

Memorandum



Date: December 1, 2009

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

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

From: George M. Burgess
County Manager

Subject: Recommendation for Approval to Award Contract No. RFP684: Master Property Insurance Program Broker Services

RECOMMENDATION

It is recommended that the Board of County Commissioners approve award of this contract to provide Master Property Insurance Program Broker Services for the Risk Management Division of General Services Administration. A full and open competitive Request for Proposals process was used.

CONTRACT NO: RFP684

CONTRACT TITLE: Master Property Insurance Program Broker Services

DESCRIPTION: To provide insurance broker services that will assist the County in procuring a Master Property Insurance Program which best suits the County's needs at the most economical price. The broker shall also assist the County in managing the Program which includes coverage for all County properties (excluding Miami-Dade Public Housing Agency and Miami-Dade Water and Sewer properties which are covered under separate programs). The Program includes coverage for boiler and machinery, terrorism, flood, loss control services and forced placed coverage. The current schedule of assets to be insured is valued in excess of \$9 billion.

TERM: The contract is anticipated to commence ten days after date adopted by the Board of County Commissioners, unless vetoed by the Mayor and shall continue until May 3, 2015. The insurance coverage shall become effective on May 3, 2010 and will be renewed annually. Thereafter, the contract has five, one-year options to renew.

APPROVAL TO ADVERTISE: May 18, 2009

CONTRACT AMOUNT: Up to \$1,750,000 for the initial contract term.

**USING/MANAGING AGENCY
AND FUNDING SOURCE:**

<u>Department</u>	<u>Allocation Request</u>	<u>Funding Source</u>
GSA	\$1,750,000	General Fund & Proprietary Agencies

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

VENDORS RECOMMENDED FOR AWARD:

Vendor	Address	Principal
Arthur J. Gallagher Risk Management Services, Inc. (Non-local vendor)	Two Pierce Place Itasca, IL 60143	Dave Marcus

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:
 Marsh USA, Inc.
 Aon Risk Services, Inc. of Florida

CONTRACT MEASURES: The Review Committee of April 15, 2009, recommended a Small Business Enterprise selection factor for this contract.

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% program discount will be collected on the broker fee only.

LOCAL PREFERENCE: Applied in accordance with applicable ordinance, but did not affect the outcome.

PROJECT MANAGER: Barbara Dunlop, General Services Administration Department

ESTIMATED CONTRACT COMMENCEMENT DATE: Ten days after date adopted by the Board of County Commissioners, unless vetoed by the Mayor.

DELEGATED AUTHORITY: If this item is approved, the County Mayor or designee will have the authority to exercise, at County Mayor's or designee's discretion, subsequent options-to-renew and other extensions in accordance with the terms and conditions of the contract.

BACKGROUND

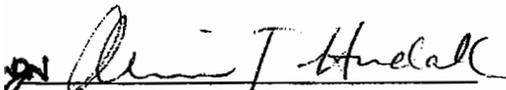
The current broker services contract and insurance program will expire on May 3, 2010. Arthur J. Gallagher Risk Management Services, Inc. is the provider on the current contract. Due to size and complexity of the County's Program, this replacement contract must be in place well before the insurance inception date to allow time for optimal preparation of submissions to insurance carrier(s) and to perform effective marketing of the Program. This will ensure that the County obtains the best program and value.

It is critical that the County's broker understand the issues specific to public entities and have experience with placing large public entity property programs in Florida, and more importantly, in the South Florida area. Arthur J. Gallagher Risk Management Services, Inc. was the highest ranked proposer by the Evaluation/Selection Committee. This broker has experience in placing multi-layer catastrophic property programs, combined with an understanding of the unique risk matters involving public entities. This experience will provide a competitive edge in the insurance marketplace with an economically feasible Program that best meets the County's needs. Contract negotiations with the broker resulted in a 12.5% reduction to the proposed broker fee.

In lieu of the traditional broker fee arrangement where an annual fee is paid to the broker by the County, the broker will pursue compensation from the insurance carrier(s) involved in the placement of the Program. Compensation shall only be pursued after the Program is in place, and therefore, will not affect the County's insurance premium. This alternate compensation method will result in a potential cost savings to the County of up to \$350,000 for the annual broker fee. Additionally, if the broker is able to secure compensation from the insurance carrier(s) in excess of the \$350,000 fee, the additional funds will be available to the County to cover the cost for loss control services related to the Program including property inspections, fire protection surveys and wind load reports. Loss control service costs are approximately \$200,000 annually and are currently funded by various departments and the General Fund. The broker will provide full disclosure by furnishing a detailed listing of compensation from each insurance carrier on the Program and a notarized annual report of all compensation received on this Program.

The County may, at its sole discretion, in any year of the contract, choose to utilize the traditional broker fee arrangement and pay the annual fee to the broker. However, the alternate compensation arrangement proposed by this broker could potentially provide a savings to the County of up to \$550,000 annually (\$350,000 for the broker fee and \$200,000 for loss control service costs) which is \$2,750,000 for the initial contract period, without increasing the premium costs.

Estimated insurance premiums are \$18,000,000. The Board will be provided with a report of actual costs on an annual basis.


Assistant County Manager



MEMORANDUM

(Revised)

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

DATE: December 1, 2009

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

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

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

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

Veto _____

12-1-09

Override _____

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH ARTHUR J. GALLAGHER RISK MANAGEMENT SERVICES, INC., IN AN AMOUNT NOT TO EXCEED \$1,750,000, TO OBTAIN BROKER AND RELATED SERVICES TO ASSIST THE COUNTY IN OBTAINING A MASTER PROPERTY INSURANCE PROGRAM FOR VARIOUS COUNTY PROPERTIES, AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AN AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS, AND TO EXERCISE ALL OTHER RIGHTS CONTAINED THEREIN CONTRACT NO. RFP684

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 execution of an agreement with Arthur J. Gallagher Risk Management Services, Inc., in an amount not to exceed \$1,750,000, in substantially the form attached hereto and made a part hereof, and authorizes the County Mayor or County Mayor's designee to execute same for and on behalf of Miami-Dade County and to exercise any cancellation and renewal provisions 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:

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Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman
Bruno A. Barreiro
Carlos A. Gimenez
Barbara J. Jordan
Dorrin D. Rolle
Katy Sorenson
Sen. Javier D. Souto
Audrey M. Edmonson
Sally A. Heyman
Joe A. Martinez
Natacha Seijas
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of December, 2009. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

D.F.

Daniel Frastai

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MASTER PROPERTY INSURANCE PROGRAM BROKER SERVICES

Contract No. RFP684

THIS AGREEMENT made and entered into as of this ____ day of _____ by and between Arthur J. Gallagher Risk Management Services, Inc., a corporation organized and existing under the laws of the State of Illinois, having its principal office at Two Pierce Place, Itasca, IL 60143 (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 insurance broker and related services, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 684 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 July 10, 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 insurance broker and related 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:

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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. 684 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 words "Contractor" or "Broker" to mean Arthur J. Gallagher Risk Management Services, 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. 684 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 continue until May 3, 2015; the insurance coverage begins at 12:01 a.m. on May 3, 2010 and continues for the period of five (5) years. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period for five (5) additional years on a year-to-year basis. 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
GSA Risk Management Division
111 N.W. 1st Street, Suite 2340
Attention: GSA Risk Management Division Director
Phone: (305) 375-4281
Fax: (305) 375-4255

and,

- b) to the Contract Manager:

Miami-Dade County
Department of Procurement Management
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

Arthur J. Gallagher Risk Management Services, Inc.
8200 N.W. 41st Street, Suite 200
Miami, Florida 33166
Attention: Tony Abella, Jr.
Phone: (305) 639-3108
Fax: (305) 592-4049
E-mail: tony_abellajr@ajg.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 stipulated in Appendix B, Price Schedule attached herein. 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 9. PRICING

Prices shall remain firm and fixed for the term of the Contract, excluding any option or extension periods which shall be in accordance with Appendix B, Price Schedule; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any renewal or extension thereof.

ARTICLE 10. 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 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 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
GSA Risk Management Division
111 NW 1 Street, Suite 2340
Miami, Florida 33128-1989
Attention: Barbara Dunlop

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

ARTICLE 11. 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. General Liability Insurance on a comprehensive basis in an amount not less than \$300,000 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. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.**
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.

4. Professional Liability Insurance in an amount not less than \$1,000,000.

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 certificate holder.

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

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 12. 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 of 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 13. 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 14. 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 15. 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 judgement 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 16. 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 17. 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 18. 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 19. 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 20. 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 21. 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 22. 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 23. 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 24. 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 25. 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 26. 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 27. 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 28. 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 29. 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 30. 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 31. 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 32. 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 County 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 33. 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 34. 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 35. 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 36. 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 37. 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 38. 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 39. 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 40. COUNTY USER ACCESS PROGRAM (UAP) (Applicable to broker fee only)**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. Vendor 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 41. 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

By: [Signature]
 Name: Carly Vanessa Ross
 Title: Area Chairman
 Date: 9/24/09
 Attest: [Signature]
 Corporate Secretary/Notary Public

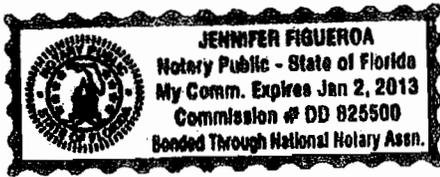
Miami-Dade County

By: _____
 Name: _____
 Title: _____
 Date: _____
 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. Background**

Miami-Dade County herein referred to as the "County" through the General Services Administration Risk Management Division (RMD), is contracting for insurance brokerage and related services for the County's Master Property Insurance Program (the "Program"). This Program includes coverage for real and personal property for various properties throughout the Miami-Dade County area. (This Program does not cover Miami-Dade Housing Agency or Water and Sewer Department properties.) The Program also includes, but is not limited to, Boiler and Machinery coverage, Terrorism Coverage, Forced Placed Coverage, National Flood Insurance Program (NFIP) policies and related Loss Prevention services.

2. Minimum Qualification Requirement

The individual who will be primarily responsible for the account must be a licensed insurance agent in the State of Florida for the duration of the Contract.

3. Services to be Provided

The Broker shall:

1. Design specifications and market the Program for coverage when instructed to do so by RMD, including assisting RMD in the completion of all applications, documents and gathering data which may be requested by insurance companies.
2. Suggest alternative risk financing vehicles to reduce the County's cost of risk.
3. Perform CAT modeling analysis to assist the County in determining appropriate deductible/self-Insurance levels and insurance limits.
4. Analyze proposals received from various insurance companies and other parties, negotiate changes for the benefit of the County and verify the reasonableness of the price for the coverage provided.
5. Provide the County with a summary of various Program options, including but not limited to: limits, coverages, retention levels, terms, conditions and payment options.
6. Make recommendations to the County as to the most advantageous Program which provides the highest level of coverage at the best possible price to meet the County's needs and objectives.
7. Provide analysis and recommendations as to the most cost effective means for addressing the County's property exposures.
8. Represent the County in all negotiations with insurers, underwriters and other parties with regard to the Program.
9. When instructed to do so by RMD, administer the placement of coverage and provide original binders, policies and endorsements as required in the timetable specified by RMD.

APPENDIX A

10. Provide extensive review of binders and policies including verification of conformity to specifications. Request any necessary endorsements/changes/revisions that may be required.
11. Prepare an easy to read chart of the Program including limits, pricing and coverages by layer.
12. Provide binders and policies in a single 3 ring binder with a table of contents evidencing layers and limits in the Program in an easy to follow format.
13. Provide insurance coverage summaries/descriptions as requested by RMD.
14. Assure that insurance policies are placed with reputable and financially responsible insurers, including keeping RMD informed of any changes in rating of the insurers and making recommendations should ratings change during the policy term.
15. Continually evaluate the Program and recommend coverage changes and improvements to provide the highest level of coverage at the least possible cost to the County.
16. Oversee and coordinate all relevant services performed by insurance companies/underwriters or any service agencies arranged for Program related issues and concerns.
17. Perform administrative and clerical services relative to account management, including but not limited to, issuance of certificates of insurance, verification of the accuracy of bills, audits and all premium adjustments.
18. Submit all premiums/payments to carriers and other parties. All payments/premiums will be made to the Broker.
19. Develop an annual billing spreadsheet that allocates each invoice to the corresponding schedule.
20. Assign an Account Executive to this Program who will be responsible for communication with RMD and who, along with any other team members assigned, must be available on a daily basis to RMD for advice and consultation on Program related issues and concerns. **The individual primarily responsible for the account must be locally situated due to size and complexity of the Program and extensive services required.**
21. Assist the County in maintaining and updating schedules of values and schedules of insurance by developing and maintaining a comprehensive database of all information provided. Amend schedules, analyze changes provided and compare new information to the existing schedule.
22. Assist the County with the development of the annual letter to the Division of Emergency Management requesting confirmation that the County's program meets the standard of a reasonable program as prescribed by the Stafford Act.

APPENDIX A

23. Attend meetings related to this Program with RMD staff and other parties, as requested.
24. Attend quarterly meetings with Miami-Dade Aviation Department (MDAD) and their consultant in connection with the annual Trust report.
25. Provide insurance documentation and be available to answer questions to the consultant
26. Evaluate and respond to applicable portions of the Trust report.
27. Review any related insurance company audits for accuracy.
28. Act as a liaison between RMD and the carriers to resolve claims.
29. Advise the County, when requested, on coverage application to specific claims.
30. Maintain accurate claim data on an accident date basis and provide the County with status reports, in the form and frequency agreed upon with the County.
31. Assign a claim adjustment firm to handle claims for all layers of coverage.
32. Promptly file all claims with all applicable insurers.
33. Coordinate meetings with claims adjusters and the County.
34. Attend claims meetings as requested by the County.
35. Negotiate prompt settlement of claims with adjusters/underwriters.
36. Assist RMD by providing insurance related documentation in respect any FEMA claim.
37. Consult with the County regarding the proposed counsel the Broker plans to use, if necessary, with any claim. (The County reserves the right to approve legal counsel prior to appointment.)
38. Contract with Loss Control firm to provide inspection, engineering services, plans review and thermographic imaging services.
39. Verify all billings from Loss Control firm including quarterly billings, time and expense and plans review billings.
40. Act as a liaison between any loss control professionals and the County relating to this Program.
41. Assist the County in developing scope of services for specifications for loss control firms.
42. Attend loss control meetings as requested by the RMD.

APPENDIX A

43. Review all loss control reports and consult with County to ensure that significant recommendations are addressed.
44. Review thermographic images and reports and monitor corrective action as recommended by loss control consultants.
45. Maintain copies of all inspection reports issued for the job site(s).
46. Identify locations to be covered by NFIP policies.
47. Request flood zone determinations.
48. Complete application for coverage with pertinent information including photographs of location to be covered.
49. Provide NFIP quotation to RMD.
50. Send application for NFIP coverage for issuance of policy.
51. Submit payment to NFIP carrier. Payment will be made to the Broker.
52. Review all NFIP policies for accuracy.
53. Maintain schedules for NFIP policies. Re-quote individual policies if necessary to ensure consistency with values on the Master schedule.
54. Furnish continuing advice and counsel to the County.
55. Provide other related services as requested by RMD.

4. Additional Services

The County may require services and/or policies in addition to those stipulated above. The scope for such services shall be negotiated on a case by case basis.

Appendix B

Price ScheduleA. Broker Compensation

Broker Compensation for providing all services as stated in Appendix A, Scope of Services (Sections 1-3) attached herein, for the Master Property Insurance Program consisting of coverage for all County properties (except Miami Dade Public Housing Agency and Water and Sewer properties), boiler and machinery, terrorism, loss prevention services and forced placed coverage shall be as follows:

Broker Compensation per year for initial 5-year Contract term: \$350,000

1. Broker compensation, as negotiated, is based on a flat, annual amount for broker and related services only (no insurance premium prices are included therein). The price for the Master Property Insurance Program premium shall be reviewed and approved by the County each year of the Contract. Broker Compensation and insurance premiums shall be due annually at the insurance inception date.
2. Maximum Broker Compensation will be capped at \$350,000 annually as stated above, for work performed and completed pursuant to Appendix A, Scope of Services. Exception: Broker may receive commissions for administration of National Flood Insurance Program (NFIP) policies.
3. Compensation for any Additional Services pursuant to the Scope of Services, Section 4, shall be negotiated.
4. The County shall not compensate or make any payments to the Broker for out-of-pocket expenses.

B. Payment Options

1. Traditional Payment Option – The County shall pay the broker a flat fee in accordance with the amount stated in A above.
- OR
2. Alternate Payment Option – The Broker will collect compensation from the insurance carrier(s) with which the Program is placed in accordance with the amount stated in A above.

The Broker will collect compensation directly from the insurance carrier(s). In the event the sum of all compensation collected for a particular annual period is less than \$350,000, the County shall pay the difference so that the actual payment received by the Broker for any annual period equals \$350,000. If the Broker is able to secure compensation from the insurance carrier(s) in excess of the \$350,000 capped fee, the additional funds will be available to the County to cover the cost of loss control services related to the Program provided by outside contractors as stipulated in the Scope of Services. The Broker shall use these funds, paid to the Broker by the insurance carrier(s), to pay the outside contractor for loss control services. Any compensation utilized for such payments shall not be considered a

Appendix B

part of the broker compensation. Broker commissions for the administration of the NFIP policies pursuant to item A(2) above shall not be included as part of any of the above calculations in this paragraph.

C. Terms

1. The Broker shall not collect any contingent commissions on this Program.
2. Any wholesaler/intermediary used by the Broker, may not earn more than eight (8%) commission from the insurance carrier for the placement of insurance.
3. The Broker shall provide access, at the County's request, to all records necessary for verification of compliance with all compensation applicable to this Contract. Additionally, the Broker will provide the County with a notarized annual report, by June 1 of each year detailing all compensation received by the Broker on this Program.
4. The County may choose to utilize the traditional payment option or alternate payment option at any annual insurance renewal period of the Program.

D. Option Years

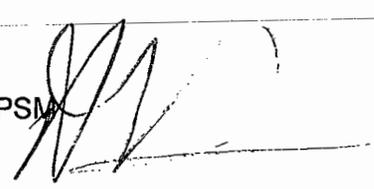
The Broker shall provide written notification and justification to the County within ninety (90) days of the Contract expiration date for any proposed increase in the Brokers annual compensation. Any agreed upon price increase by the County shall be capped at 2% of the previous annual broker fee.

Memorandum



Date: July 6, 2009

To: George M. Burgess
County Manager

Thru: Amos C. Roundtree, CPSM 
for
Miriam Singer, CPPO
Director
Department of Procurement Management

From: Terry Rolle, CPPB 
Procurement Contracting Officer
Chairperson, Evaluation/Selection Committee

Subject: Report of Evaluation/Selection Committee for RFP No. 684 Master Property Insurance Program Broker Services

The County's Master Property Insurance Program includes coverage for real and personal County properties, excluding Housing and Water and Sewer properties which are covered under separate programs. The Program also includes, but is not limited to, boiler and machinery coverage, terrorism coverage, forced placed coverage, National Flood Insurance Program (NFIP) policies and related loss prevention services. The current schedule of County properties to be covered is valued in excess of \$9 Billion. Since the current contract for these services expires on May 3, 2010, the County issued a solicitation for the replacement contract well in advance to allow the selected Broker to go to the marketplace and obtain the best value for insurance premiums which are estimated to be \$19 million annually.

The Evaluation/Selection Committee has completed the evaluation of proposals submitted in response to the above referenced Request for Proposals (RFP) following the guidelines published in the solicitation as summarized below.

Committee meeting dates:

June 17, 2009 (evaluation and scoring meeting)

Verification of compliance with contract measures:

The Review Committee recommended a Small Business Enterprise (SBE) selection factor for this solicitation. The Evaluation/Selection Committee Chairperson reviewed the SBE Certification Lists and determined that no proposers qualified for the selection factor based on the listing.

Verification of compliance with minimum qualification requirements:

The solicitation had minimum qualification requirements which were reviewed by the Chairperson and Barbara Dunlop of the client department, General Services Administration, Risk Management Division. All of the proposers met the requirements.

Summary of scores:

The Evaluation/Selection Committee decided not to hold oral presentations. Price proposals were reviewed subjectively in conjunction with the technical proposals.

The final scores are as follows:

Proposer	Technical Score <i>(max. 475)</i>	Selection Factor Score <i>(max 47.5)</i>	Price Score <i>(max. 25)</i>	Total Combined Score <i>(max. 500)</i>	Price/Cost Submitted (Annual Broker Fee)
1. Arthur J. Gallagher Risk Management Services, Inc.	448		21	469	\$400,000
2. Marsh USA, Inc.	327	0	7	334	\$945,000
3. Aon Risk Services, Inc. of Florida	306	0	22	328	\$185,000

Local Preference:

Local Preference was considered in accordance with applicable ordinances, but did not affect the outcome since no firm was within five percentage points of the highest ranked Proposer.

Other information:

Harold Goldson was the original Small Business Development (SBD) Evaluation/Selection Committee appointee, however, Mr. Goldson was replaced in a subsequent appointment memo with Coralee Taylor, due to previously scheduled vacation time.

Negotiations:

The Evaluation/Selection Committee recommends that the County enter into negotiations with the proposer with the highest score, Arthur J. Gallagher Risk Management Services, Inc. The following individuals will participate in the negotiations:

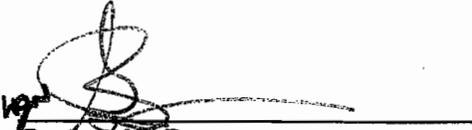
- Terry Rolle, Procurement Contracting Officer, DPM
- Barbara Dunlop, Property & Casualty Manager, GSA
- Marsha Pascual, Risk Management Division Director, GSA

Consensus Statement:

Arthur J. Gallagher Risk Management Services, Inc. has the ability to perform all of the required services, understands the issues specific to public entities and has experience with placing large entity programs in Florida and more importantly, in the South Florida area. Arthur J. Gallagher Risk Management Services, Inc. has direct experience in placing multi-layered catastrophic property programs. Their overall ability and experience provides them with a competitive edge in the insurance marketplace.

Copies of the score sheets are attached for each Evaluation/Selection Committee member, as well as a composite score sheet.

Approved



George M. Burgess
County Manager

Date

Not Approved

George M. Burgess
County Manager

Date

RFP NO. 684
 MASTER PROPERTY INSURANCE PROGRAM BROKER SERVICES
 EVALUATION OF PROPOSALS

COMPOSITE

SELECTION CRITERIA	PROPOSERS	Maximum Points Per Member	Maximum Total Points (E members)	Aon Risk Services, Inc. of Florida	Arthur J. Gallagher Risk Management Services, Inc.	Marsh USA, Inc.
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	150	88	146	97
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		35	175	116	165	126
Proposer's approach to provide the type of services described in this RFP		30	150	102	137	104
Total Technical Points (Total of technical rows)		95	475	306	448	327
Selection Factor (10% of the Technical Points Earned on the Technical Portion)		10%		0	0	0
Total Price Points		5	25	22	21	7
TOTAL POINTS (Technical + Price)		100	500	328	469	334

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SIGNATURE: Terry Rolfe PRINT NAME: TERRY ROLFE DATE: 06-22-09
 Chairperson
 Reviewed By: Pearl P. Bethel 6/22/09

RFP NO. 684
**MASTER PROPERTY INSURANCE PROGRAM BROKER SERVICES
 EVALUATION OF PROPOSALS**

BARBARA DUNLOP (GSA)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Aon Risk Services, Inc. of Florida	Arthur J. Gallagher Risk Management Services, Inc.	Marsh USA, Inc.
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	10	30	20
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		35	15	32	20
Proposer's approach to provide the type of services described in this RFP		30	15	25	20
Total Technical Points (Total of technical rows)		95	40	87	60
Selection Factor (10% of the Technical Points Earned on the Technical Portion)		10%	0	0	0
Total Price Points		5	5	4	1
TOTAL POINTS (Technical + Price)		100	45	91	61

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RFP NO. 684
MASTER PROPERTY INSURANCE PROGRAM BROKER SERVICES
EVALUATION OF PROPOSALS

CORALEE TAYLOR (SBD)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Aon Risk Services, Inc. of Florida	Arthur J. Gallagher Risk Management Services, Inc.	Marsh USA, Inc.
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	23	26	24
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		35	30	33	31
Proposer's approach to provide the type of services described in this RFP		30	30	30	30
Total Technical Points <i>(Total of technical rows)</i>		95	83	89	85
Selection Factor <i>(10% of the Technical Points Earned on the Technical Portion)</i>		10%	0	0	0
Total Price Points		5	4	5	3
TOTAL POINTS <i>(Technical + Price)</i>		100	87	94	88

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RFP NO. 684
**MASTER PROPERTY INSURANCE PROGRAM BROKER SERVICES
 EVALUATION OF PROPOSALS**

GRACIELA CESPEDES (FINANCE)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Aon Risk Services, Inc. of Florida	Arthur J. Gallagher Risk Management Services, Inc.	Marsh USA, Inc.
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	20	30	15
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		35	25	32	20
Proposer's approach to provide the type of services described in this RFP		30	20	30	15
Total Technical Points (Total of technical rows)		95	65	92	50
Selection Factor (10% of the Technical Points Earned on the Technical Portion)		10%	0	0	0
Total Price Points		5	5	4	1
TOTAL POINTS (Technical + Price)		100	70	96	51

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RFP NO. 684
**MASTER PROPERTY INSURANCE PROGRAM BROKER SERVICES
 EVALUATION OF PROPOSALS**

SONIA S. BRIDGES (MDAD)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Aon Risk Services, Inc. of Florida	Arthur J. Gallagher Risk Management Services, Inc.	Marsh USA, Inc.
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	25	30	23
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		35	32	34	30
Proposer's approach to provide the type of services described in this RFP		30	25	27	24
Total Technical Points (Total of technical rows)		95	82	91	77
Selection Factor (10% of the Technical Points Earned on the Technical Portion)		10%	0	0	0
Total Price Points		5	5	3	1
TOTAL POINTS (Technical + Price)		100	87	94	78

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RFP NO. 684
MASTER PROPERTY INSURANCE PROGRAM BROKER SERVICES
EVALUATION OF PROPOSALS

SCOTT CLARK (Dade County Public Schools)

SELECTION CRITERIA	PROPOSERS	Maximum Points	Aon Risk Services, Inc. of Florida	Arthur J. Gallagher Risk Management Services, Inc.	Marsh USA, Inc.
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	10	30	15
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		35	14	34	25
Proposer's approach to provide the type of services described in this RFP		30	12	25	15
Total Technical Points <i>(Total of technical rows)</i>		95	36	89	55
Selection Factor <i>(10% of the Technical Points Earned on the Technical Portion)</i>		10%	0	0	0
Total Price Points		5	3	5	1
TOTAL POINTS <i>(Technical + Price)</i>		100	39	94	56

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Memorandum



Date: June 5, 2009

To: Terry L. Rolle, Chairperson
Department of Procurement Management

From: George M. Burgess
County Manager

Subject: Request for Evaluation/Selection Committee for the General Services Administration Department
Request for Proposals for Master Property Insurance Program Broker Services - RFP No.
RQGS0900044 (Substitution #1)

A handwritten signature in black ink, appearing to read "G. Burgess", written over the printed name of George M. Burgess.

Please be advised that I am substituting Coralee Taylor of the Department of Small Business Development in place of Harold Goldson of the same department. Should you have any questions, please refer them to Sharon Ryland of the Department of Small Business Development.

Selection Committee

Terry L. Rolle, DPM, Non-Voting Chairperson
Barbara Dunlop, GSA
Scott Clark, Dade County Public Schools
Sonia S. Bridges, MDAD
Graciela Cespedes, Finance
Coralee Taylor, SBD
Daniel Alfonso, OSBM (Alternate)

c: Miriam Singer, Director, DPM
Wendi Norris, Director, GSA
Jose Abreu, Director, MDAD
Carter Hammer, Director, Finance
Jennifer Glazer-Moon, Director, OSBM
Penelope Townsley, Director, SBD

Memorandum



Date: May 20, 2009

To: Those Listed Below

From: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "G. Burgess".

Subject: Request for Evaluation/Selection Committee for the General Services Administration Department Request for Proposals for Master Property Insurance Program Broker Services - RFP No. RQGS0900044

In accordance with Administrative Order 3-34, I am hereby appointing those listed below as the Selection Committee for the General Services Administration Department Request for Proposals for Master Property Insurance Program Broker Services - RFP No. RQGS0900044:

Selection Committee

Terry L. Rolle, DPM, Non-Voting Chairperson
Barbara Dunlop, GSA
Scott Clark, Dade County Public Schools
Sonia S. Bridges, MDAD
Graciela Cespedes, Finance
Harold Goldson, SBD
Daniel Alfonso, OSBM (Alternate)

The Selection Committee will meet to review written or printed material regarding the qualifications of each of the certified firms as it relates to the requirements defined in the advertised document. If required, the Selection Committee will select several candidate firms meeting the published criteria, to make oral presentations at a properly noticed public hearing to the full Selection Committee.

The Selection Committee shall be responsible for evaluating, rating and ranking the proposals by each Committee member, based on the criteria and procedure contained in the advertised document. The Evaluation/Selection Committee will first evaluate and rank responsive proposals on the Technical (Quality) criteria. If responsive proposers are invited to make oral presentations, the Committee may re-rate and re-rank the proposals based upon the written documents combined with the oral presentation. You may utilize staff of the issuing department and the using agency to conduct a preliminary review of the proposals for responsiveness to the technical requirements. All requests for specific determinations shall be made in writing to the County Attorney's Office.

You are directed to assist me in the selection process considering the factors delineated in the advertised document. These factors may include methodology and management approach, qualifications and experience of principals and staff, financial stability, proposer's past performance of similar scope and size, proposer's detailed plans to meet the objectives of each task, activity, etc., pursuant to any schedule, proposer's previous County experience, history and experience of the firm or individual(s), understanding of the project and the County's objectives, responsiveness to the established requirements, and Cost/Revenue (normally separate and sealed). When the document requires the proposer to provide cost/revenue in a separate sealed envelope, cost/revenue will be considered separately and after the other criteria have been evaluated.

If you are unable to participate in the Selection process, contact this office through Small Business Development (SBD) by memorandum documenting the reason why you cannot participate. Only in cases of dire urgency may you be excused from participation.

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The alternate committee member will serve only in the event of an approved substitution. No substitution of committee members shall be allowed after the first official meeting of the committee. The Department of Procurement Management's (DPM) RFP Unit may substitute the chairperson to ensure the appropriate level of staffing expertise as deemed necessary to accommodate the needs of this solicitation.

Following the oral presentation, or upon completion of the review process, the Committee shall prepare and submit a memorandum to include a narrative of the evaluation and justification of the top recommended firm(s) based upon the reasoning and mathematical formula, if utilized, and attach supporting documentation and a summary sheet which MUST include the following information:

Name of firm(s)
Quality Rating Score
Price
Adjusted Score (if applicable)
Committee's Overall Ranking

This report should be submitted to me through the SBD for review and consideration for further recommendation to the Board of County Commissioners.

As a matter of administrative policy and to maintain a fair and impartial process, all individuals appointed to the Selection Committee (including the Chairperson) and staff are instructed to refrain from discussing the solicitation with prospective lobbyists and/or consultants. Committee members are reminded that in accordance with the Cone of Silence Ordinance 98-106, they are prohibited from having any communication with potential respondents and/or their representatives. Violation of this policy could lead to termination.

All questions must be directed to the staff contact person(s) designated by the issuing department.

c: Miriam Singer, Director, DPM
Wendi Norris, Director, GSA
Jose Abreu, Director, MDAD
Carter Hammer, Director, Finance
Jennifer Glazer-Moon, Director, OSBM
Penelope Townsley, Director, SBD

Selection Committee

Terry L. Rolle, DPM, Non-Voting Chairperson
Barbara Dunlop, GSA
Scott Clark, Dade County Public Schools
Sonia S. Bridges, MDAD
Graciela Cespedes, Finance
Harold Goldson, SBD
Daniel Alfonso, OSBM (Alternate)

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