MEMORANDUM

Agenda Item No. 13(A)(1)

TO:	Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners	**DATE:**	March 4, 2008
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution authorizing settlement in connection with the Miami Intermodal Center/ Earlington Heights Metrorail Station

The accompanying resolution was prepared and placed on the agenda at the request of the County Attorney.

R. A. Cuevas, Jr.
County Attorney

RAC/up

MEMORANDUM

(Revised)

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

DATE: March 4, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 13(A)(1)

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. 13(A)(1)
03-04-08

RESOLUTION NO. _____

RESOLUTION AUTHORIZING SETTLEMENT BY COUNTY ATTORNEY IN CONNECTION WITH THE ACQUISITION OF LAND NEEDED FOR THE CONSTRUCTION OF THE MIAMI INTERMODAL CENTER (MIC)/EARLINGTON HEIGHTS METRORAIL STATION LOCATED AT THE MIAMI INTERMODAL CENTER IN MIAMI-DADE COUNTY, FLORIDA

WHEREAS, this Board by Resolution No. R-825-06 dated July 6, 2006, previously declared the acquisition of land needed for the construction of the Miami Intermodal Center (MIC)/Earlington Heights Connector, a 2.4 mile corridor linking the MIC to the Earlington Heights Metrorail Station located at State Road (SR) 112 and NW 22 Avenue in Miami-Dade County, Florida, to be a public necessity and authorized the acquisition of land therefore by eminent domain proceedings; and

WHEREAS, the Florida Department of Transportation owns property designated as Parcel No. 260 that will be provided for use as the Metrorail Station located at the Miami Intermodal Center in connection with the (MIC)/Earlington Heights Connector; and

WHEREAS, Rinker Materials Corporation, a Florida corporation, d/b/a CSR Rinker ("Rinker") presently occupies the subject property and must relocate its cement batching plant in order to vacate the property for the County's use; and

WHEREAS, after Rinker, Miami-Dade Expressway Authority and County over an extended period of time conducted extensive testing, design and negotiations concerning a possible replacement property to relocate the Rinker batch plant, Rinker has agreed to early termination of its lease on the subject property without relocating its batch plant; and

WHEREAS, after Rinker has agreed to accept as its only monetary compensation payment of its attorneys' fees and expenses incurred in negotiating its early termination and potential relocation in the total amount of $125,000.00, as stated in the Agreed Order Amending Final Judgment in the case of *State of Florida Department of Transportation vs. Rinker Materials Corp., and Miami-Dade County,* Civil Action No. 01-03486 (CA-09), ("Agreed Order") attached as Exhibit A to this Resolution; and

WHEREAS, the County Attorney hereby recommends the settlement amount as set forth in the attached Agreed Order,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the County Attorney is hereby authorized to compromise and settle on behalf of the County Rinker Materials Corporation's claim for attorneys' fees and costs in the total amount of $125,000.00, as stated in the attached Agreed Order.

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

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of March, 2008. This resolution shall become effective as follows: (1) 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, and (2) either i) the Citizens' Independent Transportation Trust (CITT) has approved same, or ii) in response to the CITT's disapproval, the County Commission re-affirms its award by two-thirds (2/3) vote of the Commission's membership and such reaffirmation becomes final.

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.

Thomas Goldstein

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT OF FLORIDA
IN AND FOR MIAMI-DADE COUNTY

GENERAL JURISDICTION DIVISION

CIVIL ACTION NO: 01-03486 CA 09

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION,

Petitioner,

-vs-

RINKER MATERIALS CORP., a Florida corporation d/b/a CSR RINKER, et al.,

Respondents.

Parcel No. 110

AGREED ORDER AMENDING FINAL JUDGMENT

THIS CAUSE coming on to be heard by the Court upon the Joint Motion filed by Petitioner, State of Florida, Department of Transportation ("FDOT"), Respondent, Miami-Dade County, and Respondent, Rinker Materials, Corp ("Rinker"), and the Court having reviewed the Motion and being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED as follows:

1. Paragraph 6 of the final judgment in this matter currently provides that Respondent, Rinker, is allowed to remain in possession of Parcel No. 110 until the certificate of occupancy is issued for the rental car facility which is part of the Miami Intermodal Center Project, or until February 4, 2004, whichever occurs later.

2. Petitioner and Respondents have agreed that Respondent, Rinker,

Exhibit A 6

shall vacate Parcel 110 on or before April 29, 2008. All leasehold or other interests in such parcel shall terminate on such date.

3. Respondent, Rinker, agrees not to seek leave from this Court to amend such vacation date, or for permission to remain on the subject property beyond April 29, 2008. Rinker's agreement to vacate by April 29, 2008 is not contingent upon any other act or occurrence, including but not limited to the readiness or condition of a relocation site on such date. Upon the filing of an affidavit by the Petitioner attesting to the failure by Rinker to vacate the property by April 29, 2008, a Writ of Assistance shall be issued by the Clerk of the Court, without further Order of this Court, granting possession of Parcel 110 as against Rinker.

4. Any terms of the March 8, 2002 lease between Petitioner and Respondent, which are inconsistent herewith, are hereby superceded by this Order. All other lease terms remain in full force and effect.

5. The parties agree that no further compensation shall be awarded by Petitioner, Florida Department of Transportation, in connection with this action, including but not limited to attorneys' fees, expert fees, or costs. The parties further agree that Respondent, Miami-Dade County shall, within 30 days from the date hereof, pay Rinker reasonable attorneys' fees in the amount of $125,000, in connection with obtaining this Order. No further compensation shall be awarded in this action, other than the foregoing; and each party shall otherwise bear their own costs and expenses, if any, incurred in or arising out of termination or relocation of the Respondent Rinker in this cause.

6. The Court retains jurisdiction to enforce the terms of this Order.

DONE AND ORDERED THIS day of ,2008

in the State of Florida, County of Miami-Dade.

BY:_____
CIRCUIT COURT JUDGE

cc: All parties

JOINT MOTION FOR ENTRY OF AGREED ORDER

Petitioner, STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, and Respondent, Rinker Materials, Corp., through their respective, undersigned attorneys, jointly move the Court for entry of the above Agreed Order.

DATED this ____ day of _____, 2008.

LILLIAN VALDESPINO, ESQ.
Attorney for Petitioner
State of Florida,
Department of Transportation
1000 N.W. 111th Ave.
Miami, Florida 33172
(305) 470-5453

LILLIAN VALDESPINO, ESQ.
Florida Bar # 608327
Date: 2/13/08

TOBY P. BRIGHAM, ESQ.
Attorney for Respondent,
Rinker
2525 Ponce de Leon Blvd.
Suite 625
Coral Gables, FL 33134-6051
(305) 858-2400

TOBY P. BRIGHAM, ESQ.
Florida Bar # 008767
Date: 2/20/08

THOMAS GOLDSTEIN, ESQ.
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Miami-Dade County Attorneys' Office
Stephen P. Clark Center
111 N.W. First Street, Suite 2810
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_____
THOMAS GOLDSTEIN, ESQ.
Florida Bar No. 180724