

# Memorandum



**Date:** July 17, 2008

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

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

**From:** George M. Burgess  
County Manager

**Subject:** Resolution Approving Implementing Order 3-48 Instituting Procedures to Expedite Administration of Contracts for the Design, Construction, and Installation of Goods and Materials relating to the North Terminal Program at Miami International Airport

## Recommendation

It is recommended that the Board approve the attached resolution establishing Implementing Order 3-48 on procedures to expedite the administration of contracts for the design, construction, and installation of goods and materials relating to the North Terminal Program at Miami International Airport.

## Scope

Miami International Airport is located primarily in District 6. This resolution and Implementing Order is applicable only to the North Terminal Program.

## Fiscal Impact/Funding Source

This resolution and Implementing Order will not have a fiscal impact on Miami-Dade County. The actions undertaken pursuant to this Implementing Order will be done through the use of existing resources.

## Track Record/Monitor

Not Applicable

## Background

The Aviation Department is currently engaged in the construction of the extraordinarily complex North Terminal Development Project (NTD). The NTD Project involves new construction and the demolition and renovation of existing facilities. Adding to the complexity of the project is the requirement that construction within and around existing structures be managed within the context of the uninterrupted operation of the airport.

On June 21, 2005, the Board adopted Resolution R-735-05, which approved the Fourth Amendment to the Lease, Construction, and Finance Agreement between American Airlines and Miami-Dade County. Pursuant to the Forth Amendment, American Airlines assigned to the County in excess of ninety design and construction contracts for contractors performing work on the North Terminal Project.

On July 1, 2008 the Board adopted an Ordinance to provide flexibility in the administration of the North Terminal Program. The attached Implementing Order establishes the framework to fulfill the Board's desires to institute procedures to expedite administration of awarded and assumed contracts for the design, construction and installation of goods related to North Terminal Development Project, so as to foster greater efficiency in the contracting process. This expedited process will also allow for the expedient handling of contract issues including addressing incomplete items, changes in scope, and owner directed changes, and would allow for more efficient construction and faster payments to contractors and subcontractors, restoring confidence in the project in the contracting community.

Assistant County Manager



# MEMORANDUM

(Revised)

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

DATE: July 17, 2008

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

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

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)(I)  
7-17-08

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

RESOLUTION APPROVING IMPLEMENTING ORDER 3-48  
INSTITUTING PROCEDURES TO EXPEDITE  
ADMINISTRATION OF CONTRACTS FOR THE DESIGN,  
CONSTRUCTION, AND INSTALLATION OF GOODS AND  
MATERIALS RELATED TO THE NORTH TERMINAL  
PROGRAM AT MIAMI INTERNATIONAL AIRPORT

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board approves the attached Implementing Order establishing procedures for the expedited administration of contracts for the design, construction, and installation of goods and materials related to the North Terminal Program at Miami International Airport, in substantially the form attached hereto and made a part hereof.

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
Dorin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 17<sup>th</sup> day of July, 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.



David M. Murray

**I.O. No.:** 3-48

**Ordered:**

**Effective:**

**MIAMI-DADE COUNTY  
IMPLEMENTING ORDER**

**MIAMI INTERNATIONAL AIRPORT NORTH TERMINAL DEVELOPMENT  
PROCUREMENT**

**AUTHORITY:**

Sections 2-8.1, 2-8.2, 2-285.1, and 2-10.4 of the Code of Miami-Dade County, and Sections 5.02 and 5.03 of the Miami-Dade County Home Rule Amendment & Charter.

**SUPERSEDES:**

Not Applicable

**SCOPE:**

This Implementing Order institutes procedures to expedite administration of contracts for the design, construction, and installation of goods and materials related to the North Terminal Development Program. It also governs the expedited process for the modification of North Terminal Development ("NTD") contracts. Policies and procedures relating to the County's procurement processes not specifically addressed by this Implementing Order shall remain applicable and are detailed in Administrative Orders or other Implementing Orders and the County Code. The powers delegated under this Implementing Order shall only apply to those contracts assumed by the County pursuant to the Fourth Amendment to the Lease, Construction and Financing Agreement between Miami-Dade County and American Airlines, as adopted by the Board of County Commissioners pursuant to Resolution R-735-05, and/or other contracts previously procured by American Airlines and previously assumed by Miami-Dade County via action of the Board of County Commissioners, and/or contracts to finish work begun but left incomplete as of August 1, 2005, and/or contracts related to the construction, design, or construction management of the North Terminal Development which were awarded by the Board of County Commissioners ("BCC") prior to May 1, 2008.

**POLICY:**

For the North Terminal Development Program ("NTD Program") to function efficiently and responsibly, an expedited process to address unforeseen site conditions, owner directed changes, and changes required by authorities having jurisdiction is needed to minimize delays and cost increases in the NTD Program.

The County Mayor, or if authorized by the County Mayor as his authorized designee, the Aviation Director ("Director") of the Miami-Dade Aviation Department ("MDAD") shall have the authority to amend any contract for services to be performed, facilities to be constructed, or goods and materials to be incorporated in connection with the NTD Program at Miami International Airport ("MIA").

The Mayor or Aviation Director shall administer the ratification/expedite process for contracts, change orders, amendments, modifications, and settlement agreements and

shall prepare a ratification list and submit it to the BCC on a quarterly basis in January, April, July and October of each year.

The authority delegated in this section is intended to be supplemental to, and shall not limit, authority otherwise granted to the Mayor, Manager, or Aviation Director by ordinance or by administrative or implementing order.

**EXCEPTION:**

Nothing in this Implementing Order shall affect the requirements of Chapter 2 of the Code of Miami-Dade County or State law for the competitive purchase of goods and services, including those related to public construction work and those contained in the Consultants Competitive Negotiation Act.

**A. CHANGE ORDERS AND AMENDMENTS/MODIFICATIONS**

The Mayor or, if authorized, the Aviation Director may extend the contract time and waive liquidated damages for failure to comply therewith before the specified date for completion of the contract provided good cause exists and the contract provides that after the expiration of the contract time the County may extend the contract time or waive liquidated damages; and may otherwise modify the contract terms, may increase or reduce in any amount the scope and compensation payable under any contract, and may grant compensable and non-compensable time extensions. However, the authority granted under this section shall not allow the Mayor to amend any contract if the value of that amendment is in excess of ten million dollars, without the prior consent of the BCC.

1. MDAD staff shall prepare a draft agenda item including the change order or amendment, staff's recommendation memorandum, and the necessary exhibits. The package shall be submitted to the Aviation Director or his designee for review and further processing.
2. The Aviation Director or his designee shall review the package and, if acceptable, MDAD staff shall proceed to obtain the remaining required reviews including appropriate approvals from the Department of Small Business Development ("SBD"), MDAD Finance, Office of Strategic Business Management ("OSBM"), HNTB, and the County Attorney's Office. MDAD staff shall then submit to the Mayor for final review and approval. If the Mayor concurs with the recommendation, he or she will sign the change order, amendment, or modification.
3. Upon approval by the Mayor, MDAD shall file the documents with the Clerk of the Board and distribute the item to the Consultant/Contractor and other parties consistent with MDAD contract administration guidelines.
4. When a change order or amendment which contemplates increased or changed work is processed under this Implementing Order, such work must be considered essential for the base contract project scope to function as intended or the Owners need to address unforeseen site conditions and/or changes required by authorities having jurisdiction over the project.

## **B. SETTLEMENT AGREEMENTS**

The Mayor or, if authorized, the Aviation Director, is delegated authority to negotiate and settle contractor claims for the NTD Project without prior approval by this Board, unless such settlements will result in payment to the contractor of more than ten million dollars.

1. Claims settled pursuant to this authorization shall be in accordance with MDAD's established claims resolution process and procedures, as the same may be reviewed and amended by the County Attorney's office as to form and legal sufficiency.
2. The settlement shall be in full compliance with Resolution R-119-06 (the "CSBE Resolution") which provides for the review, resolution and payment of claims of Community Small Business Enterprise ("CSBE") Subcontractors for work performed on the NTD project and R-397-06 ("the Amended Claims Process") which requires that payment of any settlement amount be conditional upon the claimant paying such portion of the pass through of claims of CSBE subcontractors to such subcontractors. These settlements shall be in compliance with the resolutions and shall include, at a minimum, the following provisions to protect payment to CSBE subcontractors: a) a release executed by each CSBE subcontractor whose work is involved in the claim, regardless of tier, specifically identifying the amount payable to such CSBE subcontractor from the settlement proceeds, and b) the express contractual commitment of the prime to the County and to such CSBE subcontractor to pay the amount owed to the CSBE subcontractor. This commitment shall be enforceable by the CSBE subcontractor and/or the County on its behalf.
3. MDAD staff shall prepare a draft agenda item including the settlement agreement documents, staff's recommendation memorandum, and the necessary exhibits. The package shall be submitted to the Aviation Director for review and further processing.
4. The Aviation Director shall review the package and, if acceptable, MDAD staff shall proceed to obtain the remaining required reviews including appropriate approvals from SBD, MDAD Finance, OSBM, HNTB, and the County Attorney's Office. MDAD staff shall then submit the item to the Mayor for final review and approval. If the Mayor concurs with the recommendation, he or she will sign the settlement agreement.
5. Upon approval by the Mayor, MDAD shall file the documents with the Clerk of the Board and distribute the item to the Consultant/Contractor and other parties consistent with MDAD contract administration guidelines.

## **C. NORTH TERMINAL DEVELOPMENT BUDGET**

1. Any exercise of authority to this section shall be subject to the limits of the overall budget approved by the BCC for the NTD Program. Allocation of monies pursuant to this Ordinance may not result in an overall increase in the NTD Program budget.
2. The Mayor or the Aviation Director is authorized to shift dollar allocations among different projects that are within the overall North Terminal Development budget, provided however, that such reallocations do not cumulatively exceed the Board approved NTD Program budget.

3. The Mayor or the Aviation Director shall report such reallocations among different projects to the Board BCC at their last meeting in July (of each year).

**D. RATIFICATION**

1. MDAD shall administer the ratification process for items processed under this Implementing Order including, change orders and amendments or modifications, as well as settlement agreements and shall prepare a ratification list and submit it to the BCC on a quarterly basis in January, April, July and October of each year.
2. MDAD shall include the following provision in each of the amendments, change orders or other modifications to address the event that the Board of County Commissioners may not ratify the Mayor's actions under this Implementing Order: In the event the Board of County Commissioners does not ratify the approval of the Mayor (or authorized designee) of this change order, amendment, or modification, the County shall terminate the change order, amendment, or modification by sending written notice to the Contractor, Consultant, or Supplier. The termination date shall be effective the date the notice is received. Such notice may be by electronic means (e.g., email). If electronic means are used, the electronic notice shall be followed by hard copy. The County shall pay for all services or work completed and approved prior to receipt by the Contractor, Consultant, or Supplier of the notice of termination. Payment for completed work shall be in accordance with its contract/agreement with the County.

**E. ASSISTANCE TO SMALL BUSINESSES**

It is the policy of Miami-Dade County to follow sound and prudent business practices, and to promote full and equitable participation of all segments of the community. With this goal in mind, a concerted effort is made to obtain services in accordance with the requirements of A.O. No. 3-22, the Community Small Business Enterprise ("CSBE") Program for the Purchase of Construction Services; A.O. Order No. 3-32 the Community Business Enterprise ("CBE-A/E") Program for the Purchase of Professional Architectural, Landscape Architectural, Engineering, or Surveying and Mapping Services; A.O. No. 3-41, the implementation of the Small Business Enterprise ("SBE") Program for Goods and Services; the Disadvantaged Business Enterprise programs; A.O. No. 3-37, the Community Workforce Program; and, A.O. 3-23 Anti-discrimination in Contracting, Procurement, Bonding and Financial Services Activities. All items processed under the authority of this Implementing Order shall be reviewed by SBD prior to the Mayor's approval of the item.

**F. DELEGATION OF AUTHORITY TO THE AVIATION DIRECTOR**

The Mayor may delegate any or all of the responsibilities of this Implementing Order to the Aviation Director as his authorized designee.

**G. PROCESS REVIEW**

MDAD's Standards and Compliance Division will conduct administrative reviews of internal practices and operations to ensure that the legislative intent of this Implementing Order is achieved. In addition, the County's Audit and Management Services Department, Office of the Commission Auditor, and the Office of the Inspector General may perform random audits of the relevant County Departments to ensure departmental compliance with legislative and contract requirements in the processing of the provisions of this Implementing Order.

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This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

County Manager