# Memorandum

MIAMI-DADE COUNTY

Agenda Item No. 12(A)(1)

**Date:** September 16, 2008

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

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

R. A. Cuevas, Jr.
County Attorney

**Subject:** Resolution Approving and Authorizing Settlement of Pending Litigation Between Miami-Dade County and Architects Hall Designer Inc. aka Hall Group Inc.

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## RECOMMENDATION

It is recommended that the Board of County Commissioners ("Board") authorize settlement of the pending litigation between Miami-Dade County ("County") and Architects Hall Designer Inc. aka Hall Group Inc ("Hall") on the terms and conditions specified in the attached Settlement Agreement.

## BACKGROUND

On February 2, 1999, the Board of County Commissioners approved Resolution R-139-99, which authorized the County to receive and expend 1999 HOPE VI Grant Funds for the demolition and revitalization of the Scott and Carver Homes Public Housing Developments. On October 16, 2001, the County and Hall entered into a Coordinating, Planner and Designer Agreement ("Contract") to provide professional architectural and engineering services for the HOPE VI Project.

On October 25, 2004, the County exercised right to terminate the Contract for convenience. Prior to the close out of the contract and before final payments were to be issued to Hall, the County on a number of occasions demanded that Hall turn over all documents, including but not limited to the Computer Aided Designs ("CADD"). However, Hall refused to turn over the CADDs. As a result of Hall refusal to turn over the CADDs the County incurred approximately $10,000 to have the CADDs redrawn by another architectural firm. The County also sued Hall for breach of contract. In response to the lawsuit, Hall filed a countersuit for breach of contract against the County.

The parties have met to discuss an amicable settlement of all claims raised by the County's lawsuit and Hall's counterclaim. In an effort to resolve the lawsuit, the County, which refused to pay Hall their final payment, which was approximately $56,000, proposed that it would deduct from this final payment the amount that it cost the County to have the CADDs redrawn. The parties have agreed that the County would retain a portion of the final payment and pay to Hall $47,500 conditioned on Hall turning over the executable CADDs. The $47,500 payment will be made available from the HOPE VI Grant funds.

It is therefore recommended that this Board approve the settlement of the pending litigation with Hall on the following terms: 1) the County pay Hall $47,500; 2) Hall agrees to turn over the executable CADDs; 3) Hall agrees to waive any and all claims it may have against the County; and (4) the parties will execute mutual releases of any other claims they may have against the other which arise out of this litigation.

Pursuant to HUD's Litigation Handbook, the County Attorney Office is required to confer with and receive prior approval from HUD's legal counsel on lawsuits involving MDHA and the settlements of these lawsuits. The County Attorney's Office has conferred with and received approval from HUD's legal counsel in Miami of the proposed settlement.

Attachment

Cynthia W. Curry
Senior Advisor to the County Manager

# MEMORANDUM

(Revised)

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

DATE: September 16, 2008

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

SUBJECT: Agenda Item No. 12(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. 12(A)(1)
9-16-08

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF SETTLEMENT AGREEMENT RESOLVING PENDING LITIGATION BETWEEN MIAMI-DADE COUNTY AND ARCHITECTS HALL DESIGNERS, INC. AKA HALL GROUP, INC.

**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 approves the execution of a Settlement Agreement of the pending litigation between the Miami-Dade County and Architects Hall Designers Inc., aka Hall group Inc.., in substantially the form attached hereto and made a part hereto; and authorizes the Mayor or 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 | 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 16th day of September, 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. AGA

Terrence A. Smith

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

MIAMI-DADE COUNTY, a political
Subdivision of the State of Florida

CASE NO. 05-10163 CA 02

Plaintiff,

vs.

ARCHITECTS HALL DESIGNERS, INC.,
a/k/a THE HALL GROUP, INC.,
a Florida Corporation

Defendant.

_____/

**SETTLEMENT AGREEMENT**

This AGREEMENT (the "Agreement") is entered into as of this ___ day of _____ 2008 (the "Effective Date") by MIAMI DADE COUNTY ("County") and ARCHITECTS HALL DESIGNERS, INC. a/k/a THE HALL GROUP, INC. ("Hall"),

**WHEREAS**, the County and Hall are parties to that certain lawsuit pending in the Circuit Court for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida captioned *Miami-Dade County v. Architects Hall Designers, Inc. a/k/a The Hall Group, Inc.*, Case No. 05-10163 CA 02 (the "Lawsuit"); and

**WHEREAS**, the Parties desire to amicably resolve and settle all disputes, claims, controversies, and differences between or among each other; and

**WHEREAS**, the Parties expressly deny any liability to the other Parties,

**NOW THEREFORE**, in consideration of the covenants undertaken herein by the Parties, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Within three (3) days of the Effective Date, Hall shall deliver to the County the executable Computer Aided Design (hereinafter referred to as "CADD") in electronic, non-password protected format, these are the only documents that Hall has not previously turned over to the county, which were created as a result of the Professional Services Agreement (hereinafter referred to as the "Contract") executed between the County and Hall on October 16, 2001, and which Hall has in its possession.

2. Upon Hall's compliance with Paragraph 1 and receipt by the County of the CADD and other documents described herein, the County shall simultaneously pay to Hall FORTY-SEVEN THOUSAND FIVE HUNDRED and No/100 Dollars ($47,500.00) (the "Settlement Funds"). The Settlement Funds shall be made payable to Diane S. Perera, P.A. Trust Account.

3. Within three (3) days of clearance of the Settlement Funds, the County and Hall shall execute and file a joint stipulation for dismissal with prejudice of the Lawsuit with each party to bear their own attorney fees and costs.

4. Within three (3) days of clearance of the Settlement Funds, the County and Hall shall execute and deliver to counsel for the other party the releases in the form attached as Exhibits "A," and "B," respectively.

5. The parties hereby also agree, that any and all legal claims arising from or related to the complaint and Hall's counterclaim, is hereby and forever waived. This includes, but is not limited to, all claims for monetary or equitable relief that Hall or the County may have under the laws of the State of Florida.

6. The parties warrant that (i) they have executed this Agreement with full knowledge of their rights; (ii) they have received independent legal advice from their attorneys with respect to the matters herein set forth and the rights and asserted rights arising out of said matters; and (iii) they have not relied on any statements or representations (other than representations set forth in this Agreement) by any other party or its representatives.

7. This Agreement shall be governed by, construed and interpreted in accordance with the laws of the State of Florida.

8. The parties agree that any dispute arising out of, or associated with, this Agreement shall be litigated in and only in Miami-Dade County, Florida, USA.

9. No waiver or modification shall be binding unless executed in writing by all parties.

10. The parties hereby acknowledge that in connection with any claim or dispute arising out of or relating to this Agreement, including any litigation, arbitration or other proceeding alleging a breach of the terms of this Agreement, the prevailing party or parties shall recover, in addition to damages, costs or equitable relief otherwise recoverable, actual reasonable attorneys' fees and costs incurred by such prevailing party or parties prosecuting or defending such claim or dispute.

11. Each party has participated in the drafting and preparation of this Agreement, and this Agreement shall be construed as a whole according to the fair meaning and not for or against any party.

12. This Agreement constitutes the entire, integrated agreement made by and among the parties. This Agreement fully supersedes any and all prior or contemporaneous understandings, representations, warranties, and agreements, pertaining to the subject matter hereof.



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13. Each of the parties hereto represents and warrants that it has full and complete authority to enter into and execute this Agreement under the terms set forth above.

14. This Agreement may be executed and delivered in separate counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts together shall constitute but one and the same instrument and agreement.

IN WITNESS HEREOF, the parties have entered into this Agreement as of the Effective Date.

THE HALL GROUP, INC.,

By: _____
Daniel C. Hall, President

MIAMI-DADE COUNTY

By: _____
_____[Print]
As _____[Title]



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**Exhibit "A"**

**RELEASE**

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, ARCHITECTS HALL DESIGNERS, INC. a/k/a THE HALL GROUP, INC. ( "First Party"), for and in consideration of Ten and 00/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by First Party, does hereby remise, release, acquit, satisfy and forever discharge MIAMI-DADE COUNTY, together with its directors, officers, attorneys, employees, agents, insurers, successors and assigns (hereinafter collectively referred to as the "Second Party"), of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialities, covenants, contracts, controversies, agreements, promises, variances, trespasses, attorneys' fees, costs, judgments, executions, claims, damages, and demands whatsoever, in law or in equity, which the First Party ever had, now has, or may have against the Second Party, from the beginning of the world to the day of this Release; provided, however, that this release is expressly limited to the any and all claims which were asserted or alleged or which could have been asserted or alleged in that certain legal action pending between the First Party and Second Party in the Circuit Court for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida captioned *Miami-Dade County v. Architects Hall Designers, Inc. a/k/a The Hall Group, Inc.*, Case No. 05-10163 CA 02.

This will also acknowledge that the undersigned has been advised by counsel regarding the effect of the signing, swearing to, and delivering of this Limited Release; that no promise, inducement or agreement not expressed herein has been made to the First Party; that First Party has not assigned any claim against Second Party to any person; that this Limited Release contains the entire agreement between the parties; and that the terms of this Limited Release are contractual and not a mere recital.

IN WITNESS WHEREOF, we have hereunto set our hands and seal this 28 day of August 2008.

THE HALL GROUP, INC.

Witness

Witness

By: _____
Daniel C. Hall, as President

**Exhibit "B"**

**RELEASE**

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, MIAMI-DADE COUNTY ( "First Party"), for and in consideration of Ten and 00/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by First Party, does hereby remise, release, acquit, satisfy and forever discharge ARCHITECTS HALL DESIGNERS, INC. a/k/a THE HALL GROUP, INC., together with its directors, officers, attorneys, employees, agents, insurers, successors and assigns (hereinafter collectively referred to as the "Second Party"), of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialities, covenants, contracts, controversies, agreements, promises, variances, trespasses, attorneys' fees, costs, judgments, executions, claims, damages, and demands whatsoever, in law or in equity, which the First Party ever had, now has, or may have against the Second Party, from the beginning of the world to the day of this Release; provided, however, that this release is expressly limited to the any and all claims which were asserted or alleged or which could have been asserted or alleged in that certain legal action pending between the First Party and Second Party in the Circuit Court for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida captioned *Miami-Dade County v. Architects Hall Designers, Inc. a/k/a The Hall Group, Inc.*, Case No. 05-10163 CA 02.

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IN WITNESS WHEREOF, we have hereunto set our hands and seal this _____ day of _____2008.

MIAMI-DADE COUNTY

By: _____

_____ (print name)

_____ (print title)

_____
Witness

_____
Witness