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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

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

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: June 7, 2011

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

SUBJECT: Resolution approving settlement between BND Engineers, Inc. and Miami-Dade County in the amount of $143,586.00

Resolution No. R-433-11

The accompanying resolution was prepared by the Aviation Department and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: June 7, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Subject: Settlement Agreement to the Non-Exclusive Professional Services Agreement with BND Engineers, Inc., in the amount of $147,586.00

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached Settlement Agreement to the Non-Exclusive Professional Services Agreement (PSA) between BND Engineers, Inc. (BND) and Miami-Dade County in the amount of $147,586.00.

SCOPE

Miami International Airport (MIA) is located primarily within Commissioner Rebeca Sosa's District Six. However, the impact of this agenda item is countywide in nature since MIA is a regional asset.

FISCAL IMPACT/FUNDING SOURCE

The fiscal impact to the County is $147,586.00 and shall be paid from Construction Funds, index code EA501 941200.

BACKGROUND

In February 1999, BND and Miami-Dade County entered into a Non-Exclusive Miscellaneous Professional Services Agreement (PSA) in which BND agreed to provide, among other things, engineering services as needed by the County and authorized by issuance of a Service Order. Under the PSA, BND was tasked to provide design services in connection with the Taxi Lot Renovation (the Project) at MIA. The project included partial demolition of the existing facility, the addition of a group restroom and dispatch office, and the capital remodeling/renovation of the entire building to address functional and accessibility issues. All of the services provided by BND in connection with both the Taxi Lot Renovation and the entire PSA were completed by the spring of 2009. The PSA has since been closed. The original PSA amount was $3,543,750.00.

BND originally asked for the lump sum of $142,011.00 to perform the design services needed for the project. Rather than accept BND's lump-sum proposal, the Aviation Department (MDAD) directed BND to proceed with the scope of services identified in the proposal on a time-and-materials basis, with such services Not-To-Exceed (NTE) $75,000. MDAD subsequently issued additional NTE authorizations in the amounts of $61,800 and $92,000, but there is a disagreement between the parties as to whether the third NTE authorization of $92,000 was in lieu of or in addition to the first and second NTE authorizations.

The third authorization did not expressly cancel, void or replace the prior authorizations, and BND claimed to have relied, to its detriment, on all three NTE authorizations in continuing to provide necessary services to complete the project. BND also asserted that, at MDAD's request, it provided substantially more services than originally contemplated in the proposal or authorized by the three prior NTE authorizations in response to Building Department requirements, construction delays and other unforeseen issues. These additional necessary services which MDAD requested BND to perform were

provided by BND and its subconsultants Leo A. Daly, Louis J. Aguirre and Associates, and Bliss & Nitray.

To date, BND has received $92,000 from MDAD in connection with Service Order 10. BND, on behalf of itself and its subconsultants, submitted a claim in the amount of $188,737.70 for the unreimbursed portion of the services and associated expenses provided by them in connection with the Project. MDAD's consultant Alpha Corporation reviewed the BND claim, requested and received supplemental information from BND and its subconsultants specifically detailing the time and work performed. Alpha met several times with representatives of BND and its subconsultants to discuss the claim and resolve disputed issues. Alpha eventually recommended that MDAD resolve BND's claim for the amount of $147,586.00, based on work performed by BND. MDAD subsequently offered to settle the claim for that recommended amount subject to approval by the Board. BND and its subconsultants accepted MDAD's offer.

It is therefore in the County's best interest to authorize the Mayor or the Mayor's designee to execute the attached Change Order and Settlement Agreement in the amount of $147,586.00.

Assistant County Manager

MEMORANDUM
(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: June 7, 2011

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

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

Please note any items checked.

_____ **"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**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(B)
6-7-11

RESOLUTION NO. R-433-11

RESOLUTION APPROVING SETTLEMENT BETWEEN BND ENGINEERS, INC. AND MIAMI-DADE COUNTY IN THE AMOUNT OF $143,586.00

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 the County Mayor or Mayor's designee is authorized to execute the attached settlement agreement with BND Engineers Inc., in the amount of $143,586.00, in substantially the form attached hereto and incorporated herein.

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

Joe A. Martinez, Chairman	aye		
Audrey M. Edmonson, Vice Chairwoman	aye		
Bruno A. Barreiro	absent	Lynda Bell	aye
Esteban L. Bovo, Jr.	aye	Jose "Pepe" Diaz	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	absent
Xavier L. Suarez	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of June, 2011. 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: DIANE COLLINS
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

David M. Murray

BND
ENGINEERS, INC.

February 4, 2011

Mr. James Thompson
Alpha Construction & Engineering Corporation
5757 Blue Lagoon Drive, Suite 210
Miami, Florida 33126

RE: BND Team Certified Claim For Payment
Final Settlement and Release Agreement
MDAD Taxi Lot Expansion, Capital Remodeling and Renovations (0-105-A)
Resolution # R-115-99/Service Order #10
BND Project No. 2008-05

Dear Mr. Thompson,

BND Engineers, Inc., has reviewed and executed the attached Final Settlement and Release Agreement from Miami-Dade County regarding the Certified Claim for payment related to the Additional Services provided under the above referenced Professional Services Agreement (PSA).

BND Engineers has also provided the required waivers, indemnification clauses and releases from Leo A Daly and their subconsultants (Louis J Aguirre & Associates and Bliss & Nyitray).

Therefore, in order to bring this matter to a close, we respectfully request that Alpha Corporation review the information contained and forward the Final Settlement and Release Agreement to Miami-Dade County for final execution and processing.

We are available to meet with you to discuss any additional questions regarding the information submitted.

Sincerely,
BND Engineers, Inc.,

Kevin A. Keane, P.E.
Senior Vice-President

Attachments: 1. Final Settlement Agreement and Release, executed by BND
2. Waivers and Releases from Leo A Daly, Louis Aguirre & Associates and Bliss & Nyitray

pc: Basil S. Williams, BND
Abdel F. Martel, Leo A Daly
Paul Zilio, Bliss & Nyitray, Inc.
Louis Aguirre, Louis J. Aguirre & Associates, P.A.
Doug Jorge, MDAD

FINAL SETTLEMENT AND RELEASE AGREEMENT

THIS FINAL SETTLEMENT AND RELEASE AGREEMENT (the "Agreement") is made and entered into this __ day of January 2011 by and between Miami-Dade County, a political subdivision of the State of Florida (the "**County**") and BND Engineers, Inc., a Florida corporation ("**BND**"). The **County** and **BND** are also herein after collectively referred to from time to time as the **Parties**. Except as may otherwise be specifically set forth below, the **Parties** shall be deemed to include each and all of their respective divisions, operating units, affiliated companies, subsidiaries, parents, insurers, predecessors, successors, assignees, administrators, executors, officers, trustees, employees, former employees, agents, attorneys and other representatives.

WHEREAS, the intent of this **Agreement** is to fully and finally resolve all disputes and controversies that have arisen between the **Parties** in accordance to the terms of this **Agreement**, including without limitation, all monies owed or alleged to be owed, additional costs, certified and other claims, all allegations, legal claims, and causes of action of whatever nature or kind which were or could have been asserted by or through **BND** arising out of or relating to MDAD Project No. 0-105A, MIA Taxi Lot Renovations Project at Miami International Airport (the "**Project**") and Miscellaneous Construction Inspection Services PSA Per BCC Resolution 115-99 approved on 02/02/1999 (the "**PSA**"); and

WHEREAS, BND asserted various demands against the **County** for services and/or work performed or in connection with the **Project** (hereinafter the "Work"), which are included within a written claim dated November 20, 2009, as supplemented by letter dated June 2, 2010, and certified under the County's False Claims Ordinance for additional cost in the amount of **$188,737.70** (hereinafter the "**Certified Claim**"); and

WHEREAS, BND and the **County** have agreed to settle the **Certified Claim** and close out the Project for the lump sum amount of total combined amount of **One Hundred Forty-Seven Thousand Five Hundred Eight-Six Dollars ($147,586.00)**, as full accord and satisfaction of all work included in the Certified Claim, and all services required of **BND** to close out the Project (collectively referred to herein as the "**Final Settlement Amount**"); and

WHEREAS, BND and **MDAD** are desirous of settling any and all disputes between them for the **Final Settlement Amount** of **One Hundred Forty-Seven Thousand Five Hundred Eight-Six Dollars ($147,586.00)**, and in agreeing to this **Final Settlement Amount**, the **Parties** acknowledge that both **BND** and the **County** have compromised their respective positions in good faith, and

WHEREAS, the County, acting through the Miami-Dade Aviation Department ("**MDAD**") agrees to execute this Agreement and pay the **Final Settlement Amount** to **BND** conditioned upon approval of this Agreement pursuant to applicable **County** ordinances and resolutions; and

WHEREAS, the **Parties** understand and agree that this **Agreement** constitutes a settlement of disputed claims, liability for which is expressly denied; and

WHEREAS, this **Agreement** is not now nor shall it be construed or interpreted, in any way, to be an admission of liability, guilt, or non-compliance with any federal, state, or local statute, public policy, tort law, contract law, common law, or any other wrongdoing whatsoever; and

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 is hereby acknowledged by the **Parties**, the **County** and **BND** hereby stipulate, agree, and contract as follows:

1. The Recitals and **"WHEREAS"** clauses set forth above are incorporated by reference as if fully set forth herein.

2. Upon **BND's** receipt of the **Final Settlement Amount, BND** does, for itself and its officers, directors, employees, shareholders, representatives, assigns, heirs, executors, administrators, and affiliates does completely, fully and unconditionally release and discharge the **County** and its various departments, agencies, sureties, affiliates of every kind or nature, subsidiaries, successors, assigns, and predecessors, as well as the **County's** present or former attorneys, officers, directors, partners, agents, employees, and/or affiliates of every kind or nature from and against any and all claims, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variance, trespasses, damages, judgments, executions, demands, obligations, liability or responsibility, whether known or unknown, in law or in equity, arising out of or relating to the **Project**, the **PSA**, and/or the **Certified Claim.**

3. **BND's** receipt of the **Final Settlement Amount** shall constitute full accord and satisfaction of any and all claims, brought or asserted by, or on behalf of, or through **BND** or any of its subconsultants or suppliers (of any tier), or which could have been brought or asserted by same, arising out of or relating to the **Project, the PSA** and/or the **Certified Claim**, including without limitation any such claims by Leo A. Daly Company, Louis J. Aguirre and Associates, PA, and Bliss & Nyitray, Inc. (collectively the **"Subconsultants"**), for whom amounts where included in the **Certified Claim.** **BND** specifically and unconditionally waives any claim for or entitlement to any further compensation (other than to the **Final Settlement Amount**) for additional work, delay or otherwise arising out of or relating to **the Project**, the **PSA** and/or the **Certified Claim.** Also, as an express condition precedent to the **County's** obligation to pay **BND** the **Final Settlement Amount**, **BND** shall deliver full and finial waivers and releases from the **Subconsultants.**

4. Additional Representations and Warranties. The **Parties** further represent and warrant to each other as follows:

(a) The **Parties** have read this **Agreement** and understand its terms and their effect upon their respective rights and duties hereby undertaken; and

(b) Prior to executing this **Agreement**, the **Parties** had the opportunity to consult with its legal counsel regarding the meaning, consequences and effects of this **Agreement**, and that any and all questions either of them may have had concerning this **Agreement** have been fully answered and resolved; and

(c) Each of the **Parties** have full power and authority to execute, deliver, and perform this **Agreement** and, upon the occurrence of all conditions precedent contained herein, this **Agreement** will constitute a legal, valid, and binding obligation, enforceable in accordance with the terms of this **Agreement**; and

(d) The persons executing this **Agreement** on each **Party's** behalf is duly authorized to execute and deliver this **Agreement** by an on that **Party's** behalf.

5. Cooperation in Connection with **Agreement**. Each of the **Parties** shall cooperate fully and execute any and all additional documents and take such further actions which may be reasonably necessary or appropriate in the opinion of the other **Party** or their respective counsel to give full force and effect to the terms and intent of this **Agreement.**

6. Confidentiality. The **Parties** shall treat the terms of this **Agreement** as **CONFIDENTIAL**, except to the extent that is necessary in an action to enforce its provisions or to comply with Florida statutes, including without limitation Chapter 119, Fla. Stat, except that either **Party** may generally represent to third parties that this matter has been amicably resolved, and may also disclose the terms and conditions of this **Agreement** to their respective legal counsel, auditors, inspectors and other consultants and advisors who may need to know in order to provide required services and/or advise.

7. Additional Provisions.

(a) This **Agreement** represents the complete understanding between the **Parties** regarding the subject matter hereof. The **Parties** agree that, in entering into this **Agreement**, they have neither relied upon nor have they been influenced by any representations other than those set forth in this **Agreement**.

(b) This **Agreement** is the product of negotiations by **Parties** represented by legal counsel and therefore shall not be construed or interpreted against either of the **Parties** based on authorship or for any other reason.

(c) Should any section, subsection, or provision of this **Agreement** be declared or determined finally by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and such illegal or invalid part, term, or provision shall be deemed not to be part of this **Agreement**.

(d) This **Agreement** shall be governed by and construed in accordance with the laws of the State of Florida.

(e) No waiver of any provision of **this Agreement**, or the breach thereof, shall be deemed a waiver or breach of any other provision.

(f) Except as otherwise expressly provided in this **Agreement**, this **Agreement** shall be binding upon and shall inure to the benefit of the **Parties** hereto and, as may be applicable, their divisions, affiliates, subsidiaries, parents, insurers, successors, predecessors, assigns, administrators, executors, heirs, officers, employees, former employees, agents, attorneys, persons in their individual capacity and other representatives.

(g) This **Agreement** may be executed in multiple counterparts, each of which shall constitute an original and which together shall constitute a single **Agreement**.

(h) If this Agreement is not subsequently ratified and approved by the Director and/or the Miami-Dade County Board of County Commissioners, as the case may be per applicable resolution, this **Agreement** shall be null and void, and **BND** shall return to the County all **Final Payment Amount** funds paid to **BND** hereunder.

8. In consideration of payment of the **Final Settlement Amount** to **BND** by the **County**, **BND** shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the **County** and its departments, agencies, divisions, sureties, affiliates of every kind or nature, subsidiaries, successors, assigns, and predecessors, as well as its present or former attorneys, officers, directors, commissioners, elected and appointed officials, partners, agents, employees, and/or affiliates of every kind (hereinafter the **"Released Parties"**) from any and all liability, losses or damages, including without limitation attorney's fees and costs of defense, that the **Released Parties** may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature by **BND** or any of **BND's** subconsultants or suppliers that performed work on the Project third parties, relating to the **Final Settlement Payment**, the **Project**, the **PSA** and/or the **Certified Claim**. **BND** 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. Notwithstanding the foregoing, this indemnification shall not be construed to include claims of, or damages resulting from, the gross negligence, or willful, wanton or intentional misconduct of the **Released Parties**, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of **BND** or any of **BND's** subconsultants, sub-subconsultants, or agents of any tier or their respective employees. 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.

INTENTIONALLY LEFT BLANK (SIGNATURE PAGES FOLLOW)

BND ENGINEERS, INC.

Signature

Kevin A Keane

Printed Name

Senior Vice President

Title

STATE OF FLORIDA)

:ss:

COUNTY OF Dade

THIS 4 day of February, 2011, Kevin A. Keane personally appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, and upon first being duly cautioned and sworn, acknowledged to and before me that he/she executed the foregoing Release, and that the same are true and correct to the best of his/her knowledge, information and belief.

SUBSCRIBED and **SWORN** TO before me _____, said County and State, this 4 day of February, 2011.

NOTARY PUBLIC, State of Florida

Print name:

My Commission Expires:

Notary Public State of Florida
J. Katherine Simmonds
My Commission DD796635
Expires 06/10/2012

✓ Personally Known, or

_____ Produced _____, as identification

MIAMI-DADE COUNTY and MIAMI-DADE COUNTY AVIATION DEPARTMENT

_____
Signature

_____
Printed Name

_____
Title

STATE OF FLORIDA)
:ss:
COUNTY OF _____

THIS___ day of _____, 2011, _____ personally appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, and upon first being duly cautioned and sworn, acknowledged to and before me that he/she executed the foregoing Release, and that the same are true and correct to the best of his/her knowledge, information and belief.

SUBSCRIBED and **SWORN** TO before me _____ , said County and State, this ___day of _____, 2011.

_____
NOTARY PUBLIC, State of Florida

Print name:
My Commission Expires:

_____ Personally Known, or
_____ Produced _____, as identification

LEO A DALY

(305) 461-9480
AFMartel@leoadaly.com

PLANNING
ARCHITECTURE
ENGINEERING
INTERIORS

EST. 1915

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TIANJIN
WACO
WASHINGTON, DC

January 31, 2011

BND Engineers, Inc.
4090 NW 97 Avenue
Miami, FL 333178

Attn: Mr. Basil S. Williams
President/CEO

Subject: MDAD Project No. 0-105A, MIA Taxi Lot Renovations Project at Miami International Airport – Sub consultants' Final Settlement Amount; waiver and release of claim.
LEO A DALY Project No. 061.10045.000, 001& 002.

This final settlement and release agreement is made and effective this 31 day of January 2011 by and between **LEO A DALY COMPANY**, a Nebraska Corporation with its offices in Miami, Florida and **BND ENGINEERS, INC.**, a Florida corporation ("BND"). This document serves as Final agreement between the aforementioned parties in Settlement for the lump sum amount of **One Hundred Twenty-Six Thousand Two hundred Twenty-Nine Dollars and Forty-One Cents ($126,229.41)** (Final Settlement Amount) for the above referenced project. Such amount will be payable by **BND** to **LEO A DALY COMPANY** and its Subconsultants as follows:

LEO A DALY	$ 87,047.37
LEO A DALY Expenses	$ 1,168.87
Bliss & Nyitray, Inc.	$ 15,315.35
Louis J. Aguirre & Assoc.	$ 22,697.82
TOTAL	**$ 126,229.41**

Receipt of the **"Final Settlement Amount"** constitutes full accord and satisfaction of any and all claims, brought or asserted by, or made on behalf of, or **LEO A DALY** and its Subconsultants or suppliers, or which could have been brought or asserted by same, arising out of or relating to the project. This Final agreement includes without limitation any such claims by **Louis J. Aguirre and Associates, PA**, and **Bliss & Nyitray, Inc.** (collectively the "Subconsultants"), for whom amounts are included in this document. **LEO A DALY COMPANY** and its Subconsultants herby specifically and unconditionally waive any claim for or entitlement to any further compensation (other than to the Final Settlement Amount) for additional work, delay or otherwise arising out of or relating to the project, as stipulated in the Final Settlement and Release Agreement between Miami-Dade County and BND, Item #2. Furthermore, **LEO A DALY** and its Subconsultants hereby endorse and agree with the terms specified in clause 7 (h) of the Final Settlement and Release Agreement. Please refer to enclosed releases of **Louis J. Aguirre and Associates, PA**, and **Bliss & Nyitray, Inc.**

In consideration of payment of the **Final Settlement Amount** to **LEO A DALY COMPANY and its Subconsultants** by **BND**, **LEO A DALY** and its subconsultants shall, to the fullest extent permitted by law, defend, indemnify and hold harmless **BND** and **Miami-Dade**

FLORIDA LICENSE
No. AA-C000734

3390 MARY STREET
SUITE 216
MIAMI, FL 33133
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www.leoadaly.com

County and its departments, agencies, divisions, sureties, affiliates of every kind or nature, subsidiaries, successors, assigns, and predecessors, as well as its present or former attorneys, officers, directors, commissioners, elected and appointed officials, partners, agents, employees, and/or affiliates of every kind (hereinafter the **"Released Parties"**) from any and all liability, losses or damages, including without limitation attorney's fees and costs of defense, that the **Released Parties** may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature by **LEO A DALY** or any of **LEO A DALY'S** sub consultants or suppliers that performed work on the Project third parties, relating to the **Final Settlement Payment**, the **Project**, the **PSA** and/or the **Certified Claim**. **LEO A DALY and its Subconsultants** 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. Notwithstanding the foregoing, this indemnification shall not be construed to include claims of, or damages resulting from, the gross negligence, or willful, wanton or intentional misconduct of the **Released Parties**, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of **LEO A DALY** or any of **LEO A DALY's** subconsultants, or agents of any tier or their respective employees. 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.

Sincerely,
LEO A DALY COMPANY

Abdel F. Martel, Vice President
Director of Operations

~~Basil S. Williams~~ Kevin A. Kehne
BND engineers, Inc.

The foregoing instrument was acknowledged before me this 4 day of February, 20 11, by ABDEL F. MARTEL, [X] who is personally known to me or [ ] who has produced _____ as identification and who did take an oath.

Notary Public

DIANE CINTRA
(Print Notary Name)
State of Florida at Large
My Commission Expires: 1/16/15

DIANE CINTRA
MY COMMISSION # EE062117
EXPIRES January 16, 2015
(407) 398-0153 FloridaNotaryService.com

BLISS & NYITRAY, INC.
STRUCTURAL ENGINEERS

January 31, 2011

Leo A. Daly
3390 Mary Street, Suite 216
Miami, FL 33133

Attention: Mr. Abdel Martel

Reference: MDAD Project No. 0-105A, MIA Taxi Lot Renovations Project
Miami International Airport
Sub consultant's Final settlement amount, waiver and release of claim.
LEO A DALY Project No. 061.10045.000, 001& 002
BNI Project No. 08M09

Dear Abdel,

This final settlement and release agreement is made into this 25 day of January 2011 by and between **BLISS & NYITRAY, INC.**, a Florida Corporation with office in Miami, Florida (BNI) and **LEO A DALY**, a Nebraska Corporation with office in Miami ("LAD"). This document serves as Final agreement between the aforementioned parties in Settlement for the lump sum amount of **Fifteen Thousand Three Hundred Fifteen Dollars and Thirty Five Cents ($15,315.35)** for the above referenced project.

Receipt of the **"Final Settlement Amount"** constitutes full accord and satisfaction of any and all claims, brought or asserted by, or on behalf of, **BLISS & NYITRAY, INC.**, or which could have been brought or asserted by same, arising out of or relating to the project. **BLISS & NYITRAY, INC.** herby specifically and unconditionally waive any claim for or entitlement to any further compensation (other than to the Final Settlement Amount) for additional work, delay or otherwise arising out of or relating to the project, as stipulated in the Final Settlement and Release Agreement between Miami-Dade County and BND, Item #2. Furthermore, **BLISS & NYITRAY, INC.** endorses and agrees with the terms specified in clause 7 (h) of the Final Settlement and Release Agreement.

In consideration of payment of the **Final Settlement Amount** to **BLISS & NYITRAY, INC.**, by **LAD, BLISS & NYITRAY, INC.**, shall, to the fullest extent permitted by law, defend, indemnify and hold harmless **LAD** and Miami-Dade County and its departments, agencies, divisions, sureties, affiliates of every kind or nature, subsidiaries, successors, assigns, and predecessors, as well as its present or former attorneys, officers, directors, commissioners, elected and appointed officials, partners, agents, employees, and/or affiliates of every kind (hereinafter the **"Released Parties"**) from any and all liability, losses or damages, including without limitation attorney's fees and costs of defense, that the **Released Parties** may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature by **BLISS & NYITRAY, INC.**, relating to the **Final Settlement Payment**, the **Project**, the **PSA** and/or the **Certified Claim. LAD** shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or

800 Douglas Road, Suite 300 | Coral Gables, Florida 33134 | PHONE 305-442-7086 FAX 305-442-7092
www.bniengineers.com
Miami | Tallahassee | West Palm Beach

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. Notwithstanding the foregoing, this indemnification shall not be construed to include claims of, or damages resulting from, the gross negligence, or willful, wanton or intentional misconduct of the **Released Parties**, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of **BNI** or their respective employees. 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.

Sincerely,
BLISS & NYITRAY, INC.

Paul A. Zilio
Bliss & Nyitray, Inc.

Abdel F. Martel, Vice President
Director of Operations- Leo A Daly

The foregoing instrument was acknowledged before me this 31 day of January, 2011, by Paul Zilio, [✓] who is personally known to me or [ ] who has produced _____ as identification and who did take an oath.

Notary Public

Selfida Curtis Aub
(Print Notary Name)
State of Florida at Large
My Commission Expires: _____

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EXPIRES: DEC. 21, 2014
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LOUIS J. AGUIRRE & ASSOCIATES, P.A.
Consulting Engineers

January 31, 2011

LEO A DALY
3390 Mary Street, Suite 216
Miami, Florida 33133

Attn: Mr. Abdel F. Martel
Director of Operations

Re: MDAD Project No. 0-105A, MIA Taxi Lot Renovations Project at Miami International Airport – Sub consultant's Final settlement amount, waiver and release of claim.
Leo A Daly Project No. 061.10045.000, 001& 002
LJA Project #18054.000

Dear Mr. Martel:

This final settlement and release agreement is made into this 31st day of January 2011 by and between **Louis J. Aguirre & Associates, P.A.** a Florida corporation and **Leo A Daly Company,** a Nebraska Corporation with office in Miami, Florida. This document serves as Final agreement between the aforementioned parties in Settlement for the lump sum amount of **Twenty Two Thousand Six Hundred Ninety-Seven and Eighty-Two Cents ($22,697.82)** for the above referenced project. Such amount will be payable to **Louis J. Aguirre & Associates, P.A.** as follows:

Louis J. Aguirre & Associates, P.A.	
TOTAL	**$ 22,697.82**

Receipt of the **"Final Settlement Amount"** constitutes full accord and satisfaction of any and all claims, brought or asserted by, or on behalf of, **Louis J. Aguirre & Associates, P.A.**, or which could have been brought or asserted by same, arising out of or relating to the project. **Louis J. Aguirre & Associates, P.A.** herby specifically and unconditionally waives any claim for or entitlement to any further compensation (other than to the Final Settlement Amount) for additional work, delay or otherwise arising out of or relating to the project, as stipulated in the Final Settlement and Release Agreement between Miami-Dade County and BND, Item #2. Furthermore, **Louis J. Aguirre & Associates, P.A.** endorses and agrees with the terms specified in clause 7 (h) of the Final Settlement and Release Agreement.

In consideration of payment of the **Final Settlement Amount** to **Louis J. Aguirre & Associates, P.A.** by **Leo A Daly** shall, to the fullest extent permitted by law, defend, indemnify

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and hold harmless **Leo A Daly** and Miami-Dade County and its departments, agencies, divisions, sureties, affiliates of every kind or nature, subsidiaries, successors, assigns, and predecessors, as well as its present or former attorneys, officers, directors, commissioners, elected and appointed officials, partners, agents, employees, and/or affiliates of every kind (hereinafter the **"Released Parties"**) from any and all liability, losses or damages, including without limitation attorney's fees and costs of defense, that the **Released Parties** may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature by **Louis J. Aguirre & Associates, P.A.**, relating to the **Final Settlement Payment**, the **Project**, the **PSA** and/or the **Certified Claim**. **Leo A Daly** 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. Notwithstanding the foregoing, this indemnification shall not be construed to include claims of, or damages resulting from, the gross negligence, or willful, wanton or intentional misconduct of the **Released Parties**, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of **Louis J. Aguirre & Associates, P.A.**, or their respective employees. 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.

Sincerely,

LOUIS J. AGUIRRE & ASSOCIATES, P.A.

Louis J. Aguirre, P.E., LEED® AP
President

Leo A Daly

Abdel F. Martel, Vice President
Director of Operations

The foregoing instrument was acknowledged before me this 31st day of January, 2011, by Louis J. Aguirre, [X] who is personally known to me or [ ] who has produced _____ as identification and who did take an oath.

Notary Public

Jessica Hernandez
(Print Notary Name)

State of Florida at Large
My Commission Expires:

Jessica Hernandez
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