Memorandum

MIAMI-DADE COUNTY

Date: May 20, 2008

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

From: George M. Burgess
County Manager

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

Subject: Resolution Ratifying the County Manager's Actions in Settling Claims under One Million Dollars pursuant to Resolution R-224-06 for the Period September 1 – December 31, 2007

STAFF RECOMMENDATION

It is recommended that the Board adopt the attached resolution ratifying settlement agreements between the County and certain contractors that performed work on the North Terminal Development Project (NTD) at Miami International Airport (MIA), pursuant to the delegated authority provided by the Board in Resolution No. R-224-06.

On February 21, 2006, the Board approved R-224-06 which delegated authority to negotiate and settle NTD claims in an amount not-to-exceed $1 million subject to the review and approval by the Miami-Dade Aviation Department's (MDAD) Owner's Review Board (ORB), the County Attorney, and ratification by this Board. On February 23, 2007, the Mayor issued his Delegation of Authority Memorandum in which he advised that he is retaining responsibilities/actions for Settlement Agreements greater than $200,000.00. All of the agreements for this period were over the $200,000.00 threshold and have been reviewed by the Mayor and executed by him or his designee under R-224-06. This item covers the period September 1, 2007 - December 31, 2007 as listed on page 2.

MANAGER'S 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 with the County against American and TAAT. 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 ORB. Following this review process, the County entered into extensive negotiations with claimants to resolve the claims in benefit of all parties.

For the period covered under this item, September 1, 2007 – December 31, 2007, MDAD settled claims totaling $1,897,373.99 to four (4) contractors, as listed below. Of this amount, $562,574.11 has been paid to CSBE Subcontractors.

NTD SETTLEMENTS UNDER R-224-06 – SEPTEMBER 1, 2007 – DECEMBER 31, 2007

CLAIMANT COMPANY	ORIGINAL CLAIM AMOUNT	SETTLEMENT AMOUNT	CSBE AMOUNT
Aventura Engineering & Construction Corp.	$1,096,125.89	$900,000.00	$73,702.67
Bermello, Ajamil & Partners, Inc.	$351,245.00	$281,373.99	$63,912.44
Dynalectric Florida	$470,664.73	$360,000.00	$68,959.00
Talmac, Inc. (Prime CSBE)	$1,400,000.00	$356,000.00	$356,000.00
TOTAL	**$3,318,035.62**	**$1,897,373.99**	**$562,574.11**

Each of the settlement agreements with the above-referenced claimants was executed in accordance with the requirements of Resolutions R-119-06, review and resolution of CSBE claims, and R-397-06, the amended claims process which requires that payment of any settlement amount is contingent upon the claimant paying any portion of the settlement owed to CSBE subcontractors. All CSBEs have been paid. A copy of each of the settlement agreements listed above is on file with the Clerk of the Board.

This delegation of authority has helped MDAD 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.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: May 20, 2008

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

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

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)(A)
5-20-08

RESOLUTION NO. _____

RESOLUTION RELATING TO NORTH TERMINAL DEVELOPMENT PROJECTS AT MIAMI INTERNATIONAL AIRPORT; RATIFYING THE COUNTY MANAGER'S ACTIONS IN SETTLING CLAIMS UNDER ONE MILLION DOLLARS PURSUANT TO RESOLUTION R-224-06 DURING THE PERIOD SEPTEMBER 1, 2007 THROUGH DECEMBER 31, 2007

WHEREAS, on February 21, 2006, the Board approved Resolution R-224-06 which delegated authority to the County Manager or his designee to negotiate and settle North Terminal Development Project (NTD) claims at Miami International Airport (MIA) not-to-exceed $1 million; and

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 ratifies the County Manager's actions in negotiating and settling NTD claims not exceeding $1 million during the period September 1, 2007 through December 31, 2007.

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 20th day of May, 2008. 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.

Eduardo W. Gonzalez