MEMORANDUM

MIAMI-DADE COUNTY

Date: May 8, 2007

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

From: George M. Burgess
County Manager

Agenda Item No. 8(J)(1)(C)

Subject: Change Order for Miscellaneous Improvements No. 2 - Project No: TA00-MF11; Contract No: TA00-MF11

Recommendation

The attached Change Order No: 2 (Final) on a contract between CUESTA CONSTRUCTION CORP and Miami-Dade County has been prepared by and is recommended for approval.

CHANGE ORDER NUMBER: 2 (Final)

Scope

PROJECT NAME: Miscellaneous Improvements No. 2

PROJECT NO: TA00-MF11

CONTRACT NO: TA00-MF11

PROJECT DESCRIPTION: Furnish labor, supervision, materials, tools, equipment, supplies and other required construction services to construct additions, renovate and/or remodel 5 MDTA facilities.

PROJECT LOCATION: 3300 NW 32 Avenue (2 buildings), 3295 NW 31 Street, 360 NE 183 Street, 6601 NW 72 Avenue, Miami, FL

PRIMARY COMMISSION DISTRICT: Even though the MDTA facilities are in districts 1,2 and 12, the services supported by these facilities have a countywide impact.

APPROVAL PATH: Board of County Commissioners

USING DEPARTMENT: Miami-Dade Transit

MANAGING DEPARTMENT: Miami-Dade Transit

Fiscal Impact / Funding Source

CHANGE ORDER FUNDING SOURCE:	Federal Transit Administration (FTA) 100% - $604,596.02
PTP FUNDING:	No
GOB FUNDING:	No
CHANGE ORDER DESCRIPTION:	Work included: a) Improved air conditioning (A/C) grilles and ductwork b) New electrical conduits and wiring c) Plumbing work include the concrete pad for the water heater; drain pipes on the 2nd floor; drywall repair; vent pipes and access panel d) drywall repair & painting in the lobby area e) The placing of new ceiling tile (instead of painting as specified)
MONETARY JUSTIFICATION:	County-requested Changes: Change Amount 1) Revise Bid Item No. 01010.01, ($8,431.09) Allowance Account for Unforeseen Changes 2) Revise Bid Item No. 01010.02, Allowance Account for Inspector General (I.G.) ($1,246.00) 3) C.N. #22 – Provide payment for additional work (A/C grille & ductwork; electrical; plumbing; ceiling tile & painting) $21,529.09 4) C.N. #23 – Reduce the contract amount for items of work deleted ($13,096.13) Total Amount ($1,246.13)
PREVIOUS NOTIFICATION COMMENT:	C.O. #1 – for an increase of $106,250.15 and a time extension of 303 calendar days (Approved by the BCC on 01/20/05 through Resolution No. R-58-05) C.O. #1 was necessary due to regulatory and County requested changes that required the contractor to revise the original contract drawings to include all the necessary ADA requirements per the new 2001 Florida Building Code; add additional work; and delete the provision of an owner's field office. MDT determined that the contractor was due an extension of 303 calendar days based on the extra work requested and to comply with the ADA requirements that necessitated that the original contract drawings be revised as specified.

TIME JUSTIFICATION: In order to comply with requests made by MDT Facilities Maintenance and Metrobus Operations staff, the Resident Engineer (R.E.) instructed the contractor to perform additional items of work including electrical, plumbing, ceiling tile and painting. These requests were given to the contractor after the contract completion date of December 12, 2004.

As a result of performing the above described work, the contractor submitted a request for a compensable time extension of 122 calendar days. MDT staff reviewed the contractor's submittal and determined that, due to concurrent contractor-caused delays, the contractor was entitled to a non-compensable time extension of 122 calendar days. In a meeting held on June 17, 2005, the contractor accepted a non-compensable time extension of 122 calendar days.

	Original Contract Values	Previous Adjustments To Values	This Change Order Values	Current Totals	Total Paid	Balance After Change Order
BASE:	$499,592.00	$106,250.15	($1,246.13)	$604,596.02	$552,596.15	$51,999.87
CONTINGENCY:	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
DEDICATED:	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
TOTALS:	$499,592.00	$106,250.15	($1,246.13)	$604,596.02	$552,596.15	$51,999.87

	Original Contract Duration	Previous Adjustments To Duration	This Change Order Duration	Current Totals
BASE DURATION:	360	303	122	785
CONTINGENCY:	0	0	0	0
TOTAL DURATION:	360	303	122	785

INITIATING FACTOR(S) FOR CHANGE ORDER

Reason	Cost	Duration
County Requested Change	($1,246.13)	122
Total:	($1,246.13)	

Track Record / Monitor

PRIME CONTRACTOR: CUESTA CONSTRUCTION CORP

COMPANY PRINCIPAL: Michael M. Cuesta

COMPANY QUALIFIERS: Michael M. Cuesta

COMPANY EMAIL ADDRESS: karina@cuestaconstruction.com

COMPANY STREET ADDRESS:	9745 Sunset Dr. Suite 211		
COMPANY CITY-STATE-ZIP:	Miami, Fl 33173		
YEARS IN BUSINESS:	15		
PREVIOUS EXPERIENCE WITH COUNTY IN THE LAST FIVE YEARS:	GSA - $2,791,011		
SUBCONTRACTORS AND SUPPLIERS (SECTION 10-34 MIAMI DADE COUNTY CODE):			
CONTRACT MANAGER NAME/PHONE/EMAIL:	Surinder Sahota	(305) 375-2180	sahota@miamidade.gov
PROJECT MANAGER NAME/PHONE/EMAIL:	Javier Salmon	(305) 375-2180	jsalmon@miamidade.gov

Background

BACKGROUND:

This change order is necessary due to the County requested changes that included the following: revision of allowance accounts to reflect actual expended amounts; payment for additional work; reduction in contract amount for deleted items and provision of a non-compensable time extension of 122 calendar days.

C.O. #1 was approved by the BCC on January 20, 2005 and revised the original contract duration to December 12, 2004. The project was accepted as complete on April 13, 2005.

The final negotiation session for this Change Order was held on June 30, 2005. A draft preliminary copy of the Change Order was prepared on July 13, 2005 and routed to the Project Control and Design & Engineering divisions and the Deputy Director for their review and comments. Based on the comments received and after several revisions, the completed draft copy was sent to the County Attorney's office for their preliminary legal review on August 15, 2005. On August 25, 2005 the originals of the Change Order were sent to the contractor for signature and execution. These originals were received from the contractor on October 17, 2005 and the required MDC signatures (Chief, Transit Construction; MDT Finance; Deputy Director, MDT; Director, MDT and Director, OSBM) were finally obtained on January 1, 2007.

The delay in obtaining the MDT and MDC final signatures was a result of the changes in the senior managers and the re-organization of the staff for the Deputy Director, Engineering, Planning & Development, and the additional justification required for the MDC Building Department-granted ADA waiver requested by MDT QA/QC staff and the re-inspection of the facilities and drawings conducted by MDT Facilties Maintenance staff.

BUDGET APPROVAL FUNDS AVAILABLE: for **OSBM DIRECTOR** 4/9/07 **DATE**

APPROVED AS TO LEGAL SUFFICIENCY: Bruce Tiffhaber **COUNTY ATTORNEY** 4/5/07 **DATE**

ASSISTANT COUNTY MANAGER 4/9/07 **DATE**

MEMORANDUM
(Revised)

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

DATE: May 8, 2007

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 8(J)(1)(C)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(J)(1)(C)
05-08-07

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF A RETROACTIVE CHANGE ORDER #2 (FINAL) – FOR A DECREASE IN COST OF ($1,246.13) AND A TIME EXTENSION OF 122 CALENDAR DAYS TO THE MISCELLANEOUS IMPROVEMENT #2 TO CONTRACT TA00-MF11

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 finds it in the best interest of Miami-Dade County to approve Retroactive Change Order #2 (FINAL) to Miscellaneous Improvement No. 2, to Contract #TA00-MF11 between Miami-Dade County and Cuesta Construction Corporation for a decrease in cost of ($1,246.13) and a time extension of 122 calendar days; in substantially the form attached hereto and made a part thereof; and authorizes the County Mayor, or his designee, 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, 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 8th day of May, 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. B.L.

Bruce Libhaber

CHANGE ORDER NO. 2(FINAL) **PROJECT NO.** TA00-MF11 **DATE** August 25, 2005

PROJECT TITLE: Miscellaneous Improvements No. 2

TO CONTRACTOR: Cuesta Construction Corp.
1414 NW 107 Avenue, Suite 401
Miami , FL 33172

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.

Perform change work as specified in Change Notice #20; #21; #22 and #23.

SUMMARY OF CONTRACT AMOUNT

ORIGINAL CONTRACT AMOUNT	**$499,591.87**
COST OF CONSTRUCTION CHANGES PREVIOUSLY ORDERED	**$106,250.15**
ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE ORDER	**$605,842.02**
COST OF CONSTRUCTION CHANGES THIS ORDER	**($1,246.00)**
ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER	**$604,596.02**
PERCENT DECREASE IN COST THIS CHANGE ORDER	**(0.25)%**
TOTAL PERCENT INCREASE IN COST TO DATE	**21.05%**
PERCENT INCREASE IN TIME THIS CHANGE ORDER	**33.9%**
TOTAL PERCENT INCREASE IN TIME TO DATE	**118.9%**

EXTENSION OF CONTRACT TIME ALLOWED BY THIS CHANGE 122 **CALENDAR DAYS TO** April 13, 2005
Date

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 RESIDENT ENGINEER

TO BE FILLED OUT BY DEPARTMENT INITIATING CHANGE ORDER

Miami-Dade Transit — DEPARTMENT
MT9005730001 — FUNDS BUDGETED CODE
10/31/05
MDT Finance — CERTIFIED BY

ACCEPTED BY: Cuesta Construction Corp.
(COMPANY SEAL)
(SURETY SEAL) Great American Insurance Company

RECOMMENDED: CHIEF, TRANSIT CONSTRUCTION

APPROVED: DEPUTY DIRECTOR, ENGINEERING, PLANNING & DEVELOPMENT

APPROVED: DEPARMENTAL DIRECTOR

APPROVED 1-1-07 BUDGET DIRECTOR

DADE COUNTY, Florida
By its BOARD OF COUNTY COMMISSIONERS

By: County Manager

ATTEST:
By: Deputy Clerk

Prepare in Sets (6 copies). County Manager will forward all copies to Clerk of the Board. Clerk of the Board will make final distribution.

PROJECT TITLE: Miscellaneous Improvements No. 2 SUPPLEMENT CONTRACT NO. TA00-MF11

CONTRACTOR: Cuesta Construction Corp. CHANGE ORDER NO. 2(FINAL)

Change Notice #20 – Revise Bid Item No. 01010.01, Allowance Account for Unforeseen Changes, and Bid Item No. 01010.02, Allowance Account for Inspector General (I.G.), to reflect the actual expended amounts

BACKGROUND

Paragraph D of Article 1.08, Allowance Accounts, of the Contract Conditions states: "Upon completion of the work, the Contract Price shall be decreased by Change Order to reflect unexpended amounts under this Allowance Account."

The original bid amount for Bid Item No. 01010.01, Allowance Account for Unforeseen Changes, amounted to $81,619.00. To date, the amount expended from this account totaled $73,187.91.

The original bid amount for Bid Item No. 01010.02, Allowance Account for Inspector General (I.G.), amounted to $1,246.00. To date, no funds have been expended from this account.

SUMMARY OF NEGOTIATIONS

Bid Item No. 01010.01, Allowance Account for Unforeseen Changes

In a meeting held on June 17, 2005, both parties agreed that, to date, the amount expended from this account was $73,187.91 and that no further expenditures are foreseen. As a result, the contract amount must be reduced by ($8,431.09) in accordance with the above specified background paragraph.

Bid Item No. 01010.02, Allowance Account for Inspector General (I.G.)

MDT and the contractor agreed that, since no funds will be expended from this allowance account, the contract amount must be reduced by the sum of ($1,246.00) in accordance with the above stated background paragraph.

Change Notice #21 – Provide the contractor with a non-compensable time extension of 122 calendar days

BACKGROUND

In order to comply with requests made by MDT Facilities Maintenance and Metrobus Operations staff, the Resident Engineer (R.E.) instructed the contractor to perform additional items of work including electrical, plumbing, ceiling tile and painting. These requests were given to the contractor after the contract completion date of December 12, 2004.

SUMMARY OF NEGOTIATIONS

As a result of performing the above described work, the contractor submitted a request for a compensable time extension of 122 calendar days. MDT staff reviewed the contractor's submittal and determined that, due to concurrent contractor-caused delays, the contractor was entitled to a non-compensable time extension of 122 calendar days. In a meeting held on June 17, 2005, the contractor accepted a non-compensable time extension of 122 calendar days.

Change Notice #22 – Provide payment to the contractor for items of additional work

BACKGROUND

The additional work included the provision of the following items:

a) improved air conditioning (A/C) grilles and ductwork
b) new electrical conduits and wiring
c) plumbing work including the concrete pad for the water heater; drain pipes on the 2nd floor; drywall repair; vent pipes and access panel
d) drywall repair & painting in the lobby area
e) the placing of new ceiling tile (instead of painting as specified)

SUMMARY OF NEGOTIATIONS

On June 17, 2005, the R.E. and the contractor met to discuss and try to resolve the above mentioned items. To perform the above described work, the contractor submitted a proposal for $47,070.25. The R.E. reviewed the back-up information for this proposal and pointed out to the contractor that some of his labor and material rates were excessive and that some of the requested costs were indeed specified as part of the original contract work. After further discussion and debate, both parties agreed to the revised total of $21,527.09 as acceptable.

PROJECT TITLE: **Miscellaneous Improvements No. 2** **SUPPLEMENT** CONTRACT NO. **TA00-MF11**

CONTRACTOR: **Cuesta Construction Corp.** CHANGE ORDER NO. **2(FINAL)**

Change Notice #23 – Reduce the contract amount for work deleted from the contract

BACKGROUND

MDT staff instructed the contractor to delete the following items (deemed not necessary):

a) the replacing of the door hardware and curtain rods in the men's bathroom
b) the repainting of the ceiling & wall areas of the two (2) storage rooms
c) the replacing of the carpeting & the provision of lamps for the conference rooms
d) the repainting of the metal lockers
e) the painting of the ceiling tile in the lobby area (new ceiling tile was installed instead)

SUMMARY OF NEGOTIATIONS

On June 17, 2005, the R.E. and the contractor met to discuss and try to resolve these deletions. The contactor presented a proposed reduction of ($3,100.00) for the deletions as described above work. The R.E. checked the provided back-up information and pointed out that some of the contractor's estimates were incorrect and needed revision. After further discussions, both parties agreed to the revised sum of ($13,096.00) was acceptable

Measurement and payment shall be as follows:

Revise Page 5 of 12 of the revised Bid Form and Page 5 of 12 of the revised Contract Conditions as follows:

a) Delete ***"663"*** calendar days and insert ***"785"*** calendar days.

CHANGE ORDER TO ORIGINAL CONTRACT

PROJECT TITLE: **Miscellaneous Improvements No. 2** **SUPPLEMENT** CONTRACT NO. **TA00-MF11**

CONTRACTOR: **Cuesta Construction Corp.** CHANGE ORDER NO. **2(FINAL)**

Revise Page 5 of 12 of the original Bid Form as follows:

Item No.	Description	Quantity	Unit	Original Amount	Revised Amount	Change Amount
01010.01	Allowance Account for Unforeseen Changes	1	L.S.	$81,619.00	$73,187.91	($8,431.09)
01010.02	Allowance Account for Inspector General (I.G.)	1	L.S.	$1,246.00	$ 0.00	($1,246.00)

Add the following new items to Page 5 of 12 of the original Bid Form as follows:

Item No.	Description	Quantity	Unit	Change Amount
C.N. #22	Provide payment to contractor for additional work	1	L.S.	$21,527.09
C.N. #23	Reduce the contract amount for work deleted from the contract	1	L.S.	($13,096.00)

Total Amount	***($1,246.00)***

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.

GREAT AMERICAN INSURANCE COMPANY

Administrative Office: 580 WALNUT STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than FIVE

No. **0 17715**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below its true and lawful attorney-in-fact, for it and in its name, place and stead to execute in behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; for all obligees including any and all consents required by the Department of Transportation, State of Florida, incident to the release of retained percentages and/or final estimates; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name		Address	Limit of Power
CHARLES J. NIELSON	MARV C. ACEVES	ALL OF	ALL
CHARLES D. NIELSON		MIAMI LAKES, FLORIDA	UNLIMITED
WARREN ALTER			
GLORIA MCCLURE			

This Power of Attorney revokes all previous powers issued in behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 26TH day of JULY, 2004.

Attest

GREAT AMERICAN INSURANCE COMPANY

DAVID C. KITCHIN (513-412-4602)

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this 26TH day of JULY, 2004, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is the Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated March 1, 1993.

RESOLVED: That the Division President, the several Division Vice Presidents and Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract or suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, RONALD C. HAYES, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of March 1, 1993 have not been revoked and are now in full force and effect.

Signed and sealed this 23rd day of September, 2005.