



Carlos Alvarez
Mayor



Manuel A. Diaz
Mayor

December 15, 2008

The Honorable Charlie Crist
Governor, State of Florida
The Capitol
420 E. Jefferson Street
Tallahassee, FL 32301

Re: Continued support for the Port of Miami Tunnel Procurement

Dear Governor Crist:

We are deeply disappointed, and frankly shocked, by your recent decision to not continue with the Port of Miami Tunnel Procurement.

The Port of Miami currently generates 180,000 jobs and over \$17 billion to our local economy. We need to protect our port as a globally competitive cargo destination. We are heartened by FDOT's continued support of the Port of Miami Tunnel project and statements that the project is not only a good one, but the right one.


It has also come to our attention that representatives of the Miami Access Tunnel (MAT) believe the necessary financing is in place and the project is a viable one. This validation makes FDOT's decision not to pursue the project worthy of further review and reconsideration.

We know that you are personally aware of the years, decades, expended by the State of Florida, Miami-Dade County and the City of Miami, in coordination with FDOT, to move the Port of Miami Tunnel Project forward. Our joint maximum financial contribution of approximately \$457.5 million should further validate our commitment. We also trust that if our private partners are able to demonstrate that financing can be secured, they will be asked to proceed.

Finally, as Florida's economy struggles and discussions of economic stimulus plans abound, it should not be forgotten that the tunnel project would create an estimated 600 jobs for our local community. Further, it would position the Port of Miami, our community's second most important economic engine, to handle an anticipated growth in cargo operations while at the same time ease growing congestion in Downtown Miami.

We are requesting to meet with you this week to move the Port of Miami Tunnel Project forward. We look forward to hearing from you.

Sincerely,



Carlos Alvarez
Mayor
Miami-Dade County



Manuel A. Diaz
Mayor
City of Miami

Attachment

- c: Honorable Manuel A. Diaz, Mayor, City of Miami
Honorable Chairman Bruno A. Barreiro
and Members, Miami-Dade Board of County Commissioners
Honorable Chairman Joe Sanchez
and Members, City of Miami Commission
Stephanie C. Kopelousos, Secretary, Florida Department of Transportation
Marcos Marchena, Chairman, Florida Transportation Commission
Marshall Criser III, Florida Transportation Commission
Eric Eikenberg, Chief of Staff, Office of the Governor
Gus Pego, District 6 Secretary, Florida Department of Transportation
George Burgess, County Manager, Miami-Dade County
Pedro G. Hernandez, City Manager, City of Miami
Malcolm Macintyre, Babcock & Brown Infrastructure Group US LLC
Jean-Denys Arnal, Bouygues Travaux Publics S.A.



Miami Access Tunnel
c/o
Babcock & Brown

Toronto Dominion Centre, CP Tower
100 Wellington Street West, Suite 3130
PO Box 122
Toronto, ON, Canada, M5K 1H1

December 14, 2008

Mr. Gus Pego
District 6 Secretary
Florida Department of Transportation
1000 NW 111 Avenue
Miami, FL 33172

Ms Stephanie C. Kopelousos
Secretary
Florida Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, FL 32399

Re: Port of Miami Tunnel Project

Dear Madame/Sir:

We are writing this letter in response to (a) informal communications made by District 6 and the Florida Department of Transportation's advisors to representatives of Miami Access Tunnel ("MAT") on December 12, 2008, and (b) statements made by FDOT officials published in the *Miami Herald* on December 12, 2008 and December 13, 2008 with respect to the Port of Miami Tunnel project and the status of the procurement of such project. For the reasons set out below, we are of the opinion that the facts and assumptions relating to or underlying the foregoing communications and statements are invalid and/or incorrect. One of the purposes of this letter is to clarify the current facts relating to the Port of Miami Tunnel project.

We are surprised by the above-noted communications and statements by FDOT officials given the public positions regarding the project put forward as recently by FDOT in, among others, (i) a report delivered by the District 6 Secretary to the Miami-Dade Transit Committee on December 3, 2008 that financial close is anticipated in February, 2009, and (ii) presentations and public statements made by representatives of FDOT at a PPP conference in Miami on December 2, 2008 that the Port of Miami Tunnel project is in a position to reach financial close in early, 2009. MAT has undertaken in good faith all necessary actions since May 2, 2007 (when FDOT issued the notice of intent to award the project to MAT) to reach a successful financial close on the project. MAT remains fully committed to reach financial close in early, 2009. Any action by FDOT to terminate the procurement process at this point would be arbitrary, as any such action cannot be reasonably linked to or based upon the current state of the project (which is summarized below).

Equity Funding

MAT has been fully transparent regarding Babcock & Brown's financial difficulties since they were reported on in August, 2008 and MAT and Babcock & Brown have responded in a diligent and open manner to all requests made by FDOT regarding this matter (in particular, we refer you to the letter dated August 29, 2008 to FDOT). During the week of October 6, 2008, MAT raised

with the financial advisors to FDOT that Meridiam Infrastructure was a viable option for the equity funding in place of Babcock & Brown. In a letter from MAT to FDOT dated November 7, 2008 (the "Affordability Letter"), MAT advised FDOT that Meridiam Infrastructure could replace the 90% equity commitment of Babcock & Brown in full. The Affordability Letter attached the expression of interest delivered by Meridiam Infrastructure. In a letter to FDOT dated November 25, 2008, Meridiam Infrastructure confirmed that they have completed their due diligence on the transaction and that their board of managers have approved the investment.

Over the past number of months FDOT, through its financial advisors, have been kept apprised of the steps that the MAT consortium (and, in particular, Babcock & Brown) have taken to identify a satisfactory replacement of Babcock & Brown's equity commitments and to finalize the resolution of this issue. All of the issues raised by FDOT with respect to the equity funding of the project have been addressed by MAT.

The formal (and we believe qualifying) request by MAT pursuant to the terms of the ITP for the replacement of Babcock & Brown by Meridiam Infrastructure was submitted by MAT to FDOT on December 11, 2008. Given the fact that (i) Meridiam Infrastructure has the most uncommitted capital of any global PPP fund in the world today, and (ii) FDOT, through its financial advisors as well as District 6 executive members, were apprised early on as to the identity of Meridiam Infrastructure, both MAT, District 6 and FDOT's financial advisors expected an expedited turn around of the formal approval by FDOT of Meridiam Infrastructure. In fact, District 6 Secretary Gus Pego confirmed in his report sent to the Miami-Dade Transit Committee on December 3, 2008 that "due to the impact of the financial market, the MAT consortium is moving to substitute Babcock & Brown with another equity partner. Official substitution documents are expected shortly... The substitution will not affect the TIFIA process."

In summary, Meridiam Infrastructure is fully committed to fund 90% of the equity component of the project on financial close. In the Affordability Letter, Bouygues TP re-committed to fund the remaining 10% of the equity component of the project on financial close.

Debt Funding

MAT has been working with the USDOT and FDOT's financial advisors on finalizing the terms and conditions of the TIFIA portion of the debt financing component of the project. The TIFIA rates are at their lowest since the inception of the program. The TIFIA office has indicated that they would schedule their credit council approximately three weeks after receiving a rating letter and information on the change in equity sponsor to Meridiam Infrastructure (as summarized above). This package will be sent by MAT to the TIFIA office on December 15, 2008. Please note that the TIFIA office has already undertaken significant analytical work on the project. In addition, there have been discussions on the structure of the TIFIA loan and there appears to be agreement on key structural points. There was also an initial conversation on intercreditor terms with the TIFIA office which went well and did not reveal any irreconcilable points.

With respect to the bank portion of the debt financing for the project, despite the current state of the markets, the MAT consortium has lined up a strong financing group of approximately ten international banks, each committing to fund \$75 million as early as February, 2009. Most of the

banks know the project very well, having underwritten the project in connection with the March, 2007 bid submissions for the project. With TIFIA financing playing a significant role, the banks would be required to provide less than \$400 million of capital. Thus, meaningful redundancy has been built into the bank financing process to eliminate any execution risk. The project economics (upfront fees and interest charges payable to the banks) have already been discussed with the banks and the overall package falls within the FDOT affordability limits. While additional work is expected to be conducted with the banks in early 2009 (documentation and updated technical/legal diligence), MAT is highly confident regarding its ability to deliver the necessary bank financing on time and on budget. We note that MAT has provided to FDOT's special legal advisor, Allen & Overy (retained by Bill Thorpe as a special advisor to FDOT to review the financing package of the MAT team), access to the executed term sheets submitted by the above-noted banks. Allen & Overy has confirmed that the debt term sheets are as advanced as one would expect for a project finance transaction similar to the Port of Miami Tunnel project (at its current of the procurement process).

Notwithstanding the worst financial crisis since the Great Depression, MAT is providing a debt solution within the affordability limit set by FDOT in March, 2007 and has provided FDOT with the evidence of MAT's ability to do so.

We note that an indicative rating letter was received by MAT from Standard & Poors on Friday, December 12. Indicative ratings are BBB- for the senior debt and BB for the TIFIA loan. These ratings consider Meridiam Infrastructure as 90% owner of MAT. Note that these ratings satisfy TIFIA's requirement that the senior debt be rated investment grade and that the TIFIA debt be rated by at least one nationally recognized rating agency. These ratings are further evidence of the financial viability of the project.

Concession Agreement

District 6 Secretary Gus Pego confirmed in his report sent to the Miami-Dade Transit Committee on December 3, 2008 that, as at October 16, 2008, FDOT and MAT had reached agreement on all major contractual terms regarding the project.

Summary of Procurement Status

The equity funding is in place. FDOT has confirmed that the Concession Agreement is substantively settled. FDOT's special legal advisor, Allen & Overy, has confirmed that the bank term sheets are as advanced as one would expect for a project finance transaction similar to the Port of Miami Tunnel project. The TIFIA rate is at its lowest since the inception of such program. MAT is fully engaged in the project and is extremely keen to reach a successful closing on the transaction. The rejection by FDOT of the designated Best Value Proposal on this multi-million dollar procurement process so late in such process, when (i) public infrastructure projects like this one are the emphasis of the incoming administration and vital to South Florida's future, and (ii) such a decision is based upon incorrect facts, devalues the investment that all parties have made in these long negotiations and, most importantly, represents arbitrary agency action. **In light of the foregoing, we strongly suggest that no formal action be taken by FDOT that could jeopardize the project, including the cancellation of the procurement**

thereof. Rather, we propose that FDOT immediately seek to schedule a meeting that would include all major stakeholders and funders of the project.

FDOT, MAT and all of the project's stakeholders have invested an enormous amount of time, resources, capital and reputation on the Port of Miami Tunnel project. More than ever, we believe that this project is a landmark transaction in the development of the Florida and US PPP markets as well as the perfect showcase for the incoming administration to achieve its stated infrastructure investment goals.

Yours very truly,
Miami Access Tunnel consortium,



Malcolm Macintyre
Babcock & Brown Infrastructure Group US LLC



Jean-Denys Arnal
Bouygues Travaux Publics S.A.



Paul Boucher
Babcock & Brown Infrastructure Group US LLC

cc: Mayor Carlos Alvarez
Mayor Manny Diaz
County Manager Burgess
City Manager Hernandez

Thierry Deau and Joseph Aiello
Meridiam Infrastructure