MEMORANDUM

Agenda Item No. 7(D)(1)(G)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners

DATE: April 13, 2004

FROM: George M. Burgess
County Manager

SUBJECT: Non-Exclusive Professional Services Agreements to provide Groundwater, Surface Water and Soil Contamination Cleanup Services for Miami-Dade County Facilities using Federal Funding, Project No. E03-DERM-01

This item was amended at the March 11, 2004 Transportation Committee to delete Section 3 in the original resolution that stated if during the initial term of the agreements executed under authority of this resolution, the County Code is amended to increase the allowable maximum for A&E contracts (other than continuing contracts) for projects constituting a grouping of minor or substantially related activities, the County Manager is authorized to increase the amount of such agreements up to the amended cap and/or not to exceed $5,000,000 per agreement, whichever is less.

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached resolution authorizing the execution of two (2) non-exclusive professional services agreements, with the firms listed on the attached award recommendation, to provide Groundwater, Surface Water and Soil Contamination Cleanup Services for Miami-Dade County Facilities using Federal Funding, Project No. E03-DERM-01. Each agreement will have a maximum compensation of $500,000 and an effective term of three (3) years, with two (2) one-year renewal options with no additional compensation. These agreements will replace the previous E95-DERM-05 agreements, which expired April 1, 2000.

The consultant selection, approved by the Board on January 23, 2003, was for two (2) agreements of $5,000,000 each. However, Section 2-10.4(1)(e)2 of the Miami-Dade County Code (Code), as currently worded, limits the ability to group non-project specific professional A&E services to an amount substantially below the advertised agreement amount of $5,000,000. Therefore, the amount of the agreement attached to this resolution is within the current Code limitation. Although, the agreements original intent included associated remedial and clean-up services, it is now the intent of the County to better utilize these agreements by addressing mostly study and/or design associated work. Actual remedial and clean-up services will be done through an independent bidding process.

Following the successful negotiation of agreements with both firms, the Miami-Dade Transit Department requested that the Department of Environmental Resources Management (DERM) procure at least two more firms under Project No. E03-DERM-01 in order to support the environmental tasks necessary for the Phase II Metrorail projects of the People's Transportation Plan (Attachment A). Therefore, the resolution authorizes that in the event that additional capacity is needed in excess of the combined amount of the two approved agreements, the County Manager may negotiate with up to two (2) more firms, based on the firms' rankings by the Selection Committee, and subsequently award said agreements following successful negotiation.

BACKGROUND

On January 23, 2003, the Board approved the advertisement of two (2) professional services agreements to provide Groundwater, Surface Water and Soil Contamination Cleanup Services for Miami-Dade County Facilities using Federal Funding under Project No. E03-DERM-01.

Following the Consultant Selection Committee Report of July 1, 2003, the County Manager's memo of July 15, 2003 approved the selection of the two (2) top ranked firms and authorized negotiation of agreements with these firms. After the successful negotiation of agreements with both firms, the Negotiation Committee Report of November 4, 2003 recommended the execution of the two Non-Exclusive Professional Services Agreements. Based on the foregoing, I recommend proceeding with the award of these two agreements to the firms authorized in my memorandum of July 15, 2003.

ADMINISTRATION

The subject professional services agreements will be used to perform diverse environmental professional services for compliance and cleanup tasks under federal funding provisions at Miami-Dade County owned and/or operated sites. The Miami-Dade Transit Department is anticipated to be the primary "user department" of these agreements.

DERM will administer the agreements and be responsible for routing eligible tasks through the Equitable Distribution Program (EDP) and for the use of Miscellaneous Construction Contracts to perform the construction for non-emergency projects less than $1,000,000 dollars, as applicable. DERM will distribute the work among the firms as evenly as possible, with consideration of any factors affecting such distribution being justified by DERM, and with priority being accorded to the two firms listed on the attached award recommendation to assure such firms are utilized to the full amount of their contracts before work is assigned to any additional firms.

The county departments utilizing the services of the consultants must approve the award of the work and all costs before DERM's issuance of any work orders. The Miami-Dade Transit Department will verify and monitor compliance with the 20% DBE participation goal of the work. Miami-Dade Transit work authorizations will be funded from multiple sources based on available funding at the time. Funding sources may include Federal, State, Local and Transit Sales Surtax. Every effort will be made to make maximum use of federal matching dollars. All uses of funds will be consistent with the latest People's Transportation Plan Pro forma.

Since proceeds from the Charter County Transit System Sales Surtax levied pursuant to Section 29.121 of the Code of Miami-Dade County may be used to pay for all or some part of the cost of this contract, no award of this contract shall be effective and thereby give rise to a contractual relationship with the County unless and until the following have occurred: 1) the County Commission awards the contract, and such award becomes final (either by expiration of 10 days after such award without veto by the

Mayor, or by Commission override of a veto); and, 2) either, i) the Citizens' Independent Transportation Trust (CITT) has approved same, or, ii) in response to the CITT's disapproval, the County Commission re-affirms its award by two-thirds (2/3) vote of the Commission's membership and such reaffirmation becomes final.

Attachment A: Miami-Dade Transit Department Letter
Attachment B: Contract Award Recommendation
Attachment C: Professional Services Agreement

Assistant County Manager

MEMORANDUM

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners

DATE: April 13, 2004

FROM: George M. Burgess, County Manager

SUBJECT: Non-Exclusive Professional Services Agreements to provide Groundwater, Surface Water and Soil Contamination Cleanup Services for Miami-Dade County Facilities using Federal Funding, Project No. E03-DERM-01

The attached Non-Exclusive Professional Services Agreement between Miami-Dade County and the firms listed below has been prepared by the Department of Environmental Resources and Management (DERM) and is recommended for approval.

PROJECT:	Groundwater, Surface Water and Soil Contamination Cleanup Services for Miami-Dade County Facilities.
PROJECT NO.:	E03-DERM-01
PROJECT DESCRIPTION:	Professional Consulting Services to provide as-needed environmental cleanup services and environmental compliance services at Miami-Dade County owned and/or operated facilities. Two (2) qualified consultants will be retained under non-exclusive professional services agreements with an effective term of three (3) years, with the option to renew for two additional one-year periods each, and a maximum compensation of $500,000 per agreement. The cost of services will be defrayed from the individual budget codes of the Miami-Dade County Departments utilizing the services. No minimum amount of services or compensation is guaranteed to the consultants.
PROJECT LOCATION:	Various Miami-Dade County owned/operated facilities.
AMOUNT OF EACH RECOMMENDED AGREEMENT:	$500,000.00

INSPECTOR GENERAL:	Provision included
AGREEMENT TERM:	Three (3) years, with the option to renew for two (2) additional one (1) year periods each
REVIEW COMMITTEE DATE:	November 20, 2002
CONTRACT MEASURES:	20% DBE goal
MANAGING AGENCY:	DERM
USING AGENCY:	Miami-Dade County Departments as needed.
MINIMUM QUALIFICATIONS EXCEED LEGAL REQUIREMENTS:	No
FUNDING SOURCE:	Various, the cost of professional services will be charged to the funding source of the projects or activities requiring the services. • The Department requesting the services for the specific project will establish the funding source at the time the work order is issued. • No work orders will be issued under this contract unless the specific using Department identifies appropriate budgeted funds. • These funds are budgeted in the individual capital project budgets by the various Departments. • Using Departments may include, but are not limited to Miami-Dade Transit, Miami-Dade Housing Authority and the Office of Community and Economic Development. • Miami-Dade Transit work authorizations will be funded from multiple sources based on available funding at the time. Funding sources may include Federal, State, Local and Transit Sales Surtax. Every effort will be made to make maximum use of federal matching dollars. All uses of funds will be consistent with the latest People's Transportation Plan Pro forma.

- Since proceeds from the Charter County Transit System Sales Surtax levied pursuant to Section 29.121 of the Code of Miami-Dade County may be used to pay for all or some part of the cost of this contract, no award of this contract shall be effective and thereby give rise to a contractual relationship with the County unless and until the following have occurred: 1) the County Commission awards the contract, and such award becomes final (either by expiration of 10 days after such award without veto by the Mayor, or by Commission override of a veto); and, 2) either, i) the Citizens' Independent Transportation Trust (CITT) has approved same, or, ii) in response to the CITT's disapproval, the County Commission re-affirms its award by two-thirds (2/3) vote of the Commission's membership and such reaffirmation becomes final.

FIRM 1:	Cherokee Enterprises, Inc.
LOCATION OF FIRM:	Miami Lakes, Florida
COMPANY PRINCIPALS:	Gabino Cuevas, P.E. Christine Franklin, P.E. Alex Sanchez, P.E.
YEARS IN BUSINESS:	Founded in 1999
PREVIOUS AGREEMENTS WITH COUNTY WITHIN THE LAST FIVE YEARS:	Two EDP contracts, no other agreements as prime with the County, but several subcontracts (A&E and construction) with approximately $1,570,022 in fees paid to date.
SUBCONSULTANT(S):	MACTEC Engineering &Consulting, Inc. US Biosystems Dynamic Environmental Drilling, Inc.

FIRM 2:	PEER Consultants, P.C.
LOCATION OF FIRM:	Miami Lakes, Florida
COMPANY PRINCIPALS:	Lilia A. Abron, Ph.D., P.E. John Tucker, P.E. Dean Nelson, P.E.
YEARS IN BUSINESS:	Founded in 1978
PREVIOUS AGREEMENTS WITH COUNTY WITHIN THE LAST FIVE YEARS:	Two A&E agreements as prime with the County and two A&E subcontracts with approximately $1,959,713 in fees paid to date.
SUBCONSULTANT(S):	EBS Engineering, Inc. SHAW Environmental & Infrastructure, Inc. Parsons Brinkerhoff, Quade & Douglas, Inc. Severn Trent Laboratories
APPROVED AS TO LEGAL SUFFICIENCY:	
_____ Assistant County Attorney	_____ Date

MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners

DATE: April 13, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 7(D)(1)(G)

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**

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 7(D)(1)(G)
4-13-04

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF TWO NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENTS TO PROVIDE GROUNDWATER, SURFACE WATER AND SOIL CONTAMINATION CLEANUP SERVICES, PROJECT NO. E03-DERM-01, AND AUTHORIZING THE COUNTY MANAGER TO EXERCISE EXTENSION AND CANCELLATION PROVISIONS CONTAINED THEREIN; AUTHORIZING EXECUTION OF TWO ADDITIONAL AGREEMENTS UNDER CERTAIN CONDITIONS; AND AUTHORIZING THE MANAGER TO INCREASE THE AMOUNT OF THE AGREEMENTS ON CERTAIN CONDITIONS

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:

Section 1. Approves the non-exclusive professional services agreements between Miami-Dade County and Cherokee Enterprises, Inc.; and PEER Consultants, P.C. to provide groundwater, surface water and soil contamination cleanup services, Project No. E03-DERM-01, in substantially the form of one of the agreements attached hereto and made part hereof; and authorizes the County Manager to execute same for and on behalf of Miami-Dade County and to exercise the extension and cancellation provisions therein.

Section 2. Authorizes the County Manager to negotiate with up to two (2) more firms, based on the firms' rankings by the Selection Committee, in the event that additional capacity is needed in excess of the combined amounts of the two approved agreements, and subsequently award said agreements following successful negotiation, with terms and the form of the agreement attached hereto; and authorizes the County Manager to execute same for and on behalf of Miami-Dade County and to exercise the extension and cancellation provisions therein.

Section 3. Since proceeds from the Charter County Transit System Sales Surtax levied pursuant to Section 29.121 of the Code of Miami-Dade County may be used to pay for all or some part of the cost of this contract, no award of this contract shall be effective and thereby give rise to a contractual relationship with the County unless and until the following have occurred: 1) the County Commission awards the contract, and such award becomes final (either by expiration of 10 days after such award without veto by the Mayor, or by Commission override of a veto); and, 2) either, i) the Citizens' Independent Transportation Trust (CITT) has approved same, or, ii) in response to the CITT's disapproval, the County Commission re-affirms its award by two-thirds (2/3) vote of the Commission's membership and such reaffirmation becomes final.

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

Dr. Barbara Carey-Shuler, Chairperson
Katy Sorenson, Vice-Chairperson

Bruno A. Barreiro	Jose "Pepe" Diaz
Betty T. Ferguson	Sally A. Heyman
Joe A. Martinez	Jimmy L. Morales
Dennis C. Moss	Dorrin D. Rolle
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 13th day of April, 2004. 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

Approved by County Attorney as to form and legal sufficiency. RAC
R.A. Cuevas, Jr.

By:_____
Deputy Clerk

ATTACHMENT A

MIAMI-DADE TRANSIT DEPARTMENT LETTER

MIAMI-DADE TRANSIT

Mr. John Renfrow, P.E.
Director
DERM
33 SW 2rd Ave.
Miami, FL 33130

Dear Mr. Renfrow:

As you know, under Professional Services Agreement (PSA) No. E03-DERM-01, the negotiations took place with two (2) firms, Cherokee Enterprise and Peer Consulting, in early November 2003. Each PSA provides up to $5 million for a total of $10 million for environmental services. Based on the previously projected environmental work at the existing transit facilities estimated to be between six (6) to seven (7) million dollars, the selection of two (2) consulting/construction firms appeared to be adequate. The decision to procure these PSAs was made prior to the approval of the half-penny sales tax in November 2002.

However, additional PSAs need to be procured to support the environmental clean up tasks for the Phase II Orange Line projects of the People's Transportation Plan (PTP). We estimate that the number of parcels to be acquired could exceed three hundred (300) and the environmental phase-I and phase-II tasks, including potential clean up costs, may add up to several million dollars. The current PTP project schedules indicate that the right-of-way acquisition is to commence in July of this year. Therefore, I am requesting DERM to procure at least two more consulting/construction firms to support the PTP program.

In order to avoid any further delays, and to implement the outstanding crucial environmental projects that are past due, I am requesting the negotiated PSAs with the two selected firms be forwarded to the Board of County Commissioners for approval and that the addition of more firms not be allowed to delay the two contracts already negotiated.

Sincerely,

Roosevelt Bradley
Director

ATTACHMENT B

CONTRACT AWARD RECOMMENDATION FROM
THE OFFICE OF STRATEGIC BUSINESS MANAGEMENT

MIAMI-DADE COUNTY
CONTRACT **AWARD** RECOMMENDATION
ARCHITECTURAL/ENGINEERING PROJECT

Date: January 14, 2004

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

Project Title: Non-Exclusive Professional Services Agreements for Groundwater, Surface Water and Soil Contamination Cleanup Services for Miami-Dade County Facilities Using Federal Funding (**E03-DERM-01**)

Location: Miami, Florida

Original Cost Estimate: $ 10,000,000 (2 PSAs @ $5,000,000 each)
Recommended Amount of Contract: $ 10,000,000 (2 PSAs @ $5,000,000 each)

Agreement Period: an effective term of three (3) years with the option to renew for two additional one year periods each

Number of proposal documents taken out: 388 documents distributed/picked up.

Number of Proposals received: 11

It is recommended that a contract be awarded to:

Firm Name: Cherokee Enterprises, Inc. 7975 NW 154 St Ste 310, Miami Lakes, FL 33016

Firm Name: Peer Consultants, PC 15500 New Barn Road Ste 100 Miami, FL 33014

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

Professional Consulting Services to provide as-needed environmental cleanup services and environmental compliance services at Miami-Dade County owned and/or operated facilities. Two (2) qualified consultants will be retained under non-exclusive professional services agreements with an effective term of three (3) years, with the option to renew for two additional one year periods each, and a maximum compensation of $5,000,000 per agreement. The cost of services will be defrayed from the individual budget codes of the Miami-Dade County Departments utilizing the services. No minimum amount of services or compensation is guaranteed to the consultants.

Signature: John W. Renfrow
John W. Renfrow, PE
Title: Director

Department: Dept. of Environmental Resources Management

FUNDS BUDGETED

Code: Various - from budgeted projects identified at the time of workorder.

By: MAlmaina

Date: 1/14/04

BUDGET DEPARTMENT CERTIFICATION

FUNDS AVAILABLE

Code: Various – funding will be identified at the time of the workorder.

By: [signature] 1/15/04

Date: 1/15/04

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ATTACHMENT C

PROFESSIONAL SERVICES AGREEMENT

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NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENT

FOR

GROUNDWATER, SURFACE WATER AND SOIL CONTAMINATION CLEANUP SERVICES

FOR MIAMI-DADE TRANSIT AGENCY AND FEDERALLY-FUNDED COUNTY FACILITIES

PROJECT NO. E03-DERM-01

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NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENT

THIS NON-EXCLUSIVE AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2003, by and between Miami-Dade County, a political subdivision of the State of Florida, (hereinafter referred to as the "COUNTY"), and Cherokee Enterprises, Inc. (hereinafter referred to as the "SERVICE PROVIDER").

WITNESSETH:

For and in consideration of the mutual agreements hereinafter contained, the COUNTY hereby retains the SERVICE PROVIDER and the SERVICE PROVIDER hereby covenants to provide the professional services prescribed herein in connection with **Groundwater, Surface Water and Soil Contamination Cleanup Services for Miami-Dade Transit Agency and Federally-Funded County Facilities (Project No. E03-DERM-01).**

ARTICLE ONE
Responsibilities of the COUNTY

1.1 The COUNTY agrees to make available to the SERVICE PROVIDER any plans and other data available in the COUNTY files pertaining to the Work to be performed under this Agreement. Information shown on such plans or data shall be that which has been made available to the COUNTY, and shall be available to the SERVICE PROVIDER without guarantee regarding its reliability or accuracy; the SERVICE PROVIDER shall be responsible for independently verifying such information if it shall be used by the SERVICE PROVIDER to accomplish the work to be performed pursuant to this Agreement (the "Work").

1.2 The Director of the Miami-Dade County Department of Environmental Resources Management (DERM) or his authorized designee (hereinafter referred to as the "DIRECTOR"), shall issue written authorization to proceed to the SERVICE PROVIDER for each section of the Work to be performed at assigned sites. In case of emergency, as determined by the COUNTY, the DIRECTOR reserves the right to issue verbal authorization to the SERVICE PROVIDER with the understanding that a cost proposal shall be submitted by the SERVICE PROVIDER immediately thereafter. The SERVICE PROVIDER shall be given notice (which may be amended from time to time as applicable) regarding persons who are the authorized designees of the DIRECTOR for the purposes of this Agreement.

1.3 The DIRECTOR shall confer with the SERVICE PROVIDER before any work order is issued to discuss and agree upon the scope, time for completion, and fee for services to be rendered pursuant to this Agreement. The DIRECTOR will schedule regular meetings with the SERVICE PROVIDER and provide guidance with respect to the required professional services.

ARTICLE TWO
Responsibilities of the SERVICE PROVIDER

2.1 The SERVICE PROVIDER shall provide professional services on a work order basis which may include, but may not be limited to:

A. Performing environmental assessment and/or rehabilitation and related tasks at Miami-Dade County owned and/or operated sites that are contaminated with petroleum, petroleum products and/or non-petroleum products in accordance with Chapters 62-770, 62-782 and 62-785 of the Florida Administrative Code (FAC), and Chapter 24 of the Miami-Dade County Code, and all applicable regulations.

B. Performing the installation, modification, repair, replacement, abandonment and/or removal of any underground or aboveground storage systems in accordance with Chapter 62-761 FAC, and Chapter 24

of the Miami-Dade County Code.

C. Other related environmental work necessary for the prevention of contamination and/or the cleanup of groundwater, surface water and/or soil contamination not identified above.

2.2 The SERVICE PROVIDER must accept or decline an assignment within two (2) working days of receipt of an assignment letter from the DIRECTOR.

2.3 The SERVICE PROVIDER shall submit a detailed cost proposal upon the DIRECTOR's request prior to the issuance of a work order. No payment shall be made for the SERVICE PROVIDER's time or services in connection with the preparation of any such proposal.

2.4 The SERVICE PROVIDER shall submit to the DIRECTOR a copy of a site-specific health and safety plan for each assigned site as required by OSHA.

2.5 The SERVICE PROVIDER shall include in its cost proposals the names of all subcontractors responsible for any portion of the Work, and include in each cost proposal detailed subcontractor quotes itemizing all costs for labor, equipment and material and include in each cost proposal timelines or timeframes for the commencement and completion of each phase of the project.

2.6 Upon receipt of authorization to proceed from the DIRECTOR and from the requesting Department's authorized representative (hereinafter referred to as the "USER DEPARTMENT"), the SERVICE PROVIDER agrees to perform professional services associated with the requested Work in accordance with the negotiated terms of the applicable work order, the MIAMI-DADE COUNTY PROJECT NO. E03-DERM-01 Notice to Professional Consultants, and this Agreement.

2.7 The SERVICE PROVIDER agrees to ensure the quality of the Work performed by the SERVICE PROVIDER and by all subcontractors and agrees to guarantee compliance of the Work with all applicable standards and regulations.

2.8 Within five (5) working days of receipt of any letter from the DIRECTOR regarding the SERVICE PROVIDER's performance of the Work, the SERVICE PROVIDER shall provide a written response that clearly explains the issue(s) of concern and includes proposed actions to immediately remedy the situation and a plan to prevent any recurrence of a similar issue.

2.9 The SERVICE PROVIDER agrees to perform the professional services authorized under this Agreement and that said services shall not be subcontracted unless so authorized by the DIRECTOR.

2.10 In connection with professional services to be rendered pursuant to this Agreement, the SERVICE PROVIDER further agrees to:

A. Maintain at all times an adequate staff of qualified personnel assigned to perform the Work to ensure its completion as specified in the applicable work order(s).

B. Comply with all federal, state and local laws and regulations applicable to the Work.

C. Cooperate fully with the DIRECTOR in the scheduling and coordination of all phases of the Work and notify the DIRECTOR in writing prior to commencing site activities.

D. On a monthly basis or other frequency established by the DIRECTOR, provide status and invoicing reports for each project to the DIRECTOR and maintain pertinent data, calculations, field notes, records, sketches, and other Work products open to the inspection of the COUNTY at any time. The right of inspection shall include the right to make copies.

E. Submit for COUNTY review and comments computations, sketches, and other data representative of the Work's progress at the percentage stages of completion which may be stipulated in the applicable work order. Submit for COUNTY approval the final Work products upon incorporation of any modifications requested by the COUNTY during any previous review.

F. Confer with the COUNTY at any time during the further assessment or remediation of any sites for which the SERVICE PROVIDER has provided prior assessment, remediation, or other services as to interpretation of data, plans and other documents, correction of errors or omissions and performance of

any necessary additional Work. The SERVICE PROVIDER shall not be compensated for the correction of errors or omissions.

G. Determine the most appropriate course of action in addressing the particular objective.

H. Provide for the transportation and disposal of recovered contaminants in a lawful manner. Any transporter of recovered contaminants must be properly licensed and maintain all permits required by federal, state and local laws, as applicable. Also, the contaminant disposal facility must be approved by the COUNTY prior to disposal of the contaminants.

I. Throughout the term of this Agreement, maintain in accordance with generally accepted accounting principles and practices all records directly pertinent to the performance of Work under this Agreement. These records must be made available to the COUNTY upon request, and the COUNTY shall have the right to make copies of such records.

J. Not discriminate based on sex, race, creed or national origin with regard to obligations, Work and services performed under this Agreement. The SERVICE PROVIDER agrees to comply with Executive Order No. 11246 entitled "Equal Employment Opportunity" as amended by Executive Order No. 11375, as supplemented by the Department of Labor Regulations (41 CFR, Part 60).

K. Include any additional conditions which may be required by the DIRECTOR or by the USER DEPARTMENT in the applicable cost proposals.

L. Provide detailed explanations regarding invoices and related documents to the DIRECTOR upon request.

M. Provide on a quarterly basis or upon modification, a certified payroll, as reported to the IRS, for all SERVICE PROVIDER employees performing Work under this Agreement which identifies the office locations of each employee listed.

N. Notify the DIRECTOR of any planned meetings or communications with the USER DEPARTMENT which may affect the scope of work of a project prior to or after issuance of a work order.

O. Provide the DIRECTOR with copies of all written information, reports, and correspondence as provided to the USER DEPARTMENT on all matters related to work being considered or conducted under this Agreement.

ARTICLE THREE
Compensation

3.1 The maximum amount payable to the SERVICE PROVIDER for the aggregate of all fees and costs during the Agreement's effective term, including all extensions under Article Four, shall not exceed $5,000,000. NO GUARANTEE IS MADE THAT ANY AMOUNT SHALL IN FACT BE AUTHORIZED BY WORK ORDER FOR PAYMENT TO THE SERVICE PROVIDER.

3.2 The COUNTY agrees to pay and the SERVICE PROVIDER agrees to accept, for services rendered pursuant to this Agreement, fees computed in accordance with one or a combination of the methods outlined below:

A. Fee as a Multiple of Direct Salary Cost and Fixed Hourly Rate

1. The fee for professional services rendered by the SERVICE PROVIDER's personnel, Principals and Senior Project Managers excluded, shall be computed based on the direct salary cost, as reported to the Internal Revenue Service, for the time of said personnel engaged directly in the Work, times a negotiated multiplier not to exceed 2.85. This fee shall constitute full compensation to the SERVICE PROVIDER for costs incurred in the performance of the Work such as overhead, fringe benefits, general and administrative costs (clerical costs and accounting costs), operating margin, and all other costs not covered by reimbursable expenses. The highest direct salary including the multiplier shall not exceed $85 per hour.
2. The SERVICE PROVIDER shall be compensated for the time of the Senior Project Manager engaged directly in the Work, at the direct salary cost times the multiplier specified above, up to a maximum of $95 per hour and shall at no time exceed 10% of the total management and professional labor hours to perform the Work at the discretion of the DIRECTOR. The Senior Project Manager shall be assigned on a project basis by the work order.
3. The SERVICE PROVIDER shall be compensated at the flat rate of $110 per hour for the time of the Principals engaged directly in the Work and shall at no time exceed 5% of the total management and professional labor hours to perform the Work. The flat rate of $110 per hour shall not be subject to the negotiated multiplier and shall be applied to the authorized time spent by the

following Principal(s):

1. Gabino Cuevas, PE
2. Christine Franklin, PE
3. Alex Sanchez, PE

Upon mutual agreement between the DIRECTOR and the SERVICE PROVIDER, the Principals identified above may be substituted, provided the total number of Principals does not exceed the number of Principals listed above.

4. Overtime work considered necessary and previously authorized by the DIRECTOR in writing shall be compensated at time-and-a-half of the labor rate normally paid to the employee, for personnel below the level of Principals and Senior Project Managers. Overtime is defined as work in excess of 40 hours per week conducted on a specific project.
5. During the term of this Agreement, the DIRECTOR may adjust the rates of compensation for the Multiple of Direct Salary Cost and Fixed Hourly Rate basis of compensation, excluding the multiplier, every three (3) years. Such adjustment will be based on the cumulative change of the Consumer Price Index for the Miami urban area since the beginning of the term of this Agreement; provided, however, the increase for any three year period shall not exceed an aggregate total of ten percent (10%).

B. Lump Sum Fee

1. The fee for any specifically described portion of Work may, at the option of the COUNTY, be a lump sum mutually agreed upon by the COUNTY and the SERVICE PROVIDER and stated in the written work order.
2. At the option of the DIRECTOR, the SERVICE PROVIDER shall include a detailed cost breakdown in its proposal for lump sum projects.
3. The COUNTY reserves the right to request a fee credit when a reduction in the Work has occurred after issuance of a work order.
4. The amount due of invoices submitted shall be calculated by using a schedule of values or payment milestones or applying the percentage of the total work completed to date to the authorized lump sum, and subtracting any previous payments, as specified in the work order.

C. The COUNTY may choose to competitively bid among the SERVICE PROVIDERS any design/build project.

3.3 The SERVICE PROVIDER shall be compensated for certain work-related expenses not covered by fees for professional services, provided such expenditures are previously authorized by the DIRECTOR. Reimbursable expenses may include, but not be limited to, the following:

A. A mark-up not to exceed ten percent (10%), as mutually agreed during negotiation of a work order of the actual cost to the SERVICE PROVIDER on subconsultant and subcontractor services fees, excluding costs of equipment, material and supplies.

B. A total mark-up not to exceed five percent (5%), as mutually agreed during negotiation of a work order, of the actual cost of the purchase or rental of approved equipment, material and supplies. Purchased items shall remain the property of the COUNTY upon Work completion.

C. Living and traveling expenses of employees and principals on authorized business, as limited by Miami-Dade Administrative Order No. 6-1, "Travel on County Business". For purposes of this Agreement, all personnel are assumed to be residents of Miami-Dade County and all travel would originate in Miami-Dade County.

D. Costs for vehicular travel, as necessary for the Work, shall be compensated at the flat rate of $25 per day for non-service vehicles and $50 per day for service vehicles and shall be stated in each cost proposal. For purposes of this Agreement, a service vehicle is any vehicle required for the transporting of equipment necessary for onsite activities authorized under this Agreement.

E. Printing and reproduction costs will be reimbursed at the same or lower rates paid by the COUNTY to its vendors. Printing and mailing costs for the SERVICE PROVIDER's coordination and other in-house uses will not be reimbursed.

F. Long distance telephone charges, except charges for calls made to telephone numbers in Miami-Dade, Broward, and Palm Beach counties.

3.4 The SERVICE PROVIDER shall not be compensated for labor and other work-related costs and expenses

which exceed the maximum authorized compensation amount of a work order and which were incurred without prior written authorization from the DIRECTOR, except in instances where verbal authorization was issued by the DIRECTOR. If, during the performance of authorized Work, it becomes apparent that the maximum authorized compensation of a particular work order will not be sufficient to cover the cost of the Work covered by the work order, the SERVICE PROVIDER shall immediately notify the DIRECTOR and submit a detailed estimate of anticipated additional costs. The DIRECTOR may, at his sole discretion, increase the maximum compensation amount of the work order or elect another course of action, including reassignment of the site to another SERVICE PROVIDER, if the anticipated additional costs submitted are deemed, in the sole discretion of the DIRECTOR, to be unacceptable. In the event of site reassignment, the original SERVICE PROVIDER will be compensated only for the completed portions of the authorized Work.

3.5 The SERVICE PROVIDER shall not be compensated for costs and expenses associated with the use of funds from Contingency or Allowance Accounts without prior written authorization from the DIRECTOR.

3.6 In accordance with Sec. 287.055(5)(a), Florida Statutes (1991), the SERVICE PROVIDER hereby certifies and warrants that wage rates and other factual unit costs and any cost(s) for equipment or supplies are accurate, complete and current as of the date of this Agreement, or of said negotiation, as applicable. It is further agreed that said compensation shall be adjusted to exclude any significant sums by which the COUNTY shall determine that such costs were increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such agreement adjustments shall be made within three (3) years from the date of final billing or acceptance of the Work by the COUNTY, whichever is later.

3.7 The SERVICE PROVIDER shall prepare and submit invoices as detailed below:

A. Each invoice must reference the particular work order which authorized the services rendered, must contain a paragraph attesting to the veracity and correctness of the amount due and must be signed by the SERVICE PROVIDER's project manager.

B. Invoices must be fully itemized and accompanied by original receipts, logs or other documentation to support the invoiced amount, as necessary. The cost of services must be calculated in accordance with Article Three of this Agreement. The amount due shall be the sum of the amounts due for all authorized Work performed to date pursuant to work order, less previous payments or retainage. No payment shall be made for the SERVICE PROVIDER's time or services in connection with the preparation of invoices or related documents.

C. Concurrent to submission of an invoice to the USER DEPARTMENT, the SERVICE PROVIDER shall submit a copy to:

Department of Environmental Resources Management
Pollution Control Division
33 S.W. 2 Avenue, Suite 800
Miami, Florida 33130
Attn.: Jose Gonzalez, P.E., Chief

ARTICLE FOUR
Effective Term of Agreement

4.1 This Agreement shall remain in full force and effect for a period of three (3) years after its date of execution (although actual completion of the services hereunder may extend beyond such term), unless terminated by mutual consent of the parties hereto or as provided in Article Ten hereof. The SERVICE PROVIDER shall be compensated in accordance with Article Three hereof for the performance of services which are specifically and properly authorized prior to the expiration date of this Agreement and which have been initiated prior to such expiration date, but which are completed after the Agreement's effective term.

4.2 This Agreement may be extended upon the same terms and conditions by mutual written consent of the parties for two (2) additional periods of one (1) year each with no additional increase in the maximum compensation limit. The maximum amount payable to the SERVICE PROVIDER for the aggregate of all services authorized shall not exceed ~~$5,000,000~~ $500,000.

ARTICLE FIVE
Indemnification

5.1 To the extent permitted by Florida law, the SERVICE PROVIDER agrees to defend, indemnify, save and hold the COUNTY, its agents, assigns, and employees, harmless from all claims or causes of action, including costs and attorneys' fees, and all judgments whatsoever, involving personal injury, bodily injury, death, or property damage, arising out of any negligent or intentional act or omission, or the violation of any federal, state, or local law or regulation, by the SERVICE PROVIDER, its subcontractors, agents, assigns, invitees, or employees in connection with this Agreement, in the same manner and to the same extent as if the COUNTY were identified as an Additional Insured within the SERVICE PROVIDER's insurance program. The SERVICE PROVIDER shall defend the COUNTY in any action arising under this Agreement, in the name of the COUNTY if necessary. This paragraph shall not be construed as intending to indemnify the COUNTY for claims arising out of the sole negligence of the COUNTY. The SERVICE PROVIDER further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, agents, assigns, invitees and employees with the terms of this Agreement.

ARTICLE SIX
Insurance

6.1 The SERVICE PROVIDER shall not commence any Work pursuant to this Agreement until all insurance required under this Article has been obtained and such insurance has been approved by the COUNTY's Risk Management Division. The SERVICE PROVIDER shall maintain during the term of this Agreement and furnish to the COUNTY their certificates of insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

A. Worker's Compensation Insurance for all employees of the SERVICE PROVIDER as required by Florida Statute 440, as presently written or hereafter amended.

B. Public Liability Insurance, on a comprehensive basis, in an amount not less than $500,000 combined single limit per occurrence for bodily injury and property damage. The COUNTY must be named as an additional insured with respect to this coverage.

C. Pollution Liability Insurance in an amount not less than $500,000 combined single limit per occurrence.

D. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the Work, in an amount not less than $500,000 per occurrence combined single limit for bodily injury and property damage. Under no circumstances is the SERVICE PROVIDER permitted on Miami-Dade County airport property, Airside Operation Area, without increasing automobile coverage to $5,000,000.

E. Professional Liability Insurance in the amount of $1,000,000 with deductible per claim, if any, not to exceed ten percent (10%) of the limit of liability providing for all sums which the SERVICE PROVIDER shall become legally obligated to pay as damages for claims arising out of the services performed by the SERVICE PROVIDER or any person employed by the SERVICE PROVIDER in connection with this Agreement.

6.2 The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflects the operations of the SERVICE PROVIDER.

6.3 All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida. The Company must be rated no less than "B" as to management, and no less than "Class V" as to strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent subject to the approval of the COUNTY's Risk Management Division, or, the companies must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and be members of the Florida Guaranty Fund.

6.4 The SERVICE PROVIDER shall furnish certificates of insurance to the Risk Management Division, Suite

2340, Miami-Dade Center, 111 N.W. First Street, Miami, Florida 33128-1987 prior to the commencement of operations, which certificates shall clearly indicate that the SERVICE PROVIDER has obtained insurance in the type, amount, and classification as required for strict compliance with this Article and that no material change or cancellation of this insurance shall be effective without thirty (30) days prior written notice to the COUNTY.

6.5 Compliance with the foregoing requirements shall not relieve the SERVICE PROVIDER of the liabilities and obligations under this Article or under any other portion of this Agreement. The SERVICE PROVIDER shall not commence any Work pursuant to this Agreement until all the required insurance coverages have been obtained and such insurance has been approved by the COUNTY's Risk Management Division.

ARTICLE SEVEN
Performance and Payment Bond

7.1 Before commencing any design-build project or construction work authorized under this Agreement, the SERVICE PROVIDER shall execute, record in the public records of the COUNTY and deliver to the DIRECTOR a Public Construction Bond in the form provided in Sec. 255.05 of the Florida Statutes in an amount not less than the full amount of the work order for such project. The requirement that the SERVICE PROVIDER shall provide this bond is in addition to all other requirements of this Agreement pertaining to indemnification and insurance, and shall not be construed as a limitation on the extent of SERVICE PROVIDER's responsibility or liability pursuant to the indemnification and insurance provisions of this Agreement.

ARTICLE EIGHT
Professional Independence of the SERVICE PROVIDER

8.1 It is understood and agreed that the SERVICE PROVIDER is not an agent, employee or representative of the COUNTY, nor does it have authority to act on behalf of the COUNTY or any of its agencies. The SERVICE PROVIDER is, and shall remain, an independent professional with respect to all services performed under this Agreement. No partnership relationship between the COUNTY and the SERVICE PROVIDER is created or intended by this Agreement. No associate or employee of the SERVICE PROVIDER shall be deemed to be an employee of the COUNTY for any purpose whatsoever.

ARTICLE NINE
Assignment

9.1 This is an Agreement for unique professional services and the SERVICE PROVIDER's obligations hereunder are not assignable, except as and to the extent proposed by the SERVICE PROVIDER's submittal to the COUNTY during the selection process.

9.2 The SERVICE PROVIDER shall not otherwise assign, transfer, pledge, hypothecate, surrender, or otherwise encumber or dispose of any of its rights under this Agreement, or any interest in any portion of same, without the prior written consent of the COUNTY, pursuant to its policy on subcontractor substitution.

ARTICLE TEN
Retainage

10.1 The COUNTY reserves the right to establish the amount and application of retainage on a task assignment basis. A maximum of 10% from each payment to the SERVICE PROVIDER may be retained pending satisfactory completion of a task assignment and approval of all deliverables.

ARTICLE ELEVEN
Liquidated Damages

11.1 At the option of the COUNTY and unless otherwise agreed, Liquidated Damages will be assessed against the SERVICE PROVIDER due to Non-Excusable Delays for each day the Work exceeds specified deadlines and Liquidated Indirect Costs will be recoverable by the SERVICE PROVIDER due to Excusable Compensable Delays for each day the delay causes the Work to exceed specified deadlines. The above shall be determined and detailed in the work order.

ARTICLE TWELVE
Cancellation or Termination

12.1 It is expressly understood and agreed that the County Manager may terminate this Agreement, in whole or in part, without cause or penalty, by thirty (30) days prior written notification from the County Manager in which event the COUNTY's sole obligation to the SERVICE PROVIDER shall be payment, in accordance with Article Three, for those units or sections of Work previously authorized. Such payment shall be determined on the basis of the hours or percentage of Work performed by the SERVICE PROVIDER up to the time of termination. In the event partial payment has been made for professional services not performed, the SERVICE PROVIDER shall return such sums to the COUNTY within ten (10) days after receipt of written notice that said sums are due.

12.2 In the event the SERVICE PROVIDER fails to comply with the provisions of this Agreement, the DIRECTOR may declare the SERVICE PROVIDER in default by ten (10) days prior written notification. In such event, the SERVICE PROVIDER shall only be compensated for any completed professional services. If partial payment has been made for such professional services not completed, the SERVICE PROVIDER shall return such sums to the COUNTY within ten (10) days after receipt of written notice that said sums are due. The SERVICE PROVIDER shall be compensated on a percentage of the professional services which have been performed at the time the DIRECTOR declares a default. In the event the COUNTY prevails in litigation to enforce the provisions of this Article, the COUNTY shall be compensated by the SERVICE PROVIDER for reasonable attorney's fees and court costs.

ARTICLE THIRTEEN
Ordinances, Resolutions and Other Requirements

13.1 The SERVICE PROVIDER agrees to comply with all applicable County and State Ordinances, Resolutions and/or Regulations, including but not necessarily limited to the following items. The SERVICE PROVIDER further agrees to comply with any other Ordinance or Resolution of the County that may become effective before the execution by both parties of this Agreement. Copies of the Ordinances and Resolutions may be picked up at the Office of the Miami-Dade County Clerk of the Board.

A. Ordinances

1. 72-82--Conflict of Interest, as amended by Ordinances 00-01, 00-46
2. 77-13--Financial Disclosure
3. 82-37--Affirmative Action Plan
4. 90-133--Disclosure of Ownership, Collective Bargaining Agreement, and Employee Wages, Health Care Benefits, Race, National Origin, and Gender
5. 90-143--Responsible Wages & Benefits (as applicable)
6. 91-142--Family Leave requirements are a condition of award
7. 92-15--Drug-Free workplace requirements are a condition of award, as amended by Ordinance 00-30
8. 92-91--Family Leave as amended, superseded by 93-118 (Family Leave Act) and amended by Resolution R-183-00
9. 94-73--Value Analysis and Life-Cycle Costing
10. 95-178--Proposers are to verify that all delinquent and currently due fees or taxes have been paid as a condition of award
11. 97-35--Policy of Fair Subcontracting Practices
12. 97-67--Amending Chapter 11A Prohibiting Discrimination in Contracting, Procurement, Bonding and Financial Services
13. 97-104--Listing of Subcontractors and Suppliers on County Contracts

14. 97-172--Ordinance amending section 2-10.4 requiring certain agreements for Professional Architectural and Engineering Services to include Value Analysis as part of the scope of service
15. 98-30--County Contractors Employment and Procurement practices
16. 99-5--Domestic Violence Leave
17. 99-152--False Claim Ordinance
18. 99-162--Precluding entities who are not current in their obligations to the County from receiving new contracts or purchase orders
19. 00-18--Debarment Ordinance
20. 00-67--Prohibition of contracting with individuals and entities while in arrears with the County, as amended by Resolution R-531-00.
21. 00-85--Ordinance amending section 2-8.9 of the Code of Miami-Dade County (The Living Wage Ordinance).
22. 01-96--Code of Business Ethics: Ordinance amending Section 2-9.1(i) of the Miami-Dade County Code.
23. 01-105--Ordinance amending Section 2-10.4 of Miami-Dade County Code for the acquisition of professional architectural, engineering, landscape architectural or land surveying and mapping services.
24. 02-3--Cone of Silence

B. Resolutions
1. R-1049-93--Affirmative Action Plan Furtherance and Compliance
2. R-385-95--Policy prohibiting contracts with firms violating the A.D.A. and other laws prohibiting discrimination on the basis of disability A.D.A. requirements, are a condition of award, as amended by Resolution R-182-00
3. R-744-00--Requiring the continued engagement of critical personnel in contracts for professional services for the duration of the project.
4. R-185-00--Domestic Violence Leave requirements are a condition of award

C. Administrative Orders
1. 3-26--Ordinance amending Section 2-10.4 requiring certain agreements for Professional Architectural and Engineering Services to include Value Analysis as a part of the base scope of services.
2. 3-27--Cone of Silence
3. 3-32--Community Business Enterprise Program
4. 3-34--Formation and Performance of Selection Committee

13.2 The SERVICE PROVIDER shall comply with the financial disclosure requirements of Ordinance No. 77-13 by filing, within thirty (30) days of the execution of this Agreement, one of the following with the Miami-Dade County Elections Department, P.O. Box 012241, Miami, FL 33101:
A. A source of income statement OR
B. A current certified financial statement OR
C. A copy of the SERVICE PROVIDER's current Federal Income Tax Return.

13.3 The SERVICE PROVIDER shall complete and submit the attached affidavits that correspond to the following:
A. Ordinance No. 90-133 (Disclosure of Ownership, Collective Bargaining Agreement, and Employee Wages, Health Care Benefits, Race, National Origin and Gender)
B. Ordinance No. 91-142 (Family Leave), as amended by Ordinance No. 92-91
C. Ordinance No. 92-15 (Drug Free Workplace)
D. Resolution No. R-202-96 and Resolution No. R-206-96 (Restrictions on Travel and Transaction of Business with Firms Doing Business with Cuba)
E. Resolution No. R-385-95 (Policy prohibiting contracts with firms violating the ADA and other laws prohibiting discrimination on the basis of disability).

13.4 The SERVICE PROVIDER agrees to abide and be governed by the federal provisions as stated in ATTACHMENT A FEDERAL REQUIREMENTS AND PROVISIONS and to abide by any other applicable federal provisions.

ARTICLE FOURTEEN
Affirmative Action Plan

14.1 The SERVICE PROVIDER's Affirmative Action Plan submitted pursuant to Ordinance 82-37, as approved by the Department of Business Development and any approved update thereof, are hereby incorporated as contractual obligations of the SERVICE PROVIDER to Miami-Dade County hereunder. The SERVICE PROVIDER shall undertake and perform the affirmative actions specified herein. The DIRECTOR may declare the SERVICE PROVIDER in default of this agreement for failure of the SERVICE PROVIDER to comply with the requirements of this paragraph.

ARTICLE FIFTEEN
Monthly Utilization Reports for Subcontracting

15.1 Pursuant to Miami-Dade County Ordinance, the SERVICE PROVIDER is required to submit Monthly Utilization Reports (MUR) to the COUNTY's Department of Business Development and DERM, on or before the tenth (10th) working day following the end of the month. The MUR covers the amount of contract monies received from the COUNTY under this and all other County projects. MURs shall specify the amounts of money that have been paid by the SERVICE PROVIDER directly to all subcontractors that perform part of the Work. Authorized representatives of each subcontractor sign the MUR(s) verifying the participation of the subcontracted firm on the Agreement and receipt of the monies listed. MURs are to be submitted to (1) the Department of Business Development, 175 NW 1 Avenue, 28th Floor, Miami, FL 33128-1835 and (2) the Department of Environmental Resources Management, Pollution Control Division, 33 SW 2 Avenue, Suite 800, Miami, Florida 33130-1540, Attention: Jose Gonzalez, P.E., Chief.

ARTICLE SIXTEEN
Paragraph Headings

16.1 The paragraph headings appearing herein shall not be deemed to govern, limit, modify or in any manner, affect the scope, meaning or intent of the provisions of this Agreement. No representations or warranties shall be binding upon either party unless expressed in writing herein.

ARTICLE SEVENTEEN
Right of Decisions and Dispute Resolution

17.1 The DIRECTOR shall have the sole right to determine on which units or sections of the Work the SERVICE PROVIDER shall proceed and in what order. Any written work order(s) issued by the DIRECTOR shall cover in detail the scope, time for completion and maximum compensation for the services requested and authorized in connection with each unit or section of Work.

17.2 All services shall be performed by the SERVICE PROVIDER to the satisfaction of the DIRECTOR, who shall decide all questions, difficulties, and disputes of whatever nature which may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder, and the character, quality, amount and value thereof. The DIRECTOR's decisions upon all claims, questions and disputes shall be final, conclusive and binding upon all the parties hereto unless such determination is clearly arbitrary or unreasonable.

17.3 In the event the SERVICE PROVIDER and the COUNTY are unable to resolve their differences concerning any determination made by the DIRECTOR or any dispute or claim arising under or relating to this Agreement (referred to in this Section as a "Dispute"), either the SERVICE PROVIDER or the COUNTY may initiate a Dispute in accordance with the procedure set forth in this Article. Exhaustion of these procedures shall be a precondition to any lawsuit permitted hereunder.

17.4 Any and all Disputes shall be decided by a judge selected from the panel of retired judges qualified to serve as hearing examiners pursuant to Section 2-8.4 of the Code of Miami-Dade County, governing bid protest

procedures, or successor ordinance. The DIRECTOR shall select and appoint the judge upon timely request made under this Article.

17.5 As soon as practicable, the judge shall adopt a schedule for the SERVICE PROVIDER and the COUNTY to file written submissions stating their respective positions and the bases therefore. The written submissions shall include copies of all documents and sworn statements in affidavit form from all witnesses relied on by each party in support of its position. Within 20 working days of the date of the date on which such written submissions are filed, the judge shall afford each party an opportunity to present a maximum of one hour of argument. The judge may decide the Dispute on the basis of the affidavits and other written submissions if in his or her discretion there is no issue of material fact and the party is entitled to a favorable resolution pursuant to the terms of this Agreement and applicable law. As part of such decision, the judge shall determine the timeliness and sufficiency of each claim at issue. The judge shall have the authority to rule on questions of law, including Disputes over contract interpretation, and to resolve claims, or portions of claims, via summary judgment where there are no disputed issues of material fact.

17.6 In the event that the judge determines that the affidavits or other written submissions present issues of material fact, the judge shall allow the presentation of evidence in the form of lay or expert testimony directed solely to the issues which he or she may specifically identify to require factual resolution. The testimonial portion of the process shall not exceed one day in duration per side, including opening statements and closing arguments, if allowed by the judge in his or her reasonable discretion.

17.7 No formal discovery shall be allowed in connection with any proceeding under this Article. Notwithstanding the foregoing, both parties agree that all of the audit, document inspection, information and documentation requirements set forth elsewhere in this Agreement shall remain in force and effect throughout the proceeding. The judge shall not schedule the hearing until both parties have made all their respective records available for inspection and reproduction and the parties have been afforded reasonable time to analyze the records. The continued failure of a party to comply with the document inspection, examination, or submission requirements set forth in this Agreement shall constitute a waiver of that parties' claims and/or defenses, as applicable. Hearsay evidence shall be admissible but shall not form the sole basis for any finding of fact.

17.8 The judge shall issue a written decision within 15 working days after conclusion of any testimonial proceeding, and if no testimonial proceeding is conducted, within 45 days of the filing of the last written submission. The decision of the judge shall be conclusive, final and binding on the parties, subject only to the limited right of review specified below.

17.9 If either party wishes to protest the decision of the judge, such party may commence an appeal in a Court of competent jurisdiction no later than 30 calendar days from the issuance of the judge's written decision, it being understood that the review of the Court shall be limited to the question of whether or not the judge's determination was arbitrary and capricious, unsupported by any competent evidence, or so grossly erroneous to evidence bad faith.

17.10 Pending final decision of a Dispute hereunder, the SERVICE PROVIDER shall proceed diligently with the performance of this Agreement and in accordance with the DIRECTOR's interpretation.

17.11 The SERVICE PROVIDER shall share equally with the COUNTY in the total cost of the hearing. Total cost shall include the hearing room, the hearing examiner, court reporter appearance fees and transcript fees if required by the hearing examiner.

ARTICLE EIGHTEEN
Ownership of Documents and Information

18.1 All reports, documents and other data developed by the SERVICE PROVIDER pursuant to this Agreement shall become the property of the COUNTY without restrictions or limitations upon their use. Reuse of such data by the COUNTY for any purpose other than that for which it was prepared shall be at the COUNTY's sole risk. When each individual section of Work requested, pursuant to this Agreement is complete, all of the above

data shall be delivered to the DIRECTOR.

ARTICLE NINETEEN
Agreement Open to Public

19.1 This Agreement, with its appendices, is a public record and is subject to public inspection under Chapter 286, Florida Statutes, popularly known as the "Government in the Sunshine Law". When the SERVICE PROVIDER advises the COUNTY in writing of the sensitive nature of information claimed to be proprietary, to the extent that Chapter 286, Florida Statutes, allows proprietary information to be withheld from public inspection, the COUNTY shall respect the sensitive nature of such proprietary information and not reveal such information only to the extent allowed by law.

ARTICLE TWENTY
Subcontracting

20.1 The SERVICE PROVIDER shall not subcontract any Work under this Agreement without the written consent of the COUNTY. When applicable and upon receipt of such consent in writing, the SERVICE PROVIDER shall cause the names of the firms responsible for each separate specialty of the Work to be inserted in the pertinent documents or data. No assignment or transfer of Work will be allowed.

ARTICLE TWENTY-ONE
Warranty

21.1 The SERVICE PROVIDER warrants that no companies or persons, other than bona fide employees working solely for the SERVICE PROVIDER or its COUNTY-approved subconsultants, have been retained or employed to solicit or secure this Agreement or have been paid or guaranteed payment of any fees, commissions, percentage fees, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. The SERVICE PROVIDER also warrants that no COUNTY personnel, whether a full-time or part-time employee, has or shall be retained or employed in any capacity, by the SERVICE PROVIDER or its COUNTY approved subconsultants, to accomplish the Work contemplated under the terms of this Agreement. For breach or violation of this warranty, the County Manager shall have the right to cancel this Agreement without liability.

ARTICLE TWENTY-TWO
Notices

22.1 Any notices, reports or other written communications from the SERVICE PROVIDER shall be considered delivered when posted by certified mail or delivered in person to the DIRECTOR. Any notices, reports or other communications from the COUNTY to the SERVICE PROVIDER shall be considered delivered when posted by certified mail to the SERVICE PROVIDER at the last address left on file with the COUNTY or delivered in person to said SERVICE PROVIDER or its authorized representative.

ARTICLE TWENTY-THREE
Audit Rights

23.1 The SERVICE PROVIDER hereby agrees that the COUNTY may perform audits of the SERVICE PROVIDER'S books of account and records related to the work. Such audits may be performed at the COUNTY'S discretion.

23.2 Such audits may be performed by the COUNTY or may be arranged by the COUNTY through the auspices of the U.S. Department of Transportation. Alternatively, the COUNTY may cause an independent certified public accounting firm to perform the audit within the time herein described below. The SERVICE PROVIDER shall maintain all books of account, records, documents and other evidence of accounting procedures and practices sufficient to properly document all expenses incurred and anticipated to be incurred in the performance of this Agreement including justification of the negotiated overhead rate and direct labor rates. The materials

described above shall be made available at the office of the SERVICE PROVIDER, at reasonable times, for inspection, audit or reproduction, until the expiration of three (3) years following final payment under this Agreement and the closing of all other pending matters.

23.3 In addition to the above requirements, the Secretary of the U.S. Department of Transportation, the Comptroller General of the United States, the State of Florida, or their authorized designee, shall have the right to audit the SERVICE PROVIDER'S books of account and records relating to performance of this Agreement at any time within three (3) years following final payment under this Agreement and the closing of all other pending matters.

23.4 For purposes of verifying that certified cost or pricing data submitted or identified by the SERVICE PROVIDER in conjunction with the negotiation of this Agreement or any modification/change order to this Agreement, the SERVICE PROVIDER shall, for a period of three (3) years after Final Acceptance under this Agreement:

A. Maintain such certified cost of pricing data, including books, records, documents, papers, computations, projections and other supporting data. All such certified cost or pricing data shall be clearly identified, readily accessible and, to the extent feasible, kept separate and apart from all unrelated documents.

B. Permit authorized representative of the COUNTY, State of Florida, United States Department of Transportation and Comptroller of the United States to examine such books, records, documents, papers, computations, projections and other supporting data.

C. In the event any information provided by the SERVICE PROVIDER during initial Agreement negotiations or any supplemental Agreement negotiations or any other information is later determined by the COUNTY not to have been complete, accurate or current at the time of the submittal, the COUNTY shall be entitled to an appropriate reduction in the total compensation amount. If this determination is made by the COUNTY after final payment, the COUNTY shall use all available means to recover said funds including withholding funds due the SERVICE PROVIDER on other COUNTY Agreements.

D. The SERVICE PROVIDER agrees to insert these audit clauses in all of his subcontracts.

ARTICLE TWENTY-FOUR
Equal Opportunity

24.1 The SERVICE PROVIDER shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, ancestry, marital status, physical handicap, place of birth or national origin. The SERVICE PROVIDER shall take affirmative actions to insure that applicants are employed and that employees are treated during their employment without regard to their race, religion, color, sex, age, marital status, physical handicap or national origin. Evidence of such actions shall be reported on forms supplied by the COUNTY.

24.2 Such actions shall include, but shall not be limited to the following: employment; upgrading, transfer or demotion; recruitment or recruitment advertising; layoff or termination; rates of pay or other form of compensation and selection for training, including apprenticeship. The SERVICE PROVIDER agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the COUNTY setting forth the provisions of this Equal Opportunity Clause.

24.3 The SERVICE PROVIDER shall comply with all applicable provisions of the Civil Rights Acts of 1964; Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375; Executive Order 11625 of October 13, 1971; the Age Discrimination in Employment Act, effective June 12, 1968; the rules and regulations, and relevant orders of the Secretary of Labor; Florida Statutes, Chapter 760 (Florida Civil Rights Act of 1992, as amended) and Dade County Ordinance 75-46.

ARTICLE TWENTY-FIVE
Nondiscrimination

25.1 During the performance of this Agreement, the SERVICE PROVIDER agrees to state in all solicitations or advertisements for employees placed by or on behalf of the SERVICE PROVIDER that all qualified applicants

will receive consideration for employment without regard to race, religion, color, sex, age, marital status, physical handicap or national origin. If requested to do so the SERVICE PROVIDER shall furnish all information and reports required by Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375 and by rules, regulations and orders of the secretary of Labor, or pursuant thereto, and will permit access to their books, records and accounts by the COUNTY, and compliance review agencies for purposes of investigation to ascertain compliance with such rules and regulations and orders.

ARTICLE TWENTY-SIX
DBE Subcontracting Goal and Affirmative Action Requirements

26.1 The SERVICE PROVIDER must make a good faith effort to meet the twenty percent (20%) Disadvantaged Business Enterprise (DBE) goal established for this Agreement and to comply with all the provisions of the Affirmative Action Requirements section that was attached to the original NOTICE TO PROFESSIONAL CONSULTANTS, PROJECT NO. E03-DERM-01 and is attached to and made a part of this Agreement (Exhibit A).

ARTICLE TWENTY-SEVEN
Title VI – Compliance (Civil Rights Act of 1964)

27.1 These requirements are found in the Affirmative Action Requirements section that was attached to the original NOTICE TO PROFESSIONAL CONSULTANTS, PROJECT NO. E03-DERM-01 and is attached to and made a part of this Agreement (Exhibit A).

ARTICLE TWENTY-EIGHT
Cargo Preference

28.1 The SERVICE PROVIDER agrees to utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computes separately for dry bulk carriers, dry cargo loners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this section, to the extent such vessels are available at fair and resalable rates for United States-flag commercial vessels.

28.2 The SERVICE PROVIDER agrees to furnish within 30 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill of lading in English for each shipment of cargo described in Paragraph 1 above to the Recipient (through the prime SERVICE PROVIDER in the case of subcontractor bill of lading) to the Division of National Cargo, office of Market Development, Maritime Administration, 400 Seventh Street S.W., Washington D.C. 20590, marked with appropriate identification of the Project.

28.3 The SERVICE PROVIDER agrees to insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Agreement.

ARTICLE TWENTY-NINE
Energy Conservation

29.1 SERVICE PROVIDER shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC Section 6321 et. seq.).

ARTICLE THIRTY
Clean Air Act, Federal Water Pollution Control Act, Buy America Act, and American with Disabilities Act (ADA) Requirements

30.1 The SERVICE PROVIDER agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (h)), Section 508 of the Clean Water Act (33 USC 1368),

Executive Order 11738 and Environmental Protection Agency regulations (40 CFR, Part 15) which prohibit the use under nonexempt Federal contracts, grants or loans, of facilities included on the EPA List for Violating Facilities. The SERVICE PROVIDER shall report violations to FTA and to the USEPA Assistant Administrator for Enforcement (EN0329). The SERVICE PROVIDER hereby certifies that he will comply with the requirements of Section 165 (a) of the Surface Transportation Assistance Act of 1982 and the regulations in 49 CFR 661. Each SERVICE PROVIDER shall complete the "Buy America" Certificate in Attachment "C". The SERVICE PROVIDER further certifies that he will comply with the requirements of the Americans with Disabilities Act.

ARTICLE THIRTY-ONE
Fly America Requirements

31.1 The SERVICE PROVIDER agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their subconsultants are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The SERVICE PROVIDER shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The SERVICE PROVIDER agrees to include the requirements of this section in all subconsultants that may involve international air transportation.

ARTICLE THIRTY-TWO
Project Fresh Start

32.1 In accordance with Resolution No. R-702-98, as amended by Resolution No. R-358-99, any entity entering into new, and renewing or extending existing contracts with Miami-Dade County, shall make monetary contributions to Project Fresh Start, the County's welfare-to-work initiative. The resolution, with its contractual requirements and provisions, became effective on June 26, 1998, and was amended effective April 23, 1999. The resolution applies to contracts for goods and services, including construction, which results in the actual payment of $500,000 or more by the County to a contracting entity. If five percent (5%) of the entity's workforce consists of individuals who reside in Miami-Dade County and who have lost or will lose cash assistance benefits (formerly Aid to Families with Dependent Children) as a result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the entity may request a waiver of the requirements of R-702-98, as amended by R-358-99.

32.2 Contributions to Project Fresh Start shall be based on the following scale:
If the entity has a contract with the County that results in actual payment of an amount between:

$500,000 to $1,000,000	the entity shall contribute	$5,000.
$1,000,001 and $5,000,000	the entity shall contribute	$10,000.
$5,000,001 and $10,000,000	the entity shall contribute	$20,000.
$10,000,001 and over	the entity shall contribute	$25,000.

ARTICLE THIRTY-THREE
Prompt Payment Act

33.1 It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust shall be made in a timely manner and that interest payments be made on late payments. In accordance with Florida Statutes, Section 218.74 and Section 2-8.1.4 of the Miami-Dade County Code, the time at which payment shall be due from the County or the Public Health Trust shall be forty-five (45) days from receipt of a proper invoice. The time at which payment shall be due to small businesses and minority and women business enterprises shall be thirty (30) days from receipt of a proper invoice. All payments due from the County or the Public Health Trust, and not made within the time specified by this section, shall bear interest from thirty (30)

days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Manager, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or the Public Health Trust.

ARTICLE THIRTY-FOUR
People's Transportation Plan

34.1 The work conducted under this Agreement may be funded in whole or in part with the one-half percent (1/2%) surtax proceeds generated for the People's Transportation Plan. No award of such funded work shall be effective and no contractual relationship shall arise with the County unless and until approved by the Board of County Commissioners (BCC) and the Citizens' Independent Transportation Trust (CITT) or in response to the CITT's disapproval, the BCC re-affirms its award by two-thirds (2/3) vote of the Commission's membership.

ARTICLE THIRTY-FIVE
Entirety of Agreement

35.1 This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

35.2 No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto, and approved by the Board of County Commissioners.

35.3 This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

IN WITNESS WHEREOF, the parties have executed these presents this _____ day of _____, 2003.

ATTEST:

HARVEY RUVIN

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

By:_____ By:_____

Deputy Clerk County Manager

ATTEST:

Cherokee Enterprises, Inc.

(Corporate Seal)

By: (Signature) _____

(Name) Christine Franklin, P.E.

(Title) President

By: (Signature) _____

(Name) Gabino Cuevas, P.E.

(Title) Chief Executive Officer