00:46	\$0.25	411	INFORMATION	XX	INFO	436587
2002/03/22 14:32:00	00:00:52	\$0.70	011-5714142234	COLOMBIA		INTL	491278
2002/03/22 16:14:00	00:03:34	\$2.80	011-5743605164	COLOMBIA		INTL	452678
2002/03/23 13:27:00	00:11:20	\$8.40	011-5712276310	COLOMBIA		INTL	436587
2002/03/23 13:39:00	00:00:34	\$0.70	011-5714361023	COLOMBIA		INTL	436587
2002/03/23 15:35:00	00:00:40	\$0.33	011-441293558344	UN KINGDOM		INTL	436587
2002/03/23 15:51:00	00:01:00	\$0.25	411	INFORMATION	XX	INFO	444897
2002/03/23 15:54:00	00:01:10	\$0.25	411	INFORMATION	XX	INFO	444897
2002/03/23 16:29:00	00:00:18	\$0.02	303-494-4774	BOULDER	CO	LD	426987
2002/03/24 17:11:00	00:03:14	\$2.80	011-5723372744	COLOMBIA		INTL	426987
2002/03/24 17:14:00	00:01:24	\$0.09	404-358-6239	ATLANTA	GA	LD	426987
2002/03/24 19:43:00	00:00:28	\$0.03	410-977-8352	BALTIMORE	MD	LD	426987
2002/03/25 10:47:00	00:05:52	\$4.20	011-5712276310	COLOMBIA		INTL	436587
2002/03/25 11:14:00	00:00:44	\$0.05	561-792-7144	W PALM BCH	FL	LD	426987
2002/03/25 11:25:00	00:06:14	\$0.33	407-851-1965	ORLANDO	FL	LD	426987
2002/03/25 11:37:00	00:07:30	\$5.60	011-5745622909	COLOMBIA		INTL	426987
2002/03/25 11:53:00	00:00:46	\$0.05	407-240-0898	ORLANDO	FL	LD	426987
2002/03/25 15:02:00	00:09:08	\$0.60	404-714-9728	ATLANTA	GA	LD	426987
2002/03/25 15:21:00	00:00:38	\$0.05	404-714-9728	ATLANTA	GA	LD	426987
2002/03/25 15:22:00	00:06:48	\$0.44	714-438-6509	SANTA ANA	CA	LD	426987
2002/03/25 16:00:00	00:01:18	\$0.08	678-472-7676	NORCROSS	GA	LD	426987
2002/03/25 16:12:00	00:12:46	\$0.81	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/25 16:33:00	00:00:10	\$0.02	407-348-4916	KISSIMMEE	FL	LD	426987

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Miami International Airport
 STS Detail
 SMDR-Date/Time is within the last 1 Month(s)-Abs

Division: 3ACE
 Department: [REDACTED]

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/03/26 09:50:00	00:08:44	\$0.57	202-342-0683	WASHINGTON	DC	LD	452678
2002/03/26 09:50:00	00:00:56	\$0.70	011-5714148092	COLOMBIA		INTL	426987
2002/03/26 13:17:00	00:00:14	\$0.02	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/26 15:33:00	00:00:36	\$0.70	011-5742811580	COLOMBIA		INTL	491278
2002/03/26 15:52:00	00:05:10	\$0.33	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/26 17:18:00	00:01:14	\$1.40	011-5742811580	COLOMBIA		INTL	491278
2002/03/26 17:20:00	00:00:40	\$0.70	011-5744260430	COLOMBIA		INTL	491278
2002/03/27 09:15:00	00:01:10	\$0.25	411	INFORMATION	XX	INFO	444897
2002/03/27 10:05:00	00:10:36	\$7.70	011-5744260430	COLOMBIA		INTL	491278
2002/03/27 10:20:00	00:03:10	\$2.80	011-57428115800	COLOMBIA		INTL	491278
2002/03/27 10:41:00	00:02:46	\$2.10	011-5763360027	COLOMBIA		INTL	426987
2002/03/27 10:53:00	00:01:00	\$0.25	411	INFORMATION	XX	INFO	444897
2002/03/27 11:31:00	00:02:10	\$0.14	713-860-1792	HOUSTON	TX	LD	426987
2002/03/27 11:46:00	00:00:12	\$0.02	561-683-1642	W PALM BCH	FL	LD	426987
2002/03/27 11:47:00	00:03:26	\$0.22	561-683-1642	W PALM BCH	FL	LD	426987
2002/03/27 15:07:00	00:05:00	\$3.50	011-5745360410	COLOMBIA		INTL	491278
2002/03/27 15:11:00	00:00:32	\$0.04	561-683-1642	W PALM BCH	FL	LD	426987
2002/03/27 15:15:00	00:01:18	\$0.08	561-683-1952	W PALM BCH	FL	LD	426987
2002/03/27 15:17:00	00:01:18	\$0.08	561-683-1952	W PALM BCH	FL	LD	426987
2002/03/27 15:34:00	00:03:42	\$0.23	561-683-1642	W PALM BCH	FL	LD	426987
2002/03/27 15:42:00	00:02:30	\$0.16	310-783-6600	TORRANCE	CA	LD	436587
2002/03/27 15:54:00	00:06:54	\$4.90	011-5744260430	COLOMBIA		INTL	491278
2002/03/27 16:06:00	00:04:04	\$3.50	011-5745360410	COLOMBIA		INTL	491278
2002/03/27 16:07:00	00:00:50	\$0.06	941-250-6851	NO NAPLES	FL	LD	426987
2002/03/27 16:09:00	00:00:18	\$0.02	610-380-5097	COATESVL	PA	LD	426987
2002/03/27 16:10:00	00:00:50	\$0.06	610-721-0337			LD	426987
2002/03/27 16:10:00	00:01:04	\$1.40	011-5745622899	COLOMBIA		INTL	491278
2002/03/27 16:22:00	00:08:16	\$6.30	011-5745622909	COLOMBIA		INTL	426987
2002/03/27 16:30:00	00:00:54	\$0.70	011-5745622899	COLOMBIA		INTL	491278
2002/03/27 16:38:00	00:01:30	\$0.09	561-683-1642	W PALM BCH	FL	LD	426987
2002/03/27 16:42:00	00:00:28	\$0.70	011-5712276310	COLOMBIA		INTL	436587
2002/03/27 17:07:00	00:00:28	\$0.03	561-615-7894	W PALM BCH	FL	LD	491278
2002/03/27 17:17:00	00:04:36	\$3.50	011-5745360410	COLOMBIA		INTL	491278
2002/03/27 17:29:00	00:06:26	\$4.90	011-5716920424	COLOMBIA		INTL	436587
2002/03/27 17:31:00	00:03:30	\$0.22	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/28 09:47:00	00:02:14	\$1.62	809-549-0627	SN DOMINGO	DR	INTL	417417
2002/03/28 09:56:00	00:00:38	\$0.05	410-573-3455	ANNAPOLIS	MD	LD	417417
2002/03/28 10:10:00	00:00:38	\$0.05	410-573-3024	ANNAPOLIS	MD	LD	452678
2002/03/28 10:51:00	00:00:50	\$0.25	411	INFORMATION	XX	INFO	444897
2002/03/28 11:01:00	00:04:06	\$0.27	610-721-0337			LD	426987
2002/03/28 11:06:00	00:01:18	\$1.40	011-5745622909	COLOMBIA		INTL	426987

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Division: 3A
 Department: [REDACTED]

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/03/28 11:30:00	00:00:46	\$0.05	410-573-3024	ANNAPOLIS	MD	LD	452678
2002/03/28 15:35:00	00:02:32	\$2.10	011-5743605164	COLOMBIA		INTL	491278
2002/03/28 16:37:00	00:10:08	\$7.70	011-5745622909	COLOMBIA		INTL	426987
2002/03/28 16:51:00	00:00:34	\$0.04	614-351-6141	COLUMBUS	OH	LD	426987
2002/03/29 10:46:00	00:06:08	\$0.40	614-351-6141	COLUMBUS	OH	LD	426987
2002/03/29 11:12:00	00:03:06	\$0.20	614-351-6141	COLUMBUS	OH	LD	426987
2002/03/29 12:12:00	00:00:42	\$0.05	770-923-4049	TUCKER	GA	LD	426987
2002/03/29 15:24:00	00:03:16	\$0.21	614-351-6141	COLUMBUS	OH	LD	426987
2002/03/29 15:39:00	00:04:22	\$3.50	011-5745622909	COLOMBIA		INTL	426987
2002/03/29 16:08:00	00:08:54	\$5.76	011-525557866860	MEXICOCITY	DF	INTL	426987
2002/03/30 15:31:00	00:07:56	\$5.60	011-5745622909	COLOMBIA		INTL	426987
2002/03/30 16:12:00	00:39:20	\$2.48	407-348-4916	KISSIMMEE	FL	LD	426987
2002/03/30 19:49:00	00:01:00	\$0.25	411	INFORMATION	XX	INFO	417417
2002/03/30 21:29:00	00:01:10	\$0.08	404-765-9368	ATLANTA	GA	LD	417417
2002/03/30 21:31:00	00:00:28	\$0.03	404-765-9368	ATLANTA	GA	LD	417417
2002/03/31 11:25:00	00:00:10	\$0.02	407-760-9563	ORLANDO	FL	LD	426987
2002/03/31 11:51:00	00:02:56	\$2.10	011-5744161764	COLOMBIA		INTL	426987
2002/03/31 15:15:00	00:02:38	\$2.10	011-5714135034	COLOMBIA		INTL	426987
2002/03/31 16:16:00	00:06:24	\$4.90	011-5745622909	COLOMBIA		INTL	426987
2002/03/31 16:43:00	00:01:26	\$1.40	011-5712337124	COLOMBIA		INTL	426987
2002/03/31 16:46:00	00:13:36	\$9.80	011-5712337124	COLOMBIA		INTL	426987
2002/04/01 10:47:00	00:00:10	\$0.02	203-425-9942	STAMFORD	CT	LD	436587
2002/04/01 11:48:00	00:00:56	\$0.07	210-378-4547	SANANTONIO	TX	LD	426987
2002/04/01 11:55:00	00:00:24	\$0.03	407-830-9900	WINTERPARK	FL	LD	426987
2002/04/01 12:24:00	00:32:28	\$23.10	011-5714361023	COLOMBIA		INTL	436587
2002/04/01 16:02:00	00:08:00	\$5.60	011-5745622909	COLOMBIA		INTL	426987
2002/04/01 17:49:00	00:15:18	\$0.96	407-348-4916	KISSIMMEE	FL	LD	426987
2002/04/02 11:03:00	00:03:56	\$2.80	011-5714135034	COLOMBIA		INTL	426987
2002/04/02 11:43:00	00:06:28	\$4.90	011-5742666771	COLOMBIA		INTL	426987
2002/04/02 11:44:00	00:02:42	\$0.18	707-746-1314	BENICIA	CA	LD	452678
2002/04/02 11:50:00	00:00:46	\$0.92	250-655-4449	SAANICH	BC	LD	452678
2002/04/02 11:52:00	00:00:18	\$0.02	781-438-5515	STONEHAM	MA	LD	452678
2002/04/02 11:53:00	00:00:16	\$0.02	914-701-8089	PT CHESTER	NY	LD	452678
2002/04/02 11:56:00	00:29:44	\$1.94	703-268-7663	VIENNA	VA	LD	452678
2002/04/02 11:56:00	00:01:10	\$1.40	011-5744161764	COLOMBIA		INTL	426987
2002/04/02 12:01:00	00:03:02	\$2.80	011-572547843	COLOMBIA		INTL	452678
2002/04/02 12:31:00	00:05:34	\$4.20	011-5745622890	COLOMBIA		INTL	426987
2002/04/02 12:40:00	00:02:50	\$0.19	202-293-8500	WASHINGTON	DC	LD	426987
2002/04/02 13:55:00	00:01:14	\$1.40	011-5745510434	COLOMBIA		INTL	426987
2002/04/02 14:18:00	00:01:06	\$1.40	011-5745510434	COLOMBIA		INTL	426987
2002/04/02 15:44:00	00:00:58	\$0.70	011-5714138092	COLOMBIA		INTL	491278

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Miami International Airport
STS Detail
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Division. 3ACF
Department

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/04/02 15:46:00	00:00:56	\$0.70	011-5714148092	COLOMBIA		INTL	491278
2002/04/02 18:21:00	00:25:04	\$1.63	203-425-9942	STAMFORD	CT	LD	436587
2002/04/02 18:28:00	00:03:50	\$0.25	423-626-3000	NEWTAEZEWLL	TN	LD	436587
2002/04/03 09:50:00	00:02:04	\$2.10	011-5745360157	COLOMBIA		INTL	456398
2002/04/03 11:42:00	00:00:26	\$0.70	011-5732616161	COLOMBIA		INTL	426987
2002/04/03 11:43:00	00:00:22	\$0.70	011-5712816161	COLOMBIA		INTL	426987
2002/04/03 11:44:00	00:05:44	\$4.20	011-5732626161	COLOMBIA		INTL	426987
2002/04/03 12:13:00	00:00:14	\$0.70	011-5716774293	COLOMBIA		INTL	426987
2002/04/03 12:26:00	00:00:40	\$0.70	011-5716774293	COLOMBIA		INTL	426987
2002/04/03 12:37:00	00:00:24	\$0.70	011-5743605161	COLOMBIA		INTL	456398
2002/04/03 13:23:00	00:00:54	\$0.08	202-366-3383	WASHINGTON	DC	LD	452678
2002/04/03 14:05:00	00:04:04	\$3.50	011-5743605091	COLOMBIA		INTL	417417
2002/04/03 14:59:00	00:12:18	\$9.10	011-5714236880	COLOMBIA		INTL	417417
2002/04/03 17:13:00	00:03:18	\$2.80	011-5745360410	COLOMBIA		INTL	491278
2002/04/03 17:17:00	00:04:10	\$3.50	011-5714148092	COLOMBIA		INTL	491278
2002/04/03 17:35:00	00:15:32	\$0.98	407-348-4916	KISSIMMEE	FL	LD	426987
2002/04/04 08:54:00	00:02:38	\$2.10	011-5743438208	COLOMBIA		INTL	426656
2002/04/04 09:23:00	00:02:52	\$2.10	011-5714135034	COLOMBIA		INTL	426987
2002/04/04 10:38:00	00:00:48	\$0.70	011-5744161764	COLOMBIA		INTL	426987
2002/04/04 10:45:00	00:09:42	\$7.00	011-5714148092	COLOMBIA		INTL	491278
2002/04/04 10:59:00	00:04:48	\$3.50	011-5716258600	COLOMBIA		INTL	426987
2002/04/04 11:58:00	00:08:14	\$4.90	011-5743605161	COLOMBIA		INTL	456398
2002/04/04 12:16:00	00:03:34	\$2.80	011-5714135034	COLOMBIA		INTL	426987
2002/04/04 13:52:00	00:00:32	\$0.70	011-5714361023	COLOMBIA		INTL	436587
2002/04/04 15:30:00	00:07:40	\$5.60	011-5743605090	COLOMBIA		INTL	417417
2002/04/04 16:43:00	00:00:42	\$0.70	011-5743605091	COLOMBIA		INTL	417417
2002/04/04 16:44:00	00:33:16	\$23.80	011-5743605091	COLOMBIA		INTL	417417
2002/04/05 11:25:00	00:00:16	\$0.32	571-623-0989			LD	456398
2002/04/05 11:26:00	00:00:54	\$0.70	011-5744161764	COLOMBIA		INTL	426987
2002/04/05 11:38:00	00:02:08	\$0.96	626-644-3172	PASADENA	CA	LD	456398
2002/04/05 11:56:00	00:00:28	\$0.32	626-644-3172	PASADENA	CA	LD	426987
2002/04/05 12:19:00	00:04:40	\$3.50	011-5743605087	COLOMBIA		INTL	456398
2002/04/05 14:23:00	00:07:44	\$0.51	718-553-7043	QUEENS NYC	NY	LD	417417
2002/04/05 15:02:00	00:01:08	\$0.08	817-963-9451	EULESS	TX	LD	456398
2002/04/05 15:38:00	00:00:36	\$0.04	407-695-0990	WINTERPARK	FL	LD	426987
2002/04/05 15:55:00	00:00:20	\$0.70	011-5737631602	COLOMBIA		INTL	456398
2002/04/06 14:39:00	00:05:10	\$4.20	011-5716217326	COLOMBIA		INTL	426987
2002/04/06 15:02:00	00:00:16	\$0.70	011-5716019596	COLOMBIA		INTL	426987
2002/04/06 16:21:00	00:13:30	\$0.85	407-348-4916	KISSIMMEE	FL	LD	426987
2002/04/06 17:03:00	00:00:56	\$0.70	011-5712279119	COLOMBIA		INTL	426987
2002/04/06 17:04:00	00:01:26	\$1.40	011-5714310002	COLOMBIA		INTL	426987
Totals	18.05:10	\$572.89					

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Miami International Airport
STS Detail
SMDR-Date/Time is within the last 1 Month(s)-Abs

Division: 3ACE
Department: [REDACTED]

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/03/11 10:14:00	00:02:16	\$0.25	305-411	INFORMATION	XX	INFO	
Totals	00:02:16	\$0.25					

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BS V. MDC(1) 009365

Miami International Airport
STS Detail
SMDR-Date/Time is within the last 1 Month(s)-Abs

Division: 3ACE
Department: [REDACTED]

Date/Time	Duration	Charge	Digits Dialed	City	State	Call Type	AuthCd
2002/03/19 11:27:00	00:01:46	\$2.66	011-5743605001	COLOMBIA		INTL	
Totals	00:01:46	\$2.66					

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BS V. MDC(1) 009366

Miami International Airport
STS Detail
SMDR-Date/Time is within the last 1 Month(s)-Abs

Division: 3ACE
Department: [REDACTED]

<u>Date/Time</u>	<u>Duration</u>	<u>Charge</u>	<u>Digits Dialed</u>	<u>City</u>	<u>State</u>	<u>Call Type</u>	<u>AuthCd</u>
2002/03/19 14:36:00	00:01:24	\$0.25	305-411	INFORMATION	XX	INFO	
2002/03/19 14:42:00	00:01:02	\$0.25	305-411	INFORMATION	XX	INFO	
2002/03/21 10:45:00	00:01:34	\$0.25	305-411	INFORMATION	XX	INFO	
2002/03/23 11:44:00	00:00:16	\$0.25	305-411	INFORMATION	XX	INFO	
Totals	00:04:16	\$1.00					

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BS V. MDC(1) 009367

Miami International Airport
STS Detail
SMDR-Date/Time is within the last 1 Month(s)-Abs

Division: 3ACE
Department: [REDACTED]

<u>Date/Time</u>	<u>Duration</u>	<u>Charge</u>	<u>Digits Dialed</u>	<u>City</u>	<u>State</u>	<u>Call Type</u>	<u>AuthCd</u>
2002/03/18 10:58:00	00:03:44	\$5.32	011-5714135034	COLOMBIA		INTL	
2002/03/19 12:08:00	00:01:44	\$0.25	305-411	INFORMATION	XX	INFO	
2002/04/02 11:23:00	00:01:12	\$0.25	305-411	INFORMATION	XX	INFO	
Totals	00:06:40	\$5.82					

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