Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(C)
5-8-07

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

RESOLUTION NO. R-543-07

RESOLUTION RATIFYING ACTIONS OF COUNTY MANAGER IN APPROVING PROFESSIONAL SERVICES AGREEMENT WITH BND ENGINEERS, INC. FOR PROJECT NO. E03-MDAD-05 MIA TRACT ONE DRAINAGE AND GRADING AND PAVEMENT IMPROVEMENTS

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 ratifies actions of the County Manager in approving Professional Services Agreement with BND Engineers, Inc. for Project No. E03-MDAD-05 Mia Tract One Drainage and Grading and Pavement Improvements.

The foregoing resolution was offered by Commissioner Joe A. Martinez, who moved its adoption. The motion was seconded by Commissioner Dennis C. Moss 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	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		

5

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of May, 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. DBM

Deborah Bovarnick Mastin

Memorandum

MIAMI-DADE COUNTY

Date:	May 8, 2007
To:	Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners
From:	George M. Burgess County Manager
Subject:	Ratification of Project Specific Services Agreement for MIA Tract One Drainage, Grading and Pavement Improvements at Miami International Airport, MDAD Project No. E03-MDAD-05/F178A, in the amount of $1,725,080.

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

Recommendation

It is recommended that the Board adopt the attached resolution ratifying my October 27, 2004 approval of a project specific professional services agreement with BND Engineers, Inc. for Capital Improvement Project, MIA Tract 1 Drainage, and Grading & Pavement Improvements Project No. E03-MDAD-05 at Miami International Airport (attached Exhibit A).

SCOPE

PROJECT NAME:	MIA Tract One Drainage, Grading and Pavement Improvements at Miami International Airport
PROJECT NO.:	MDAD Project No. E03-MDAD-05/F178A
PROJECT DESCRIPTION:	Provide design and work site related services for the upgrade of the existing Tract One Apron area of Miami International Airport. Project consists of pavement removal, construction of new rigid concrete and flexible asphalt pavement, stormwater drainage improvements, utility relocation and removal, water main installation, lighting, signage and pavement markings and maintenance of traffic. Also included are improvements to life safety components needed to bring the area into compliance with Code requirements.
PROJECT LOATION:	Miami International Airport
PRIMARY COMMISSION DISTRICT:	Miami International Airport is located primarily within Commission District Six, Rebeca Sosa. However, the impact of this agenda item is countywide in nature as Miami International Airport is a regional asset.
APPROVAL PATH:	Board of County Commissioners
OCI A&E Project No.	EO3
USING DEPARTMENT:	Miami-Dade Aviation
MANAGING DEPARTMENT:	Miami-Dade Aviation

FISCAL IMPACT/FUNDING SOURCE

Basic Services	$ 727,000
Dedicated Services	$ 635,000
Contingency/Allowance (% and $)	$ 171,000 (10%)
Reimbursable Expenses	$ 175,000
IPSIG	$ 17,000
TOTAL CONTRACT VALUE:	$1,725,000
FUNDING SOURCE:	Federal Grants and Aviation Revenue Bonds

TRACK RECORD/MONITOR

FIRM NAME:	BND Engineers, Inc.
LOCATION OF FIRM:	Miami-Dade County
COMPANY PRINCIPAL (S):	Basil S. Williams, President
SUBCONSULTANTS:	H.J. Ross Associates, Inc. Reynolds, Smith and Hill, Inc. Nifah and Partners Consulting Engineers, Inc. Rodolfo Ibarra, P.E.
YEARS IN BUSINESS:	Ten (10) years
PREVIOUS AGREEMENTS WITH COUNTY:	Four (4) agreements totaling $4,609,885 (See attached Firm History Report)
TRACK RECORD:	Capital Improvements Information System (CIIS) does not list this firm. See the following background narrative for performance issues on Public Works Department contracts.
REVIEW COMMITTEE APPROVAL DATE:	7/31/03 (MDAD Minority Affairs Division) 8/20/03 (Federal funded project sent to RC for information purposes only)
DBE GOAL:	25% (see attached Minority Affairs Worksheet)
AGREEMENT PERIOD:	Five (5) years and shall begin upon execution by the parties and shall be in effect until all services are completed or until those service orders in force at the end of the stated period of time have been completed and the services accepted, whichever may be later.
PROJECT MANAGER:	Pedro Hernandez (305) 876-7928 phernandez@miami-airport.com

Background

The Miami-Dade Office of Capital Improvement (OCI) processed this Architect/Engineer selection pursuant to Section 2-8.2.7 of the Code of Miami-Dade County, known as the "Expedite Ordinance"

and recommended award of the professional service agreement (PSA) for the project titled, MIA Tract 1 Drainage, and Grading & Pavement Improvements. This PSA was awarded to BND Engineers, Inc. (BND), thru the Office of Capital Improvements and filed with the Clerk of the Board on October 27, 2004, subject to Board ratification.

The OCI placed the item on the expedite ratification list presented to the Infrastructure and Land Use Committee (INLUC) meeting scheduled on February 8, 2005.

On January 3, 2005, prior to the INLUC meeting, the Office of the Inspector General (OIG) issued a memorandum (attached Exhibit B) advising the Board of an OIG investigation involving two Public Works Department contracts, 693509Q and E01-PWD-02, EP-8. BND performed construction inspection services on the Quality Neighborhoods Improvement Program contract (693509Q). Upon receipt of the OIG Memorandum, the OCI removed the MIA Tract 1 Drainage, Grading & Pavement Improvements project from the ratification list; therefore, the contract was not presented to the BCC for ratification consideration.

Because the MIA Tract 1 project at Miami International Airport includes Federal grant funds and its timely completion was critical to receiving the grant funds on May 20, 2005, then Assistant County Manager, Dr. Carlos Bonzon authorized MDAD to complete the "design phase" only in anticipation of a satisfactory resolution of the issues raised by the OIG.

On September 25, 2006 the Public Works Department notified BND that it would retain the amount of $27,000 from payment requisitions submitted by BND for E01-PWD-02, EP-8, due to the unsatisfactory performance of inspection services and also reserves the County's right to make future claims. On October 11, 2006, the OIG issued a memorandum (attached Exhibit C) questioning BND's acceptance of responsibility relative to its inspectional services provided under project No. EO1-PW-02.

At the request of BND, the OIG met with the principals of the firm to address matters of responsibility in connection with the PW contracts. Pursuant to those discussions, BND has accepted responsibility for the inspection services deficiencies. The OIG issued a memorandum dated November 6, 2006 (attached Exhibit D) that his office is now satisfied that BND has accepted responsibility for its work on the Public Works contracts.

A separate construction contract was awarded by the Board on December 19, 2006 (R-1419-06) in the amount of $17,491,872.11 to Central Florida Equipment Rentals, Inc. for the construction work associated with the Tract One Improvements. The BND agreement and services are essential to complete the project and comply with the Federal grant requirements.

Assistant County Manager

MEMORANDUM
(Revised)

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

DATE: May 8, 2007

FROM: Murray A. Greenberg
County Attorney

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

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**

Memorandum

MIAMI-DADE COUNTY

Date: September 13, 2004

To: George M. Burgess
County Manager

Attn: Roger T. Hernstadt
Capital Improvement Coordinator

From: Angela Gittens
Aviation Director

Subject: Project Specific Services Agreement
For MIA Tract One Drainage,
Grading and Pavement Improvements
Project No. E03-MDAD-05/F178A

CLERK OF THE BOARD
2004 OCT 27 AM 10: 53
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.

The attached Professional Services Agreement for Project Specific Services between Miami-Dade County and **BND Engineers, Inc.** has been prepared by the Miami-Dade Aviation Department and is recommended for approval, pursuant to the Expedite Ordinance No. 00-104.

PROJECT: MIA Tract One Drainage, Grading and Pavement Improvements

PROJECT NO.: E03-MDAD-05

CONTRACT NO.: F178A

PROJECT DESCRIPTION: The scope of work includes but is not limited to design and work related services for the upgrade of the existing Tract One Apron area of Miami International Airport. The scope of work consists of pavement removal, construction of new rigid concrete and flexible asphalt apron pavement, stormwater drainage improvements, utility relocation and removal, water main installation, lighting, signage and pavement markings in addition to improvements to life safety to bring the area into compliance with surrounding facilities. Drainage, phasing, maintenance of traffic (M.O.T.) and maintenance of tenant operations are key elements of the Tract One Apron project. Innovative phasing solutions may be required to ensure tenant operations are maintained during the apron reconstruction. The estimated construction budget for this project is $11,843,984.00.

RECEIVED
2004 SEP 15 PM 1:50
CMO-CAPITAL IMPROVEMENTS

PROJECT LOCATION: Miami International Airport

Primary Commission District District Six- Rebeca Sosa

COST ESTIMATE:

* **Original Design Phase Under E03-MDAD-04**	$646,035
Revised Design Phase Under E03-MDAD-05	$1,076,725
Original Construction Phase Under E03-MDAD-04	$11,843,984
Revised Construction Phase Under E03-MDAD-05	$11,843,984
ARTS IN PUBLIC PLACES: (A.O. 3-11)	Not Applicable
INSPECTOR GENERAL: (Ordinance No. 97-215)	Not Applicable Federally funded
IPSIG: (A.O. 3-20)	Applicable, see Agreement Amount on page 4 of this memorandum
RESPONSIBLE WAGES:	Not Applicable
LIVING WAGES	Not Applicable
REVIEW COMMITTEE DATE: Under E03-MDAD-04	2/26/03
REVIEW COMMITTEE APPROVAL DATE: Under E03-MDAD-04	2/26/03
REVIEW COMMITTEE RESUBMITTAL DATE:	7/30/03

* Project No. E03-MDAD-04 was withdrawn as a result of changes in the funding source, cost estimate and contract measures, see attached documentation.

REVIEW COMMITTEE APPROVAL DATE:	7/31/03 (MDAD Minority Affairs Division) 8/20/03 (Federally funded project sent to RC for informational purposes only)
REVIEW COMMITTEE ASSIGNED CONTRACT MEASURES:	
CSBE GOAL	0%
CBE GOAL	100% Set aside (RC of 2/26/03, under E03-MDAD-04)
DBE GOAL	25%, see attached Minority Affairs Worksheet (RC of 8/20/03 under E03-MDAD-05)
CWF GOAL	0%
FIRM NAME:	BND Engineers, Inc.
LOCATION OF FIRM:	1200 NW 78th Ave Suite 400 Miami, FL 33126
COMPANY PRINCIPAL (S):	Basil S. Williams, President
YEARS IN BUSINESS:	Ten (10) years
PREVIOUS AGREEMENT(S) WITH THE COUNTY:	Four (4) Agreements for a total of $4,609,885, see attached A&E Firm History Report.
AGREEMENT PERIOD:	Five (5) years and shall begin upon execution by the parties and shall be in effect until all Services are completed or until those Service Orders in force at the end of the stated period of time have been completed and the Services accepted, whichever may be later.

AGREEMENT AMOUNT:

Basic Services	$727,000
Dedicated Services	$635,000
Contingency/Allowance (% and $)	10% and $171,000
Reimbursable expenses	$175,000
IPSIG:	$17,080
TOTAL CONTRACT VALUE	$1,725,080.00

SUBCONSULTANTS: H.J. Ross Associates, Inc.
Reynolds, Smith and Hills, Inc.
Nifah and Partners Consulting Engineers, Inc.
Rodolfo Ibarra, P.E.

USING AGENCY: Miami-Dade Aviation Department

MANAGING AGENCY: Miami-Dade Aviation Department

MINIMUM QUALIFICATIONS EXCEED LEGAL REQUIREMENTS: No

FUNDING SOURCE: Federal Grants- Future Aviation Revenue Bonds
Aviation Revenue Bonds Sold

ALLOWANCES/CONTINGENCY ORDINANCE NO. 00-65: See Agreement Amount above

EXPEDITE ORDINANCE NO. 00-104 As described in the Proposed Budget and Multi Year Capital Plan 2003-2004, MIA Northside Development Project page 34.

CAPITAL BUDGET INFORMATION: **Project Number:** 6333031 **Est $** _____

Project Technical Certification Requirements:

4.01	Aviation Systems - Engineering Design (Prime)
11.00	General Structural Engineering
13.00	General Structural Engineering
16.00	General Civil Engineering
17.00	Engineering Construction Management

APPROVED FOR LEGAL SUFFIENCY:

DBM

Assistant County Attorney

Date: 8 Sept 2004

APPROVED PURSUANT TO THE EXPEDITE ORDINANCE NO. 00-104 PASSED AND ADOPTED JULY 25, 2000, SUBJECT TO BOARD RATIFICATION:

Bill Johnson

County Manager

Date: 9-30-04

MIAMI-DADE COUNTY
CONTRACT AWARD RECOMMENDATION
ARCHITECTURAL/ENGINEERING PROJECT

Date: September 9, 2004

Thru: Office of Strategic Business Management (OSBM)
To: County Manager

Project Title: E03-MDAD-05/F178A

Location: Miami-Dade Aviation Department

Original Cost Estimate: $ 1,076,725
Recommended Amount of Contract: $ 1,725,080

Agreement Period: Five (5) years and shall begin upon execution by the parties and shall be in effect until all Services are completed or until those Service Orders in force at the end of the stated period of time have been completed and the Services accepted, whichever may be later.

Number of proposal documents taken out: 78 (seventy-eight)

Number of Proposals received: 11 (eleven)

It is recommended that a contract be awarded to:

Firm Name: BND Engineers, Inc.

Address: 1200 NW 78th Ave
Suite 400
Miami, FL 33126

Explanation: (Description of need for project; details of project; explanation of proposals)

The scope of work includes but is not limited to design and work related services for the upgrade of the existing Tract One Apron area of Miami International Airport. The scope of work consists of pavement removal, construction of new rigid concrete and flexible asphalt apron pavement, stormwater drainage improvements, utility relocation and removal, water main installation, lighting, signage and pavement markings in addition to improvements to life safety to bring the area into compliance with surrounding facilities. Drainage, phasing, maintenance of traffic (M.O.T.) and maintenance of tenant operations are key elements of the Tract One Apron project. Innovative phasing solutions may be required to ensure tenant operations are maintained during the apron reconstruction. The estimated construction budget for this project is $11,843,984.00.

Signature:

Title: Aviation Director

Department: Miami-Dade Aviation Department

MIAMI-DADE COUNTY
CONTRACT AWARD RECOMMENDATION
ARCHITECTURAL/ENGINEERING PROJECT

FUNDS BUDGETED

Code: 726539-CPB 04

By:

Date: 9/9/04

BUDGET DEPARTMENT CERTIFICATION

FUNDS AVAILABLE

Code: A

By:

Date: 9/15/04

STRATEGIC AREA: TRANSPORTATION
DEPARTMENT: Aviation

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

ENVIRONMENTAL ENGINEERING

LOCATION: Miami International Airport
Unincorporated Miami-Dade County

COMM DIST: Countywide

DESCRIPTION: Implement stormwater, water distribution, and sanitary sewer master plans; mitigate pollution of soil, ground water, and air; upgrade the fuel storage facility and distribution system.

REVENUE SCHEDULE:	PRIOR	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	FUTURE	TOTAL
Aviation Passenger Facility Charge	0	0	0	0	1,319	5,966	9,345	655	17,305
Future Aviation Revenue Bonds	0	0	7,562	10,762	7,547	3,472	0	6,583	35,926
Aviation Revenue Bonds Sold	225,027	16,757	0	0	0	0	0	0	241,784
TOTAL REVENUE:	**225,027**	**16,757**	**7,562**	**10,762**	**8,866**	**9,458**	**9,345**	**7,238**	**295,015**

EXPENDITURE SCHEDULE:	PRIOR	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	FUTURE	TOTAL
Planning/Design	180,275	1,054	323	674	938	1,135	1,272	943	186,614
Construction	44,752	15,703	7,239	10,088	7,928	8,323	8,073	6,295	108,401
TOTAL PROJECTED COST:	**225,027**	**16,757**	**7,562**	**10,762**	**8,866**	**9,458**	**9,345**	**7,238**	**295,015**

NORTHSIDE REDEVELOPMENT

LOCATION: Miami International Airport
Unincorporated Miami-Dade County

COMM DIST: Countywide

DESCRIPTION: Redevelop MIA's original Northside to improve cargo processing and aircraft maintenance functions, including construction of cargo buildings, re-paving of roads, and draining the apron areas adjacent to the cargo and maintenance buildings.

REVENUE SCHEDULE:	PRIOR	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	FUTURE	TOTAL
Future Aviation Revenue Bonds	0	0	1,317	7,132	10,273	1,377	0	0	20,099
Aviation Revenue Bonds Sold	50,853	6,085	0	0	0	0	0	0	56,938
TOTAL REVENUE:	**50,853**	**6,085**	**1,317**	**7,132**	**10,273**	**1,377**	**0**	**0**	**77,037**

EXPENDITURE SCHEDULE:	PRIOR	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	FUTURE	TOTAL
Planning/Design	12,491	1,891	1,169	1,014	668	109	0	0	17,342
Construction	38,362	4,194	148	6,118	9,605	1,268	0	0	59,695
TOTAL PROJECTED COST:	**50,853**	**6,085**	**1,317**	**7,132**	**10,273**	**1,377**	**0**	**0**	**77,037**

MEMORANDUM

TO: Betty Alexander, Division Director
Business & Professional Development Division
Department of Business Development

DATE: October 22, 2003

FROM: Pamela L. Paulk
A/E, Specifications & Standards Manager
Capital Improvements Construction Coordination

SUBJECT: Project Number Change

Be advised that the Miami-Dade Aviation Department (MDAD) initially designated the MIA Tract One, Drainage, Grading and Paving solicitation as a Certified Business Enterprise (CBE) set-aside project. As a result, said information was submitted to CICC, the Review Committee (RC), and the County Manager for project number assignment, review, and execution of the Request to Advertise (RTA), respectively.

After advertising this project, MDAD concurred to cancel the solicitation in order to advertise under the new Administrative Order 3-39 and explore possible federal funding sources. It is now the intention of MDAD to re-advertise this project with Disadvantaged Business Enterprise (DBE) goals. As a result, and in order not to confuse future respondents with respect to this solicitation, CICC decided to change the project's originally assigned number. The former project number was E03-MDAD-04 and has now been changed to E03-MDAD-05.

We apologize for any inconvenience this may cause you and thank you for your anticipated cooperation.

Should you have any questions and/or concerns regarding this matter, you may contact Ms. Pamela Paulk, A&E Standards & Specifications Manager, CICC, at (305) 375-1109.

c: Maryse Georges, MDAD
Art Tillburg, CICC

/rmw

03 OCT 34 AM 8:3

MEMORANDUM

XC: HG, CC, AS, AT, File

TO: Jorge Silveira
Procurement Management Department

DATE: September 4, 2003

FROM: Jasmine Jones
Business and Professional Development Division

SUBJECT: Federally Funded Projects Presented to the Review Committee

The project listed on the attached sheet was presented to the Review Committee on August 20, 2003 for informational purposes.

Enclosure:

CC: Howard Gregory

MINORITY AFFAIRS
2003 SEP -9 AM 8:11

16

MIAMI INTERNATIONAL AIRPORT

Miami Dade Aviation Department
Minority Affairs Division
Project Worksheet

Project/Contract Title: MIA Tract One Drainage, Grading & Pavement Improvements
Project/Contract No: E03-MDAD-04/F178A — **Funding Source: FAA Funding**
Estimated Cost of Project/Bid: $1,076,725.00 — **Resubmittal Date(s): 7/30/03**

Description of project/Bid: MDAD is planning to upgrade the existing Tract One apron area located on the North side of Miami International Airport to improve drainage, grading and pavement conditions of the area, improve life safety and bring the area into compliance with the surrounding facilities. The Tract One Apron area provides aircraft parking and ground storage equipment space for the Airborne facility, Commodore Aviation and Aerothrust. The Tract One area improvements are necessary due to a history of flooding and ponding caused by improper grading and lack of a drainage system, which adversely affect the working environment and tenant operations. Adjacent projects, such as the new North Side Runway and the Airborne Hangar facility are designed at higher-grade elevations with new drainage systems and pavement conditions, leaving the Tract One Apron area in a deteriorating condition. The project consist of, but it is not limited to, pavement removal, construction of a new rigid concrete and flexible asphalt apron pavement, stormwater drainage improvements, utility relocation and removal, water main installation, lighting signage and pavement markings. The approximately 10 acre Tract One Apron project will provide a continuous apron and replace aircraft parking positions lost due to the new North Side Runway and North Side redevelopment.

DBE Recommendation

Measure Goal	Program DBE	DBE Goal Percent
		25%

Reasons for Recommendation

This is a reasonable Goal, based on the availability of DBE firms for the Trade identified

Analysis for Recommendation

Subtrade	Cat.	Estimated Value	% of Items to Base Bid	Availability
General Electrical Engineering	DBE	$53,836.00	5%	3
General Civil Engineering	DBE	$172,173.00	16%	67
Engineering Construction Mgmt.	DBE	$43,069.00	4%	3
	Total	$269,078.00	25%	

Minority Affairs Recommendation

DBE Goal 25% — No Goal

Associate Director — Date 7/31/03 — Project Manager — Date 7/31/03

EXHIBIT B

Biscayne Building
19 West Flagler St., Suite 220
Miami, FL 33130
Phone: (305) 375-1946
Fax: (305) 579-2656
www.miamidadeig.org

Office of the Inspector General
Miami-Dade County

Memorandum

To: The Honorable Joe A. Martinez, Chair
Board of County Commissioners

The Honorable Dennis C. Moss, Vice-Chair
Board of County Commissioners

George M. Burgess
County Manager

From: Christopher Mazzella
Inspector General

Date: January 3, 2005

Re: OIG Investigation of Public Works Department (PWD) Contract PW 693509Q *Quality Neighborhoods Improvement Program (QNIP 2)* and PWD Consultant Contract E01-PW-02, EP-8 for *General Engineering Construction Management Services*

By way of this memorandum, I want to formally advise you of my office's investigation of the two above-captioned contracts. In the last week, there have been several emails exchanged between Office of the Inspector General (OIG) personnel and Miami-Dade County (County) personnel from the Miami-Dade Transit Department (MDT) and the Miami-Dade Aviation Department (MDAD) relative to the engineering firm BND Engineers, Inc. (BND). As the OIG investigation is still on-going and it would be premature to reveal all aspects of the investigation, I want to share what I believe is germane to currently proposed county contracts/contractors. This information is being provided solely to assist you in making whatever decision(s) or taking whatever action(s) you feel appropriate.

With regards to the aforementioned email discussions, BND is the proposed Disadvantaged Business Enterprise (DBE) sub-consultant to Parsons Transportation Group, Inc. on MDT's *North Corridor Project*. This project has not yet been awarded; it is currently scheduled for Board of County Commissioners (BCC) approval on January 20, 2005. Similarly, BND is also the proposed DBE sub-consultant to URS Engineering,

Inc. on the *Transit MIC Earlington Heights Final Design Contract*, which is scheduled for BCC approval on January 20, 2005. The OIG has been advised that, thereafter, the two MDT projects will then be placed before the Citizens Independent Transportation Trust (CITT) for approval.

With regards to the discussions emanating from the Aviation Department, BND is the design consultant for the project entitled *Tract One Apron Drainage, Grading and Pavement Improvement Project*. According to MDAD personnel, this project includes both design work and construction inspection services, and has been awarded to BND under the authority of the Expedite Ordinance (No. 00-104). This MDAD project is scheduled for BCC ratification on January 20, 2005.

The OIG has been advised that preliminary design work has already begun on this project. However, in light of the investigation, MDAD is holding BND from performing more work on the *Tract One Project* and is also suspending issuance of construction inspection work orders to BND until the conclusion of this investigation. MDAD is also re-inspecting BND's previous projects for full compliance with contract requirements.

It is with this backdrop that I feel it imperative to notify you about our investigation of the QNIP 2 Contract. A little over one month ago, in late November, the OIG was alerted to suspected construction deficiencies on a drainage improvement project located in the vicinity of SW 184th Street and SW 139th Court (Commission District 9). Work on this project (Work Order No. 2 of aforementioned QNIP 2 Contract) took place between February and April 2004. The alleged deficiencies generally related to the depth of the drainage trench, substitution of inferior materials and monetary overpayments. The construction work on Work Order No. 2 (as well as other work orders issued to the contractor under this project) was inspected by BND. BND has a professional services agreement (Contract No. E01-PW-02, EP-8) with the Public Works Department to provide engineering construction management services.

Based on the initial allegation and information learned through the course of the investigation, OIG and PWD personnel re-inspected several locations along the drainage trench of this work order. The re-inspection consisted of PWD personnel excavating several points in order to measure the trench depth. OIG personnel were also present in the field to observe the re-inspections. The re-inspection revealed that the certified inspection reports were incorrect by large margins, a few by over fifty percent (50%) of the required depth. The specified trench depths are calculated to ensure an appropriate percolation rate, and thus proper drainage. Each trench is several blocks in lengths, and the initial installation was, with no doubt, disruptive to the residents of the neighborhood. Based on confirmation of the deficiencies, PWD is developing a remediation plan to ensure proper drainage in the originally devised area. We would hope that this could be accomplished without further inconvenience to the residents.

TO 19

The re-inspections, thus far, have involved construction work performed by Magna Construction, Inc. The OIG has reason to believe that the problem extends beyond one construction firm, and therefore we will be expanding our inspection efforts to other contractors performing construction work in other regions of the County. We will keep you apprised of our inspection/re-inspection results.

As it relates to BND, while this investigation is by no means complete, PWD has withheld payment to it. In reference to the suspended payments, Mr. Basil S. Williams, President of BND, contacted the Deputy Inspector General by telephone, in my [the Inspector General's] presence, and explained to us that his company had no responsibility for the falsified inspections performed by his employee. According to Mr. Williams, his engineering firm neither supervises nor manages its employees assigned to perform inspection services under its consulting management agreement with PWD.

The OIG takes umbrage with this abdication of responsibility. Services rendered under the PWD agreement are for construction, engineering and inspection (CE&I) services. The task calls for monitoring the performance of the contractors, i.e. inspecting the work. These are professional services wherein a 2.1 multiplier, plus reimbursable expenses, is the applicable form of payment. BND is not a mere temporary employment agency—it is an engineering firm.

The OIG maintains that it should be in this County's best interest to ensure that companies that we engage must both perform professionally and responsibly. And while at this juncture the prevalent focus of the investigation is on the construction deficiencies, we cannot simply ignore the responsibility of those providing CE&I services to the County. Consequently, the failure by BND to take responsibility for its inspections services at PWD must be considered when awarding other contracts to it involving other County departments. Indeed, we would submit, and I am sure you would agree, that statements of responsibility on one contract, to one department, should be viewed as a statement of responsibility to the County as a whole.

As stated earlier, this investigation is on-going. The OIG continues to work with PWD to re-examine suspected deficiencies. Our investigative efforts are being worked in conjunction with the State Attorney's Office. And while this memorandum is not being provided to the companies named herein as a "draft report," copies are being furnished to them for information only. This memorandum will also be filed with the Clerk of the Board.

As stated from the onset, this information is being provided solely to assist you in making whatever decision(s) or taking whatever action(s) you feel appropriate. This office will keep you apprised on any developments to the fullest extent possible.

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cc: Hon. Katherine Fernandez Rundle, State Attorney
Eleventh Judicial Circuit, Miami-Dade County

Mr. Basil S. Williams, President
BND Engineering, Inc.

Mr. Mitchell Tonino, President
Magna Construction, Inc.

Clerk of the Board (copy filed)

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EXHIBIT C

Memorandum

19 West Flagler Street ◆ Suite 220 ◆ Miami, Florida 33130
Phone: (305) 375-1946 ◆ Fax: (305) 579-2656
visit our website at www.miamidadeig.org

To: George Burgess, County Manager

From: Christopher Mazzella
Inspector General

Date: October 11, 2006

Subject: Ratification of BND Engineer, Inc., Awards

Scan 2 Jose Abreu cc Pedro Hernandez (Airport)

As you are aware, the Office of the Inspector General (OIG) had previously interposed an objection to the ratification of contract awards to BND Engineering (BND) due to pending "settlement" discussions with BND relating to its inspectional services on Public Works Department, Project No. E01-PW-02. Under the corresponding construction drainage project, the contractor, Magna Construction, was criminally charged with fraud for work not performed and the substitution of used materials. BND provided the inspectional services on this project and while not implicated in the fraud, BND was clearly deficient in its inspections. As my office stated back in January 2005 (Attachment A), "we simply cannot ignore the responsibility of those providing CE&I [construction, engineering and inspection] services to the County."

Just recently, the Public Works Department (PWD) has apparently concluded its "discussions" with BND on the subject contract by withholding $27,000 based on performance not to the satisfaction of the PWD (Attachment B). In light of this position, the OIG questions the County's prospective ratification of BND contract awards. The OIG's position has not changed since January 2005. "[T]he failure by BND to take responsibility for its inspections services at PWD must be considered when awarding other contracts to it involving other County departments."

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OMC CAPITAL IMPROVEMENTS

cc: The Honorable Chairperson Joe A. Martinez, Board of County Commissioners
The Honorable Natacha Seijas, Chair, Infrastructure and Land Use Committee
Carlos Bonzon, Assistant County Manager
Roger Carlton, Assistant County Manager
Esther Calas, Director, Public Works Department
Roger T. Hernstadt, Director, Office of Capital Improvements
Art Tillberg, Analyst, Office of Capital Improvements
Basil Williams, President, BND Engineer, Inc.

Clerk of the Board (copy filed)

MIAMI-DADE COUNTY

September 25, 2006

Public Works Department
Director's Office
111 NW 1st Street • Suite 1610
Miami, Florida 33128-1970
T 305-375-2960 F 305-375-3070

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Public Library System
Public Works
Safe Neighborhood Parks
Seaport
Solid Waste Management
Strategic Business Management
Team Metro
Transit
Task Force on Urban Economic Revitalization
Vizcaya Museum And Gardens
Water & Sewer

Mr. Basil S. Williams, President
BND
1200 N.W. 78 Avenue, Suite 400
Miami, Florida 33126

Re: Public Works Department, Project No. EO1-PW-02, E

Dear Mr. Williams:

As you may know, the Office of the Inspector General had investigated the contractor Magna Construction, Inc., on a drainage construction project (also known as Project No. 693509Q) under contract with our Department. BND Engineers (BND) were performing engineering inspection services during the construction of the referenced project from February 2004 through May 2004.

By way of this letter, we are notifying you that the Public Works Department (PWD) will retain $27,000 of monies owed to BND because the services performed by BND for the inspection of the drainage construction on work orders 2 and 3 under Project No. 693509Q were not performed to the satisfaction of the PWD. This action is justified under Section IX of BND Engineers' Non-Exclusive Agreement (referenced above) with the County.

In addition, the County will notify your professional liability insurance carrier by putting them on notice should BND become legally obligated in the future to pay for damages for claims arising out of the inspection services performed on the referenced drainage project.

We hope that this letter clarifies PWD's position after several unsuccessful attempts to reach an agreement finalizing BND obligations. While the County does not release BND of future liability, the PWD will at this time take no further action in this matter and consider this issue closed.

If you require additional information or clarification, please contact me or Mr. Octavio Marin, P.E., Chief, Construction Division at (305) 375-2111.

Sincerely,

Esther Calas, P.E.
Director

cc: Carlos F. Bonzon, Ph.D., P.E., Assistant County Manager
Hugo Benitez, County Attorney's Office
Christopher Mazella, Office of Inspector General
Octavio Marin, PWD
Art Tilberg, Office of Capital Improvements
Pedro Hernandez, Aviation Department, MIA

P:\Documents\Basil Williams BND.doc

Attachment B

EXHIBIT D

Memorandum

19 West Flagler Street ◆ Suite 220 ◆ Miami, Florida 33130
Phone: (305) 375-1946 ◆ Fax: (305) 579-2656
visit our website at www.miamidadeig.org

To: George Burgess, County Manager

From: Christopher Mazzella, Inspector General

Date: November 6, 2006

Subject: BND Engineers, Inc.; Ref. IG04-110

By way of this memorandum, the Office of the Inspector General (OIG) wishes to advise you of the OIG's position on BND Engineers, Inc. (BND) and any proposed contract awards to the firm. The OIG, on October 11, 2006, had issued a memorandum questioning BND's acceptance of responsibility relative to its inspectional services provided under Project No. E01-PW-02 on a Public Works Department Storm Drainage Project performed by Magna Construction Inc. (Magna).

The OIG's investigation of the Magna project revealed fraud in the construction of the project resulting in criminal charges against Magna. A BND employee was the assigned inspector on the case, and while BND was not implicated in the fraud, the OIG has expressed concern that the inspectional services provided by BND to the County were deficient.

At BND's request, the OIG recently met with BND principals, Mr. Basil Williams and Mr. Kevin Keane, to address matters of responsibility. The discussion was productive and BND agreed to affirm its acceptance of responsibility in writing. Attached is BND's letter affirming its responsibility in this matter. As such, this memorandum serves to communicate that the OIG is satisfied that BND has accepted responsibility for its part in this storm drainage project's constructional deficiencies. Please feel free to contact me should there be any questions in this matter.

Attachment

cc: The Honorable Chairperson Joe A. Martinez, Board of County Commissioners
The Honorable Natacha Seijas, Chair, Infrastructure and Land Use Committee
Carlos Bonzon, Assistant County Manager
Roger Carlton, Assistant County Manager
Esther Calas, Director, Public Works Department
Roger T. Hernstadt, Director, Office of Capital Improvements
Art Tillberg, Analyst, Office of Capital Improvements
Basil Williams, President, BND Engineer, Inc.
Clerk of the Board (copy filed)

October 27, 2006

Mr. Christopher Mazzella, Inspector General
Miami-Dade County
Office of the Inspector General
19 West Flagler Street
Suite 220
Miami, Florida 33130

RE: OIG Case No. 04-110

Dear Mr. Mazzella,

BND Engineers, Inc. (BND) is writing this letter at the request of the Miami-Dade County Inspector General (IG) as it relates to the OIG's memorandum to the Miami-Dade County Manager, dated October 11, 2006 regarding the Ratification of BND Engineers, Inc., Awards. The OIG memorandum refers to the OIG investigation of Magna Construction (OIG Case no. 04-110).

Upon receipt and review of the foregoing memorandum, BND scheduled a meeting with the Inspector General to present and clarify BND's position in this matter. The meeting was held at the Office of the Inspector General on October 26, 2006 between Mr. Christopher Mazzella, Inspector General, Ms. Patra Liu, Assistant Inspector General, Basil Williams and Kevin Keane of BND. BND presented a background, history of the matter and BND's role on the project. The IG stated that BND has not formally accepted responsibility for the inspector's actions under the PWD contracts. BND stated that we did accept responsibility and was negotiating in good faith with the PWD, following the OIG's assistance, to arrive at a Settlement. Additionally, BND has attempted to determine specific details of the case/investigation from the PWD. We also reiterated the position that our firm would continue to assist and cooperate with the County in the investigation.

Upon further discussion, the IG suggested that BND issues a formal letter restating and clarifying our position regarding responsibility in order to resolve the issue.

By this letter, BND reaffirms the following:

1. BND accepts full responsibility for all our employees. We refer to our letter dated January 11, 2005.

2. Additionally, BND is willing to participate in the Settlement and share proportionally in any remediation costs directly due to our employee's actions which may have resulted in errors or omissions.

We thank you for allowing us to present and clarify our position and hope this letter satisfies all your concerns. Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,

BND ENGINEERS, INC.

Basil Williams

Basil S. Williams
President

cc: Ms. Patra Liu, Assistant Inspector General, Legal Counsel, **OIG**