Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 12(A)(3)

07-10-07

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

RESOLUTION NO. R-845-07

RESOLUTION RELATED TO NORTH TERMINAL DEVELOPMENT PROJECTS AT MIAMI INTERNATIONAL AIRPORT; APPROVING AGREEMENT FOR SETTLEMENT, RELEASE AND WAIVER OF CLAIMS BETWEEN MIAMI-DADE COUNTY, AMERICAN AIRLINES, INC., ADVANCED ROOFING, INC., AND TURNER CONSTRUCTION COMPANY AND AUSTIN COMMERCIAL, INC. AND ITS SURETIES FOR PROJECTS 737G, 741E, 745E, AND 745B; AND AUTHORIZING COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE AGREEMENT AND EXERCISE ANY PROVISIONS CONTAINED THEREIN

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:

Section 1. Approves the Agreement for Settlement, Release and Waiver of Claims (the "Agreement") between Miami-Dade County, Advanced Roofing, Inc., and Turner Construction Company and Austin Commercial, Inc. (d/b/a Turner Austin Airport Team) and its sureties, in connection with North Terminal Development Project Nos. 737G, 741E, 745E, and 745B at Miami International Airport, and attached as Exhibit "A" to this resolution.

Section 2. Authorizes the County Mayor or his designee to execute the Agreement and exercise any provisions contained therein.

MEMORANDUM

(Revised)

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

DATE: July 10, 2007

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

SUBJECT: Agenda Item No. 12(A)(3)

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

The foregoing resolution was offered by Commissioner Dorrin D. Rolle, who moved its adoption. The motion was seconded by Commissioner Joe A. Martinez and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman aye
Barbara J. Jordan, Vice-Chairwoman aye

Jose "Pepe" Diaz	aye	Audrey M. Edmonson	absent
Carlos A. Gimenez	aye	Sally A. Heyman	absent
Joe A. Martinez	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	absent	Rebeca Sosa	absent
Sen. Javier D. Souto	absent		

The Chairperson thereupon declared the resolution duly passed and adopted this 10th day of July, 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

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

BP

Bernardo Pastor

AGREEMENT FOR SETTLEMENT, RELEASE AND WAIVER OF CLAIMS BETWEEN MIAMI- DADE COUNTY, AMERICAN AIRLINES, INC., TURNER CONSTRUCTION COMPANY AND AUSTIN COMMERCIAL INC. D/B/A TURNER AUSTIN AIPORT TEAM AND ADVANCED ROOFING, INC., IN CONNECTION WITH NORTH TERMINAL DEVELOPMENT PROJECT MIAMI INTERNATIONAL AIRPORT

This Agreement is entered into this 29 day of March, 2007 between Miami-Dade County, a political subdivision of the State of Florida ("County"), American Airlines, Inc. ("American"), Turner Construction Company and Austin Commercial Inc. d/b/a Turner Austin Airport Team ("TAAT") and Advanced Roofing, Inc. ("ADVANCED"), a Florida corporation ("the Parties" or "the Released Parties").

WHEREAS, the County, as the owner of Miami International Airport, entered into a Lease Construction and Financing Agreement with American, which authorized American to manage the design and construction of certain improvements to the Terminal Building and airside facilities at Miami International Airport, known as the North Terminal Development Program ("NTD Program"); and

WHEREAS, on June 21, 2005, the County and American entered into the Fourth Amendment to Lease, Construction and Financing Agreement ("Fourth Amendment") which provides for the County to take over and complete the NTD Program; and

WHEREAS, on June 21, 2005, the County and American entered into a Claims Administration Agreement ("Claims Agreement") whereby the County agreed to make a good faith effort to analyze, review, process and pay claims asserted against American or the County; and

WHEREAS, as a result of the Fourth Amendment and the Claims Agreement, the County is authorized to bind American with respect to this settlement agreement and the covenants contained herein;

WHEREAS, American and TAAT previously entered into certain construction management agreements to manage the construction work for the NTD Program; and

WHEREAS, pursuant to its contractual relationship with American, TAAT contracted with ADVANCED for certain roofing-related work to be performed on NTD Program Projects 745B (B-C Infill & Building Shell), 745E (B-C Infill Demo, C-Throat Corridor), 737G (C_D Infill MEP & Remaining Shell), and 741E (D Extension MEP & Remaining Shell) at Miami International Airport (the "ADVANCED Projects") pursuant to the terms and conditions of the Contract Agreements numbered: M1745B-A07-1000-S with an original contract amount of $1,293,710.00; M1737G-A07-1000-S with an original contract amount of $2,335,500.00; M1741E-A07-1000-S with an original contract amount of $1,379,325.00 (Alternate add $7,000 for infield testing); and M1745E-A07-1000-S with an original contract amount of $576,300.00 (the "ADVANCED Contracts") between TAAT and ADVANCED; and

WHEREAS, several disputes have arisen between the County, American, TAAT and ADVANCED and its subcontractors and suppliers, including but not limited to disputes as to delay impacts, loss of productivity, change orders, proposed change orders, demobilization costs, work scope, extra work, retainage and contract balances, which disputes are currently the subject of claims asserted by ADVANCED as against the County/American for resolution under the Claims Agreement and to TAAT pursuant to the terms and conditions of the Advanced Contracts, which are more described as follows:

- Four (4) arbitration proceedings between Advanced and TAAT pending with the American Arbitration Association, Case Nos. AAA.:32 110 596 05 (Projects 737-G), AAA Case No. 31 110 Y 00516 04 (745-B), AAA Case No.: 32 459 00590 05

Memorandum

MIAMI-DADE COUNTY

Date:	July 10, 2007
To:	Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners
From:	George M. Burgess County Manager R. A. Cuevas, Jr. Acting County Attorney
Subject:	North Terminal Development Program - Claims Settlement Agreement with Advanced Roofing, Inc., Project Nos. 737G, 741E, 745E, and 745B - $1,602,404.92

Agenda Item No. 12(A)(3)

RECOMMENDATION

It is recommended that the Board approve the attached claim settlement agreement among and between Miami-Dade County, American Airlines, Inc. (American), Turner Construction Company and Austin Commercial, Inc. (d/b/a the Turner-Austin Airport Team or TAAT), and Advanced Roofing, Inc. pertaining to roofing-related work for North Terminal Development (NTD) Program Project Nos. 737G, 741E, 745E, and 745B at Miami International Airport (MIA).

SCOPE

This NTD Claims Settlement Agreement has no direct impact Countywide or on a distinct Commission district. The installation of roofing under the above-referenced Projects is part of the NTD Program at MIA and is paid from Aviation Department Bond funding and the American Claims Administration Agreement (CAA).

FISCAL IMPACT/FUNDING SOURCE

The agreement being presented for approval by the Board is by and between the County, American, TAAT, and Advanced. The County agrees to pay Advanced $1,602,404.92 in settlement of claims 11034, 11334, 11035, 11335, 11036, 11336, 11037, and 11337 which Advanced has asserted against the County, American, and TAAT. In return, Advanced agrees to release the County, American, and TAAT from all claims arising out of the performance of the work for which payment is being made through the settlement, the Certified Claims, the work, the projects referenced above, and the contracts it entered into with TAAT for the work on the NTD Program.

The above-referenced Advanced Project claims originally totaled $2,450,407.53. The settlement amount the County is now agreeing to pay Advanced is $1,602,404.92. Of this amount, $621,004.92 will be funded from the County's Bond Fund with the remaining $981,400.00 funded from the American CAA.

TRACK RECORD/MONITOR

Advanced is a roofing contractor. Its work on the NTD Program is performed according to plans and specifications drawn by the architects and engineers of record and approved by the Building Department. This company is currently under contract with Parsons Oderbrecht Joint Venture (POJV) for additional work on the NTD Program at MIA and is performing satisfactorily.

BACKGROUND

As part of the NTD Program, the County and American entered into a Lease, Construction and Finance Agreement (LCF) for American to design and construct the NTD Program and the County to pay the costs thereof as a tenant improvement project. American hired the Turner-Austin Airport Team (TAAT) as its construction manager.

On June 21, 2005, the Board approved the Fourth Amendment to the LCF with American that transferred the responsibility of completing the NTD Program to the County. Concurrently, the Board approved the CAA with American giving the County authority to defend, settle and/or adjudicate claims against American on the NTD program. As a result of the Amendment, on June 27, 2005 American terminated TAAT's contract effective July 27, 2005.

As construction manager for American, TAAT had entered into four contracts with Advanced, 737G, 741E, 745E and 745B for roofing related work. When American terminated TAAT's contract, TAAT in turn terminated the Advanced contracts. Advanced had pending claims against TAAT and American. When the TAAT contracts were cancelled, Advanced filed claims against TAAT and American with the County.

Pursuant to the CAA, the County directed its claims consultant, Alpha Corporation, to review the merits of the claims and recommend settlement amounts to a team of Aviation Department staff members designated as the Owner's Review Board (ORB). Following this review process, the County entered into extensive negotiations with both Advanced and TAAT to resolve the claims to the benefit of all parties.

This settlement agreement meets the requirements of Resolutions R-119-06, review and resolution of CSBE claims, and R-397-06, the amended claims process which requires that payment of any settlement amount is conditional upon the claimant paying such portion of the pass through claims of CSBE subcontractors, at any tier, to such CSBE subcontractors. Advanced has certified that no CSBE subcontractors were utilized for this work.

Assistant County Manager

(741-E), and AAA Case No. 32 110 Y 00588 05 (745-E) (the "Arbitration Proceedings); and

- Litigation between TAAT and the County pending in the Circuit Court for the 11th Judicial Circuit in and for Miami-Dade County, Florida entitled Turner Construction Company and Austin Commercial, inc. d/b/a Turner-Austin Airport Team v. American Airlines, Inc. and Miami-Dade County, Florida, Case No. 06-14325-CA 09 (the "Lawsuit"); and
- Certified claims submitted by Advanced to the County and identified by Claim Tracking Nos. 11034, 11035, 11036, 11037, 11334, 11335, 11336, and 11337 which claims are currently being processed under the Claims Agreement (the "Certified Claims") and which break down as follows:

TRACKING NO.	PROJECT	CLAIM AMOUNT
11034	737G	$ 1,134,278.24
11035	741E	$ 448,518.63
11036	745E	$ 316,623.02
11037	745B	$ 101,768.84
11334	737G –Retainage	$ 249,341.22
11335	741E – Retainage	$ 156,327.56
11336	745E – Retainage	$ 18,297.53
11337	745B – Retainage	$ 25,252.49
	TOTAL:	**$ 2,450,407.53**

WHEREAS, the work performed and materials furnished by ADVANCED to the Projects is hereafter referred to as "the Work"; and

WHEREAS, the County (for itself and on behalf of American), TAAT (on behalf of itself and its Sureties), and ADVANCED (on behalf of itself and its Sureties) have engaged in settlement negotiations for the resolution of claims by and against ADVANCED; and

WHEREAS, the Parties have agreed in principle to a sum certain to resolve all of the claims by and against ADVANCED, as set forth below, on the Projects for itself and on behalf of its subcontractors and suppliers of any tier against TAAT and its Sureties, American and the County that were raised or could have been raised by ADVANCED and its subcontractors in the Arbitration Proceedings or related litigation and under or pursuant to the Claims Agreement, including all other claims, causes of action or other liability of whatever nature of kind, known or unknown, asserted or unasserted by ADVANCED or any of its subcontractors, suppliers or any third-party arising out of or relating to the Projects (hereinafter collectively referred to as the "Claims"), which Claims are identified below by Certified Claim Tracking Number, original claimed amount, and agreed sum certain:

TRACKING NO.	PROJECT	CLAIM AMOUNT	SETTLEMENT AMOUNT
11034	737G	$ 1,134,278.24	$ 542,500.00
11035	741E	$ 448,518.63	$ 288,000.00
11036	745E	$ 316,623.02	$ 258,120.00
11037	745B	$ 101,768.84	$ 72,380.00
11334	737G – Retainage	$ 249,341.22	$ 249,042.24
11335	741E – Retainage	$ 156,327.56	$ 148,857.66
11336	745E – Retainage	$ 18,297.53	$ 18,252.53

11337	745B – Retainage	$ 25,252.49	$ 25,252.49
	TOTAL:	**$ 2,450,407.53**	**$ 1,602,404.92**

WHEREAS, the Parties are represented by counsel and have mutually agreed that, to be effective, any proposed settlement reached between the Parties would require final approval by the Miami-Dade County Board of County Commissioners ("BCC"); and

WHEREAS, the intent of this Agreement is to settle, fully resolve and end all claims, demands and litigation arising out of or related to the Projects and the Claims by ADVANCED and its subcontractors/suppliers against TAAT and its Sureties, American, and the County except as otherwise set forth herein; and

WHEREAS, the County, American, TAAT and ADVANCED are desirous of settling the Claims for a total of $1,602,404.92 and, in agreeing to this amount, the Parties acknowledge that the County, American, TAAT and ADVANCED have compromised their respective positions in good faith;

WHEREAS, with these understandings, the Parties have agreed to the following terms to settle and resolve ADVANCED's Claims without admission of fault or liability by any of the Parties hereto.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County, TAAT and ADVANCED agree as follows:

1. Within thirty (30) days from the Effective Date of this Agreement, fully and properly executed by all Parties, the County shall pay to ADVANCED the amount of $1,602,404.92 (the "Settlement Payment") in full and final satisfaction of the Claims. Notwithstanding the foregoing, prior to the County's payment to ADVANCED of the Settlement Payment, ADVANCED shall submit to the County all warranty and closeout documents required under the ADVANCED Contracts not previously submitted to TAAT, if any, and shall further submit evidence acceptable to the County and TAAT in the form of releases that ADVANCED has paid the amounts set forth below to the CSBE subcontractors and suppliers identified below as full accord and satisfaction of all work of such CSBE subcontractors and suppliers who performed or supplied materials for any portion of the work or who are in any way involved in the Claims, or alternatively, obtain conditional releases from all such CSBE subcontractors and suppliers so involved that shall be effective immediately upon their receipt of such payments from ADVANCED:

a. ADVANCED USED NO CSBEs on the Projects referenced herein.

2. ADVANCED hereby certifies that the above CSBEs are all the CSBE subcontractors and suppliers who performed any portion of the Work included in the Claims. Each of the CSBE subcontractors identified above are intended third-party beneficiaries of this Agreement who shall have the right to enforce ADVANCED's payment obligations to it under this Agreement in addition to the right of the County to enforce any such payment obligations on behalf of a CSBE subcontractor or supplier who consents in writing to the County taking such action against ADVANCED on the CSBE subcontractor's or supplier's behalf. The County shall have full rights to audit Advanced's payment to the CSBE(s) as provided herein. Advanced shall cooperate fully as to County's audit, including furnishing copies of cancelled checks, receipts or other evidence of payment promptly upon the County's request.

3. ADVANCED's receipt of the Settlement Payment shall constitute full accord and satisfaction of any and all claims by ADVANCED or any of its subcontractors or material suppliers arising out of or relating to the Claims, including direct, indirect or pass through claims, actions and causes of action and all Work performed on the Projects with the exception of change order claims

on Project 737G as identified and as quantified on Exhibit "A" hereto. ADVANCED specifically waives any further compensation for additional work arising out of or relating to the Claims, the Projects, the Work, and/or the ADVANCED Contracts NOT listed on Exhibit "A" hereto.

4. In consideration of the payment by County to ADVANCED of the Settlement Payment above and the mutual covenants in this Agreement, ADVANCED hereby releases the County, American and TAAT and their respective sureties, officers, directors, parents, employees, agents, instrumentalities, subsidiaries and affiliates, successors and assigns (collectively the "Released Parties") from and against, and also waives and relinquishes any and all rights to, all claims, direct and indirect costs, damages, liability, interest, disputes or causes of action of whatever nature it has or may have, whether known or unknown, against the Released Parties arising out of or relating to the Settlement Payment, the Claims raised in or that could have been raised in arbitration, appellate and litigation proceedings, relating to the Work, the Projects, and/or the ADVANCED Contracts except for those specific contract balance and/or change order related claims listed on Exhibit A hereto.

5. In consideration of the Settlement Payment by the County to ADVANCED and the mutual covenants in this Agreement, ADVANCED shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the Released Parties from any and all liability, losses or damages, including without limitation attorney's fees and costs of defense, which the Released Parties may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature by any of ADVANCED's subcontractors or material suppliers at any level that performed work on the Projects, or any other third parties relating to the Work, the Projects, the ADVANCED Contracts, the Claims and/or the Settlement Payment paid by the County to ADVANCED pursuant to this Agreement except for those specific contract balance and/or change order related claims listed on Exhibit "A" hereto. ADVANCED shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Released Parties, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. In the event a Party to this Agreement seeks to recover sums from another Party to this Agreement pursuant to Paragraphs 6 through 8 of this Agreement, indemnification pursuant to this Paragraph will not apply.

To the extent this indemnification clause does not comply with Chapter 725, Florida Statutes, as may be amended, this provision shall hereby be interpreted as the Parties' intention to be fully bound with an indemnification clause which complies with Chapter 725, Florida Statutes, as may be amended.

6. The County and American on the one hand and TAAT on the other hand have agreed to this Settlement Agreement with full reservation of rights against each other limited to the amount of the Settlement Payment, and with the understanding that any release provided by Advanced in this Agreement shall not act to prevent them from asserting claims against each other related to the Settlement Payment and the Claims. This reservation of rights is effective to preserve (a) the County's and American's right, if any, to obtain payment from TAAT and its sureties related to the Claims to the extent of the amount of the Settlement Payment including without limitation all attorney and consultant fees and costs incurred in connection with the Claims, and (b) TAAT's right, if any, to obtain payment from the County or American for all attorney and consultant fees and costs for defending the Claims settled herein to the extent of the amount of the Settlement Payment.

7. Subject to the reservation of rights provided in paragraph 6 above and paragraph 8 below, TAAT and TAAT's sureties release ADVANCED and their respective sureties, officers, directors, parents, employees, agents, representatives, instrumentalities, subsidiaries and affiliates, successors and assigns (collectively the "ADVANCED Released Parties") from and against, and waives and relinquishes any and all claims, direct and indirect costs, damages, liability, interest, disputes or causes of action of whatever nature they have or may have, whether known or unknown,

against the ADVANCED Released Parties arising out of or relating to the Work, the Projects, the ADVANCED Contracts and the Claims settled herein.

8. Subject to the County's reservation of rights provided in paragraph 6 above and expressed below, which includes enforcement of ADVANCED's and its Surety's obligations under the Consent of Surety to Requisition Payment, an executed copy of which is attached hereto as Exhibit "B", the County and American release the ADVANCED Released Parties from and against and waive and relinquish any and all claims, direct and indirect costs, damages, liability, interest, disputes or causes of action of whatever nature they have or may have, whether known or unknown, against the ADVANCED Released Parties arising out of or relating to the Work, the Projects, and/or the Contract and the Claims settled herein. However, such payment is made without prejudice to the County, TAAT and American's rights against ADVANCED as follows:

(1) to require the repair or replacement of ADVANCED's defective work under the warranty and guaranty provisions of the Contract Documents as they may still be applicable; and

(2) to require the repair or replacement of latent defects in ADVANCED's work to the extent provided by Florida law; and

(3) to enforce those provisions of the ADVANCED Contract Documents which specifically provide that they survive the completion of the work; and

(4) to enforce any and all provisions of this Agreement, specifically including without limitation ADVANCED's obligation to pay CSBE subcontractors as set forth above; and

(5) to enforce against Advanced and its surety any and all provisions of the Consent of Surety to Requisition Payment attached hereto as Exhibit B.

9. The Parties acknowledge that they have read this Agreement, understand it, and have had the opportunity to consult with counsel before executing this document.

10. The Parties accept the terms of this Agreement, and have agreed to its terms solely for their own convenience, without admitting liability and such terms shall not be used in any proceeding except to enforce this Agreement.

11. This Agreement, and each and every term and provision thereof, shall be subject to approval by the Board of County Commissioners. For all purposes in connection with this Agreement, the "Effective Date" of this Agreement shall be the day of execution of this Agreement by the County Mayor or his designee.

12. American and the County agree that notwithstanding the release language set forth above, nothing contained herein shall be deemed to modify or waive any rights and obligations of American or the County to each other under the Claims Agreement or the Lease Finance & Construction Agreement as amended through the Fourth Amendment, and all such rights are expressly reserved. Such reservation does not create or extend any rights to anyone other than the County or American.

13. The introductory paragraphs, "WHEREAS" clauses and other recitals to this Agreement are incorporated herein as a part of this Agreement but are not to be used or construed as admissions of fact or law in any proceeding other than one to enforce this Agreement.

14. The Parties agree that this Agreement is a negotiated settlement that has been typed by one party for the convenience of the other Parties and that it shall not be construed for or against any party based on which party authored all or any part of the Agreement.

15. The Parties agree that venue for any action to enforce the terms of this Settlement Agreement shall exclusively lie with a court of competent jurisdiction within Miami-Dade County, Florida. The terms of this Settlement Agreement shall be governed exclusively by Florida law notwithstanding any choice of law clauses in any contracts between any of the Parties to this Settlement Agreement and notwithstanding choice of law principles under Florida law.

16. The Parties executing this Agreement represent and warrant that the individuals executing this Agreement are duly authorized to enter into this Agreement and bind and obligate the Parties hereto.

17. This Agreement may be executed in any number of counterparts by the respective Parties, and all of such counterparts when executed by said Parties, or any of them, shall be considered together and shall be as valid and as binding on the said Parties, as if all had executed the same instrument.

18. This Agreement consists of seven (7) typed pages together with Exhibits A and B.

IN WITNESS WHEREOF, the Parties by their duly authorized officials have executed this Agreement the day first above written.

ADVANCED ROOFING, INC.

BY: _____
President–Robert P.Kornahrens

Attest: _____
Secretary–Robert P. Kornahrens

DATE OF EXECUTION: March 29, 2007

TURNER CONSTRUCTION COMPANY AND AUSTIN COMMERCIAL, INC. d/b/a TURNER AUSTIN AIRPORT TEAM

TURNER CONSTRUCTION COMPANY

BY: _____
President

Attest: _____
Secretary

DATE OF EXECUTION: _____

AUSTIN COMMERCIAL, INC,

BY: _____
President

Attest: _____
Secretary

DATE OF EXECUTION: _____

14. The Parties agree that this Agreement is a negotiated settlement that has been typed by one party for the convenience of the other Parties and that it shall not be construed for or against any party based on which party authored all or any part of the Agreement.

15. The Parties agree that venue for any action to enforce the terms of this Settlement Agreement shall exclusively lie with a court of competent jurisdiction within Miami-Dade County, Florida. The terms of this Settlement Agreement shall be governed exclusively by Florida law notwithstanding any choice of law clauses in any contracts between any of the Parties to this Settlement Agreement and notwithstanding choice of law principles under Florida law.

16. The Parties executing this Agreement represent and warrant that the individuals executing this Agreement are duly authorized to enter into this Agreement and bind and obligate the Parties hereto.

17. This Agreement may be executed in any number of counterparts by the respective Parties, and all of such counterparts when executed by said Parties, or any of them, shall be considered together and shall be as valid and as binding on the said Parties, as if all had executed the same instrument.

18. This Agreement consists of seven (7) typed pages together with Exhibits A and B.

IN WITNESS WHEREOF, the Parties by their duly authorized officials have executed this Agreement the day first above written.

ADVANCED ROOFING, INC.

BY: _____
President

Attest: _____
Secretary

DATE OF EXECUTION: _____

TURNER CONSTRUCTION COMPANY AND AUSTIN COMMERCIAL, INC. d/b/a TURNER AUSTIN AIRPORT TEAM

TURNER CONSTRUCTION COMPANY

BY: _____
Vice President

Attest: _____
Secretary

DATE OF EXECUTION: 5/30/07

AUSTIN COMMERCIAL, INC,

BY: _____
~~President~~ Authorized Representative

Attest: _____
Secretary

DATE OF EXECUTION: 5/31/07

MIAMI-DADE COUNTY for itself and on behalf of American Airlines

BY: _____
County Mayor or Authorized Designee

DATE OF EXECUTION: _____

ATTEST:

_____
Deputy Clerk

APPROVED AS TO FORM & LEGAL SUFFICIENCY

MIAMI-DADE COUNTY ATTORNEY

By: B Pastor

Title: Assistant County Attorney

DATE OF EXECUTION: 5/30/07

EXHIBIT "A"

THE PARTIES agree that the AGREEMENT FOR SETTLEMENT, RELEASE AND WAIVER OF CLAIMS BETWEEN MIAMI-DADE COUNTY, AMERICAN AIRLINES, INC., TURNER CONSTRUCTION COMPANY AND AUSTIN COMMERCIAL, INC., D/B/A/ TURNER AUSTIN AIRPORT TEAM AND ADVANCED ROOFING, INC., IN CONNECTION WITH NORTH TERMINAL DEVELOPMENT PROJECT MIAMI INTERNATIONAL AIRPORT shall not waive, release, or affect ADVANCED ROOFING'S unpaid claims for change orders on Project 737-G (AAA.:32 110 596 05) in the amount of $324,135.78. The Parties recognize that any proposed settlement of change order claims is subject to and expressly conditioned upon review and approval by Miami-Dade County. The Parties also agree that ADVANCED'S change order and claims shall be reviewed by Alpha Corporation on their merits and based on the terms and conditions of the subcontract agreement between Advanced and TAAT, and the contract between TAAT and American Airlines.

EXHIBIT B

CONSENT OF SURETY TO REQUISITION SETTLEMENT PAYMENT
(EXHIBIT "B")

TO: Miami-Dade County and/or American Airlines, Inc.
c/o Miami-Dade County
Miami-International Airport
4200 N.W. 36 Street
Building 5A, 4th Floor
Miami, Florida 33122

PROJECTS:

North Terminal Development Program Projects at Miami International Airport between TURNER-AUSTIN AIRPORT TEAM and ADVANCED ROOFING, INC.:

- 745B (B-C Infill & Building Shell)
  M1745B-A07-1000-S with an original contract amount of $1,293,710.00
  Surety: Travelers Casualty and Surety Company of America Bond 104384802

- 745E (B-C Infill Demo, C-Throat Corridor)
  M1745E-A07-1000-S with an original contract amount of $576,300.00
  Surety: United States Fidelity and Guaranty Company Bond SD7919

- 737G (C_D Infill MEP & Remaining Shell)
  M1737G-A07-1000-S with an original contract amount of $2,335,500.00
  Surety: United States Fidelity and Guaranty Company Bond SD7928

- 741E (D Extension MEP & Remaining Shell)
  M1741E-A07-1000-S with an original contract amount of $1,379,325.00
  (Alternate add $7,000 for infield testing)
  Surety: United States Fidelity and Guaranty Company Bond SD7927

CONSTRUCTION MANAGER:

Turner-Austin Airport Team
P.O. Box 7000, Miami International Airport
Miami, Florida 33299-7000

CONTRACTOR:

Advanced Roofing, Inc.
1950 NW 22nd St.
Ft. Lauderdale, FL 33311

SURETY COMPANIES

Travelers Casualty and Surety Company of America
One Tower Square
Hartford, CT 06183

United States Fidelity and Guaranty Company
One Tower Square
Hartford, CT 06183

In accordance with the provisions of the above referenced contracts, Travelers Casualty and Surety Company of America and United States Fidelity and Guaranty Company hereby approve of and consent to the payment to Advanced Roofing, Inc. in the amount of $1,602,404.92 pursuant to the AGREEMENT FOR SETTLEMENT, RELEASE AND WAIVER OF CLAIMS BETWEEN MIAMI- DADE COUNTY, AMERICAN AIRLINES, INC., TURNER CONSTRUCTION COMPANY AND AUSTIN COMMERCIAL INC. D/B/A TURNER AUSTIN AIPORT TEAM AND ADVANCED ROOFING, INC., IN CONNECTION WITH NORTH TERMINAL DEVELOPMENT PROJECT MIAMI INTERNATIONAL AIRPORT and terms of conditions thereof.

IN WITNESS WHEREOF,
The Surety Company has hereunto set its hand this 6th day of April, 2007

United States Fidelity and Guaranty Company
Surety Company

Signature of Authorized Representative

Warren M. Alter, Attorney In Fact
Title

Travelers Casualty and Surety Company of America
Surety Company

Signature of Authorized Representative

Warren M. Alter, Attorney In Fact
Title

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

TRAVELERS

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. 218020 **Certificate No.** 001467524

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

Charles D. Nielson, Charles J. Nielson, Mary C. Aceves, Warren M. Alter, and David R. Hoover

of the City of Miami Lakes, State of Florida, 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.

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IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 22nd day of February, 2007.

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: George W. Thompson, Senior Vice President

On this the 22nd day of February, 2007, 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.

Marie C. Tetreault, Notary Public

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

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.

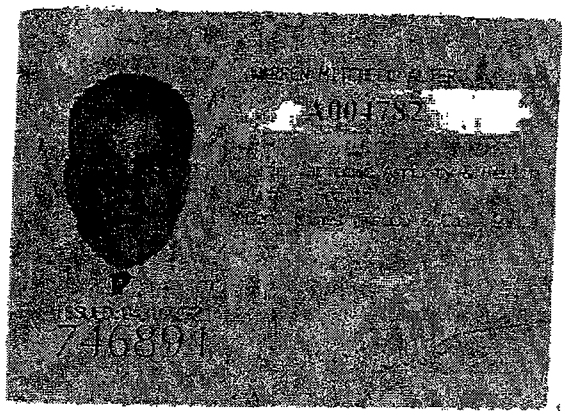
I, Kori M. Johanson, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury 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.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 6th day of April, 20 07.

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. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.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ESTABLISHED 1983

EXPERIENCE MATTERS.

ADVANCED ROOFING INC

March 29, 2007

VIA CERTIFIED MAIL

Mr. Juan Gonzalez, P.E. CGC
Chief Airport Construction
Miami International Airport
P.O. Box 025504
Miami, Florida 33102-5504

Re: Advanced Roofing Claim Certification
North Terminal Development Program
Projects 737-G, 741-E, 745-E, & 745-B
CSBE Certification

Dear Mr. Gonzalez:

As Vice President of Advanced Roofing, Inc. I certify the following:

No CSBE work, or dollar amounts for CSBE entities, at any level, were involved or included within the settled claims.

Sincerely,

Danny Stokes
Vice President

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www.advancedroofing.com

800 638.6869 TEL 954.522.6868 FAX 954.566.2967
1950 NW 22ND STREET | FORT LAUDERDALE | FLORIDA 33311

ESTABLISHED 1983

EXPERIENCE MATTERS.

ADVANCED ROOFING INC

Mr. Juan Gonzalez, P.E. CGC
Chief Airport Construction
Miami International Airport
Certification Letter
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STATE OF FLORIDA)
: SS
COUNTY OF BROWARD)

Before me personally appeared Daniel Stokes, CSI, CDT who is personally known to me/produced identification (type of identification produced _____) and who after being duly sworn executed the foregoing instrument and says that foregoing information is true and correct.

Witness my hand and official seal this 29th day of March, 2007.

Allison Gunvaldsen
Notary Public
State of Florida

My Commission Expires: Aug 6, 2010

NOTARY PUBLIC STATE OF FLORIDA (407) 386-0153
ALLISON GUNVALDSEN
MY COMMISSION # DD581884
EXPIRES: Aug. 6, 2010
Florida Notary Service.com

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