Memorandum

MIAMI-DADE COUNTY

Date: February 6, 2007

Agenda Item No. 8(A)(1)(H)

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Resolution Ratifying the County Manager's Action in Settling Claims under One Million Dollars pursuant to Resolution R-224-06

RECOMMENDATION

It is recommended that the Board adopt the attached resolution ratifying settlement agreements between Miami-Dade County and certain contractors that performed work on the North Terminal Development Project at Miami International Airport, pursuant to the delegated authority provided by the Board in Resolution No. R-224-06 to settle claims for up to $1 million. This item covers the period of August 1, 2006 through December 31, 2006, as listed in the attached Exhibits A-E, and consists of 28 claims totaling $2,725,276.48.

BACKGROUND

As part of the NTD Program, the County and American Airlines (American) entered into a Lease, Construction and Finance Agreement (LCF) for American to design and construct the NTD and the County to pay the costs thereof as a tenant improvement project. American hired the Turner-Austin Airport Team (TAAT) as its construction manager.

On June 21, 2005, the Board approved the Fourth Amendment to the LCF with American that transferred the responsibility of completing the NTD Program to the County. Concurrently, the Board approved a Claims Administration Agreement with American giving the County authority to defend, settle and/or adjudicate claims against American on the NTD program. As a result of the Amendment, on June 27, 2005, American terminated TAAT's contract effective July 27, 2005.

When American terminated TAAT's contract, TAAT in turn terminated the subcontracts. Subsequently, numerous contractors filed claims against American and TAAT with the County. Pursuant to the Claims Administration Agreement, the County directed its claims consultant, Alpha Corporation, to review the merits of the claims and recommend settlement amounts commensurate with the merits to a team of Aviation Department staff members designated as the Owner's Review Board (ORB). Following this review process, the County entered into extensive negotiations with claimants to resolve the claims in benefit of all parties.

Pursuant to Resolution R-224-06, the Board authorized the County Manager or designee to negotiate and settle certain contractor claims (where the settlements do not exceed $1 million) related to NTD projects for work performed prior to July 27, 2005, subject to ratification by the Board.

For the period covered under this item, August 1, 2006 – December 31, 2006, the Aviation Department has processed and paid a total of 28 claims, as listed in Exhibits A-E, totaling $2,725,276.48, pursuant to settlements with the following eight contractors:

- Central Florida Equipment Rental, Inc.
- Dynalectric Florida
- Honeywell, Inc.
- Lotspeich Company, Inc.
- Masonry Arts, Inc.
- MacGregor (USA) Inc.
- NR Windows, Inc.
- Thornton Construction Company, Inc.

Each of the settlement agreements with the above-referenced claimants was executed in accordance with the County's established Claims Review Process, including those contained in Resolution Nos. R-119-06 and R-397-06. These resolutions provide that the payment of any settlement amount to a contractor be conditional upon the claimant paying such portion of the pass through claims of CSBE sub-contractors at any tier determined by the County to be due to such CSBE sub-contractors. A copy of each of the settlement agreements listed in the attached exhibits is on file with the Clerk of the Board.

From the inception of the program on August 1, 2005 through December 31, 2006, claims totaling $14.6 million have been settled and paid for $7.9 million under R-224-06. Of this amount, $1.1 million has been paid to CSBE sub-contractors. Also during this same period, the County has settled and paid a total of $70.3 million in claims for $39 million with $2.8 million paid to CSBE sub-contractors under all Resolutions approved by the Board.

This delegation of authority has assisted staff to comply with the Board's directive to expedite the resolution and payment of NTD claims and, as a result, has greatly helped CSBEs and the many small businesses that have been impacted by the protracted payment for their work.

Susanne M. Torriente
Chief of Staff/Assistant County Manager

MEMORANDUM
(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: February 6, 2007

FROM: Murray A. Greenberg County Attorney

SUBJECT: Agenda Item No. 8(A)(1)(H)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

✓ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(H)

02-06-07

RESOLUTION NO. _____

RESOLUTION RELATING TO NORTH TERMINAL DEVELOPMENT PROJECT AT MIAMI INTERNATIONAL AIRPORT, RATIFYING THE COUNTY MANAGER'S EXECUTION OF SETTLEMENT AGREEMENTS WITH CENTRAL FLORIDA EQUIPMENT RENTAL, INC., DYNALECTRIC FLORIDA, HONEYWELL, INC., LOTSPEICH COMPANY, INC., MASONRY ARTS, INC., MACGREGOR (USA) INC., NR WINDOWS, INC., AND THORNTON CONSTRUCTION COMPANY, INC., FOR THE PERIOD AUGUST 1, 2006 THROUGH DECEMBER 31, 2006, PURSUANT TO RESOLUTION NO. R-224-06

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, pursuant to Resolution No. R-224-06, ratifies the County Manager's execution of settlement agreements between the County and Central Florida Equipment Rental, Inc., Dynalectric Florida, Honeywell, Inc., Lotspeich Company, Inc., Masonry Arts, Inc., MacGregor (USA) Inc., NR Windows, Inc., and Thornton Construction Company, Inc., as listed in the accompanying memorandum and exhibits thereto and on file with the Clerk of the Board.

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, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz
Carlos A. Gimenez
Joe A. Martinez
Dorrin D. Rolle
Katy Sorenson
Sen. Javier D. Souto
Audrey M. Edmonson
Sally A. Heyman
Dennis C. Moss
Natacha Seijas
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of February, 2007. 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:_____
Deputy Clerk

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

Rafael A. Paz

NTD CLAIMS PAYMENTS PROGRESS - AUGUST 2006 - (Under R-224-06) EXHIBIT A

CLAIM DESCRIPTION			SETTLEMENT		PAYMENT		
CLAIMANT	PROJECT / TRACKING #	$ ORIGINAL CLAIM AMOUNT	$ SETTLEMENT CLAIM AMOUNT	$ CSBE CLAIM AMOUNT	DATE PAID	CHECK #	RESO / DATE
Dynalectric	745B/11212	$28,106.00	$22,586.00	$0.00	08/10/06	2455	R-224-06 2/21/06
Dynalectric	739E/11267	$11,040.00	$5,520.00	$0.00	08/10/06	2455	R-224-06 2/21/06
Sub-Total		**$39,146.00**	**$28,106.00**	**$0.00**			
NR Windows	739H/11297	$152,755.12	$68,450.35	$0.00	08/08/06	2392	R-224-06 2/21/06
Sub-Total		**$152,755.12**	**$68,450.35**	**$0.00**			
TOTAL 8/06		**$191,901.12**	**$96,556.35**	**$0.00**			

NTD CLAIMS PAYMENTS PROGRESS - SEPTEMBER 2006 - (Under R-224-06) EXHIBIT B

CLAIM DESCRIPTION			SETTLEMENT		PAYMENT		
CLAIMANT	PROJECT / TRACKING #	$ ORIGINAL CLAIM AMOUNT	$ SETTLEMENT CLAIM AMOUNT	$ CSBE CLAIM AMOUNT	DATE PAID	CHECK #	RESO / DATE
Dynalectric	739H/11088	$1,808.84	$1,355.12	$0.00	09/12/06	4643	R-224-06 2/21/06
Dynalectric	739H/11089	$3,753.59	$3,753.59	$0.00	09/12/06	4643	R-224-06 2/21/06
Dynalectric	739H/11091	$7,704.00	$5,894.14	$0.00	09/12/06	4643	R-224-06 2/21/06
Dynalectric	739A/11218	$38,605.00	$38,605.00	$0.00	09/12/06	4643	R-224-06 2/21/06
Dynalectric	739H/11277	$131,138.00	$97,717.02	$0.00	09/29/06	3833	R-224-06 2/21/06
Sub-Total		**$183,009.43**	**$147,324.87**	**$0.00**			
Lotspeich	739C-3 (739F)/11220	$21,620.00	$17,867.06	$0.00	09/12/06	3376	R-224-06 2/21/06
Sub-Total		**$21,620.00**	**$17,867.06**	**$0.00**			
TOTAL 9/06		**$204,629.43**	**$165,191.93**	**$0.00**			

NTD CLAIMS PAYMENTS PROGRESS - OCTOBER 2006 - (Under R-224-06) EXHIBIT C

CLAIM DESCRIPTION			SETTLEMENT		PAYMENT		
CLAIMANT	PROJECT / TRACKING #	$ ORIGINAL CLAIM AMOUNT	$ SETTLEMENT CLAIM AMOUNT	$ CSBE CLAIM AMOUNT	DATE PAID	CHECK #	RESO / DATE
Central Florida	737A/745A Global	$941,000.00	$499,000.00	$0.00	10/06/06	3968	R-224-06 2/21/06
Sub-Total		**$941,000.00**	**$499,000.00**	**$0.00**			
Lotspeich	739F/11199a Reserved Claim	$185,404.78	$179,850.00	$0.00	10/17/06	4655	R-224-06 2/21/06
Sub-Total		**$185,404.78**	**$179,850.00**	$0.00			
TOTAL 10/06		**$1,126,404.78**	**$678,850.00**	**$0.00**			

NTD CLAIMS PAYMENTS PROGRESS - NOVEMBER 2006 - (Under R-224-06) EXHIBIT D

CLAIM DESCRIPTION			SETTLEMENT		PAYMENT		
CLAIMANT	PROJECT / TRACKING #	$ ORIGINAL CLAIM AMOUNT	$ SETTLEMENT CLAIM AMOUNT	$ CSBE CLAIM AMOUNT	DATE PAID	CHECK #	RESO / DATE
Lotspeich	739F/11199b	$371,635.00	$290,000.00	$0.00	11/07/06	4655	R-224-06 2/21/06
Lotspeich	739H/11120 Reserved Claim	$151,268.00	$138,389.00	$0.00	11/07/06	4655	R-224-06 2/21/06
Sub-Total		**$522,903.00**	**$428,389.00**	$0.00			
Masonry Arts	737G/11052a & b, 731E/11149, 11053a & b, and 745B/ 11047 & 11308	$2,834,252.29	$1,019,927.25	$0.00	11/14/06	4761	R-224-06 2/21/06
Sub-Total		**$2,834,251.29**	**$1,019,927.25**	**$0.00**			
MacGregor	739G/11302	$30,368.00	$530.20	$0.00	11/22/06	4947	R-224-06 2/21/06
MacGregor	739F/11033	$167,825.32	$20,644.00	$0.00	11/22/06	4947	R-224-06 2/21/06
MacGregor	745B/11303	$81,268.00	$77,747.75	$0.00	11/22/06	4947	R-224-06 2/21/06
Sub-Total		**$279,461.32**	**$99,121.95**	**$0.00**			
Thornton	745B/11319	$175,849.00	$125,250.00	$125,250.00	11/14/06	4753	R-221-06 2/21/06
Sub-Total		**$175,849.00**	**$125,250.00**	**$125,250.00**			
TOTAL 11/06		**$3,812,464.61**	**$1,672,688.20**	**$125,250.00**			

NTD CLAIMS PAYMENTS PROGRESS - DECEMBER 2006 (Under R-224-06) EXHIBIT E

CLAIM DESCRIPTION			SETTLEMENT		PAYMENT		
CLAIMANT	PROJECT / TRACKING #	$ ORIGINAL CLAIM AMOUNT	$ SETTLEMENT CLAIM AMOUNT	$ CSBE CLAIM AMOUNT	DATE PAID	CHECK #	RESO / DATE
Thornton	739F/11186	$174,318.00	$94,800.00	$94,800.00	12/28/06	5557	R-224-06 2/21/06
Thornton	741A/11327, 11328 & 11329	$17,190.00	$17,190.00	$17,190.00	12/28/06	5557	R-224-06 2/21/06
Sub-Total		**$191,508.00**	**$111,990.00**	**$111,990.00**			
TOTAL 12/06		**$191,508.00**	**$111,990.00**	**$111,990.00**			
NTD CLAIMS PAYMENTS PROGRESS - TOTAL AUGUST 2005 - DECEMBER 2006 (Under R-224-06)							
MONTH		**$ ORIGINAL CLAIM AMOUNT**	**$ SETTLEMENT CLAIM AMOUNT**	**$CSBE CLAIM AMOUNT**			
8/05-5/06		$1,808,773.48	$995,000.00	$399,923.00			
06-06		$2,971,642.46	$1,823,554.87	$474,246.51			
07-06		$4,278,105.41	$2,375,843.93	$0.00			
08-06		$191,901.12	$96,556.35	$0.00			
09-06		$204,629.43	$165,191.93	$0.00			
10-06		$1,126,404.78	$678,850.00	$0.00			
11-06		$3,812,464.61	$1,672,688.20	$125,250.00			
12-06		$191,508.00	$111,990.00	$111,990.00			
TOTAL		**$14,585,429.29**	**$7,919,675.28**	**$1,111,409.51**			