

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

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

06-05-07

OFFICIAL FILE COPY  
CLERK OF THE BOARD  
OF COUNTY COMMISSIONERS  
MIAMI-DADE COUNTY, FLORIDA

RESOLUTION NO. R-653-07

RESOLUTION APPROVING FINAL CHANGE ORDER NO. 2 TO THE CONTRACT BETWEEN MIAMI-DADE COUNTY, FLORIDA AND THE POOLE and KENT COMPANY FOR THE MIAMI INTERNATIONAL AIRPORT CENTRAL CHILLER PLANT EAST AND WEST EXPANSION, PROJECT NO. A014A, INCREASING THE CONTRACT AMOUNT BY A MAXIMUM OF \$1,975,987.70, AND AUTHORIZING COUNTY MAYOR OR DESIGNEE TO EXECUTE SAME

**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 Final Change Order No. 2 to Contract between Miami-Dade County, Florida and The Poole and Kent Company for the Miami International Airport Central Chiller Plant East and West Expansion, Project No. A014A in substantially the form attached hereto, which Final Change Order increases the contract account by a maximum of \$1,975,987.70, and authorizes the Mayor or his designee to execute same on behalf of the County.

The foregoing resolution was offered by Commissioner Sally A. Heyman, who moved its adoption. The motion was seconded by Commissioner Bruno A. Barreiro and upon being put to a vote, the vote was as follows:



# MEMORANDUM

(Revised)

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

**DATE:** June 5, 2007

**FROM:** Murray A. Greenberg  
County Attorney

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

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**

6A

Bruno A. Barreiro, Chairman	aye		
Barbara J. Jordan, Vice-Chairwoman	aye		
Jose "Pepe" Diaz	absent	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Joe A. Martinez	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	absent		

The Chairperson thereupon declared the resolution duly passed and adopted this 5<sup>th</sup> day of June, 2007. 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



**KAY SULLIVAN**

Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

DBM

Deborah Bovarnick Mastin



**MIAMI DADE COUNTY**  
**Firm History Report**  
*(excluding A&E)*

From: 02/01/2002 To: 02/27/2007

**FIRM NAME: POOLE & KENT COMPANY INC**  
 1781 NW North River Dr  
 Miami, FL 33125

**PRIMES**

PROJECT #	CONTRACT	DEPT.	MEASURES	AWARD DATE	AWARD AMOUNT	PAID TO PRIME AS OF	REQ TO DATE REPORTED	DATE REPORTED	SUBCONTRACTORS
*S-730	1	WS	GOAL CSBE 8%	02/11/2002	\$1,278,200	\$1,261,001 02/21/2006	\$1,129,535 03/22/2004		* BCL CONSTRUCTION, INC. - \$255,640.00 * BEL-TEC ELECTRIC - \$0.00 * DIXIE METALS, INC. - \$0.00 * SOUTHLAND PAINTING CORP. - \$0.00
SOUTH DISTRICT WASTEWATER TREATMENT PLANT SLUDGE DEWATERING FACILITY EXPANSION (RESUBMITTAL 07/12/00,3/02/01) (SIC 16)					Change Order # 1 207 days				
					\$1,278,200				

Total Award Amount **\$1,278,200**

Total Change Orders Approved by BCC **\$74,019**

**\$1,352,219**

Total Change Orders Approved After Requested Date Range **\$0**

Total Change Orders Pending **\$0**

**\$1,352,219**

\* Indicates closed or expired contracts

# Memorandum

MIAMI-DADE  
COUNTY

**Date:** June 5, 2007

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

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

**Subject:** Final Change Order No.2, MIA Central Chiller Plant East and West Expansion, Project No. A014A,  
increasing the contract amount by \$1,975,987.70.

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

## RECOMMENDATION

It is recommended that the Board approve the attached Final Change Order No. 2 to the contract between The Poole and Kent Company and Miami-Dade County increasing the contract amount by \$1,975,987.70. This change order would transfer funds in the amount of \$2,303,812.70, which are included the current Capital Improvement Program (CIP) budget for this project, to the contract for a final lump sum settlement of claims and time extensions. This change order also deletes the contract funded Inspector General and IPSIG allowance accounts currently funded in the amount of \$327,825.00 for a net increase to the contract of \$1,975,987.70. The project work is complete and is in final closeout phase.

## SCOPE

Miami International Airport is located primarily within Commission District Six. However, the impact of this agenda item is countywide in nature as Miami International Airport is a regional asset.

## FISCAL IMPACT/FUNDING SOURCE

The amount authorized for full and final settlement of all outstanding issues is \$3,600,000.00 including Work Order 1-205, which is funded from the CIP budget for this project. A lump sum payment of \$1,296,187.30 was made to the Contractor as part of Work Order 1-205. This item addresses the remaining \$2,303,812.70 and deletes the IPSIG/IG allowance accounts totaling \$327,825.00.

## TRACK RECORD/MONITOR

Capital Improvement Information System (CIIS) does not list an evaluation for this firm. Performance on existing contract with the Aviation Department is satisfactory per the Project Manager, Raymond Robinson.

## BACKGROUND

On September 15, 2006, the Poole and Kent Company (Contractor) submitted a claim to the County for entitlement to an equitable adjustment in the amount of \$9,441,793 including an excusable compensable time extension of 498 calendar days. The Miami-Dade County Aviation Department's (MDAD) Claims Review Team determined that there was some merit to the Contractor's claim. MDAD entered into negotiations with the Contractor and a full and final settlement of all claims for this project by the Contractor, and its subcontractors, material men, suppliers, and vendors was recommended. The County and Contractor recommend a full and final settlement agreement of all events and conditions, work orders and proposed work orders, claims and disputes; whether known or unknown, arising from the work of this project. The settlement provides for payment to Contractor of an aggregate amount of \$3,600,000.00; and a time extension to the contract's substantial completion date of four hundred ninety-eight (498) calendar days, from December 30, 2004 to May 12, 2006.

Included in the final settlement is Work Order 1-205, except for a Contractor fixed reservation contained therein, and a full accord and satisfaction settlement for time and associated costs for the period December 30, 2004 through May 12, 2006 (Substantial Completion). The Work Order included payment to the Contractor of the lump sum amount of \$1,296,187.30 and a time extension to Contract Milestone Two -Substantial Completion of four hundred ninety-eight (498) Calendar Days, from December 30, 2004 through May 12, 2006 and Final Acceptance. Work Order 1-205 permitted a Contractor Fixed Reservation for the additional Lump Sum of \$2,303,812.70 regarding events, conditions claims and disputes.

This Final Change Order No. 2 addresses an important final part of "The Settlement" by resolving, in consideration of payment to the Contractor the Lump Sum Amount of \$2,303,812.70, the Contractor's Fixed Reservation (The Reservation) discussed above. Closure of "The Reservation" requires approval by the County Manager, Board of County Commissioners and the Mayor.

With the preceding settlement of Work Order 1-205, plus the approval of this Final Change Order No. 2 which specifically settles the Contractor's Reservation, all Project A014A events, conditions, and claims disputes through completion of the project, will be resolved and the settlement achieved in the aggregate amount of \$3,600,000.00 satisfied. This Change Order is a full accord and satisfaction

#### **JUSTIFICATION**

Pursuant to the Notice-to-Proceed, the Contractor was required to commence work on September 14, 2001. The Contractor's contract performance time was 810 days, and the originally planned substantial completion date for the Project, specifically the Main project - Milestone No. 2 work, was December 3, 2003. To date, the Contractor has received time extensions totaling 393 days, which extended the planned completion date of the Contractor's Milestone No. 2 work to December 30, 2004.

Due to Owner requested Changes, other Agency requested changes and unforeseeable conditions, events and associated delays, generally described below, the remainder of Contract Milestone No. 2 work was not able to be substantially completed until May 12, 2006. The Principal impacts to the Contractor included the following impact and delaying events:

#### **A. Revised Phasing**

Due to the importance to MDAD to concurrently build the Central Collection Plaza various conditions that occurred during the construction of the Central Collection Plaza ("Collection Plaza") Project adjacent to the north side of the Central Chiller Plant Project, the Chiller Plant Contractor and its subcontractors were required to perform the Milestone 2 work in substantially changed manner which caused to the Contractor's direct costs and indirect costs to increase, and the Contract Time to be extended.

Lack of access to contract work area caused dramatic restrictions to access and logistics on the full north side of the new building extension chiller which radically hindered shell construction, equipment, piping and electrical construction and installations .

The Contract Documents, specifically, Drawings PH1.01R through PH1.06, indicate the proposed phasing for the project. Phase IV of the project indicates an expanded work area available to the Contractor on the north side of the building. This results from moving the dividing fence line between this project and the Central Collection Plaza (CCP) project to the north. In accordance with the phasing drawings, this Phase should have occurred approximately fourteen (14) months after NTP of the Chiller. That would have been in November of 2002. Due to delays associated with the CCP and the importance to MDAD to concurrently build the Central Collection Plaza,

✓

the fence line could not be relocated as planned. The final relocation to provide the full work area did not occur until November 2003.

The concrete work for the Chiller Plant Expansion structure had to be completed in a timely manner and the re-shores removed on the lower levels to allow access to the mechanical and electrical trades in these critical work areas. The hindrance of access to the north caused damages to the Contractor's labor and schedule progression in the original fashion planned by the Contractor. Further, the as-built turnover of lay-down and staging areas the Contractor needed and was entitled to was significantly impaired and delayed. The Contractor implemented effective measures to minimize the effects of these problems and made adjustments to its construction strategy and schedule, however, many of the hindrance impacts could not be overcome and led to both extension of the overall onsite schedule and increases in costs as a consequence of the necessary re-sequencing.

**B. Removal of Re-shores Delayed On Northern Column Lines**

Access on the north side was extremely disruptive to the installation of the large piping and equipment. Concurrent with the Phase IV access restrictions, structural issues arose with the building shell. The building's structural design precluded a normal construction sequence unless, in this case, the lower level of shoring had to remain in place for periods far in excess of reasonable durations due to structural design issues. The Contractor was advised of this. This made the northern piping and equipment installation virtually impossible and delayed area release to the north.

**C. Other Agency Requested Issues**

Extensive delay in issuance of Certificate of Occupancy of the building due to DERM's issues over the system's materials of construction, specifications, means of installation and other problems, as well as extended delays due to increased scope added in the punch listing and inspection phases by the Fire Department.

Delays and increased costs were incurred by the Contractor in receiving the Certificate of Occupancy of the building due to numerous modifications related to the fuel oil system to address new and various interpretations regarding DERM system's materials of construction, specifications. Delays and added costs were also incurred by the Contractor due to increased scope added in the inspection phases by the Fire Department. Engineering solutions to Authority Having Jurisdiction (AHJ) issues was responsible for significant delay. The AHJ added new scopes of work including addition of; control valves, signage, the addition of fire sprinklers at the sound enclosures of the chillers horns, strobes, alarm changes, additional exit lights, moving of sprinkler heads, adding door release capability on existing doors, life safety issues not in the original design, fire pump room issues, fire alarm modifications directed by the Fire Department, etc. The building's Certificate of Occupancy was delayed by out-of-scope and unforeseen changes required by the AHJ.

**D. Tile and Stucco Change**

The new installation was intended to mirror the existing Plant using ceramic tiles. However the existing building ceramic tiles structural support clips were eroded by the chemicals in the cooling tower. The work was stopped and a change of surface material was made from ceramic tile to stucco. A stop work order was issued in January 2003 pending direction as to what would be decided for the surface material. When the decision was made to proceed with stucco, progress was impacted as the installation process was reversed, tile removed, the surface prepped for stucco and the stucco installed.

**E. Other Unforeseen or Unforeseeable Conditions**

- Duct bank and other utility conflicts, particularly the underground 20" chill water piping tie-point
- Contaminated soil on the jobsite
- Problems with the HVAC control systems including the design of variable frequency drive controllers which experience continual overheating problems
- Existing site conditions could not accommodate the design of the new Terminal Roof Piping system contained in the Contract Documents, requiring substantial design changes to the Terminal Roof Piping system and the modifications to the FIS Pump Room
- The existing survey utilized in the development of design documents was outdated which resulted in problems during construction

**CHANGE ORDER NO.:** Two (Final)

**PROJECT:** MIA Central Chiller Plant East and West Expansion

**PROJECT NO.:** A014A

**PROJECT LOCATION:** Miami International Airport

**PROJECT DESCRIPTION:** The Project consists of a building and equipment expansion to accommodate 12,000 tons of additional chilled water capacity to the existing 7,500-ton MIA Central Chiller Plant East. The project also includes the addition of new chilled water piping at the terminal roof, modifications to the FIS pump room and modifications to the existing Central Chiller Plant West. Additionally, Milestone 1 is to include the addition of two (2) 1800-ton chillers and related equipment and an upgrade to the existing ceramic tile cooling towers, for a total new added capacity of 15,600 tons of refrigeration and a total new MIA Central Chiller Plant East capacity of 23,100 tons.

**PRIME CONTRACTOR:** The Poole and Kent Company

**COMPANY PRINCIPAL(S):** Steven C. Jordan, President  
Patrick H. Carr, Executive Vice President  
Charles K. Neese, Assistant Secretary  
Raymond C. Jung, Treasurer

**CERTIFIED AS CSBE AT TIME OF AWARD:** No

**COMPANY QUALIFIER(S):** Steven C. Jordan

**LOCATION OF COMPANY:** Miami-Dade County, Florida

**YEARS IN BUSINESS:** 55

**CSBE MEASURE AT AWARD:** 23.0%

**CURRENT CSBE STATUS:** 28.0%

**PREVIOUS CONTRACTS WITH  
COUNTY IN THE PAST  
FIVE YEARS:**

1 contract totaling \$1,352,219, See attached DBD Firm History Report

**ORIGINAL BUDGET:**

\$69,979,825.11

**ORIGINAL CONTRACT AMOUNT:**

\$48,408,825.00

**CONTINGENCY FUND USAGE:**

Original Account Amount	\$4,371,000.00
Account Increases/Decreases	\$(-149,727.00)
Current Balance Remaining	\$1,296,187.30

**PREVIOUS CHANGE ORDERS:**

One (1), reduction in contract value of \$149,272.00

**CHANGE ORDER RECOMMENDATION:**

Approve the Contract line item for the lump sum settlement of claims and time extension through the Final Acceptance Account in the amount \$2,303,812.70 and delete the Inspector General and IPSIG accounts of \$327,825.00 (net increase to the contract of \$1,975,987.70)

**CLASSIFICATION FOR CHANGE  
ORDER:**

- Unforeseen/Unforeseeable Change
- County Requested Change
- Other Agency Requested Change

**ADJUSTED CONTRACT AMOUNT  
INCLUDING THIS CHANGE ORDER:**

\$50,235,085.70

**PERCENT OF INCREASE OR  
DECREASE OF THIS CHANGE  
ORDER FROM ORIGINAL  
CONTRACT AMOUNT:**

4.1% Increase

**PERCENTAGE OF INCREASE OR  
DECREASE OF THIS CHANGE  
ORDER FROM PREVIOUSLY  
ADJUSTED CONTRACT AMOUNT:**

4.1% Increase

**TOTAL PERCENTAGE INCREASE OR  
DECREASE FROM ORIGINAL  
CONTRACT AMOUNT:**

4.1% Increase

**ORIGINAL CONTRACT  
COMPLETION DATE:**

December 3, 2003

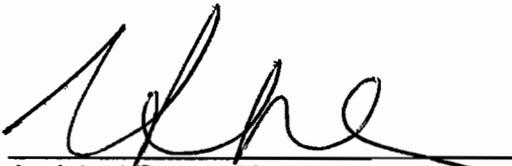
**TIME EXTENSION ON PREVIOUS  
CHANGE ORDERS:**

393 Calendar Days Including Work Orders

**ACTUAL COMPLETION DATE:**

May 12, 2006

<b>USING AGENCY:</b>	Miami-Dade Aviation Department
<b>FUNDING SOURCE:</b>	Airport Revenue Bonds
<b>DBD REVIEW:</b>	Yes
<b>ALLOWANCES/CONTINGENCY ORDINANCE NO. 00-65:</b>	Within Guidelines, 10%, \$4,371,000.00
<b>PROJECT MANAGER:</b>	Raymond Robinson

  
Assistant County Manager



**MIAMI DADE COUNTY**  
**Firm History Report**  
 (excluding A&E)

From: 02/01/2002 To: 02/27/2007

**FIRM NAME: POOLE & KENT COMPANY INC**  
 1781 NW North River Dr  
 Miami, FL 33125

PRIMES

PROJECT #	CONTRACT	DEPT.	MEASURES	AWARD DATE	AWARD AMOUNT	PAID TO PRIME AS OF	REQ TO DATE REPORTED	DATE	SUBCONTRACTORS
* S-730	1	WS	GOAL CSBE 8%	02/11/2002	\$1,278,200	\$1,261,001 02/21/2006	\$1,129,535	03/22/2004	* BCL CONSTRUCTION, INC. - \$255,640.00 * BEL-TEC ELECTRIC - \$0.00 * DIXIE METALS, INC. - \$0.00 * SOUTHLAND PAINTING CORP. - \$0.00
SOUTH DISTRICT WASTEWATER TREATMENT PLANT SLUDGE DEWATERING FACILITY EXPANSION (RESUBMITTAL 07/12/00,3/02/01) (SIC 16)									
Change Order # 1 207 days									
					<u>\$1,278,200</u>				
					<div style="border: 1px solid black; padding: 10px;"> <p style="text-align: right;">Total Award Amount <b>\$1,278,200</b></p> <p style="text-align: right;">Total Change Orders Approved by BCC <b>\$74,019</b></p> <p style="text-align: right;"><u>Total Change Orders Approved After Requested Date Range <b>\$1,352,219</b></u></p> <p style="text-align: right;">Total Change Orders Approved After Requested Date Range <b>\$0</b></p> <p style="text-align: right;">Total Change Orders Pending <b>\$0</b></p> <p style="text-align: right;"><u>Total Change Orders Pending <b>\$1,352,219</b></u></p> </div>				



**MIAMI - DADE COUNTY  
CHANGE ORDER TO ORIGINAL CONTRACT**

CHANGE ORDER NO. 2 (FINAL)

PROJECT NO. A014A

DATE: March 21, 2007

PROJECT NAME: Central Chiller Plant East and West Expansion

TO CONTRACTOR: The Poole & Kent Company

---

**Summary of This Change Order**

On September 15, 2006 Poole and Kent ("Contractor") submitted a claim to the County for entitlement to an equitable adjustment in the amount of \$9,441,793 including excusable compensable time extension. The MDAD Claims Review Team determined that there was some merit to the Contractor's claim. MDAD entered into negotiations with the Contractor to achieve a Full and Final Settlement as Full Accord and Satisfaction of all claims for this Project by the Contractor, and its subcontractors, material men, suppliers, and vendors to settle all events and conditions including but not limited to; Proposed Work Orders, Work Orders, Claims and Disputes; whether known or unknown, arising from the Work of this Project and Contract A014A. The Settlement provides for payment to Contractor of an aggregate amount of Three Million Six Hundred Thousand Dollars (\$3,600,000.00); and a Time Extension to Contract Milestone Two -Substantial Completion of four hundred ninety-eight (498) Calendar Days, from December 30, 2004 to May 12, 2006.

**Part I:** The first part of The Settlement addressed all events and conditions plus time extension through Substantial Completion and final acceptance in consideration of a Lump Sum amount of \$1,296,187.30 by Work order No. 1-205 with a Reservation by the Contractor for the balance in the Lump Sum Amount of \$2,303,812.70.

**Part II:** The second part of the Settlement Agreement of \$2,303,812.70 is added to the A014A Contract line item for the Lump Sum Settlement of Claims as Full Accord and Satisfaction through Final Acceptance by authority of this Change Order.

**WAIVERS AND RESERVATIONS**

**Contractor's Waiver**

Notwithstanding all previous reservation of claim(s) by the Contractor, in consideration of payment by Owner of the Lump Sum amount as provided in Item No. 1, the Contractor's and the Contractor Surety hereby releases the County and its officers, employees, consultants and agents, from and waives and relinquishes any and all claims, disputes or causes of action it has or may have, whether known or unknown, against County, and its officers, employees, consultants and agents arising out of or in connection with the Project or the Work, including, but not limited to, those claims previously asserted in connection with this Project, and those claims that could have been asserted in connection with this Project by the Contractor, and

Change Order No. 2  
Project No. A014A  
Page 2 of 15

**MIAMI - DADE COUNTY  
CHANGE ORDER TO ORIGINAL CONTRACT**

CHANGE ORDER NO. 2 (FINAL)

PROJECT NO. A014A

DATE: March 21, 2007

PROJECT NAME: Central Chiller Plant East and West Expansion

TO CONTRACTOR: The Poole & Kent Company

---

harmless the County, its officers and employees, consultants and agents from any claims or actions which may be asserted in connection with work performed on the Project to the extent provided by Law. This Change Order is a Full and Final Settlement as Full Accord and Satisfaction of all claims for this Project by the Contractor, and its subcontractors, material men, suppliers, and vendors.

**County Reservations**

County waives all claims against Contractor for work performed on the Project, except that County expressly reserves all rights: (1) to require the repair or replacement of defective work under the warranty and guaranty provisions of the Contract Documents; (2) to require the repair or replacement of latent defects in the work to the extent provided by Florida law; (3) to enforce those provisions of the Contract Documents which specifically provide that they survive the Substantial Completion of the work; (4) to enforce the terms of the Performance Bond; and (5) to enforce the terms of the Payment Bond against Surety in the event that timely claims may be made by any covered third parties.

Contractor acknowledges that it has read this Agreement, understands it, and has consulted with its attorney before executing this document.

**MIAMI - DADE COUNTY  
CHANGE ORDER TO ORIGINAL CONTRACT**

CHANGE ORDER NO. 2 (FINAL)

PROJECT NO. A014A

DATE: March 21, 2007

PROJECT NAME: Central Chiller Plant East and West Expansion

TO CONTRACTOR: The Poole & Kent Company

---

**EXHIBIT 1  
Part I Settlement Agreement (WO-1-205)**

RECEIVED  
MAR 21 2007

Allowance Account Work Order # 1-205  
GENERAL ALLOWANCE.  
LOCATION: MIA

THE POOLE & KENT CO M

PROJECT NO. A014A DATE: 03/01/07  
PROJECT NAME: MIA - CENTRAL CHILLER PLANT EAST & WEST EXPANSION  
TO CONTRACTOR: THE POOLE & KENT CO.  
A/E: WOLFBERG ALVAREZ & PARTNERS

The contractor is hereby authorized to make the following changes to the current contract, and perform the work subject to all contract stipulations and covenants.

ITEM NO.	DESCRIPTION OF WORK	AMOUNT
1	This Lump Sum Work Order, except for Contractor Fixed Reservation below, provides for the full accord and satisfaction settlement of all events and conditions, and all Proposed Work Orders, Claims and Disputes; regarding the Work of this Project and Contract A014A arising from all casual events or conditions whether known, should have been known, or unknown from the date of Project Award and through Notice to Proceed, Substantial Completion and Final Acceptance of all the Work regardless of cause. This settlement includes payment to the Contractor of a Settlement Lump Sum Amount of One Million Two Hundred Ninety Six Thousand One Hundred Eighty-Seven Dollars and Thirty Cents (1,296,187.30) and a time extension including all associated costs to Contract Milestone Two-Substantial Completion of four hundred ninety-eight (498) Calendar Days, from December 30, 2004 through May 12, 2006 and Final Acceptance.	\$1,296,187.30
2	See below for write-up and attachment.	

REASON FOR CHANGE:

- Regulatory Change
- X  Other Agency Requested Change
- Design Errors
- Design Omissions
- X  County Requested Changes
- X  Unforeseen or Unforeseeable Conditions

ORIGINAL ALLOWANCE ACCOUNT AMOUNT	.... \$	4,371,000.00
PREVIOUS WORK ORDER TO DATE	..... \$	3,074,812.70
PREVIOUS BALANCE IN ALLOWANCE ACCOUNT	\$	1,296,187.30
AMOUNT OF THIS WORK ORDER NO. 1-205	.. \$	1,296,187.30
BALANCE IN ALLOWANCE ACCOUNT	..... \$	0.00

A/E CERTIFYING STATEMENT:

I hereby certify that the supporting cost data and information herein included is, in my considered opinion, accurate; that the prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under benefit competitive bidding.

By: [Signature] / 3/21/07  
ACCEPTED: GENERAL CONTRACTOR DATE  
PRINT NAME: POOLE & KENT

By: \_\_\_\_\_ DATE  
APPROVED: PROJECT CONSULTANT  
PRINT NAME: WOLFBERG ALVAREZ & PARTNERS

By: \_\_\_\_\_ DATE  
APPROVED: DCAD MGR., MINORITY AFF  
PRINT NAME: HOWARD GREGORY

By: [Signature] / 3/21/07  
RECOMMENDED: DCAD/DAC PROJECT MGR DATE  
PRINT NAME: RAY ROBINSON

By: \_\_\_\_\_ DATE  
APPROVED: CONSULTING ENGINEER (HNTB)  
PRINT NAME: WILLIAM STUENKEL

By: [Signature] / 3/21/07  
APPROVED: DCAD AUTHORIZED SIGNATURE DATE  
PRINT NAME: JUAN GONZALEZ

Attached: DBE/CSBE SUPPLEMENTAL SHEETS 1 thru 5.  
cc: A&E/Contractor/HNTB/DAC/Min. Aff./Contracts Administration/Roger T. Hemstadt-Capital Improvements Coordinator

Change Order N  
Project No. A0  
Page 5 of 5

15

Allowance Account Work Order # 1-205  
GENERAL ALLOWANCE.  
LOCATION: MIA

700

PROJECT NO. A014A DATE: 03/01/07  
PROJECT NAME: MIA - CENTRAL CHILLER PLANT EAST & WEST EXPANSION  
TO CONTRACTOR: THE POOLE & KENT CO.

ITEM NO.                      DESCRIPTION OF WORK                      AMOUNT

1.                      The Lump Sum amount will be paid to Contractor, upon receipt of invoice, including a Consent of Surety, in consideration of Contractor Waiver, release of indemnifications regarding costs and time For all events and conditions unclaimed, proposed, claimed and disputed costs and time regardless of cause.

Contractors Waivers and Reservations

In consideration of payment by Owner of the Lump Sum amount and time extension as provided in Item No. 1 above, the Contractor hereby releases the County Owner and its officers, employees, consultants and agents from and waives and relinquishes any and all claims, disputes or causes of action it has or may have, whether known or unknown, against County, and its officers, employees, consultants and agents arising out of or in connection with the Project or the Work, including, but not limited to, those claims previously asserted in connection with this Project, and those claims that could have been asserted in connection with this Project by the Contractor and its subcontractors, material men, suppliers and vendors. Further, Contractor agrees to indemnify and hold harmless the County, its officers and employees, consultants and agents from any claims or actions which may be asserted in connection with work performed on the Project.

Contractors Fixed Reservation: The Contractor reserves its rights to unforeseen direct costs in the amount of \$2,302,812.70 for the period of June 19, 2005 to May 12, 2006. See attached MDAD letter to Poole & Kent dated 2/7/07.

2.                      The Contractor acknowledges and agrees to the following as relates to the remaining Punch List items.

- A. Poole & Kent has offered and MDAD has accepted a credit of \$1,200 in lieu of the Contractor completing punch list items 54/111 and 36/85.
- B. Poole & Kent has agreed they will complete for CIS Inspection & MDAD acceptance punch list items 7/34 and 8/38 N.L.T. March 23, 2007. If Poole & Kent fails to complete the work by March 23, 2007, MDAD will be entitled to a credit of \$40,000 x 2 = \$80,000.

See attached message from lmptc.com (Laura Perez & Associates). The CIS dates February 15, 2007 with attachment files Chiller Plant Remaining Punch List Items as revised on 2/15/07 for detailed description of 2A and 2B above.

The credit for item 2A and any further adjustments for item 2B will be assessed and deducted from The \$208,600 in Retainage that is being held.

16

Allowance Account Work Order # 1-205  
GENERAL ALLOWANCE.  
LOCATION: MIA

**DBE/CSBE SUPPLEMENT SHEET**

PROJECT NO. A014A

DATE: 03/01/07

PROJECT NAME: MIA - CENTRAL CHILLER PLANT EAST & WEST EXPANSION  
TO CONTRACTOR: THE POOLE & KENT CO.

\*\*\*\*\* MUST BE COMPLETED PRIOR TO APPROVAL \*\*\*\*\*

Existing Subcontractor(s) to Perform Work: Yes \_\_\_\_\_ No X

If Yes:

Sub-Name: _____	Code: _____	Amount: \$
Sub-Name: _____	Code: _____	Amount: \$
Sub-Name: _____	Code: _____	Amount: \$
Sub-Name: _____	Code: _____	Amount: \$
Sub-Name: _____	Code: _____	Amount: \$

If No:

Sub-Name: _____	Code: _____	Amount: \$
Sub-Name: _____	Code: _____	Amount: \$
Sub-Name: _____	Code: _____	Amount: \$
Sub-Name: _____	Code: _____	Amount: \$
Sub-Name: _____	Code: _____	Amount: \$

CODE: DBE-DISAVANTAGED BUSINESS ENTERPRISE; CSBE-COMMUNITY SMALL BUSINESS ENTERPRISE

## Ray Robinson

---

**From:** laura [laura@lmptc.com]  
**Sent:** Thursday, February 15, 2007 4:04 PM  
**To:** Brian Macclugage (E-mail)  
**Cc:** Frank Cortazar (E-mail); Ray Robinson  
**Subject:** Chiller Plant updated Punch List



CIS Punch List  
Remaining Items...

To all:

As per meeting on 2/14/07 at the P&K trailer attached please find updated Punch List as per items agreed during the meeting.

Thanks

Laura Perez

<<CIS Punch List Remaining Items r1 2.15.07.xls>>

E-mails are automatically scanned for viruses using McAfee.

MDAD, FACILITIES PROJECT NO. A014A  
Attachment to Service/Work Order No. 1-205  
Sheet No. 1 of 5

Change Order N  
Project No. A0  
Page 8 of 0

Page No.	Item No.	Item Description	CIS Recommendation	Unit	Qty	Unit Rate	Total Construction Cost	Comments
7	34	At the chillers ECH-1, ECH-2 and ECH-3 provide a chilled water and condenser water gpm flow readout in the new York control panels.	Install sensors, wiring and reprogramming		3	\$10,000		Item in scope York to provide. If work is not provided by 2/15/07 all punch list items will be closed and dollars will be deducted. CONTRACTOR HAS SENT E-MAIL ADVISING WORK WILL BE PROVIDED AND REQUESTING EXTENSION UNTIL 3/15/07. IF WORK IS NOT PROVIDED BY 3/15/07 DOLLARS TO BE DEDUCTED FROM P&K.
8	38	At the control panels ECH-1, ECH-2, ECH-3 York needs to input the respective chilled water and condenser water flow meter outputs and display them at the control panel and use them to calculate instantaneous tons, the same as is done at ECH-6, ECH-7 and ECH-8.	Install programming		1	\$10,000		Item in scope York to provide. If work not provided by 2/15/07 all punch list items will be closed and dollars will be deducted. CONTRACTOR HAS SENT E-MAIL ADVISING WORK WILL BE PROVIDED AND REQUESTING EXTENSION UNTIL 3/15/07. IF WORK IS NOT PROVIDED BY 3/15/07 DOLLARS TO BE DEDUCTED FROM P&K.
8	44	Provide labels and flow arrows on the chilled water chemical treatment piping between column lines 8 and 7 at column line A1 and running back to the chemical treatment control station.			1			Item completed on 2/2/07
12	110	At CT-8 the walking platform planks have some cutouts at the railing supports that are too large and leave the platform edge unsupported so that it bends when stepped on and has caused the plank to crack.	Replace planking		1			Item completed on 1/25/07
12	111	The sluice gate valve at CT-8 was tested on 12-12-05. Readjustment of the clamping bolts did not eliminate leaks. Further investigation and testing by the contractor are required. NOTE: shop drawings show a seal on all four sides of the gate, but the leaks were flowing from behind the seal position and around the gate.	Verify leakage is within Manufacturer's acceptable limits		1	\$30,000		P&K to provide test w/ CIS to review quantity of leak is within manufacturer limits or to provide letter from Manufacturer indicating that leak is within the allowed limits. If work or letter is not provided by 2/15/07 all punch list items will be closed and dollars will be deducted. CONTRACTOR HAS PROVIDED E-MAIL DATED 1-24-06 FROM TRIPPENSEE & CO INDICATING LEAKAGE IS WITHIN ALLOWED RANGE. ITEM SATISFIED ON 2/14/07
13	121	An ITE 600A, 600V Safety Switch with 400A, TRS400R, Time Delay Fuses has been tapped to the Main Emergency Switchboard to feed the new VFD-2 of the new BPCWHP-2 at 480V. This is a deviation from the revised construction drawing and it could be altering the UL certification of the Switchboard. The exact point of connection could not be observed since it is necessary to remove a cover at rear of the Switchboard. This is not in compliance with the Contract Documents. As per previous E-mail on this subject, the emergency generator must be operated in order to demonstrate the operation of BPCWHP-2.	Comply with contract documents		1	\$100		Item noted as satisfied per contract on 2/2/07
29	2	Furnish and install 3/4" automatic circulation relief valve and drain piping for the existing jockey pump (by NFPA #20).			1	\$10,000		Item noted as satisfied per contract on 2/6/07

Attendees:  
 Juan Rodriguez Fraga  
 Juan Gonzalez, MDAD  
 Ray Robins, DAC  
 Steve Jordan, P  
 Brian McCluggage, P  
 Gail Peacock, P  
 Reinaldo Carr

Change Order No. A014  
 Project No. A014

MDAD, FACILITIES PROJECT NO. A014-A  
 Attachment to Service/Work Order No. J-205  
 Sheet No. 2 of 5

Page No.	Item No.	Item Description	CIS Recommendation	Unit	Qty	Unit Rate	Total Construction Cost	Comments
29	10	Separate indicating valve with tamper switch, fire alarm connection, piping and surface mounted cabinet have not been installed for the passenger elevator shaft pit.	FP 0.00 & FP 3.02 Provide as per Contract Documents or with Owner consent provide credit for work not performed.		1	\$8,000		Item accepted as per P&K e-mail dated 2/2/07
29	11	Separate indicating valve with tamper switch, fire alarm connection, piping and surface mounted cabinet have not been installed for the passenger elevator machine room.	FP 0.00 & FP 3.02 Provide as per Contract Documents or with Owner consent provide credit for work not performed.		1	\$8,000		Item accepted as per P&K e-mail dated 2/2/07
54	111	In the second floor of the new plant a glycol line is resting on top of electrical conduits, please verify and correct. By GCH-2	Relocate Glycol Line or Electrical conduits. Spacing at location is very tight Owner to verify need for relocation		1	\$1,000		Diminish Value accepted. Item to be part of close out work order (credit)
36	85	Relocate duplex receptacle in Generator room 214	Accept Diminish value			\$200		Diminish Value accepted. Item to be part of close out work order (credit)
		Total of outstanding punch list items				\$0		
		Grand total in accordance with article 01010				\$0		Per article 01010.1.14b x 2 multiplier

Note: Per 12/14/06 meeting P&K representatives agreed all remaining punch list items will be completed NLT Jan. 15, 2007. This deadline was extended to 2/15/07 and again extended to 3/15/07

Attendees:  
 Juan Rodriguez Fraiga  
 Juan Gonzalez, MDAD  
 Ray Robles, DAC  
 Steve Jordan, P  
 Brian MacCluggage, P  
 Gail Pacheco, P  
 Remaldo Gomez, LMPA

Change Order No. A014.  
 Project No. A014.  
 Page 10 of 1

MDAD, FACILITIES PROJECT NO. A014-A  
 Attachment to Service/Work Order No. 1-205  
 Sheet No. 3 of 5



Commercial Airport:  
Miami International Airport

General Aviation Airports:  
Dade-Collier Training & Transition  
Homestead General  
Kendall-Tamiami Executive  
Opa-locka  
Opa-locka West

RECEIVED  
FEB 12 2007

THE POOLE & KENT CO.

Miami-Dade Aviation Department  
P.O. Box 025504  
Miami, Florida 33102-5504  
T 305-876-7000 F 305-876-0948  
www.miami-airport.com

miamidade.gov

February 7, 2007

Mr. Steve Jordan - President  
The Poole and Kent Company  
1781 NW North River Drive  
Miami, FL 33125

via facsimile and mail  
Fax: 305-324-0522

Re: MIA Central Chiller Plants East and West Expansion  
MDAD Project No. A014A  
Contract Claims and P&K Request for Equitable Adjustment  
Claim Dated September 15, 2006

Dear Mr. Jordan:

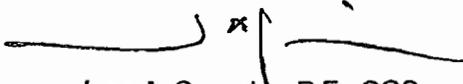
MDAD staff and P&K met on January 31, 2007 to further review the changes, events and conditions that arose during performance of the work. Representatives from Dade Aviation Consultants (DAC) and HNTB were present and provided information to support conclusions reached. Representatives from Myers Construction were also present and also provided information.

At the conclusion of the discussions, MDAD staff advised P&K that they would make a recommendation to the Director to forward to the County Manager, the Mayor and the Miami-Dade Board of County Commissioners a recommendation to approve a Change Order which would incorporate the provisions of the settlement as full and final settlement to close-out this project with a final time extension of the Contract Substantial Completion Date to May 12, 2006; which I believe is a fair and equitable settlement to resolve, full and final, all commercial matters, claims and disputes relating to the completion of Project A014A.

MDAD will instruct DAC and the CIS to complete their reconciliation of Work Order efforts and then prepare a Work Order to return all unused balances to the project allowance account. MDAD will also instruct DAC and the CIS to prepare a Work Order within the remaining available balance amount of the allowance account for a full and final settlement for all contractor and subcontractor impacts for a time period that will be determined between P&K, DAC and the CIS. MDAD will also recommend a Final Change Order to the County Manager, the Mayor, and the Board of County Commissioners to include any additional funding required to pay P & K an aggregate amount of \$3.6 million, including the value of the Work Order, and including a full release of all P & K claims. The above settlement is contingent upon approval by the County Manager, the Mayor and the BCC.

Very truly yours,

MIAMI-DADE AVIATION DEPARTMENT

  
Juan A. Gonzalez, P.E., CGC  
MDAD Chief of Construction

*Training Excellence Every Day*

Change Order No  
Project No. A014A  
Page 11 of

MDAD, FACILITIES PROJECT NO. A014A  
Attachment to Service/Work Order No. 1-205

21

Mr. Steve Jordan  
February 7, 2007  
Page 2 of 2

cc: D Mastin (CAO); J. Abreu, J. Cosper, N Jolly (MDAD); P Francis, R Robinson, G Dassow, R Berry (DAC); W. Stuenkel, F. Cortazar, (HNTB); L. Perez, L M Perez & Associates and J.Alvarez, Wolfberg-Alvarez

Change Order No.  
Project No. A01  
Page 12 of

22

MDAD, FACILITIES PROJECT NO. A014A Attachment to Service/Work Order No. 1-205 Sheet No. 6 of 6
--



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 213760

Certificate No. 001335449

KNOW ALL MEN BY THESE PRESENTS: That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Richard G. Avery, Karen C. Bowling, Thomas Bean, Rita Sagistano, Gerard S. Macholz, Susan Lupski, Robert T. Pearson, Mary Alice J. Corbett, and Camille Maitland

of the City of Garden City, State of New York, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 12th day of December, 2006.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
George W. Thompson, Senior Vice President

On this the 12th day of December, 2006, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal. My Commission expires the 30th day of June, 2011.



[Signature]
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kori M. Johanson, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 28th day of March, 20 07.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

*Kori M. Johanson*  
Kori M. Johanson, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at [www.stpaultravelersbond.com](http://www.stpaultravelersbond.com). Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

24

**TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
HARTFORD, CT. 06183**

**ATTORNEY-IN-FACT JUSTIFICATION  
PRINCIPAL'S ACKNOWLEDGMENT — IF A CORPORATION**

State of New York, County of \_\_\_\_\_, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ to me known, who, being by me duly sworn, deposes and says: That he/she resides in the City of \_\_\_\_\_ that he/she is the \_\_\_\_\_ of \_\_\_\_\_ the corporation described in and which executed the within instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

**PRINCIPAL'S ACKNOWLEDGMENT — IF INDIVIDUAL OR FIRM**

State of New York, County of \_\_\_\_\_, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ to me known to be (the individual) (one of the firm of \_\_\_\_\_) described in and who executed the within instrument, and he/she thereupon duly acknowledged to me that he/she executed the same (as the act and deed of said firm).

**SURETY COMPANY'S ACKNOWLEDGMENT**

State of New York, County of Nassau, ss.

On this 28th day of March, 2007, before me personally appeared Rita Sagistano to me known, who, being by me duly sworn, did depose and say: That he/he resides in ~~Nassau~~ Nassau County, New York that he/she is Attorney-in-Fact of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, the corporation described in and which executed the within instrument; that he/she knows the corporate seal of said Company; that the seal affixed to said instrument is such corporate seal; and that he/she signed said instrument as Attorney-in-Fact by authority of the Board of Directors of said Company; and affiant did further depose and say that the Superintendent of Insurance of the State of New York has, pursuant to Chapter 882 of the Laws of the State of New York for the year 1939, constituting chapter 28 of the Consolidating Laws of the State of New York as the Insurance Law as amended, issued to TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA his/her certificate that said Company is qualified to become and be accepted as surety or guarantor on all bonds, undertakings, recognizances, guaranties, and other obligations required or permitted by law; and that such certificate has not been revoked.

*Mary Alice J. Corbett*  
Notary Public

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
Hartford, Connecticut 06183

MARY ALICE J. CORBETT  
Notary Public, State of New York  
No. 01CO6020162  
Qualified in Nassau County  
Commission Expires 02/22/2011

FINANCIAL STATEMENT AS OF DECEMBER 31, 2005  
AS FILED WITH THE INSURANCE DEPT. OF THE STATE OF NEW YORK  
CAPITAL STOCK \$ 6,000,000

ASSETS		LIABILITIES	
Cash & Invested Cash	\$ 18,722,611	Unearned Premiums	\$ 636,314,350
Bonds	2,394,448,295	Losses	713,236,642
Stock	7,822,516	Loss Adjustment Expenses	114,606,239
Investment Income Due and Accrued	29,925,538	Commissions	27,023,959
Premium Balances	149,728,693	Taxes, Licenses and Fees	19,154,612
Reinsurance Recoverable	17,473,347	Other Expenses	26,897,510
Net Deferred Tax Asset	41,208,507	Current Federal and Foreign Income Taxes	47,731,649
Other Assets	21,067,146	Payable to Parent, Subsidiaries & Affiliates	28,592,860
		Other Accrued Expenses and Liabilities	211,726,395
		Total Liabilities	1,825,284,216
			\$
		Capital Stock	
		Paid in Surplus	6,000,000
		Other Surplus	303,297,492
		Total Surplus to Policyholders	545,815,035
			\$
Total Assets	2,680,396,653	Total Liabilities & Surplus	\$ 855,112,437
			\$ 2,680,396,653

Securities carried at \$13,645,490 in the above statement are deposited with public authorities, as required by law

25