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**BROWARD
COLLEGE**

Define yourself.

To: Members of the Board of Trustees

From: J. David Armstrong Jr., President

Date: August 25, 2009

Place: Regular Meeting of the Board of Trustees
Broward College
Willis Holcombe Center
111 East Las Olas Boulevard, Bldg 33/Room 1208
Ft. Lauderdale, FL 33301

Subject: Agenda Item VII-F - MEP Structural Engineering & Inspections, Inc.

Brief Description:

The attached is the contract agreement with MEP Structural & Inspection, Inc. for the Building Code Administration Plan Review and Building Code Inspection Services. The selection of MEP Structural Engineering was approved by the Board on May 26, 2009.

Benefit to BC:

The approval of this contract with MEP will provide the College with an inspection service readily available for the many construction projects in process at the College.

Relationship to College Master Plan:

Goal 8 -Make strategic choices about instructional program.

RECOMMEND APPROVAL

Board Agenda Approved: _____
Date: _____

Agenda Item VII-F
Enclosure _____

**BOARD OF TRUSTEES
AGENDA TRANSMITTAL SHEET**

To: J. David Armstrong Jr., President

Date: August 25, 2009

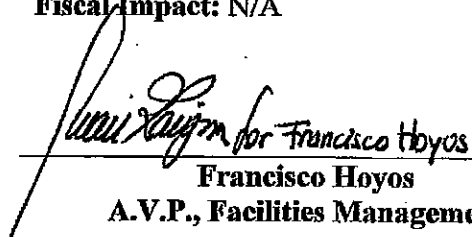
From: William Pennell, C.F.O. & V.P. Facilities

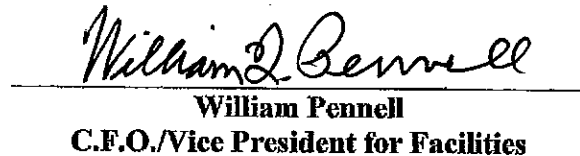
Subj: Building Code Administration Plan Review & Building Code Inspection Services Contract

Issue: Building Code Inspection Services
RFP # 809-007

Background/Analysis: Attached is the Contract Agreement with MEP Structural Engineering for the Building Code Administration Plan Review and Building Code Inspection Services. The selection of MEP Structural Engineering was approved by the Board of Trustees on May 26, 2009.

Fiscal Impact: N/A


Francisco Hoyos
A.V.P., Facilities Management


William Pennell
C.F.O./Vice President for Facilities

Staff Position : It is recommended that the Board approve the Contract Agreement of the above selected firm for the Building Code Administration Plan Review & Building Code Inspection Services, for a period of three (3) years.

THIS RECOMMENDED ACTION MEETS THE FOLLOWING ELEMENT(S) OF THE COLLEGE'S MISSION STATEMENT:

<input checked="" type="checkbox"/> Providing high quality educational programs	<input checked="" type="checkbox"/> Providing high quality services
<input type="checkbox"/> Providing for affordability to a diverse community of learners	<input checked="" type="checkbox"/> Providing for accessibility to a diverse community of learners
<input checked="" type="checkbox"/> Commitment to student achievement	<input checked="" type="checkbox"/> Commitment to lifelong learning
<input checked="" type="checkbox"/> Commitment to academic excellence	<input checked="" type="checkbox"/> Providing use of current technology

BRIEFLY DESCRIBE HOW THIS RECOMMENDATION ACHIEVES THE ABOVE ELEMENT(S) IN THE COLLEGE'S MISSION STATEMENT:

The hiring of MEP Structural Engineering for the Building Code Administration Plan Review & Building Code Inspection Services enables the College to provide a better environment for teaching and learning.

Minority Firm: Yes ___ No X N/A ___

Broward Firm: Yes X No ___ N/A ___

BUILDING CODE OFFICIAL AGREEMENT

THIS AGREEMENT made this 28th day of July, 2009 by and between **THE DISTRICT BOARD OF TRUSTEES OF BROWARD COLLEGE**, 111 East Las Olas Boulevard, Fort Lauderdale, Florida 33301, (referred to as "BC"), and MEP Structural Engineering & Inspections, Inc., 3730 Coconut Creek Parkway, Suite 100, Coconut Creek, Florida 33066 (hereinafter referred to as (" Building Code Official").

WITNESSETH:

WHEREAS, it is in the best interests of the OWNER to be able to obtain Building Code Administration, and Building Code Plan Review Inspection Services expeditiously when a need arises in connection with a study or a partial or complete College construction project; and

WHEREAS, Section 287.055, Florida Statutes (Consultant's Competitive Negotiation Act) makes provision 'for a "continuing contract" with a firm, to provide professional services to the 'College for construction projects, or for work of a specified nature as may be outlined: in the contract and

WHEREAS, the BOARD has approved the selection of the Building Code Official in accordance with the provisions of Florida: Statutes, who will provide professional building Code' Administration and Building Code Plan Review Inspection services as directed by BC for such projects and tasks as may be required from time to time by BC.

NOW, THEREFORE, BC and Building Code Official have agreed as follows:

- A. The Building Code Official agrees to perform professional Florida Building Code services in accordance With Florida Statutes and the Florida Building Code and all the latest adopted amendments thereto or the governing statutes regarding educational facilities that are in place.
- B. BC agrees to pay the Building Code Official for such services in accordance with provisions as herein set forth;
- C. The PARTIES hereto further agree to the following conditions:

BC'S REPRESENTATIVE PROFESSIONAL SERVICES

The Building Code Official shall provide professional Building Code Administration, Plan Review & Code Inspections, Review and Inspections, and related services in accordance with requirements of the Florida Building Code, Florida Statutes. Rules and BC Standards.

- 1.1 The term of this contract shall be for three (3) years from date of approval by the DISTRICT BOARD OF TRUSTEES. This agreement authorizes BC to procure the

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services of the Building Code Official on a project by project basis, with each project to be described in a separate project agreement (purchase order).

ARTICLE 2

BUILDING CODE OFFICIAL'S COMPENSATION

BC shall compensate the Building Code Official in accordance with the Terms and Condition of this AGREEMENT as follows:

- 2.1 FOR THE ENGINEER'S BUILDING CODE ADMINISTRATION, PLAN REVIEW AND INSPECTION SERVICES, as described in ARTICLE 3. The Building Code Official shall obtain prior approval for the services to be performed. These services will be detailed in a "Project Agreement". If approved, the Building Code Official will be paid for the services satisfactorily performed in the "Project Agreement" in compliance with the rates contained in Addendum A, the "rate sheet" attached hereto and incorporated herein. A timesheet showing the actual time spent must be submitted with each request and approved for payment. Any overages from the times approved in the "Project Agreement" must be pre-approved.
- 2.2 FOR THE ENGINEER'S BUILDING CODE ADMINISTRATION, PLAN REVIEW AND INSPECTION SERVICES, as described in ARTICLE 3 hereinafter, to be paid in accordance with the incorporated rate sheet (Exhibit A) and applied to those services as authorized in the individual "Project Agreement" by Vice President for Facilities or his designees and the Associate Vice President of Procurement or his designees. The Building Code Official shall obtain prior approval for the services to be performed. These services will be authorized in the individual "Project Agreement". The Building Code Official shall obtain prior approval from BC for the services to be performed. These services will be detailed in a "Project Agreement". If approved, the Building Code Official will be paid for the services satisfactorily performed in the "Project Agreement" in compliance with rates contained in Addendum A, the "rate sheet" attached hereto and incorporated herein. A timesheet showing the actual time spent must be submitted with each request for payment. Any overages from the times approved in the "Project Agreement" must be pre-approved.

ARTICLE 3

3.1 The ENGINEER'S Building Code Administration, Plan Review and Inspection Services are described in Florida Building code and/or the governing statutes regarding

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educational facilities that are in place with the new state building code, applicable provisions of which are hereby incorporated herein by reference.

- 3.2 The ENGINEER Building Code Official shall perform the following services as authorized in each Project Agreement:
- 3.2.1 Pre-Construction Plan Review during the development of Phase III Documents by professional consultants under contract with the Owner. Services shall include, but not be limited to, review and comment on the documents for compliance with the Florida Building Code, SREF, Florida Fire Prevention Code, other governing statutes, rules, BC policy and standards.
 - 3.2.2 Assisting BC in the performance of Building code compliance issues and reviews and evaluations of construction proposals, architectural and engineering submittals, job schedules, costs and GMP's, LEED compliance, change orders and claims as well as testing to insure compliance with approved standards and studies.
 - 3.2.3 Issuing permits for work as described in the Project Agreement for any work on BC property.
 - 3.2.4 Other engineering testing and inspection services in connection with the project not expressly delineated in this Agreement which includes but is not limited to Records Management; Permit Issuance; Permit Tracking; Plan Review and Inspections.

ARTICLE 4

BC'S RESPONSIBILITIES

- 4.1 BC will provide full information as to its requirements for the Project.
- 4.2 BC'S representative authorized to act in its behalf with respect to the Project is Broward College's Vice President for Facilities and College Services or his/her authorized designee.
- 4.3 BC will furnish the Building Code Official with contract documents to assist in the Building Code Official's analysis, inspection and review of various projects to issue Building Code Compliance, Permitting and Inspections consistent with the Florida Building Code current additions and amendments.

Unless otherwise agreed to BC will furnish chemical and other laboratory tests, inspections and reports as required by law or necessitated by the services being performed under this Agreement.

- 4.4 BC will furnish such legal, accounting and insurance counseling services as may be necessary in conjunction with the services to be performed under the Agreement, and such auditing services as may be required for the State Department of Education.
- 4.5 The services, information, and reports required by ARTICLES 4.3 and 4.4 herein , will be furnished at BC'S expense, and the Building Code Official shall be entitled to rely upon the accuracy and completeness of the information thereof.
- 4.6 If BC'S representative observes or otherwise becomes aware of any defects in the Project, he will give prompt notice thereof to the Building Code Official.

ARTICLE 5

BUILDING CODE OFFICIAL'S REIMBURSABLE EXPENSES

REIMBURSABLE EXPENSES include actual expenditures, not exceeding the limits of Section 112.06.1 of the Florida Statutes, made by the Building Code Official in the interest of the work for the following incidental expenses. All reimbursable expenses require previous written authorization from the-BC.

- 5.1 Expense of transportation and living of principals and employees when traveling outside' the tri-county area of Miami- Dade, Broward and Palm Beach Counties subject to Fla. Stat. 112.061 other than those defined in ARTICLE 2 herein
- 5.2 Fees of special consultants as required and pre-approved by BC.

ARTICLE 6

PERIOD OF SERVICE

- 6.1 THE PERIOD OF SERVICE for a specific project or task authorized by Project Agreement under this continuing contract shall be as specified in the Project Agreement.
- 6.2 Upon written authorization from the BC, the Building Code Official shall proceed with the performance of the services called for in the Project Agreement.
- 6.3 Unless sooner terminated as provided in ARTICLE 12 herein, the Agreement shall remain in force in accordance with the provisions of Article 1 herein.

ARTICLE 7

- 7.1 Payments for the BUILDING CODE OFFICIAL SERVICES SHALL BE AS INDICATED IN THE Project Agreement, which must be consistent with the terms and conditions of this Agreement. Any payment request not consistent with this Agreement must be processed as a change order.
- 7.2 If any project the Building Code Official has performed services on during any phase is abandoned or suspended in whole or in part, the Building Code Official is to be paid for the service performed and reimbursements due prior to receipt of written notice from BC of such abandonment or suspension.
Resumption of any project previously abandoned or suspended will be described in a separate Project Agreement.

ARTICLE 8

ENGINEER'S ACCOUNTING RECORDS

RECORDS of the Building Code Official's direct personnel, consultant and reimbursable expense pertaining to this Project shall be kept on a generally recognized accounting basis and shall be available to BC or its authorized representative at mutually convenient times.

ARTICLE 9

TERMINATION OF AGREEMENT

- 9.1 This agreement may be terminated by either party upon seven (7) days notice by either mutual agreement, or unilaterally should one party fail substantially to perform in accordance with its terms through no fault of the other. Also, this Agreement may be unilaterally terminated by BC for refusal by the Building Code Official to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Building Code Official in conjunction with this Agreement. Building Code Official will indemnify BC for any legal fees or damages awarded as a result of Building Code Official's failure to comply with Chapter 11 and the Florida Statutes.
- 9.2 Termination For convenience: The performance of work under this Contract may be terminated by BC in accordance with this paragraph in whole, or from time to time in part, whenever the BC shall determine that such termination is in the best interest of

the College. Upon termination, the Building Code Official shall be entitled to payment for work completed to the time of termination only.

ARTICLE 10

SUCCESSORS AND ASSIGNS

The Building Code Official is not authorized to assign, sublet, or transfer this agreement without prior written consent from BC.

ARTICLE 11

CLAIMS AND DISPUTES

11 .1 Under the, terms of this agreement; the Building Code Official shall not have any right to compensation other than, or in addition to, that provided by this Agreement, to satisfy any claim of any kind whatsoever unless the claim therefore is delivered to BC within, ninety (90) calendar days from the date of which the act or event constituting the basis of such claim occurs. Failure to present any claim arising under this Agreement within the ninety (90) calendar day time period specified above shall constitute waiver and abandonment of claimant's right to seek any consideration of said claim, including internal, administrative, or consideration by any court of law.

11.1.1 All such claims shall be set forth in a petition addressed to BC stating the following:

- (A) The Building Code Official's name and business address;
- (B) A concise statement of the ultimate facts, including a statement of all disputed issues of material fact, upon which the claim is based;
- (C) A concise statement of the provisions of the AGREEMENT, together with any Federal, State and local laws, ordinances or code requirements or customary practices and usages in the trade or profession asserted to be applicable to the questions presented by the claim;
- (D) A demand for the specific relief which the Building Code Official deems itself entitled.

11 .1 2 Within thirty (30) days from the receipt of any petition setting forth the claim BC shall provide the Building Code Official a written response stating BC's position

with respect to each claim asserted. Any claim or dispute not resolved must be mediated prior to any additional administrative or legal proceeding.

11.1.3. . Any claim or dispute not resolved must be mediated prior to any additional administrative or legal proceeding.

11.1.4 Notice of the demand for mediation shall be filed in writing with the other party to this Agreement. .

11.1.5 The demand shall be made within fifteen (15) days after the date BC has provided written response to the Building Code Official's claim as stipulated in ARTICLE 15 hereinabove.

11.1.6 In no event shall the demand for mediation be made after the date when Institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by this agreement or the applicable statute of limitations.

ARTICLE 12

EXTENT OF AGREEMENT

This AGREEMENT represents the entire and integrated agreement between BC and the Building Code Official and supersedes all prior negotiations, representations or agreements, either written or oral. This AGREEMENT may be amended only by written resolution of BC and thereafter a written instrument signed by both BC and Building Code Official.

ARTICLE 13

APPLICABLE LAW

It is agreed between the BC and the Building Code Official that by reference there is Incorporated herein all applicable Federal law (specifically, the Americans With Disabilities Act), Florida Law, and State board of Education Regulations governing the construction of College Facilities. The Building Code Official, in rendering services, agrees to comply with all such laws and regulations. In the event there is found to be conflict between the printed conditions of this AGREEMENT and applicable Florida Law and State Board of Education Regulations, the latter shall govern.

Any and all notices given pursuant to this agreement will be served or mailed to the address indicated for each respective party. Any change in address must be sent to the address of the opposing party within 30 days prior to the change of address taking affect.

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ARTICLE 14
PROGRESS REPORTS

The Building Code Official shall conduct regular and routine inspections and a report must be submitted to BC within 7 days of inspection .

ARTICLE 15
CERTIFICATES

Upon completion of the work authorized by Project Agreement, the Building Code Official shall certify that to the best of its knowledge, the work has been performed in accordance with the requirements of the Florida building Code including all state regulations relating to the construction of College Facilities and all the latest adopted Amendments thereto and shall furnish other certificates as may be required by State Laws and regulations.

ARTICLE 16
INDEMNIFICATION OF BC

- 16.1 The Building Code Official shall indemnify and save harmless and defend BC, its agents servants and employees from claims arising out of error, omission or negligent act of the Building Code Official, its agent, servants or employees in the performance of services under this Agreement. This indemnification shall survive both the termination of this Agreement, or final completion of the services performed under this Agreement.
- 16.2 The execution of this Agreement by the Building Code Official shall obligate The Building Code Official to Comply with the foregoing indemnification provision; however, the collateral obligation of insuring this indemnity must be complied with and the Building Code Official acknowledges that a portion of the fee negotiated is consideration for this indemnification.

ARTICLE 17
INSURANCE

- 17.1 The Building Code Official shall provide, pay for and maintain in force at all times during the service to be performed, such insurance, including Worker's Compensation, Comprehensive General Liability Insurance and Professional Liability Insurance, as more particularly defined below, in order to assure the BC the protection contained in the foregoing indemnification undertaken by the Building Code Official The

Comprehensive General Liability and Professional Liability policies shall also clearly identify Broward College as additional insured.

17.1.1 PROFESSIONAL LIABILITY INSURANCE: The Building Code Official shall provide Professional Liability Insurance for an extended reporting period and all endorsements shall provide full coverage for a period commencing with the execution of this AGREEMENT and terminating five (5) years after final completion of each Project agreement. The Professional Liability Insurance Policy (Excessive Umbrella Liability) shall be no less than Two Million Dollars (\$2,000,000.00) for projects serviced under this AGREEMENT. This insurance policy shall be non-cancelable. All premiums costs and expenses for the requirement of professional liability insurance coverage shall be paid for by the Building Code Official.

17.1.2 COMPREHENSIVE GENERAL LIABILITY INSURANCE: The limits of liability provided by such policy shall be no less than One Million Dollars (\$1,000,000.00) per occurrence, and Two Million Dollars (\$2,000,000.00). AGGREGATE. Such insurance shall limited to, the following:

17.1.2.1 BODILY INJURY LIABILITY INSURANCE shall protect the Building Code Official, its agents and employees from claims for damages for bodily injury, including accidental or wrongful death which might arise from performance of services under this AGREEMENT. The limits of liability provided by such policy or policies shall be no less than One Million Dollars (\$1,000,000.00) for injuries, including wrongful death, to any one person, and subject to the same limit for each person in an amount not less than One Million Dollars (\$1,000,000.00) for any one occurrence.

17.1.2.2 AUTOMOBILE INSURANCE shall carry liability limits of at least One Million Dollars (\$1,000,000.00) for damages for any one occurrence, and One Million Dollars (\$1,000,000.00) for damages for all occurrences.

17.1.2.3. Building Code Official shall maintain worker's compensation insurance in compliance with Florida Statutes Chapter 440.

17.1.2.4. Building Code Official shall maintain product liability completed operation insurance with Bodily Injury limits of liability of not less than One Million Dollars (\$1,000,000.00) PER OCCURRENCE AND Two Million Dollars (\$2,000,000.00) aggregate.

- 17.2 Such insurance policy or policies shall be issued by United States Treasury or approved companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in the State of Florida. The Building Code Official shall specifically protect BC by naming the BC as a named insured under the Comprehensive General Liability Insurance Policy. The Professional Liability policy shall reference this contract by endorsement.
- 17.3 Unless otherwise stated above, all policies and coverage's required hereinabove shall remain in effect until all services covered under this AGREEMENT have been performed by the Building Code Official and accepted by BC , except as specifically extended by this contract or mutual agreement.
- 17.4 The Building Code Official shall provide BC a Certificate of Insurance and a copy of all insurance policies required hereinabove prior to the execution of this agreement. all policies and certificates shall state that BC shall be provided with thirty (30) calendar days written notice prior to any material changes, expiration or cancellation of the policy of insurance furnished pursuant to this AGREEMENT.

ARTICLE 18

TRUTH-IN-NEGOTIATION CERTIFICATE

In compliance with the Consultant's Competitive Negotiation Act, the Building Code Official shall furnish certification that wage rates and other factual unit costs supporting the compensation is accurate, complete and current at the time of contracting and the original contract Price and any additions thereto shall be adjusted to exclude any significant sums where the- BC determines the Contract Price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the Final completion of the Project.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day of August, 2005 2009, each of which shall without proof or accounting for the other counterpart, be deemed an original Contract.

***** BUILDING CODE OFFICIAL *****

**MEP Structural Engineering
and Inspections, Inc**

Attest:

By: _____

AGENDA ITEM VII-F

AUG 25 2009

ENCLOSURE _____

(Name, Title and Corporate Seal)

Title: _____

As Witnessed by:

Date: _____

***** OWNER *****

BROWARD COLLEGE

By

COLLEGE PRESIDENT

Date: _____

DISTRICT BOARD. OF TRUSTEES BROWARD COLLEGE

By:

CHAIRPERSON

Signature of Witness: _____

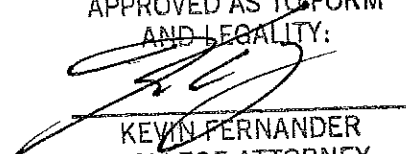
Printed Name of Witness: _____

By:

Kevin Fernander, College Attorney

Date: _____

APPROVED AS TO FORM
AND LEGALITY:



KEVIN FERNANDER
COLLEGE ATTORNEY

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