



# MEMORANDUM

TC

Agenda Item No. 3(J)

TO: Honorable Chairperson  
Board of County Commissioners

DATE: May 15, 2003

SUBJECT: Contract No. TA99-MV3  
Brickell Extension Paint  
Remediation  
Change Order No. One

FROM: Steve Shiver  
County Manager

The attached Change Order No. One to the contract between Len Hazen Painters, the contractor, and Miami-Dade County has been prepared by the Office of Public Transportation Management and is recommended for approval.

CHANGE ORDER NO.: One

PROJECT NO.: TA99-MV3

PROJECT LOCATION: Metromover Brickell Extension.

PROJECT DESCRIPTION: The repainting of the steel surface of portions of the guideway structures including surface preparation (removal of all loose coating material, water soluble salts and rust), furnishing and applying the selected coating system and subsequent testing thereof.

PRIME CONTRACTOR: Len Hazen Painters

COMPANY PRINCIPAL(S): Len Hazen. President

COMPANY QUALIFIER: Len Hazen

LOCATION OF COMPANY: Miami, Florida

YEARS IN BUSINESS: Forty-two (42)

SUBCONTRACTOR: Jasper Enterprises

DBE GOAL: 12%

GOAL ACHIEVED AT AWARD: N/A

ORIGINAL ESTIMATE: \$800,724.82  
CONTRACT AMOUNT: \$789,424.14 (See attached bid tabulation)  
PREVIOUS CHANGE ORDERS: None  
CHANGE ORDER RECOMMENDATION: An increase of \$691,214.40 and the contract duration to be extended to the weekend of December 30, 2002.

CLASSIFICATION OF CHANGE ORDER:

- Regulatory Change
- Other Agency Request Change
- Design Error Change
- Design Omission Change
- County Requested Change
- Unforeseen/Unforeseeable Change
- Other \_\_\_\_\_

ADJUSTED CONTRACT AMOUNT: \$1,480,638.54

PERCENTAGE OF INCREASE OR DECREASE PREVIOUS CHANGE ORDERS: N/A

PERCENTAGE OF INCREASE OR DECREASE THIS CHANGE ORDER: 87.6% increase in the contract cost.

JUSTIFICATION FOR CHANGE ORDER: This change order is necessary due to a County requested and an unforeseen change.

The County requested change instructed the contractor to repaint additional quantities as required in the girders of Spans 1 through 19; I-95 and the Miami River Crossing. The contract specified various quantities and categories of work to be done along several different areas of the Metromover Brickell Extension. The initial pressure cleaning operations revealed that Post Buckley

Shuh & Jernigan (PBS&J) had significantly underestimated the original bid quantities for the guideway, guide beam and guideway walkway. The completed work will include only the girders of Spans 1 through 19, I-95 and the Miami River Crossing. Due to budgetary constraints, all the remaining girders (Spans 25 through 60) will be addressed in a future separate contract.

The unforeseen change was the removal of the zinc and lead contaminated wastewater as required by MDC Department of Environmental Resources Management (DERM). When the contractor submitted the application to obtain the building permit, MDC DERM expressed their concerns regarding the possibility of the presence of hazardous chemicals in the wastewater from the proposed cleaning operations. Since the contract did not stipulate the existence of any metal in the paint being removed, MDC DERM required that the wastewater from the cleaning operations be tested for oil, grease and Resource Conservation & Recovery Act (RCRA) metals. As a result, MDT directed the contractor to pressure clean a sample section of the guideway and have the effluent tested to determine its chemical make-up. On November 14, 2001 MDC DERM provided MDT staff with a memorandum stating that the results of the tested effluent exceeded the effluent standards for zinc and lead for discharge to surface water and or groundwater. As a result, the contractor had to provide a satisfactory means of properly containing and disposing of the contaminated wastewater.

Via letter dated May 16, 2002 MDT has formally advised the Design Consultant, PBS&J, that MDT intends to pursue recovery for the additional costs from PBS&J.

ALLOWANCE ACCOUNT STATUS:

Original Amount:	\$63,898.00
Expended to date:	<u>\$62,865.48</u>
Balance Remaining	<u>\$1,032.52</u>

CONTRACT COMPLETION DATE: To be revised to the week-end of December 30, 2002.  
OPTM staff is negotiating with the contractor for a further  
time extension that will extend the projected contract  
completion date to April 30, 2003.

USING AGENCY: Miami-Dade Transit

FUNDING SOURCE: MDC Local Funding 100% - \$1,480,638.54

APPROVED FOR LEGAL  
SUFFICIENCY: Yes

MIAMI METROMOVER BRICKELL EXTENSION  
 PAINT REMEDIATION  
 CONTRACT NO. TA99-MV3 (663449)  
 BID OPENING - May, 17, 2000

FILE 80.03-5

Item No.	Description	Est. Quan.	Unit	Engineer's Est.		V.I.P. Painting, Inc.		Len Hazen Painting, Inc.	
				Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price
01000.00	General Requirements	1	L.S.	\$ 127,155.00	\$ 27,200.00	\$ 27,200.00	\$ 85,000.00	\$ 27,200.00	\$ 85,000.00
09901.01	Guideway (Not Galv.) Surf. Prep., Prime & Tie Coat	2575	L.F.	\$ 383,675.00	\$ 119.00	\$ 306,425.00	\$ 109.00	\$ 306,425.00	\$ 280,675.00
09901.02	Guideway (Not Galv.) Finish Coat	4825	L.F.	\$ 104,220.00	\$ 58.00	\$ 279,850.00	\$ 34.00	\$ 279,850.00	\$ 164,050.00
09901.03	Guide Beam (Not Galv.) Surf Prep, Prime & Tie Coat	683	L.F.	\$ 17,075.00	\$ 15.50	\$ 10,586.50	\$ 27.00	\$ 10,586.50	\$ 18,441.00
09901.04	Guide Beam (Not Galv.) Finish Coat	2733	L.F.	\$ 13,665.00	\$ 7.20	\$ 19,677.60	\$ 5.00	\$ 19,677.60	\$ 13,665.00
09901.05	Guideway Walkway (Galv) Surf Prep, Touch-up & Tie Coat	2226	L.F.	\$ 75,684.00	\$ 15.00	\$ 33,390.00	\$ 54.00	\$ 33,390.00	\$ 120,204.00
09901.06	Guideway Walkway (Galv) Finish Coat	2226	L.F.	\$ 13,356.00	\$ 5.10	\$ 11,352.60	\$ 18.50	\$ 11,352.60	\$ 41,181.00
01010.01	Allowance Account for Unforeseen Changes	1	L.S.	\$ 63,898.00	\$ 63,898.00	\$ 63,898.00	\$ 63,898.00	\$ 63,898.00	\$ 63,898.00
	SUBTOTAL			\$ 798,728.00		\$ 752,379.70		\$ 752,379.70	\$ 787,114.00
01010.02	Allow Acct for Inspector General	1	L.S.	\$ 1,996.82		\$ 1,880.95		\$ 1,880.95	\$ 1,967.79
01010.03	Allow Acct Independent Private Sector Inspector General	1	L.S.	N/A		N/A		N/A	N/A
	TOTAL			\$ 800,724.82		\$ 754,260.65		\$ 754,260.65	\$ 789,081.79

Item No.	Description	Est. Quan.	Unit	Engineer's Est.		Worth Contracting, Inc.		Abhe & Svoboda, Inc.	
				Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price
01000.00	General Requirements	1	L.S.	\$ 127,155.00	\$ 250,328.00	\$ 250,328.00	\$ 80,000.00	\$ 250,328.00	\$ 80,000.00
09901.01	Guideway (Not Galv.) Surf. Prep., Prime & Tie Coat	2575	L.F.	\$ 383,675.00	\$ 43.00	\$ 110,725.00	\$ 300.00	\$ 110,725.00	\$ 772,500.00
09901.02	Guideway (Not Galv.) Finish Coat	4825	L.F.	\$ 104,220.00	\$ 42.00	\$ 202,650.00	\$ 25.00	\$ 202,650.00	\$ 120,625.00
09901.03	Guide Beam (Not Galv.) Surf Prep, Prime & Tie Coat	683	L.F.	\$ 17,075.00	\$ 50.00	\$ 34,150.00	\$ 90.00	\$ 34,150.00	\$ 61,470.00
09901.04	Guide Beam (Not Galv.) Finish Coat	2733	L.F.	\$ 13,665.00	\$ 47.00	\$ 128,451.00	\$ 15.00	\$ 128,451.00	\$ 40,995.00
09901.05	Guideway Walkway (Galv) Surf Prep, Touch-up & Tie Coat	2226	L.F.	\$ 75,684.00	\$ 39.00	\$ 86,814.00	\$ 32.00	\$ 86,814.00	\$ 71,232.00
09901.06	Guideway Walkway (Galv) Finish Coat	2226	L.F.	\$ 13,356.00	\$ 39.00	\$ 86,814.00	\$ 6.00	\$ 86,814.00	\$ 13,356.00
01010.01	Allowance Account for Unforeseen Changes	1	L.S.	\$ 63,898.00	\$ 63,898.00	\$ 63,898.00	\$ 63,898.00	\$ 63,898.00	\$ 63,898.00
	SUBTOTAL			\$ 798,728.00		\$ 963,830.00		\$ 963,830.00	\$ 1,224,076.00
01010.02	Allow Acct for Inspector General	1	L.S.	\$ 1,996.82		\$ 2,409.58		\$ 2,409.58	\$ 3,060.19
01010.03	Allow Acct Independent Private Sector Inspector General	1	L.S.	N/A		N/A		N/A	\$ 12,240.76
	TOTAL			\$ 800,724.82		\$ 966,239.58		\$ 966,239.58	\$ 1,239,376.95

Item No.	Description	Est. Quan.	Unit	Engineer's Est.		M&J Const. Co. of Pinellas	
				Total Price	Unit Price	Total Price	Unit Price
01000.00	General Requirements	1	L.S.	\$ 127,155.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
09901.01	Guideway (Not Galv.) Surf. Prep., Prime & Tie Coat	2575	L.F.	\$ 383,675.00	\$ 260.97	\$ 671,997.75	\$ 671,997.75
09901.02	Guideway (Not Galv.) Finish Coat	4825	L.F.	\$ 104,220.00	\$ 82.90	\$ 399,992.50	\$ 399,992.50
09901.03	Guide Beam (Not Galv.) Surf Prep, Prime & Tie Coat	683	L.F.	\$ 17,075.00	\$ 51.24	\$ 34,996.92	\$ 34,996.92
09901.04	Guide Beam (Not Galv) Finish Coat	2733	L.F.	\$ 13,665.00	\$ 19.39	\$ 52,992.87	\$ 52,992.87
09901.05	Guideway Walkway (Galv) Surf Prep, Touch-up & Tie Coat	2226	L.F.	\$ 75,684.00	\$ 68.73	\$ 152,992.98	\$ 152,992.98
09901.06	Guideway Walkway (Galv) Finish Coat	2226	L.F.	\$ 13,356.00	\$ 31.00	\$ 69,006.00	\$ 69,006.00
01010.01	Allowance Account for Unforeseen Changes	1	L.S.	\$ 63,898.00	\$ 63,898.00	\$ 63,898.00	\$ 63,898.00
	SUBTOTAL			\$ 798,728.00		\$ 1,470,877.02	
01010.02	Allow Acct for Inspector General	1	L.S.	\$ 1,996.82		\$ 3,677.19	
01010.03	Allow Acct Independent Private Sector Inspector General	1	L.S.	N/A		\$ 14,708.77	
	TOTAL			\$ 800,724.82		\$ 1,489,262.98	

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Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No.

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING EXECUTION OF CHANGE ORDER NO. 1 TO CONTRACT TA99-MV3 BETWEEN MIAMI-DADE COUNTY AND LEN HAZEN PAINTERS FOR AN INCREASE OF \$691,214.40 AND TO EXTEND THE CONTRACT TIME THROUGH DECEMBER 30, 2003

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 approves Change Order No. 1 to Contract TA99-MV3 for an increase of \$691,214.40 and to extend the contract time through December 30, 2002 in substantially the form attached hereto and made a part hereof; and authorizes the County Manager to execute same for and on behalf of Miami-Dade County.

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

Bruno A. Barreiro  
Jose "Pepe" Diaz  
Sally A. Heyman  
Jimmy L. Morales  
Dorrin D. Rolle  
Katy Sorenson

Dr. Barbara Carey-Shuler  
Betty T. Ferguson  
Joe A. Martinez  
Dennis C. Moss  
Natacha Seijas  
Rebeca Sosa

Sen. Javier D. Souto

The Chairperson thereupon declared the resolution duly passed  
and adopted this 3rd day of June, 2003. This resolution shall  
become effective ten (10) days after the date of its adoption  
unless vetoed by the Mayor, and if vetoed, shall become effective  
only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as  
to form and legal sufficiency. LSJ

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

CHANGE ORDER NO. 1 PROJECT NO. TA99-MV3 DATE September 12, 2002

PROJECT TITLE: Brickell Extension Paint Remediation CONTRACTOR: Len Hazen Painters, Inc. P.O. Box 280 Fort Ogden, FL 34267

YOU ARE HEREBY REQUESTED TO MAKE THE FOLLOWING CHANGES IN THE PLANS AND SPECIFICATIONS FOR THIS PROJECT AND TO PERFORM THE WORK ACCORDINGLY, SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS.

Change Notice #1 Provide the contractor with additional compensation to perform additional painting operations above the original contract amounts.

SUMMARY OF CONTRACT AMOUNT

ORIGINAL CONTRACT AMOUNT	<u>\$789,424.14</u>
COST OF CONSTRUCTION CHANGES PREVIOUSLY ORDERED	<u>-- 0 --</u>
ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE ORDER	<u>\$789,424.14</u>
COST OF CONSTRUCTION CHANGES THIS ORDER	<u>\$691,214.40</u>
ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER	<u>\$1,480,638.54</u>

PERCENT INCREASE THIS CHANGE ORDER 87.6%  
TOTAL PERCENT INCREASE TO DATE 87.6%  
EXTENSION OF CONTRACT TIME ALLOWED BY THIS CHANGE \_\_\_\_\_

Revised to through the weekend ending 12-30-02

CERTIFYING STATEMENT: I hereby certify that the supporting cost data included is, in my considered opinion, accurate; that the prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under benefit competitive bidding.

*[Signature]*  
SIGNATURE RESIDENT ENGINEER

TO BE FILLED OUT BY DEPARTMENT INITIATING CHANGE ORDER

Miami-Dade Transit DEPARTMENT CPE313MTMOVR FUNDS BUDGETED CODE

MDTA Finance CERTIFIED BY

ACCEPTED BY: *[Signature]*  
(COMPANY SEAL) Len Hazen Painters, Inc.

APPROVED: *[Signature]*  
BUDGET DIRECTOR

(SURETY SEAL) First National Insurance Company of America

RECOMMENDED: *[Signature]* 12/5/02  
CHIEF, TRANSIT CONSTRUCTION

DADE COUNTY, Florida  
By its BOARD OF COUNTY COMMISSIONERS

APPROVED: *[Signature]* 8/11/02  
ASST. DIRECTOR, ENG. & CONSTRUCTION

APPROVED: \_\_\_\_\_  
EXECUTIVE DIRECTOR, OPTM

By: \_\_\_\_\_  
County Manager

ATTEST: \_\_\_\_\_  
By: \_\_\_\_\_  
Deputy Clerk

MIAMI-DADE COUNTY  
CHANGE ORDER TO ORIGINAL CONTRACT

PROJECT TITLE: Brickell Extension Paint  
Remediation  
CONTRACTOR: Len Hazen Painters, Inc.

CONTRACT NO. TA99-MV3  
CHANGE ORDER NO. 1

**BACKGROUND**

The Notice-to-Proceed (NTP) was issued to the contractor effective June 4, 2001 and due to the potential impact on Metromover operations, the contract duration was specified as 30 working weekends.

When the contractor submitted the application to obtain the building permit, the MDC Department of Environmental Resources Management (DERM) expressed their concerns regarding the possibility of the presence of hazardous chemicals in the wastewater from the proposed cleaning operations. Since the contract did not stipulate the existence of any metal in the paint being removed, MDC DERM required that the wastewater from the cleaning operations be tested for oil, grease and Resource Conservation & Recovery Act (RCRA) metals. As a result, the contractor was directed to pressure clean a sample section of the guideway and have the effluent tested to determine its chemical make-up. On November 14, 2001 MDC DERM provided MDT staff with a memorandum stating that the results of the tested effluent exceeded the effluent standards for zinc and lead for discharge to surface water and or groundwater. As a result, the contractor had to provide a satisfactory means of properly containing and disposing of the contaminated wastewater.

In March, 2002 the contractor advised the Engineer, Post Buckley Shuh & Jernigan (PBS&J), that based on their preliminary surveys performed, the actual area to be painted would exceed the estimated bid quantities. Subsequently, PBS&J performed independent surveys of the Metromover Brickell Extension guideway on July 31, 2001 and September 16, 2001 which yielded an overrun of approximately 58% in additional quantities over the originally estimated bid quantities. During surface preparation of the areas to be painted it was discovered that additional paint delamination had occurred from the time the original estimate was performed, due to existing excessive zinc thickness in the prime coat. Although the testing laboratory reports issued to the bidders concluded that no further paint delamination would occur, paint delamination continued for several years after the test reports were issued.

The contract specified various quantities and categories of work to be done along several different areas of the entire Metromover Brickell Extension. The initial pressure cleaning operations revealed that PBS&J had significantly underestimated the original bid quantities for the guideway, guide beam and guideway walkway. The completed work will include only the girders of Spans 1 through 19; I-95 and the Miami River Crossing. Due to budgetary constraints, all the remaining girders (Spans 25 through 60) will be addressed in a future separate contract.

The project was temporarily suspended in March, 2002 after the contractor's paint manufacturer, Carboline, disagreed to participate in approving the acceptance of the surface preparation. The manufacturer contended that the zinc in the primer did not cure as specified. Two independent testing laboratories, hired by MDT, performed the relevant tests and their results and conclusions concurred with the 1997 Paint Evaluation Report included in the contract. In a meeting held on June 18, 2002 between MDT and the contractor, both parties agreed to have the contractor approve the surface preparation in lieu of the manufacturer based on the zinc thickness specified by the manufacturer.

MIAMI-DADE COUNTY  
CHANGE ORDER TO ORIGINAL CONTRACT

PROJECT TITLE: Brickell Extension Paint  
Remediation  
CONTRACTOR: Len Hazen Painters, Inc.

CONTRACT NO. TA99-MV3  
CHANGE ORDER NO. 1

As a result of the above, the contractor requested to be compensated for the following additional work:

- 1). The cost to contain and dispose of the lead and zinc contaminated water and to provide DERM water testing, additional graphics including extended administrative staff.
- 2). The cost of removal of excessive grease and the re-cleaning of several areas.
- 3). The cost of performing additional guideway re-surveys.
- 4). The cost of painting the areas beyond the totals of the original estimated bid items.

In addition, as a result of the additional work, the contractor requested that the contract duration be extended through the weekend of December 30, 2002.

The County pursued collection of the additional costs from the original contractor, Odebrêcht Church & Tower (OCT), for the Metromover Brickell Extension and recovered \$760,000 as a settlement cost based on the estimated bid quantities. In addition, via letter dated May 16, 2002 MDT has formally advised PBS&J that MDT intends to pursue recovery for the additional costs from PBS&J.

**SUMMARY OF NEGOTIATIONS**

In his letters dated July 9, 2002 and July 26, 2002 the contractor requested a total of \$724,518.63 to perform the additional work as detailed above. The Resident Engineer (R.E.) reviewed these letters and requested additional back-up information. After receiving the requested information, the R.E. checked all the relevant data. At a meeting held on August 6, 2002 and after making the necessary revisions, the contractor and the R.E. agreed that the sum of \$691,214.40 was acceptable for the above work.

Measurement and payment shall be as follows:

Revise Page 5 of 12 of the original bid form as follows:

Delete "30" weekends and insert "through the weekend of December 30, 2002"

MIAMI-DADE COUNTY  
**CHANGE ORDER TO ORIGINAL CONTRACT**

PROJECT TITLE: Brickell Extension Paint Remediation  
 CONTRACTOR: Len Hazen Painters, Inc.

CONTRACT NO. TA99-MV3  
 CHANGE ORDER NO. 1

Revise the following items on Page 5 of 12 of the original bid form:

<u>Item No.</u>	<u>Description</u>	<u>Original Quantity</u>	<u>Revised Quantity</u>	<u>Change Quantity</u>	<u>Unit Price</u>	<u>Change Amount</u>
9901.01	Guideway (not galvanized) Prepare surface, prime & tie coat	2,575	4,000	1,425 l.f.	109.00	155,325.00
9901.03	Guide beam (not galvanized) Prepare surface, prime & tie coat	683	3,589	2,906 l.f.	27.50	79,915.00
9901.04	Guide beam (not galvanized) Finish coat	2,733	3,589	856 l.f.	5.00	4,280.00
9901.05	Guideway walkway (galvanized) Prepare surface, touch-up & tie coat	2,226	5,784	3,558 l.f.	54.00	192,132.00
9901.06	Guideway walkway (galvanized) Finish coat	2,226	5,784	3,558 l.f.	18.50	65,823.00

Add the following new items to Page 5 of 12 of the original bid form:

<u>Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Amount</u>
C.O. #1 (Item #1)	To contain and dispose of the lead and zinc zinc contaminated water etc. (Spans 1-19)	1	L.S.	\$74,993.40
C.O. #1 (Item #2)	To contain and dispose of the lead and zinc contaminated water etc. (I-95 & Miami River)	1	L.S.	\$77,005.00
C.O. #1 (Item #3)	To remove excessive grease from the guidebeams	1	L.S.	\$7,072.00
C.O. #1 (Item #4)	To perform additional re-surveys	1	L.S.	\$4,669.00
C.O. #1 (Item #5)	To perform water testing & demonstration required by MDC DERM	1	L.S.	\$9,000.00

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MIAMI-DADE COUNTY  
**CHANGE ORDER TO ORIGINAL CONTRACT**

PROJECT TITLE: Brickell Extension Paint  
Remediation  
 CONTRACTOR: Len Hazen Painters, Inc.

CONTRACT NO. TA99-MV3  
 CHANGE ORDER NO. 1

<u>Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Amount</u>
C.O. #1 (Item #6)	To provide additional graphics required by MDC DERM	1	L.S.	\$5,000.00
C.O. #1 (Item #7)	Compensation for additional administrative costs	1	L.S.	\$11,000.00
C.O. #1 (Item #8)	To re-clean several areas	1	L.S.	\$5,000.00
<b>Total</b>				<b><u>\$691,214.40</u></b>

The terms and conditions of this change order and receipt by the contractor of the sum stipulated in this change order shall constitute a full accord and satisfaction by the contractor for all direct and indirect costs and time of performance related to the services and materials described and/or referenced herein, and for any claims the contractor has or may discover it had for acts or omissions of the County or the County's agents preceding the date the contractor executes this change order.

*SH*

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POWER OF ATTORNEY

FIRST NATIONAL INSURANCE COMPANY OF AMERICA  
4333 BROOKLYN AVE NE  
SEATTLE, WASHINGTON 98105

4333 Brooklyn Avenue N.E.  
Seattle, WA 98105

No. 12499

KNOW ALL BY THESE PRESENTS:

That FIRST NATIONAL INSURANCE COMPANY OF AMERICA, a Washington corporation, does hereby appoint  
\*\*\*\*\*BRADLEY ROSS HARRIS; Orland, Florida\*\*\*\*\*

its true and lawful attorney(s)-in-fact, with full authority to execute on behalf of the company fidelity and surety bonds or undertakings and other documents of a similar character issued by the company in the course of its business, and to bind FIRST NATIONAL INSURANCE COMPANY OF AMERICA thereby as fully as if such instruments had been duly executed by its regularly elected officers at its home office.

IN WITNESS WHEREOF, FIRST NATIONAL INSURANCE COMPANY OF AMERICA has executed and attested these presents

this 27th day of October, 2000

*R.A. Pierson*  
R.A. PIERSON, SECRETARY

*Boh A. Dickey*  
BOH A. DICKEY, PRESIDENT

CERTIFICATE

Extract from the By-Laws of FIRST NATIONAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of  
FIRST NATIONAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,  
(i) The provisions of Article V, Section 13 of the By-Laws, and  
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and  
(iii) Certifying that said power-of-attorney appointment is in full force and effect,  
the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, R.A. Pierson, Secretary of FIRST NATIONAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of this corporation, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 3rd day of DECEMBER, 2002



*R.A. Pierson*  
R.A. PIERSON, SECRETARY