Memorandum

MIAMI-DADE COUNTY

Date: July 21, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

Agenda Item No. 8(F)(1)(B)

From: George M. Burgess
County Manager

Subject: Settlement Agreement and Mutual Release to the Contract with C.G. Chase Construction Management, Inc. for the Naranja Prototype Branch Library – GSA Project No: W60169

Recommendation

It is recommended that the Board of County Commissioners (the Board) approve the attached Settlement Agreement between Miami-Dade County, Florida and C.G. Chase Construction Management, Inc., in the amount of $56,465.00. The attached proposed settlement and Mutual Release with C.G. Chase, for work performed in connection with the construction of the Naranja Prototype Branch Library, has been negotiated and prepared by the General Services Administration (GSA) on behalf of the Miami-Dade Public Library Department, and is recommended for approval.

Background

On May 29, 2007, the County contracted with C.G. Chase Construction Management, Inc. for the construction of the Naranja Prototype Branch Library for the amount of $5,952,806.00 plus $297,640.30 in contingency allowances and $272,340.87 in dedicated allowances. The contract completion date was January 12, 2009. The County has paid $6,132,450.58 (which includes $293,234.30 in contingency fees and $17,992.46 of dedicated allowances) to C.G. Chase Construction Management, Inc., toward work completed. Under this Settlement, the County agrees the amount due to C.G. Chase Construction Management, Inc. is $56,465.00. This mutually agreed upon Settlement is to adjust the contract amount for additional labor and materials due to scope changes. These include regulatory changes and County requested changes.

Approval of this Settlement will prevent any potential future litigation between the County and C.G. Chase Construction Management, Inc. regarding monetary disputes as they may relate to this project. Lengthy settlement negotiations with the contractor regarding the monies due on this project have delayed finalizing this Settlement and delayed submittal to the Board for its consideration. GSA staff was able to negotiate the settlement amount to $56,465.00. Funds are available from the remainder of the dedicated allowances, which are within the original contract amount.

Scope

This settlement agreement has County-wide impact.

Fiscal Impact/Funding Source

$56,465.00 Miami-Dade Library Taxing District

Track Record/Monitor

The monitoring agency is GSA, through Robert Stebbins, Jr., Manager, Construction Management Section.

Delegated Authority

This item authorizes the County Mayor or County Mayor's designee to execute the settlement agreement on behalf of the County.

Wendi J. Norris
Director, General Services Administration

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS

This Settlement Agreement and Mutual Release of All Claims (the "Agreement") is made and entered as of this _____ day of _____ 2009, by and between Miami-Dade County, a political subdivision of the State of Florida (the "County") and C.G. Chase Construction Management, Inc. (the Contractor), a Florida Corporation whose principle place of business is 12805 SW 84th Avenue Road, Miami, Florida 33156.

RECITALS

WHEREAS, the County entered into a contract, dated May 29, 2007, ("the Contract") with the Contractor for the completion of Miami-Dade County's General Services Administration (GSA) Project No. W60169, the construction of the Naranja Prototype Branch Library, located at 14850 SW 280th Street, Naranja, Florida 33082, in the amount of $5,952,806.00 ("the Project"); and

WHEREAS, there exist outstanding disputes regarding the remaining amount of money owed by the County to the Contractor for its work on the Project; and

WHEREAS, the County has paid $6,132,450.58 to the Contractor on account of the Contractor's work on the Project; and

WHEREAS, the County and the Contractor wish to amicably settle all outstanding issues between the parties regarding the Project under the terms of this Agreement;

AGREEMENTS AND RELEASES

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, the County and the Contractor agree as follows:

1. The Foregoing recitals are true and correct and made part of this Agreement.
2. Upon the payment of **FIFTY-SIX THOUSAND, FOUR-HUNDRED SIXTY-FIVE DOLLARS ($56,465.00)** to the Contractor, receipt whereof is hereby acknowledged. The Contractor, on behalf of the corporation and its officers, employees, subcontractors, material men, suppliers, including, but not limited to, and pass-through claims, successors, and assigns, does hereby forever release, acquit and discharge the County, its past, present and future employees, agents, servants, successors, heirs, executors, administrators and officers of and from any and all manner of action and actions, cause and causes of action, claims, liabilities, suits, debts, dues, sums of money, accounts, indemnities, guarantees, contributions, reckonings, bonds, bills,

covenants, contracts, controversies, agreements, promises, variances, damages, injuries, judgments, executions, claims, expenses, attorneys' fees, compensation and all other damages now accrued or hereafter to accrue, including, without limitation, those accrued or hereafter to accrue, on account of, or in any way concerning, relating to, arising out of, or in any manner connected with the Project and the County's obligations and duties to the Contractor under the Contract thereto.

The following is a breakdown of all monies:

Regulatory Changes:

Item	Amount
• Supply and install metal railings in the delivery drop-off area as per revised drawings issued by GSA/DCS, Sheet A-023 (CP 15)	$3,190.00
• Supply and install panic hardware at the data and electrical rooms (CP 15)	$4,683.00
• Credit for original hardware scheduled for data and electrical rooms resulting from Regulatory Requirements (CP 15) above	($660.00)
• Provide structural steel support as required at rear storefront; structural changes required by the Authority Having Jurisdiction (AHJ) in the rear entry storefront and depicted in detailed sketches issued by the GSA/DCS Structural Engineer (CP 15)	$3,922.00.
• Labor and materials required to re-route relief valve line and pump drain line to the outside of the building (CP 15)	$1,100.00
Total Cost due to Regulatory Requirements:	**$12,235.00**

County Requested Changes:

Item	Amount
• Purchase eight (8) Arcata benches; substitute original Escofet benches with Arcata plaza benches (CP 15)	$19,891.00
• Credit for two (2) Escofet Benches originally specified (CP 15)	($9,750.00)

• Credit for deletion of the hurricane shutters where impact resistant windows have been installed as per Revision 6 issued by GSA/DCS, Sheets A-003, A-005 and A-006 of 36, and documentation forwarded by GSA/DCS	($49,500.00)
• Provide labor and materials in order to add a second mechanical room on the southwest side of the building, resulting in code-required structural modifications in order to accommodate double doors and intake grills as per documentation forwarded by GSA/DCS and Revision 5 issued by GSA/DCS Sheets A-002, A-003, A-004, and A-005 (CP 15)	$7,995.00
• Supply and install sixteen (16) Constellation sunshades as per Revision 6 issued by GSA/DCS (CP 15). User agency request, credit issued by GC in the amount of $32,300 and reflected in Contingency Draw No. 3 for original sunshades specified.	$39,765.00
• Labor and materials to relocate wall light fixtures as per sketch forwarded by GSA/DCS dated 11/5/08 (CP 15)	$2,413.00
• Revised fixture package in children's area requested by agency as per GSA/DCS Revision 6, Sheet A-004 of 36 and Sheet E-001 (CP 15)	$12,342.00
• Labor and material required to paint exterior galvanized metal framing requested by GSA/DCS and MDPLS (CP 15)	$2,898.00
• Provide labor and materials to install Aluminum Channel at meeting room's exterior metal panel joints as per documentation forwarded by GSA/DCS (CP 15)	$6,600.00
• Labor and materials required to relocate one (1) roof drain as per Revision 5, Sheet A-029 issued by GSA/DCS (CP 15). Request due to addition of mechanical room.	$752.00
• Credit for deleted cleanout (CP 15). Credit	($770.00)

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requested by GSA/DCS due to a subcontractor error.

• Labor and materials required for the relocation of nine (9) oak and tamarind trees in order to avoid overgrowth and interference with existing power lines adjacent to the property as per Landscape Architect, Savino & Miller Design Studio's e-mail dated 11/17/08 (CP 15)	$2,475.00
• Provide 4 inch-soil for sod at fire lane per GSA e-mail dated 1/14/09 (CP 15)	$1,363.00
• Purchase of Builder's Risk Insurance coverage required (CP 15)	$9,150.00
• Labor and materials for the addition of two motorized dampers in the data and electrical rooms as per GSA/DCS Revision 7, Sheet M4 of 9, and Sheet E-002 of 7 issued on 1/15/09 (CP 15)	$5,694.00
• Credit for deletion of concrete grid at fire lane; substitute with grass as per meeting held on 1/09/09 and e-mail dated 1/14/09 (CP15)	($7,053.00)
• Labor and materials to add dock bumper previously deleted as per A/E comments dated 2/21/08 and credited under Change Authorization No. 2 (CP15)	$1,100.00
• Labor and materials for the application of stucco at building entrance in lieu of aluminum ceiling as per previous item 18 (CP15)	$6,050.00
• Credit for deletion of flat aluminum ceiling at entrance and shutter covers as per DCS-A/E revision 6 dated 11-7-07 sheet A-005 of 36 (CP15)	($7,185.00)
Total Cost due to County Requested Changes:	**$44,230.00**
Total Cost:	**$56,465.00**

3. The County and the Contractor agree that the date for final completion of the Project is January 12, 2009.

4. The Contractor agrees to accept $56,465.00, as full accord and satisfaction of all monies due it under or in connection with the contract documents and the work performed on the Project by the Contractor, its subcontractors, material men and suppliers including, but not limited to, any pass-through claims have now been paid and satisfied.

5. Notwithstanding any other provision of this Agreement to the contrary, the County expressly reserves its rights with respect to:

   a. Require the repair or replacement of latent defects in the work to the extent provided by Florida law; and

   b. Enforce those provisions of the Contract, which specifically provide that they survive the completion of the work.

6. The Contractor hereto understands and acknowledges that this is a compromised settlement and a general release without any admission of liability or error or bad faith on the part of the County or any of its prior or present employees, agents, officers, attorneys, and representatives, and any such unlawful or erroneous conduct is hereby expressly denied.

7. The Contractor acknowledges that it has read this Agreement and understands it, before executing this document.

8. The parties agree that no provision of this Agreement shall be interpreted for or against any party because that party or its legal representative drafted the provision.

ATTEST:
HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

MIAMI-DADE COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

By: _____
Carlos Alvarez
County Mayor

C.G. Chase Construction Management, Inc.

By: _____
C.G. "Larry" Chase
President

_____
WITNESS

_____
WITNESS

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:
Miami-Dade County Attorney

By: _____

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MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: July 21, 2009

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

SUBJECT: Agenda Item No. 8(F)(1)(B)

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 Mayor'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(F)(1)(B)
7-21-09

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF A SETTLEMENT AGREEMENT AND MUTUAL RELEASE WITH C.G. CHASE CONSTRUCTION MANAGEMENT, INC. IN THE AMOUNT OF $56,465.00 FOR WORK PERFORMED IN CONNECTION WITH THE CONSTRUCTION OF THE NARANJA PROTOTYPE BRANCH LIBRARY; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the terms of this Settlement Agreement and Mutual Release and authorizes the County Mayor or County Mayor's designee to execute same between Miami-Dade County and C.G. Chase Construction Management, Inc. substantially in the form attached to this resolution.

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:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of July, 2009. 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.

Richard Seavey

STRATEGIC AREA: Recreation and Culture
DEPARTMENT: Library

******* FUNDED PROJECTS *******
($ IN 000'S)

KENDALE LAKES BRANCH LIBRARY — **PROJECT # 9047070**

DESCRIPTION: Construct a 15,000 square foot branch library in the Kendale Lakes area

LOCATION: Vicinity of Kendall Dr between SW 152 and 153 Ave
Unincorporated Miami-Dade County — DISTRICT LOCATED: 11

ESTIMATED ANNUAL OPERATING IMPACT: $1,079 — DISTRICT(s) SERVED: 10 , 11

REVENUE SCHEDULE:	PRIOR	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	FUTURE	TOTAL
Miami-Dade Library Taxing District	1,487	328	2,537	0	0	0	0	0	4,352
TOTAL REVENUE:	**1,487**	**328**	**2,537**	**0**	**0**	**0**	**0**	**0**	**4,352**

EXPENDITURE SCHEDULE:	PRIOR	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	FUTURE	TOTAL
Planning/Design	725	0	0	0	0	0	0	0	725
Construction	762	328	2,537	0	0	0	0	0	3,627
TOTAL PROJECTED COST:	**1,487**	**328**	**2,537**	**0**	**0**	**0**	**0**	**0**	**4,352**

KILLIAN BRANCH LIBRARY — **PROJECT # 90410230**

DESCRIPTION: Construct a 15,000 square foot branch library in the Killian area

LOCATION: To Be Determined
Unincorporated Miami-Dade County — DISTRICT LOCATED: 8

ESTIMATED ANNUAL OPERATING IMPACT: $1,267 — DISTRICT(s) SERVED: 8 , 9 , 10 , 11

REVENUE SCHEDULE:	PRIOR	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	FUTURE	TOTAL
Miami-Dade Library Taxing District	0	0	0	1,370	2,853	1,307	0	0	5,530
TOTAL REVENUE:	**0**	**0**	**0**	**1,370**	**2,853**	**1,307**	**0**	**0**	**5,530**

EXPENDITURE SCHEDULE:	PRIOR	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	FUTURE	TOTAL
Land/Bldg. Acquisition	0	0	0	939	0	0	0	0	939
Planning/Design	0	0	0	431	0	0	0	0	431
Construction	0	0	0	0	2,853	1,307	0	0	4,160
TOTAL PROJECTED COST:	**0**	**0**	**0**	**1,370**	**2,853**	**1,307**	**0**	**0**	**5,530**

NARANJA BRANCH LIBRARY — **PROJECT # 9044980**

DESCRIPTION: Construct a 15,000 square foot branch library in the Naranja area

LOCATION: Vicinity of 268 St between SW 147 Ave and 148 Ave
Unincorporated Miami-Dade County — DISTRICT LOCATED: 9

ESTIMATED ANNUAL OPERATING IMPACT: $966 — DISTRICT(s) SERVED: 8 , 9

REVENUE SCHEDULE:	PRIOR	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	FUTURE	TOTAL
Miami-Dade Library Taxing District	1,483	2,865	0	0	0	0	0	0	4,348
TOTAL REVENUE:	**1,483**	**2,865**	**0**	**0**	**0**	**0**	**0**	**0**	**4,348**

EXPENDITURE SCHEDULE:	PRIOR	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	FUTURE	TOTAL
Planning/Design	691	0	0	0	0	0	0	0	691
Construction	792	2,865	0	0	0	0	0	0	3,657
TOTAL PROJECTED COST:	**1,483**	**2,865**	**0**	**0**	**0**	**0**	**0**	**0**	**4,348**

KILLIAN BRANCH LIBRARY PROJECT # 90410230

DESCRIPTION: Construct a 15,000 square foot branch library in the Killian area

LOCATION: To Be Determined
Unincorporated Miami-Dade County

DISTRICT LOCATED: 8
DISTRICT(s) SERVED: Systemwide

ESTIMATED ANNUAL OPERATING IMPACT: $1,267

REVENUE SCHEDULE:	PRIOR	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	FUTURE	TOTAL
Miami-Dade Library Taxing District	0	1,688	3,806	1,688	0	0	0	0	7,182
Building Better Communities GOB Program	2,000	0	0	0	0	0	0	0	2,000
TOTAL REVENUE:	**2,000**	**1,688**	**3,806**	**1,688**	**0**	**0**	**0**	**0**	**9,182**

EXPENDITURE SCHEDULE:	PRIOR	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	FUTURE	TOTAL
Land/Bldg. Acquisition	2,000	0	0	0	0	0	0	0	2,000
Planning and Design	0	0	431	0	0	0	0	0	431
Construction	0	1,688	3,375	1,688	0	0	0	0	6,751
TOTAL EXPENDITURES:	**2,000**	**1,688**	**3,806**	**1,688**	**0**	**0**	**0**	**0**	**9,182**

NARANJA BRANCH LIBRARY PROJECT # 9044980

DESCRIPTION: Construct a 15,000 square foot branch library in the Naranja area

LOCATION: Vicinity of 268 St between SW 147 Ave and 148 Ave
Unincorporated Miami-Dade County

DISTRICT LOCATED: 9
DISTRICT(s) SERVED: Systemwide

ESTIMATED ANNUAL OPERATING IMPACT: $966

REVENUE SCHEDULE:	PRIOR	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	FUTURE	TOTAL
Miami-Dade Library Taxing District	2,161	3,000	1,875	0	0	0	0	0	7,036
TOTAL REVENUE:	**2,161**	**3,000**	**1,875**	**0**	**0**	**0**	**0**	**0**	**7,036**

EXPENDITURE SCHEDULE:	PRIOR	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	FUTURE	TOTAL
Land/Bldg. Acquisition	0	0	0	0	0	0	0	0	0
Planning and Design	1,261	0	0	0	0	0	0	0	1,261
Construction	900	3,000	1,875	0	0	0	0	0	5,775
TOTAL EXPENDITURES:	**2,161**	**3,000**	**1,875**	**0**	**0**	**0**	**0**	**0**	**7,036**

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BUDGET PROJECT 9044980 - (As per 2008-2009 Approved Budget)

Project Title: 9044980-NARANJA BRANCH LIBRARY

Project Desc: Construct a 15,000 square foot branch library in the Naranja area

	Prior:	08-09:	09-10:	10-11:	11-12:	12-13:	13-14:	FUTURE:	Total:
Expenditures	7,433,000	1,145,000	0	0	0	0	0	0	8,578,000
Revenue	7,433,000	1,145,000	0	0	0	0	0	0	8,578,000

CDPWeb Project Milestones ($ IN 000'S)

Milestone:	Prior:	08-09:	09-10:	10-11:	11-12:	12-13:	13-14:	FUTURE:	Total:
Land/Bldg. Acquisitio	4,000	0	0	0	0	0	0	0	4,000
Planning/Design	574,000	0	0	0	0	0	0	0	574,000
Construction	6,855,000	1,145,000	0	0	0	0	0	0	8,000,000

CDPWeb Project Revenue

Revenue:	Prior:	08-09:	09-10:	10-11:	11-12:	12-13:	13-14:	FUTURE:	Total:
Miami-Dade Library Ta	4,464,000	945,000	0	0	0	0	0	0	5,409,000
Florida Department of	300,000	200,000	0	0	0	0	0	0	500,000
Capital Asset Acquisi	2,669,000	0	0	0	0	0	0	0	2,669,000

CIIS Site Funding Info

SITE / Location:	Prior:	08-09:	09-10:	10-11:	11-12:	12-13:	13-14:	FUTURE:	Total:
75451-14850 SW 280TH ST , 33032	7,433,000	1,145,000	0	0	0	0	0	0	8,578,000

EXIT

Current Contracts for Project 9044980

Dept	ContractNo	Contract Name	RTA / MCC Estimated Allocation	Award / MCC Award Allocation	CIIS Award
GS	W60169	Naranja Prototype Branch Library	$0.00	$900,000.00	$6,522,787.17
GS	W60169	Naranja Prototype Branch Library	$0.00	$3,000,000.00	$6,522,787.17
GS	W60169	Naranja Prototype Branch Library	$0.00	$1,875,000.00	$6,522,787.17
GS	W60169	Naranja Prototype Branch Library	$0.00	$747,787.17	$6,522,787.17
GS	W60169	Naranja Prototype Branch Library	$1,774,620.37	$0.00	$6,522,787.17
		Total Allocated:	$1,774,620.37	$6,522,787.17	