Memorandum

MIAMI-DADE COUNTY

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

Date: October 6, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Award of Contract No. EPP-RFP 669: Transit Operator Performance Monitoring Services

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RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve award of this contract to provide bus operator performance monitoring services for the Miami-Dade Transit Department.

CONTRACT NUMBER: EPP-RFP 669

CONTRACT TITLE: Transit Operator Performance Monitoring Services

TERM: Five years

APPROVAL TO ADVERTISE: February 3, 2009

CONTRACT AMOUNT: $253,800 for the five year period

USING/MANAGING AGENCY FUNDING SOURCE:

Department	Allocation	Funding Source
Transit	$253,800	MDT Operating

PREVIOUS CONTRACT AMOUNT: $150,000 for 32 months

METHOD OF AWARD: Awarded to the highest ranked responsive, responsible vendor based on the evaluation criteria established in the solicitation. A full and open competitive Request for Proposals process was used.

VENDOR RECOMMENDED FOR AWARD:

Vendor	Address	Principal
PMG Associates, Inc. (Local vendor)	4171 West Hillsboro Blvd., Suite 8 Coconut Creek, FL 33073	Kathleen Gonot

PERFORMANCE DATA:	There are no performance issues with the recommended firm.
COMPLIANCE DATA:	There are no compliance issues with the recommended firm.
VENDORS NOT RECOMMENDED FOR AWARD:	EV Services, Inc. Gator Engineering Consultants, P.A. M. Gill & Associates, Inc. AMBRO, Inc. The Ford Group, Inc. B. Mumford & Company RLB Financial Services, Inc. Carmen Morris & Associates (The Department of Small Business Development determined that the vendor was not in compliance with the Small Business Enterprise Set-aside Provisions; see memo attached).
CONTRACT MEASURES:	On February 11, 2009, the Review Committee recommended a Small Business Enterprise Set-aside measure for this solicitation.
LIVING WAGE:	The services being provided are not covered under the Living Wage Ordinance.
USER ACCESS PROGRAM:	The User Access Program provision is included. The 2% percent program discount will be collected on each purchase where permitted by the funding source.
LOCAL PREFERENCE:	Applied in accordance with applicable Ordinance, but did not affect the outcome.
CONTRACT MANAGERS:	Drakus Wiggins, Department of Procurement Management Maud Gonzalez, Miami-Dade Transit Department
ESTIMATED CONTRACT COMMENCEMENT DATE:	January 1, 2010
DELEGATED AUTHORITY:	If this item is approved, the County Mayor or designee will have the authority to exercise, at County Mayor's of designee's discretion, subsequent options-to-renew and other extensions in accordance with the terms and conditions of the contract.

BACKGROUND

This contract will provide the supervision, staff and equipment necessary to perform transit operator performance monitoring services of the bus system for the Miami-Dade Transit Department on a quarterly basis.

The contractor shall conduct, without alerting or advising the bus operator, an evaluation of the operator's adherence to the Federal Transit Administration/Department of Transportation requirements. The contractor shall monitor the bus operator's compliance with the Americans with Disabilities Act, stop announcements, route identification requirements, fare collection, schedule adherence, and passenger relations.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: October 6, 2009

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

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

Please note any items checked.

_____ "3-Day Rule" for committees applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

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

✓ No committee review

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

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

Approved _____ Mayor

Veto _____

Override _____

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

10-6-09

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH PMG ASSOCIATES, INC. IN THE AMOUNT OF $253,800 TO OBTAIN TRANSIT OPERATOR PERFORMANCE MONITORING SERVICES FOR MIAMI-DADE TRANSIT DEPARTMENT, AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AN AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY, AUTHORIZES THE USE OF CHARTER COUNTY TRANSIT SYSTEM SURTAX FUNDS AND TO EXERCISE ALL OTHER RIGHTS CONTAINED THEREIN

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 approves the selection of PMG Associates, Inc. in substantially the form attached hereto and made a part hereof, in the amount of $253,800 for transit operator performance monitoring services for Miami-Dade Transit Department, authorizes the use of the County Transit System Surtax Funds, authorizes the County Mayor or County Mayor's designee to execute same for and on behalf of Miami-Dade County and any other rights contained therein.

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:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of October, 2009. This resolution shall become effective as follows: (1) 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, 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.

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

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Bruce Libhaber

Memorandum

MIAMI-DADE COUNTY

Date: June 15, 2009

To: George M. Burgess
County Manager

Thru: Miriam Singer, CPPO
Director
Department of Procurement Management

From: Drakus Wiggins, CPPB
Procurement Contracting Officer
Chairperson, Review Team

Subject: Report of Review Team for EPP-RFP No. 669, Transit Operator Performance Monitoring Services

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The Review Team has completed the evaluation of proposals submitted in response to the above referenced Request for Proposals following the guidelines published in the solicitation as summarized below.

Committee meeting dates:

- March 12, 2009 (kick-off meeting)
- April 24, 2009 (evaluation and scoring meeting)
- May 22, 2009 (oral presentations, evaluation and scoring meeting)
- June 8, 2009 (evaluation and scoring meeting)

Verification of compliance with contract measures:
The Review Committee recommended a Small Business Enterprise (SBE) set-aside for this solicitation. The Department of Small Business Development (SBD) (see attached memo) has determined that the following proposers qualify for the set-aside:

- PMG Associates, Inc.
- EV Services, Inc.
- Gator Engineering Consultants, P.A.
- M. Gill & Associates, Inc.
- AMBRO, Inc.
- The Ford Group, Inc.
- B. Mumford & Company
- RLB Financial Services, Inc.

SBD determined that Carmen Morris & Associates is not in compliance with the SBE set-aside Provisions.

Verification of compliance with minimum qualification requirements:
The solicitation did not have any minimum qualification requirements.

Summary of scores:

The preliminary scores are as follows:

Pre-Oral Presentations

Proposer	***Total Technical Score*** *(max. 255)*
1. B. Mumford & Company	164
2. PMG Associates, Inc.	149
3. The Ford Group, Inc.	134
4. Gator Engineering Consultants, P.A.	107
5. EV Services, Inc.	105
6. M. Gill & Associates, Inc.	101
7. RLB Financial Services, Inc.	78
8. AMBRO, Inc.	68

The Review Team decided to hold oral presentations for the top three proposers based on preliminary scores. After oral presentations, the proposals were re-evaluated, re-rated and re-ranked. Price proposals were reviewed for those proposers remaining in consideration.

The final scores are as follows:

Post-Oral Presentations

Proposer	***Technical Score*** *(max. 255)*	***Price Score*** *(max. 45)*	***Total Combined Score*** *(max. 300)*	***Price/Cost Submitted***
1. PMG Associates, Inc.	236	36	272	$291,000
2. The Ford Group, Inc.	177	9	186	$526,442
3. B. Mumford & Company	157	12	169	$479,400

Local Preference:
Local Preference was considered in accordance with applicable ordinances, but did not affect the outcome.

Negotiations:
The Review Team recommends that the County enter into negotiations with the proposer with the highest score, PMG Associates, Inc. The following individuals will participate in the negotiations:

- Drakus Wiggins, Procurement Contracting Officer, DPM
- Maud Gonzalez, ADA Administrator, MDT

Consensus Statement: The top three firms, based on preliminary scores, were invited to oral presentations. The Review Team determined that PMG Associates, Inc. demonstrated substantial expertise and experience in transit operator performance monitoring service. The Review Team agreed that based on the experience and qualifications of the firm's personnel, the proposed summary report and motivation program, and project management plan, PMG Associates, Inc. is the best qualified firm to execute this project.

Copies of the score sheets are attached for each Review Team member, as well as a composite score sheet.

Attachments

Approved

George M. Burgess
County Manager

Date

Not Approved

George M. Burgess
County Manager

Date

Memorandum

MIAMI-DADE COUNTY

Date: April 8, 2009

To: Miriam Singer, Director
Department of Procurement Management

From: Penelope Townsley, Director
Department of Small Business Development

Subject: Project No. EPP- RFP 669
Transit Operator Performance Monitoring Services
Revised 04/07/2009

The Department of Small Business Development (SBD) has completed its review of the subject project for compliance with the Small Business Enterprise (SBE) Program Participation Provisions (Provisions). A SBE set-aside measure was approved for this contract. In order to participate as a SBE, the bidder (s) must have a valid certification at the time of bid submittal, bid award and throughout the duration of the contract. The SBE must also be certified in the trade, commodity or service area in order to be eligible to participate.

The Department of Procurement Management submitted bid proposals from: PMG Associates, Inc., EV Services, Inc., Carmen Morris & Associates, Inc., Gator Engineering Consultants, P. A., M. Gill & Associates, Inc., AMBRO, Inc., The Ford Group, Inc., B. Mumford & Company and RLB Financial Services, Inc.

The proposers listed below are certified SBE firms:

Bidders	Certification Status
PMG Associates, Inc.	Micro/SBE (exp. 10/31/2009)
Categories	Analytical Studies and Surveys (Consulting) Management Consulting
Cert. No.	10934
E V Services, Inc.	Micro/SBE (exp. 02/28/2010)
Categories	Management Consulting
Cert. No	12199
Gator Engineering Consultants, P. A.	Micro/SBE (exp. 10/31/2009)
Category	Analytical Studies and Surveys (Consulting)
Cert. No.	10865
M. Gill & Associates	Micro/SBE (exp. 01/31/2010)
Categories	Analytical Studies and Surveys (Consulting) Management Consulting
Cert. No.	10520
AMBRO, Inc.	Micro/SBE (exp. 07/31/2009)
Categories	Analytical Studies and Surveys (Consulting) Management Consulting
Cert. No.	11152

Bidders	Certification Status
The Ford Group	Micro/SBE (exp. 10/31/2009)
Categories	Analytical Studies and Surveys (Consulting)
Cert. No.	12746
B. Mumford & Company	Micro/SBE (exp. 01/31/2010)
Categories	Analytical Studies and Surveys (Consulting) Management Consulting
Cert. No.	10750
RLB Financial Services, Inc.	Micro/SBE (exp. 11/30/2009)
Categories	Management Consulting
Cert. No.	11343

The proposer listed below is a SBE; however, the firm is not in compliance with the Provisions.

Bidder	Certification Status
Carmen Morris & Associates	Micro/SBE (exp. 12/31/2009)
Category	Analytical Studies and Surveys (Consulting) Management Consulting
Cert. No.	10891

In accordance with the SBE Participation Provisions, in order to comply with the approved measures all firms performing on a set-aside project must be certified SBEs at the time of bid submittal, bid award and throughout the duration of the contract. Carmen Morris & Associates (CMA) submitted along with her proposal the Miami-Dade County Subcontractor/Supplier Listing indicating the utilization of two subcontractors who are not certified SBEs. CMA was contacted via e-mail and/or fax and given forty eight (48) hours to address noncompliance with the SBE Provisions. A meeting was held on March 31, 2009 with CMA and SBD staff resulting in no change in SBD's findings As such, CMA is not in compliance with the Participation Provisions.

Please note that this memorandum only addresses compliance with the Small Business Enterprise Program and the established contract measures. The Department of Procurement Management is responsible for any other issues/requirements that may exist.

If you have any questions, please contact Albert Porter direct (305) 375-3128.

C: Amos Roundtree, DPM
Namita Uppal, DPM
Drakus Wiggins, DPM
Patrice King, SBD
File

RFP No. EPP-RFP 669
Transit Operator Perfomance Monitoring Services
EVALUATION OF PROPOSALS

POST-ORALS COMPOSITE

SELECTION CRITERIA / PROPOSERS	Maximum Points Per Member	Maximum Total Points 3 members	PMG Associates, Inc.					The Ford Group, Inc.	B. Mumford & Company	
Proposer's & Subcontractor's Experience and Personnel Qualifications	40	120	113					89	91	
Summary Report and Motivation Program	20	60	57					37	30	
Proposer's Project Management Plan	25	75	66					51	36	
Total Technical Points *(Total of technical rows)*	85	255	236					177	157	
Price Points	15	45	36					9	12	
TOTAL POINTS *(Technical + Price)*	100	300	272					186	169	

SIGNATURE: PRINT NAME: DATE:

Chairperson — Drakeus Wiggins — 6/8/09

Reviewed By — Scott Voelker — 6/8/09

6/8/2009

RFP No. EPP-RFP 669
Transit Operator Perfomance Monitoring Services
EVALUATION OF PROPOSALS
POST-ORALS
Maud Gonzalez (MDT)

SELECTION CRITERIA / PROPOSERS	Maximum Points	PMG Associates, Inc.					The Ford Group, Inc.	B. Mumford & Company	
Proposer's & Subcontractor's Experience and Personnel Qualification	40	36					34	32	
Summary Report and Motivation Program	20	18					15	15	
Proposer's Project Management Plan	25	22					20	15	
Total Technical Points *(Total of technical rows above)*	85	76					69	62	
Price Points	15	14					5	7	
TOTAL POINTS *(Technical + Price)*	100	90					74	69	

RFP No. EPP-RFP 669
Transit Operator Perfomance Monitoring Services
EVALUATION OF PROPOSALS
POST-ORALS
Dunbar Cornelle (MDT)

SELECTION CRITERIA / PROPOSERS	Maximum Points	PMG Associates, Inc.					The Ford Group, Inc.	B. Mumford & Company	
Proposer's & Subcontractor's Experience and Personnel Qualifications	40	37					25	24	
Summary Report and Motivation Program	20	19					12	10	
Proposer's Project Management Plan	25	24					21	11	
Total Technical Points *(Total of technical rows above)*	85	80					58	45	
Price Points	15	12					0	0	
TOTAL POINTS *(Technical + Price)*	100	92					58	45	

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6/8/2009

RFP No. EPP-RFP 669
Transit Operator Perfomance Monitoring Services
EVALUATION OF PROPOSALS
POST-ORALS
Ilene Hyams (ADA)

SELECTION CRITERIA / PROPOSERS	Maximum Points	PMG Associates, Inc.					The Ford Group, Inc.	B. Mumford & Company	
Proposer's & Subcontractor's Experience and Personnel Qualification	40	40					30	35	
Summary Report and Motivation Program	20	20					10	5	
Proposer's Project Management Plan	25	20					10	10	
Total Technical Points *(Total of technical rows above)*	85	80					50	50	
Price Points	15	10					4	5	
TOTAL POINTS *(Technical + Price)*	100	90					54	55	

6/8/2009

RFP No. EPP-RFP 669
Transit Operator Perfomance Monitoring Services
EVALUATION OF PROPOSALS

PRE-ORALS COMPOSITE

SELECTION CRITERIA / PROPOSERS	Maximum Points Per Member	Maximum Total Points 3 members	PMG Associates, Inc.	EV Services, Inc.	Gator Engineering Consultants, P.A.	M. Gill & Associates, Inc.	AMBRO, Inc.	The Ford Group, Inc.	B. Mumford & Company	RLB Financial Services, Inc.
Proposer's & Subcontractor's Experience and Personnel Qualifications	40	120	64	46	48	43	36	55	87	33
Summary Report and Motivation Program	20	60	30	20	35	24	12	32	38	10
Proposer's Project Management Plan	25	75	55	39	24	34	20	47	39	35
Total Technical Points *(Total of technical rows)*	85	255	149	105	107	101	68	134	164	78
Price Points	15	45								
TOTAL POINTS *(Technical + Price)*	100	300								

SIGNATURE: D Wiggins
Chairperson

Reviewed By

PRINT NAME: Drakus Wiggins
Sylvia Novela

DATE: 5/26/09
5/26/09

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5/26/2009

RFP No. EPP-RFP 669
Transit Operator Perfomance Monitoring Services
EVALUATION OF PROPOSALS
PRE-ORALS
Maud Gonzalez (MDT)

SELECTION CRITERIA / PROPOSERS	Maximum Points	PMG Associates, Inc.	EV Services, Inc.	Gator Engineering Consultants, P.A.	M. Gill & Associates, Inc.	AMBRO, Inc.	The Ford Group, Inc.	B. Mumford & Company	RLB Financial Services, Inc.
Proposer's & Subcontractor's Experience and Personnel Qualification	40	19	21	16	13	14	20	32	6
Summary Report and Motivation Program	20	10	8	12	8	0	10	14	0
Proposer's Project Management Plan	25	20	15	5	10	5	19	10	13
Total Technical Points *(Total of technical rows above)*	85	49	44	33	31	19	49	56	19
Price Points	15								
TOTAL POINTS *(Technical + Price)*	100								

5/26/2009

RFP No. EPP-RFP 669
Transit Operator Perfomance Monitoring Services
EVALUATION OF PROPOSALS
PRE-ORALS
Dunbar Cornelle (MDT)

SELECTION CRITERIA / PROPOSERS	Maximum Points	PMG Associates, Inc.	EV Services, Inc.	Gator Engineering Consultants, P.A.	M. Gill & Associates, Inc.	AMBRO, Inc.	The Ford Group, Inc.	B. Mumford & Company	RLB Financial Services, Inc.
Proposer's & Subcontractor's Experience and Personnel Qualifications	40	25	10	12	10	7	10	25	15
Summary Report and Motivation Program	20	10	6	8	6	6	7	10	5
Proposer's Project Management Plan	25	15	12	7	9	9	10	10	10
Total Technical Points *(Total of technical rows above)*	85	50	28	27	25	22	27	45	30
Price Points	15								
TOTAL POINTS *(Technical + Price)*	100								

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RFP No. EPP-RFP 669
Transit Operator Perfomance Monitoring Services
EVALUATION OF PROPOSALS
PRE-ORALS
Ilene Hyams (ADA)

SELECTION CRITERIA / PROPOSERS	Maximum Points	PMG Associates, Inc.	EV Services, Inc.	Gator Engineering Consultants, P.A.	M. Gill & Associates, Inc.	AMBRO, Inc.	The Ford Group, Inc.	B. Mumford & Company	RLB Financial Services, Inc.
Proposer's & Subcontractor's Experience and Personnel Qualification	40	20	15	20	20	15	25	30	12
Summary Report and Motivation Program	20	10	6	15	10	6	15	14	5
Proposer's Project Management Plan	25	20	12	12	15	6	18	19	12
Total Technical Points *(Total of technical rows above)*	85	50	33	47	45	27	58	63	29
Price Points	15								
TOTAL POINTS *(Technical + Price)*	100								

5/26/2009

Transit Operator Performance Monitoring Services

Contract No. EPP-RFP 669

THIS AGREEMENT made and entered into as of this 1st day of January 2010 by and between PMG Associates, Inc., a corporation organized and existing under the laws of the State of Florida, having its principal office at 4171 West Hillsboro Boulevard, Suite 8, Coconut Creek, Florida 33073 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide Transit Operator Performance Monitoring Services, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. EPP-RFP 669 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated February 23, 2009, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Contractor such Transit Operator Performance Monitoring Services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

a) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFP No. EPP-RFP 669 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.

b) The words "Contract Date" to mean the date on which this Agreement is effective.

c) The words "Contract Manager" to mean Miami-Dade County's Director, Department of Procurement Management, or the duly authorized representative designated to manage the Contract.

d) The word "Contractor" to mean PMG Associates, Inc. and its permitted successors and assigns.

e) The word "Days" to mean Calendar Days.

f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.

g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.

h) The words "Change Order" or "Extra Work" or "Additional Work" resulting in additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.

i) The words "Project Manager" to mean the County Manager or the duly authorized representative designated to manage the Project.

k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.

l) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.

m) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Scope of Services (Appendix A), 3) the Miami-Dade County's RFP No. EPP-RFP 669 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

a) References to a specified Article, section or schedule shall be construed as reference to that specified

Article, or section of, or schedule to this Agreement unless otherwise indicated.

b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.

c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.

d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.

c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.

d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.

e) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date indicated on the first page of this agreement and shall be for the duration of five (5) years. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

a) to the Project Manager:

Miami-Dade County
Transit Department
Office of Civil Rights and Labor Relations
701 NW 1st Court, Suite 1700
Miami, FL 33136
Attention: Maud Gonzalez
Phone: (786) 469-5478
Fax: (786) 469-5587
Email: mlizano@miamidade.gov

and,
b) to the Contract Manager:

Miami-Dade County
Department of Procurement Management
111 N.W. 1st Street, Suite 1300
Miami, FL 33128-1974
Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

PMG Associates, Inc.
1031 Ives Dairy Rd, Suite 128
Miami, FL 33179
Attention: Kathleen Gonot
Phone: (786) 258-1697
Fax: (954) 480-8836
E-mail: kathy@pmgaecon.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services, shall be as specified in Appendix B, Price Schedule. The County shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the County and the Contractor.

All Services undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

ARTICLE 8. PRICING

Prices shall remain firm and fixed for the term of the Contract, including any extension periods; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any extension thereof.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Services, the Contractor may bill the County quarterly for Quarterly Monitoring Service and periodically (but not more than once per month) for Contractor personnel attendance at disciplinary hearings upon invoices certified by the Contractor pursuant to Appendix B – Price Schedule. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. 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 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 that sixty (60) days after the date on which the proper invoice was received by the County or the Public Health Trust.

Invoices and associated back-up documentation shall be submitted in duplicate by the Contractor to the County as follows:

Miami-Dade County
Transit Department
Office of Civil Rights and Labor Relations
701 NW 1st Court, Suite 1700
Miami, FL 33136
Attention: Maud Gonzalez

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Upon County's notification, the Contractor shall furnish to the Department of Procurement Management, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.

2. 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. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Contractor. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to 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 Risk Management Division.

OR

The company 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 are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Contractor hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

CERTIFICATE HOLDER MUST READ: MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after County notification to Contractor to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after County notification to comply, the Contractor shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

ARTICLE 11. MANNER OF PERFORMANCE

a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.

b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.

c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.

d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.

e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.

f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.

b) The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.

d) In the event of such dispute, the parties to this Agreement authorize the County Manager or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Manager within 10 days of the occurrence, event or act out of which the dispute arises.

e) The County Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Manager for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Manager is entitled to exercise discretion or judgment or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Manager, as appropriate, shall

render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

ARTICLE 15. MUTUAL OBLIGATIONS

a) This Agreement, including attachments and appendixes to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.

b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.

c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The County, or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to County Ordinance No. 03-2, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.

b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.

c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.

d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the County finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any subcontractor hereunder as more fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.

b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor and in such event:

d) The Contractor shall, upon receipt of such notice, unless otherwise directed by the County:

i. stop work on the date specified in the notice ("the Effective Termination Date");

ii. take such action as may be necessary for the protection and preservation of the County's materials and property;

iii. cancel orders;

iv. assign to the County and deliver to any location designated by the County any noncancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services:

v. take no action which will increase the amounts payable by the County under this Agreement; and

e) In the event that the County exercises its right to terminate this Agreement pursuant to this Article the Contractor will be compensated as stated in the payment Articles, herein, for the:

i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and

ii. noncancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement but not incorporated in the Services.

f) All compensation pursuant to this Article are subject to audit.

ARTICLE 24. EVENT OF DEFAULT

a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:

i. the Contractor has not delivered Deliverables on a timely basis.

ii. the Contractor has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled Staff Personnel;

iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;

iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;

v. the Contractor has failed to obtain the approval of the County where required by this Agreement;

vi. the Contractor has failed to provide "adequate assurances" as required under subsection "b" below;

vii. the Contractor has failed in the representation of any warranties stated herein.

b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the County receives such assurances the County may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed time frame, the County may:

i. treat such failure as a repudiation of this Agreement;

ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.

c) In the event the County shall terminate this Agreement for default, the County or its designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs, in the determination of the County, the County may so notify the Contractor ("Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

a) lost revenues;

b) the difference between the cost associated with procuring Services hereunder and the amount actually

expended by the County for reprocurement of Services, including procurement and administrative costs; and,

c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

a) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.

b) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.

c) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

d) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

e) The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

ARTICLE 28. CONFIDENTIALITY

a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the

Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.

b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.

c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.

The Contractor acknowledge that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

ARTICLE 30. PROPRIETARY RIGHTS

a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in

connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection of the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

b) All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.

c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.

d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST

a) Vendor Registration

The Contractor shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

1. **Miami-Dade County Ownership Disclosure Affidavit** (Section 2-8.1 of the County Code)
2. **Miami-Dade County Employment Disclosure Affidavit** (Section 2.8-1(d)(2) of the County Code)
3. **Miami-Dade Employment Drug-free Workplace Certification** (Section 2-8.1.2(b) of the County Code)
4. **Miami-Dade Disability and Nondiscrimination Affidavit** (Section 2-8.1.5 of the County Code)
5. **Miami-Dade County Debarment Disclosure Affidavit** (Section 10.38 of the County Code)
6. **Miami-Dade County Vendor Obligation to County Affidavit** (Section 2-8.1 of the County Code)
7. **Miami-Dade County Code of Business Ethics Affidavit** (Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)
8. **Miami-Dade County Family Leave Affidavit** (Article V of Chapter 11 of the County Code)
9. **Miami-Dade County Living Wage Affidavit** (Section 2-8.9 of the County Code)
10. **Miami-Dade County Domestic Leave and Reporting Affidavit** (Article 8, Section 11A-60 11A-67 of the County Code)

11. **Subcontracting Practices**
(Ordinance 97-35)

12. **Subcontractor /Supplier Listing**
(Section 2-8.8 of the County Code)

13. **Environmentally Acceptable Packaging**
(Resolution R-738-92)

14. **W-9 and 8109 Forms**
(as required by the Internal Revenue Service)

15. **FEIN Number or Social Security Number**
In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
   - Identification of individual account records
   - To make payments to individual/Contractor for goods and services provided to Miami-Dade County
   - Tax reporting purposes
   - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

16. **Office of the Inspector General**
(Section 2-1076 of the County Code)

17. **Small Business Enterprises**
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

18. **Antitrust Laws**
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

b) Conflict of Interest
Section 2-11.1(d) of Miami-Dade County Code as amended by Ordinance 00-1, requires any county employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory

services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.

b) Miami-Dade County Florida, Department of Small Business Development Participation Provisions, as applicable to this Contract.

c) Environmental Protection Agency (EPA), as applicable to this Contract.

d) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade

County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.

e) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.

f) Miami-Dade County Code Section 10-38 "Debarment".

g) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.

h) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to: not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract with the County, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.

b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

   i. is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or

   ii. is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's

knowledge any subcontractor or supplier to the Contractor.

c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and

b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and

c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be Miami-Dade County.

ARTICLE 39. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

Pursuant to Miami-Dade County Budget Ordinance No. 03-192, this Contract is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from the solicitation referenced on the first page of this Contract, and the utilization of the County Contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

The Contractor providing goods or services under this Contract shall invoice the Contract price and shall accept as payment thereof the Contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Contractor participation in this invoice reduction portion of the UAP is mandatory.

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this Section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within 3 work days of receipt of an order, of a decision to decline the order.

For all ordering entities located outside the geographical boundaries of Miami-Dade County, the Contractor shall be entitled to ship goods on an "FOB Destination, Prepaid and Charged Back" basis. This allowance shall only be made when expressly authorized by a representative of the ordering entity prior to shipping the goods.

The County shall have no liability to the Contractor for the cost of any purchase made by an ordering entity under the UAP and shall not be deemed to be a party thereto. All orders shall be placed directly by the ordering entity with the Contractor and shall be paid by the ordering entity less the 2% UAP.

c) Contractor Compliance

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 24 of this Contract.

ARTICLE 40. SURVIVAL

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor	Miami-Dade County
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
Attest: _____ Corporate Secretary/Notary Public	Attest: _____ Clerk of the Board
Corporate Seal/Notary Seal	Approved as to form and legal sufficiency _____ Assistant County Attorney

APPENDIX A

SCOPE OF SERVICES

1. Introduction

Miami-Dade County, hereinafter referred to as the County, as represented by the Miami-Dade Transit Department (MDT) is contracting to provide the supervision, staff and equipment to perform Transit Operator Performance Monitoring Services of the Metrobus system on a quarterly basis.

MDT provides Metrobus service throughout the County 365 days a year. Service is available from Miami Beach and Key Biscayne to West Miami-Dade, as far north as Diplomat Mall in Broward County, and as far south as Homestead, Florida City, and the Middle Keys.

The Metrobus system is currently run with approximately 1,431 bus operators, 769 directly-operated 40 and 60 foot buses, and 122 minibuses. The system serves all major business, shopping, entertainment, and cultural centers, as well as major hospitals and schools in more than 90 routes. Metrobus ridership reached over 83 million in fiscal year 2007 and buses traveled over 32.6 million scheduled miles throughout the County.

2. Definitions

The following words used in this Contract shall be construed as follows, except when it is clear from the context that another meaning is intended:

A. The words "monitor", "monitored", or "monitoring" to mean the evaluation of bus operators' performance and performance of the vehicle.

B. The words "Quarterly Monitoring Service" to mean the total monitorings conducted four times a year.

C. The word "segment" to mean the boarding, staying, and alighting of a bus to conduct a monitoring of a trip.

D. The word "trip" to mean the complete bus route from start to end.

3. Objective

The objective of this Contract is to provide performance monitoring services to conduct, without alerting or advising the operator, an evaluation of the:

A. Operators' adherence to the Federal Transit Administration (FTA)/ Department of Transportation (DOT) requirements including compliance with the Americans with Disabilities Act (ADA), stop announcements (interior announcements), and route identification number/name (exterior announcements) requirements; and,

B. Other Metrobus system obligations identified by MDT.

4. Tasks

The Contractor shall:

A. Perform Quarterly Monitoring Service in the third month of each quarter of the County's fiscal year from October 1st through September 30th. Each Quarterly Monitoring Service shall consist of twenty complete bus routes and a minimum total of 390 announced stops, not to exceed 410 announced stops. The ADA Bus Stop Announcement listing the bus routes to be monitored each quarter will be provided by the County's Project Manager. The list will identify each bus route by name/location, weekend/weekday bus route and the number of announceable stops for each route. Along with the list, the County's Project Manager will also provide the timeframe within which the Quarterly Monitoring Services must be completed.

B. Provide personnel to function as a passenger on specified bus routes to perform monitorings.

C. Have its personnel perform the monitorings while riding the assigned vehicle as a disabled or non-disabled passenger and, unobserved by the operator, complete the Operator Performance Evaluation form, provided by the County's Project Manager, for each segment.

D. Have its personnel perform monitorings in trips from the first stop of the bus route to the last stop of the bus route. Same personnel shall monitor the complete route. The personnel performing the monitoring shall ride the same bus in segments of five announceable stops, alighting the bus to wait for the next bus on the same route through to the end of the trip. In cases when the total number of announceable stops for a complete trip cannot be divided into equal segments of five announceable stops, only the last segment of the trip may be performed in a segment consisting of three, four, six, or seven announceable stops.

For example:

1. A route with 23 announceable stops will result in five segments for the trip; four segments comprised of five announceable stops and the last segment comprised of three announceable stops.

2. A route with 17 announceable stops will result in three segments for the trip; two segments comprised of five announceable stops and the last segment comprised of seven announceable stops.

E. Pay the proper fare for each segment.

F. Employ personnel with visual disability (i.e. legally blind) to monitor at least two bus routes. Also, employ non-ambulatory personnel using a wheelchair to monitor at least two bus routes. Lack of available disabled personnel permits the Contractor to perform these monitorings with personnel depicting disability.

G. Provide proper equipment such as wheelchairs, walkers, canes, etc., to its personnel.

H. Make every effort to ensure that the same personnel performing the monitorings will be available on an as-needed basis as support in the event that a future disciplinary hearing results from the Quarterly Monitoring Service.

I. Have its personnel performing the monitorings evaluate the following minimum areas of performance:

1. Fare collection,

2. Schedule adherence,

3. Passenger relations,

4. Safety observations,

5. Vehicle condition,

6. ADA compliance, and

7. Other observations, which may be defined by the County at a later date.

J. Prepare a Performance Monitoring Report for each Quarterly Monitoring Service that analyzes and summarizes the collected data from each area of performance on the Operator Performance Evaluation forms, provide relevant national statistics, presents a progress report for each area of performance, and offer solutions/feedback for areas needing improvement.

K. Develop, implement, and manage an effective motivation program (i.e. recognition, award, incentive, etc.) to increase operators' overall performance.

5. Deliverables

The Contractor shall:

B. Provide a motivation program, schedule for implementing the program, and plan for managing the program to the County's Project Manager for approval no later than 30 calendar days after the effective date of the Contract.

C. Provide its tentative schedule for segments to the County's Project Manager via email or fax no later than forty-eight (48) hours after receipt of the ADA Bus Stop Announcement. The Contractor shall prepare its schedule for segments to allow time for re-monitorings in the event that the County's Project Manager determines that a segment or a complete route monitoring must be re-done.

D. Provide a copy of the Operator Performance Evaluation forms completed by the Contractor's personnel who performed the monitoring to the County's Project Manager via email or fax no later than 12:00 noon the day after each segment is conducted.

E. Provide its actual schedule that segments were conducted, on company letterhead and signed, to the County's Project Manager via email or fax no later than 12:00 noon the day after the final segment is conducted for the quarter.

F. Provide a Performance Monitoring Report (see Paragraph 4.J above) of the Quarterly Monitoring Service to the County's Project Manager via email or fax no later than seven (7) calendar days after the final segment for the quarter is conducted.

6. Coordination

The Contractor shall coordinate all communications through the County's Project Manager. Communication with the County's Project Manager may take place via telephone, email and/or fax. The preferred means of submitting deliverables is via email. See Article 6 for the contact information of the County's Project Manager.

The County's Project Manager will provide available FTA/Transit Bus Operator requirements and auxiliary information upon request by the Contractor.

APPENDIX B

PRICE SCHEDULE

The Contractor's price for providing all services as stated in Appendix A, Scope of Services, are as follows:

Completion of Tasks and Deliverables in accordance with Appendix A, Scope of Services, including any and all expenses	$11,640.00 per Quarterly Monitoring Service
Personnel Attendance at Disciplinary Hearings	$175.00 per hour

Note:

1. The County makes no guarantee of the number of hours for Personnel Attendance at Disciplinary Hearings under this Contract. The Contractor shall be paid on an hourly basis for Personnel Attendance at Disciplinary Hearings.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor	Miami-Dade County
By:	By:
Name: KATHLEEN R. GONOT	Name:
Title: PRESIDENT	Title:
Date: 7-14-2009	Date:
Attest: Corporate Secretary/Notary Public	Attest: Clerk of the Board

Corporate Seal/Notary Seal

Approved as to form
and legal sufficiency

Assistant County Attorney