Date: FEB 2 5 2010

Memorandum

MIAMI-DADE COUNTY

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

March 2, 2010
Supplement to
Agenda Item No. 11A34

From: George M. Burgess
County Manager

Subject: Information Requested at the February 18, 2010 Board of County Commissioners Meeting Regarding Special Transportation Services

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This memorandum responds to the request made at the February 18, 2010 Board of County Commissioners meeting for the administration to present the restated Request for Proposals (RFP) No. 709, Special Transportation Services (STS).

This RFP was the product of significant input by both the Board and the industry. It was vetted through the STS Task Force and later through the Board at the June 16, 2009 Transit, Infrastructure and Roads Committee Workshop on the subject. A memorandum issued on October 16, 2009 responded to specific concerns raised at the workshop regarding the solicitation document, and both the Miami-Dade Transit and Procurement Directors met with each Board member and/or designated staff to ensure that all questions were addressed.

As discussed at the February 18, 2010 Board meeting, the administration is recommending certain changes to the RFP that will enhance the long-term contract. Recommended changes are shown in strikethrough/underline in the attached RFP and are summarized below:

1) The anticipated schedule for the RFP is revised as follows:

Proposal due date:	March 19, 2010 at 2:00PM (local time)
Evaluation process:	April 2010
Projected award date:	July 2010

2) Throughout the RFP document, references to carrier are removed and replaced with subcontractor.

3) The following is added to Section 2.4, General Responsibilities of the County, for clarification:

   v. Facilitate access to the County's Computer System via the Internet utilizing a Citrix infrastructure.

   vi. Establish and maintain the County's Computer System (Trapeze software system) to enable the use of the selected Proposer's mobile data terminals.

   vii. Provide and maintain the software support and upgrade agreements with the licensor of the County's Computer System (Trapeze software system), manage all software updates, and establish all Trapeze parameters in consultation with the selected Proposer.

4) The following is added to Section 2.9, Service Area, for clarification:

   - The County will be responsible for maintaining the Service Area in the County's Computer System (Trapeze system).

5) The following is added to Section 2.11,Multi-Loading, for clarification:

- The selected Proposer shall ensure that all vehicles utilized by the selected Proposer, including the capacity for ambulatory and wheelchair seating, are entered and updated into the County's Trapeze software system.

  This clarification will assist the County in real-time monitoring to ensure vehicles do not exceed passenger capacity.

6) The following is added to Section 2.12, Late Vehicle Assistance and Estimated Time of Arrival Inquiries, for clarification:

   - In the event the Chauffeur arrives prior to the Scheduled Pickup Time, the Chauffeur shall wait until the Scheduled Pickup Time. If the Customer agrees to board the vehicle early (prior to the Scheduled Pickup Time) then such pickup shall be considered on time for the purpose of the resultant contract. In the event the Customer is not ready or does not wish to board early, then the Chauffeur shall either wait for the Schedule Pickup Time or shall leave and return within the Service Window.

   - In the event the Customer is not at the pickup location at the Scheduled Pickup Time or within the Service Window, the Chauffeur shall follow the process of Subsection 2.20.8.ix herein. The selected Proposer shall adhere to the County's policy pertaining to No-Show once implemented by the County.

     The clarifications above will guide the selected proposer in clearly understanding the service requirements to provide good customer service.

7) A sentence in Section 2.13, Program Feedback and Response, is revised as follows for clarification:

   - The selected Proposer shall submit to the County a written response to the Formal Complaint within three (3) business days in the event of urgent matters or seven (7) business days for non-urgent matters from the selected Proposer's receipt of the Formal Complaint.

8) The following is added to Section 2.14.2, County Responsibilities (Software), for clarification:

   vi. The County has an enterprise license for the Trapeze MON module and will be responsible for the ongoing maintenance and support fees.

9) The following is revised in Section 2.14.3, Selected Proposer Responsibilities (Software and Hardware), for clarification:

   iii. Provide Internet connectivity (bandwidth at minimum a dedicated Full T1 service with 1.5Mbps) and personal computers to access the Computer System that are dedicated to conduct activities and responsibilities required under the resultant contract.

   This clarification guides the selected Proposer for proper connectivity to the Internet.

10) Section 2.14.5, AVL/GPS Equipment and Mobile Data Terminals, is revised to clarify the requirements of the mobile data terminals and require contactless smartcard read/writer to integrate the County's Automated Fare Collection System with the STS Program.

This clarification and additional requirement will ensure accountability, accuracy, integrity, and checks-and-balance controls in the STS data. The read and write functionality will allow the fare deduction at the time of use and update the balance on the EASY Card and the County's Computer system instantly. The functionality will also provide the County an option to utilize the Easy Card to replace the paper voucher program.

11) The following sentence in Section 2.18, Performance Standards, are revised as follows for clarification:

- The County will perform service audits as deemed necessary and use all available information, not limited to the Trip Center data, Driver's Manifests, reports, and the County's Computer System, to measure the performance level for the entire Program and to determine if the selected Proposer meets the performance requirements.

This clarification ensures all available information will be used by the County for performance review of the selected Proposer.

12) In Section 2.18, Performance Standards:

- The minimum requirement for on-time performance is revised to 80% and Customer time traveled is clarified to be equivalent to 110% because the Federal Transit Administration requires paratransit services to be comparable to fixed route services as reported by Miami-Dade Transit.

- Preventable vehicle accident is clarified to be as defined by the National Safety Council.

13) Section 2.19.1.9, Mobile Data Terminals, is revised as a liquidated damage in the amount of $200.00 per vehicle per day for each day equipment is not installed and operational as specified in Section 2.14.5, AVL/GPS Equipment and Mobile Data Terminals.

This will ensure that the selected Proposer understands the importance of implementation of the mobile data terminals.

14) Section 2.19.1.10, Invalid No-Show, is revised for clarification.

15) Section 2.19.1.13, Invoicing, is revised for clarification.

16) Section 2.19.1.19, Unauthorized Chauffeur or Vehicle, is revised to add:

- Said liquidated damage will be in addition to the County not being charged for such trip.

This addition sentence is provided to avoid ambiguity.

17) Section 2.20.5, Personal Care Attendants (PCA), Companion, Guide Dogs, and Service Animals, is revised to add:

- The selected Proposer shall not bill the County for trips taken by PCAs and the selected Proposer will not be paid for PCAs. The County will not deduct fare for PCAs from the selected Proposer's trip rate.

This revision will ensure proper billing by the Proposer in the event PCAs accompany the Customer.

18) Section 2.20.8, Chauffeur Duties, is revised to add:

- When the Driver arrives outside of the Service Window, the same process for notification and authorization described herein shall apply. In no event, shall a Customer be designated as a No-Show if the Chauffeur fails to arrive within the Service Window or fails to comply with the notification and authorization requirements within this paragraph.

This revision will ensure good customer service and proper reporting for No-Show Customers.

19) Section 2.22, Marketing/Customer Service and Information, was rephrased for clarification.

20) Section 2.23, Telephone System Requirements, is revised to add:

- Thirty (30) days prior to expiration or upon notice of termination of the resultant contract, the selected Proposer shall transfer ownership of the toll-free number and TTY/TDD number for STS calls to the County. Any costs or fees related to the transfer of the phone number/phone service to the County shall be borne by the selected Proposer.

This revision will allow the County to maintain the same phone numbers for STS customers irrespective of the provider. The customers will not experience any disruption in services as there will be no change in the numbers for STS.

21) Section 2.25.2, Driver's Manifests, is added to clarify the requirements for use of paper Driver's Manifests in the event data is not electronically transferred between the County's Computer System and mobile data terminals.

This additional will ensure accountability, accuracy, integrity, and checks-and-balance controls in the STS data.

22) Section 2.27, Required Reports, is revised to clarify that the County will use its Computer System and the data provided through the selected Proposer's AVL/GPS, mobile data terminals, and any other available equipment to produce many Program reports.

23) Section 2.28.11, Vehicle Revenue Hours, is revised to clarify the definition of revenue hour.

The revenue hours are required as part of the Federal Transit Administration's National Transit Database reporting.

24) Section 2.28.12, Pro-forma Statement, is rephrased for clarification.

25) Section 2.30, Fares and Accounting, is revised for clarification, to omit the selected Proposer's responsibility for the voucher system. This also omits reference for the selected Proposer to integrate EASY Card at the request of the County as the EASY Card integration is required at the commencement of services.

26) Section 2.30.1, Voucher System, is revised to require the Proposers to provide the pricing and solution for a fare replacement program that uses the County's EASY Card as a replacement to the County's voucher program, which currently uses a paper voucher ticketing system.
This revision will allow the County the option to discontinue the current fare replacement program (paper vouchers) and introduce a fare replacement program totally automated with the County's EASY Card and Automated Fare Collect System. This option will offer

accountability, accuracy, integrity, and checks-and-balance controls in fare collection, billing, and reporting for STS.

27) Section 2.36, Annual Audit Report, is rephrased for clarification.

28) The Proposer Information, under 3, Equipment and Facility, is revised to request Proposers to describe any other software that will be used by the Proposer to provide accurate, real-time and historical data/reporting to the County through direct access to the software by County staff.

This serves to advise Proposers that the County is seeking software available in the industry that can provide accurate, real-time and historical data/reporting to the County to ensure accountability, accuracy, integrity, and checks-and-balance controls in STS data.

29) The Proposer Information, under 4, Service Plan and Capability, is revised to add the following:

E. The County prefers implementation of a fare replacement program that uses the County's EASY Card to replace the County's voucher program, which currently uses a paper voucher ticket. Describe the Proposer's solution for a fare replacement program that uses the County's EASY Card.

This revision will allow the County the opportunity to evaluate proposed solutions to replace the County's voucher program to give the County the option to discontinue the current fare replacement program (paper voucher system) and introduce a fare replacement program totally automated with the County's EASY Card and Automated Fare Collect System. This option will offer accountability, accuracy, integrity, and checks-and-balance controls in fare collection, billing, and reporting for STS.

30) The Estimated Number of Trips is revised after further analysis of the data provided by the current contractor.

31) Price is requested in the event the County elects to perform the call taking functions and in the event the County elects not to exercise the option of the selected Proposer to provide the fare replacement program.

c: Honorable Carlos Alvarez, Mayor
Honorable Katherine Fernandez-Rundle, State Attorney, 11th Judicial Circuit
Honorable Linda Zilber, Chair, Citizens' Independent Transportation Trust
Robert A. Cuevas, County Attorney
Alina Hudak, Assistant County Manager
Ysela Llort, Assistant County Manager
Harpal Kapoor, MDT Director
Jim Loftus, MDPD Director
Miriam Singer, DPM Director
Charles Scurr, Executive Director, Office of the Citizens' Independent Transportation Trust
Judi Zito, GIC Director
Clerk of the Board

REQUEST FOR PROPOSALS (RFP) NO. 709
FOR
SPECIAL TRANSPORTATION SERVICE

PRE-PROPOSAL CONFERENCE TO BE HELD: (Version: ~~2/23/10~~2/25/10, ~~6:27PM~~3:57 PM)

December 16, 2009 at 2:00 PM (local time)
Overtown Transit Village Building, 701 NW 1st Court, 1st Floor, Training Room, Miami, Florida

ISSUED BY:
Department of Procurement Management
for
Miami-Dade Transit Department

COUNTY CONTACT FOR THIS SOLICITATION:

Name and Title: Drakus Wiggins, CPPB, Procurement Contracting Officer
Address: 111 NW 1st Street, Suite 1300, Miami, Florida 33128
Telephone: (305) 375-4884
E-mail: dwiggin@miamidade.gov

PROPOSALS ARE DUE AT THE CLERK OF THE BOARD NO LATER THAN:

~~January 22~~March 19, 2010 at 2:00 PM (local time)
at
CLERK OF THE BOARD
Stephen P. Clark Center
111 NW 1st Street, 17th Floor, Suite 202
Miami, Florida 33128-1983

The Clerk of the Board business hours are 8:00 a.m. to 4:30 p.m., Monday through Friday. Additionally, the Clerk of the Board is closed on holidays observed by the County.

All proposals received and time stamped by the Clerk of the Board prior to the proposal submittal deadline shall be accepted as timely submitted. The circumstances surrounding all proposals received and time stamped by the Clerk of the Board after the proposal submittal deadline will be evaluated by the procuring department in consultation with the County Attorney's Office to determine whether the proposal will be accepted as timely. Proposals will be opened promptly at the time and date specified. The responsibility for submitting a proposal on or before the stated time and date is solely and strictly the responsibility of the Proposer. The County will in no way be responsible for delays caused by mail delivery or caused by any other occurrence. All expenses involved with the preparation and submission of proposals to the County, or any work performed in connection therewith, shall be borne by the Proposer(s).

The submittal of a proposal by a Proposer will be considered by the County as constituting an offer by the Proposer to perform the required services at the stated prices. A Proposer may submit a modified proposal to replace all or any portion of a previously submitted proposal up until the proposal due date. The County will only consider the latest version of the proposal.

Requests for additional information or inquiries must be made in writing and received by the County's contact person for this Solicitation. The County will issue responses to inquiries and any changes to this Solicitation it deems necessary in written addenda issued prior to the Proposal Due Date. Proposers who obtain copies of this Solicitation from sources other than the County's Department of Procurement Management website at www.miamidade.gov/dpm or the Vendor Assistance Unit risk the possibility of not receiving addenda and are solely responsible for those risks.

1.0 PROJECT OVERVIEW AND GENERAL TERMS AND CONDITIONS

1.1 Introduction

Miami-Dade County, hereinafter referred to as the County, as represented by the Miami Dade Transit Department (MDT), is soliciting proposals to establish a contract to provide Special Transportation Service (STS).

The County anticipates awarding a contract for a five (5) year period with one (1), five (5) year option to renew.

The anticipated schedule for this Solicitation is as follows:

Solicitation issued:	December 2, 2009
Pre-Proposal Conference:	See front cover for date, time and place. Attendance is recommended but not mandatory. If you need a sign language interpreter or materials in accessible format for this event, please call the DPM ADA Coordinator at (305) 375-1564 at least five days in advance.
Deadline for receipt of questions:	December 23, 2009
Proposal due date:	See front cover for date, time and place.
Evaluation process:	~~February~~ April 2010
Projected award date:	~~September~~ July 2010

1.2 Definitions

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

1. ADA – Americans with Disabilities Act of 1990.

2. Agency – An entity who requests transportation services for its customers through the County in the County's capacity as the Community Transportation Coordinator pursuant to Chapter 427, Florida Statutes.

3. Ambulatory – Any Customer who can enter, occupy and exit a passenger motor vehicle with limited assistance from the Chauffeur, does not require the use of a wheelchair, and does not require bodily lifting by the Chauffeur.

4. Automated Call Distributor (ACD) – A phone application program which processes calls by routing calls to available personnel and, when necessary, holding calls in queue until the calls can be directed to the next personnel available to answer the call.

5. Backup – A PTRD authorized for-hire vehicle, driven by a PTRD authorized Chauffeur, which may not be solely dedicated for use in the resultant contract.

6. Cancellations – Notification to the selected Proposer by the County, Customer, or a person representing the Customer (i.e. family member, social worker, etc.) that a scheduled trip is no longer required.

7. CFR – Code of Federal Regulation.

8. Chauffeur or Driver – An individual operating a County authorized vehicle to transport Customers, attendants, and/or Companions.

9. Client, Customer, or Rider – A person who is designated by the County as eligible to reserve and receive a trip.

10. Companion – A person who is not a PCA and accompanies a Customer at the Customer's request.

11. Complaint – Dissatisfaction expressed verbally or written from a Customer, County staff, or the general public pertaining to any facet of service provided under the resultant contract.

12. Contractor – The Proposer that receives any award of a contract from the County as a result of this Solicitation, also to be known as "the prime Contractor".

13. County – Miami-Dade County, a political subdivision of the State of Florida.

14. Excessive Travel Time – When a Customer's travel time for a one-way trip exceeds the comparable fixed route travel time by more than 10%, including applicable transfers, walking, and wait time; or where no comparable fixed route travel time is available, the average bus system speed (currently, eight (8) miles per hour).

15. FDOT – Florida Department of Transportation.

16. Formal Complaint – A Complaint received by the County pertaining to any facet of operation under the control of the selected Proposer which, in the County's opinion, requires a written response from the selected Proposer.

17. FTA – Federal Transit Administration, formerly Urban Mass Transportation Administration (UMTA).

18. Immediate Response Service – Service requiring the selected Proposer to pick-up a Customer within one (1) hour from the time the selected Proposer is notified.

19. In Service – The time a vehicle/Chauffeur begins the run to provide transportation service to a Customer until the time the run is completed.

20. Incident – Any unusual or extraordinary event that causes disruption of service which occurs while a vehicle/Chauffeur is in service that may or may not include intervention of County, selected Proposer, and/or other governmental agencies including Fire Rescue, Police, etc.

21. Missed Trip – Failure to pick-up a Customer at all, with the exception of a Cancellation.

22. Multi-Loading – The transportation of two or more passengers, who are not traveling together to and from the same location, but in a direction suitable to accommodate multiple Client transportation requests.

23. Negotiated Pick-up Time – When a Customer calls the selected Proposer with a Requested Pick-up Time, the selected Proposer may negotiate a pick-up/vehicle arrival time while the Customer is on the phone. The negotiated time shall be within one (1) hour before or one (1) hour after the Requested Pick-up Time. Once agreed upon, the Negotiated Pick-up Time cannot be changed by the selected Proposer and shall be accurately recorded on the Driver's Manifest.

24. Next Day Service – A trip provided in response to a reservation made on the day preceding the day of the service.

25. No-show – Absence of a Customer at the pick-up location without a one (1) hour Cancellation prior to the Scheduled Pick-up Time or when the vehicle arrives at the pick-up location and the Customer cancels onsite.

26. Non-Ambulatory – Any person who requires to be transported in a lift or ramp equipped vehicle and/or must travel in his/her wheelchair.

27. Passenger Motor Vehicle – Any Miami-Dade County Passenger Transportation Regulatory Division (PTRD) permitted, Chauffeur driven, motor vehicle providing seating accommodations for passengers.

28. Passenger Transportation Regulatory Division (PTRD) – Division of Miami-Dade County's Consumer Services Department which regulates "passenger motor vehicles" and "Chauffeurs".

29. Personal Care Attendant (PCA) – The person who provides assistance to the Customer.

30. Personnel – The employees of the selected Proposer, the subcontractors of the selected Proposer, and the employees of the subcontractors.

31. Program Feedback - Any observation (positive or negative) received from Customers, County staff, or the general public pertaining to any facet of service provided under the resultant contract.

32. Proposer – The person, firm, entity or organization, as stated on Form A-1, submitting a response to this Solicitation.

33. Requested Pick-up Time – The desired time requested (asked for) by the Customer to meet their transportation needs. For further information see "Negotiated Pick-up Time".

34. Reservation – The assignment of a pick-up time for a Customer based upon the Customer's Requested Pick-Up Time or Negotiated Pick-Up Time.

35. Routing – The organization of individual Customer pick-ups and drop-offs within the "Service Window" constraints so as to maximize multi-loading and the efficient utilization of Chauffeurs and vehicles without "Excessive Travel Time" for the Customers.

36. Same-Day Reservation – Reservation made by a Customer for service on the same day of service.

37. Same-Day Service – Service provided to a Customer on the same day that a reservation is made. The service window for Same-Day Service is three (3) hours from the time that the Same-Day Reservation is received by the selected Proposer.

38. Scheduled Pick-up Time – The pick-up time either requested by the Customer and accepted by the selected Proposer or the successfully negotiated pick-up time between the Customer and the selected Proposer, that is routed by the selected Proposer, for the purpose of vehicle/Chauffeur arrival at the Customer's pickup location within the two (2) ADA service window which is one (1) hour before or one (1) hour after the Requested Pick-up Time.

39. Scheduling – The assignment of a reservation for Customer transport. Scheduling may be based on the Scheduled Pickup Time for a Customer or the Customer's required arrival time at a designated location.

40. Scope of Services – Section 2.0 of this Solicitation, which details the work to be performed by the ~~Contractor~~selected Proposer.

41. Service Window or Window – Period of time allowed to the selected Proposer after the Customer's Scheduled Pick-up Time, for vehicle/Chauffeur arrival and actual Customer pick-up. The period of time allowed is zero (0) minutes before and thirty (30) minutes after the Scheduled Pickup Time.

42. Solicitation – This Request for Proposals (RFP) or Request for Qualifications (RFQ) document, and all associated addenda and attachments.

43. Stranded Customer – A Customer who is not picked up within sixty (60) minutes of the Scheduled Pickup Time for advanced reservations, within ninety (90) minutes following a request for Immediate Response Service, or within three (3) hours following an approved request for a Same-Day Reservation.

44. Subcontractor – Any person, firm, entity or organization, other than the employees of the Contractor, who contracts with the Contractor to furnish labor, equipment, carrier service (trips) to Customers, provide

reservation and/or call taking services, or any combination thereof, in connection with the Services to the County, whether directly or indirectly, on behalf of the Contractor.

45. TDD – Telephone device for the deaf.

46. Transportation Disadvantaged (TD) – Those persons who because of physical or mental disability, income status, or age or who for other reasons are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are high risk or at-risk as defined in Florida Statute 411.202.

47. Travel Time – As defined by the ADA for paratransit services, a one-way paratransit trip wherein the Customer's time traveled is similar to a comparable fixed route travel time, including applicable transfers, walking, and wait time. Where no comparable trip is available using the fixed-route service, paratransit travel time will be defined as eight (8) miles per hour.

48. Trip – The one-way transportation service provided from when the Customer enters the vehicle to when the Customer's destination is reached.

49. Trip Center – Facility where requests for trip reservations are received, negotiated, scheduled, routed, dispatched and forwarded to the Chauffeurs/vehicles providing Customer. Either the County or the selected Proposer as defined in the Notice to Proceed may operate the Trip Center.

50. Trip Denial – As defined by the FTA, a Customer's trip request is considered a "trip denial" if: 1) the round trip cannot be provided at the time of the request; or, 2) a trip is scheduled/performed outside the 2-hour ADA service window, i.e. not provided within one (1) hour before or one (1) hour after the Requested Pick-Up Time.

51. Trip Screening – The process or procedure used by the selected Proposer, during the reservation process, to ensure that only Customers, as pre-determined by the County, are provided with paratransit services.

52. Will-Call – Customer's request for a return trip that cannot be accurately pre-scheduled, such as the return of a medical trip, which the selected Proposer shall pick-up a Customer within one (1) hour from the time the selected Proposer is notified.

53. Work, Services, Program, or Project – All matters and things that will be required to be done by the Contractor in accordance with the Scope of Services and the terms and conditions of this Solicitation.

1.3 General Proposal Information

The County may, at its sole and absolute discretion, reject any and all or parts of any or all responses; accept parts of any and all responses; further negotiate project scope and fees; postpone or cancel at any time this Solicitation process; or waive any irregularities in this Solicitation or in the responses received as a result of this process. Proposers may take exceptions to any of the terms of this Solicitation unless the Solicitation specifically states where exceptions may not be taken. The County may accept or reject the exceptions at its sole discretion and the Proposer's proposal shall be binding on the Proposer as if submitted without exception. The County reserves the right to request and evaluate additional information from any respondent after the submission deadline as the County deems necessary.

Proposals shall be irrevocable until contract award unless the proposal is withdrawn. A proposal may be withdrawn in writing only, addressed to the County contact person for this Solicitation, prior to the proposal due date or upon the expiration of 180 calendar days after the opening of proposals.

Proposers are hereby notified that all information submitted as part of, or in support of proposals will be available for public inspection after opening of proposals, in compliance with Chapter 119, Florida Statutes, popularly known as the "Public Record Law". The Proposer shall not submit any information in response to

this Solicitation which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any information to the County in connection with this Solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to Proposer. In the event that the Proposer submits information to the County in violation of this restriction, either inadvertently or intentionally, and clearly identifies that information in the proposal as protected or confidential, the County shall endeavor to redact and return that information to the Proposer as quickly as possible, and if appropriate, evaluate the balance of the proposal. The redaction or return of information pursuant to this clause may render a proposal non-responsive.

Any Proposer who, at the time of proposal submission, is involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the Proposer under federal bankruptcy law or any state insolvency law, may be found non-responsible. To request a copy of any ordinance, resolution and/or administrative order cited in this Solicitation, the Proposer must contact the Clerk of the Board at (305) 375-5126.

1.4 Cone of Silence

Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, as amended, a "Cone of Silence" is imposed upon each RFP or RFQ after advertisement and terminates at the time a written recommendation is issued. The Cone of Silence prohibits any communication regarding RFPs or RFQs between, among others:

- potential Proposers, service providers, lobbyists or consultants **and** the County's professional staff including, but not limited to, the County Manager and the County Manager's staff, the Mayor, County Commissioners or their respective staffs;
- the Mayor, County Commissioners or their respective staffs **and** the County's professional staff including, but not limited to, the County Manager and the County Manager's staff; or
- potential Proposers, service providers, lobbyists or consultants, any member of the County's professional staff, the Mayor, County Commissioners or their respective staffs **and** any member of the respective selection committee.

The provisions do not apply to, among other communications:

- oral communications with the staff of the Vendor Assistance Unit, the responsible Procurement Agent or Contracting Officer, provided the communication is limited strictly to matters of process or procedure already contained in the solicitation document;
- oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meeting, public presentations made to the Board of County Commissioners during any duly noticed public meeting; or
- communications in writing at any time with any county employees, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP or RFQ documents.

When the Cone of Silence is in effect, all potential vendors, service providers, bidders, lobbyists and consultants shall file a copy of any written correspondence concerning the particular RFP or RFQ with the Clerk of the Board, which shall be made available to any person upon request. The County shall respond in writing (if County deems a response necessary) and file a copy with the Clerk of the Board, which shall be made available to any person upon request. Written communications may be in the form of e-mail, with a copy to the Clerk of the Board at CLERKBCC@MIAMIDADE.GOV.

1.5 Public Entity Crimes

Pursuant to Paragraph 2(a) of Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal for a contract to provide any goods or services to a public entity; may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and, may not transact business with any

public entity in excess of the threshold amount provided in Section 287.017 for Category Two ($10,000) for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

1.6 Lobbyist Contingency Fees

A) In accordance with Section 2-11.1(s) of the Code of Miami-Dade County, after May, 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.

B) A contingency fee is a fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Manager or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which forseeably will be heard or reviewed by the County Commission or a County board or committee.

1.7 Collusion

Where two (2) or more related parties, as defined herein, each submit a proposal for any contract, such proposals shall be presumed to be collusive. The foregoing presumption may be rebutted by the presentation of evidence as to the extent of ownership, control and management of such related parties in preparation and submittal of such proposals. Related parties shall mean Proposer or the principals thereof which have a direct or indirect ownership interest in another Proposer for the same contract or in which a parent company or the principals thereof of one Proposer have a direct or indirect ownership interest in another Proposer for the same contract. Furthermore, any prior understanding, agreement, or connection between two or more corporations, firms, or persons submitting a proposal for the same services shall also be presumed to be collusive. Proposals found to be collusive shall be rejected. Proposers who have been found to have engaged in collusion may be considered non-responsible, and may be suspended or debarred, and any contract resulting from collusive bidding may be terminated for default.

1.8 Small Business Enterprise (SBE) Measure

INTENTIONALLY OMITTED

1.9 Disadvantage Business Enterprise (DBE) Goal

The Disadvantage Business Enterprise (DBE) requirements of 49 CFR Part 26 applies to this solicitation. The Stated Goal for participation by DBE firms is a minimum **~~twenty~~ twelve percent (12~~20~~%).** Refer to Exhibit C, Miami Dade County Special Transportation Services DBE/EEO Requirements for definitions, explanations, and instructions.

2.0 SCOPE OF SERVICES

2.1 Introduction/Background

Miami-Dade County, hereinafter referred to as the County, as represented by the Miami-Dade Transit Department (MDT) is soliciting proposals to establish a contract to provide Special Transportation Services (STS).

STS is a demand response service comprised of passenger cars, vans, or small buses operating in response to calls from Clients or Agencies to the ~~STS Provider~~selected Proposer, who then dispatches a vehicle that picks up the Customers and transport them to their destinations. The STS demand response operation is characterized by the following: a) the vehicles operate over non-fixed routes, on a flexible schedule except, perhaps, on a temporary basis to satisfy a special need; and, b) typically, the vehicle may be dispatched to pick up several Customers at different pick-up points before taking them to their respective destinations and may even be interrupted en route to these destinations to pick up other Customers.

STS is provided as a public demand response paratransit service for people with disabilities, in compliance with the provisions of ADA. STS is more flexible and personalized than conventional fixed-route services and do not include charter bus and exclusive-ride taxi services. Paratransit vehicles are available to eligible Customers on demand, by reservation or subscription and on a shared-ride basis.

STS is provided in compliance with the paratransit service provisions of ADA and guided, in part, by the Florida Transportation Disadvantaged Program, pursuant to Chapter 427, Florida Statutes.

The Metropolitan Planning Organization for the Miami Urbanized Area has designated the County, as represented by MDT, as the Community Transportation Coordinator with the responsibility to coordinate activities and funding for transportation resources for individuals defined as transportation disadvantaged by the Florida Transportation Disadvantaged Program. The selected Proposer shall assist the County in its duties as the Community Transportation Coordinator by providing the Services on behalf of the County.

2.2 Description of Service

The selected Proposer shall provide transportation services to Customers and County approved Agencies. These Agencies will compensate the selected Proposer for the transportation services provided to the Agencies' customers in accordance with the Price Schedule of the resultant contract. The County will not be responsible for any associated charges due to the selected Proposer by the Agencies' customers.

The selected Proposer shall bill the Agencies, approved by the County to receive transportation services under the terms and conditions of the resultant contract, separately and distinctly from service charges to the approved Customers of the County.

The selected Proposer shall furnish and maintain the facility, equipment, supplies, ~~records storage space,~~ training space, and provide services necessary to operate a Trip Center. Such equipment includes, but is not limited to, office furniture, call taker/dispatcher furniture cubicles, personal computers, fast access internet lines (at minimum Digital Subscriber Line or Cable), telephone lines with ACD and associated systems, fax machines, TDD, and dispatch radios. The selected Proposer shall provide the professional management and transportation capacity required to manage operations and provide paratransit services. The professional management shall at a minimum include provisions for vehicles and staff necessary to perform Trip Screening, reservations, scheduling, routing, dispatching, Late Vehicle Assistance, monitoring, billing, centralized training and management of all staff, FTA National Transportation Database Reporting (formerly known as Section 15 reporting), and, if utilized, contracting and coordinating ~~carriers~~ subcontractors to provide Services under the resultant contract.

2.3 General Responsibilities of the Selected Proposer

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The selected Proposer shall:

i. Hire, train, and manage staff including call takers, Chauffeurs, dispatchers, ~~carriers,~~ and any other necessary positions.

ii. Accept computer, fax or manual transfer of information, as determined by the County, of Customer eligibility data.

iii. Establish, within the scheduling software system of the County's Computer System (currently Trapeze software system), trip payment and billing methods to meet the needs of the County that is separate from other Agencies utilizing the Services.

iv. Resolve issues and respond to Formal Complaints regarding the Service utilizing the County's Computer System via the Internet.

v. Identify and implement improvements in the Service as needed.

vi. Undertake surveys, attend meetings and conferences, and prepare informational reports requested by the County. Such work may be used for the development of the Memorandum of Agreement and Service Plan required annually between the State of Florida Transportation Disadvantaged Commission and MDT.

2.4 General Responsibilities of the County

The County will:

i. Furnish to the selected Proposer any plans, reports, and/or other data available in the County files pertaining to the Work to be performed under the resultant contract.

ii. Monitor performance of the coordinated paratransit service for the entire Program to ensure that the selected Proposer, and any subcontractors, meets all ~~contract responsibilities per Section 2.18, Performance Standards~~requirements of the resultant contract.

iii. Use generally accepted accounting principles for all financial and billing transactions. Gross ~~expenses~~ billing will be recognized and applied against the resultant contract by the County. Payments will be calculated to reflect the net amount of any credit for fares and liquidated damages as provided in the resultant contract.

iv. Maintain all records on the County's Enterprise Document Management System (EDMS). EDMS is a digital record storage system and will assist with the implementation process for all Public Records. All Public Records will be maintained in accordance with the County's Public Records Procedures/Ordinance.

v. Facilitate access to the County's Computer System via the Internet utilizing a Citrix infrastructure.

vi. Establish and maintain the County's Computer System (Trapeze software system) to enable the use of the selected Proposer's mobile data terminals.

vii. Provide and maintain the software support and upgrade agreements with the licensor of the County's Computer System (Trapeze software system), manage all software updates, and establish all Trapeze parameters in consultation with the selected Proposer.

~~iv.~~

2.5 Non-Exclusivity

The County, in its best interest, reserves the right to:

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i. Directly contract with other public, private for-profit or non-profit entities to provide services covered under the resultant contract.

ii. Provide and/or contract with other firms to provide the ~~carrier~~ transportation services portion of the resultant contract.

iii. Solicit at any time firms to participate in the provision of paratransit services at the sole discretion of the County. The County further retains the right to enter into contractual arrangements with other parties to meet the transportation needs of the public and requirements of the Transportation Disadvantaged Commission and/or ADA.

iv. Perform the function of Reservation and/or Late Vehicle Assistance.

2.6 Selected Proposer's Project Manager

The selected Proposer shall designate a selected Proposer's Project Manager, who shall oversee the proper operation of the Service. The selected Proposer's Project Manager shall provide supervision of all personnel, and management of the accounts, operating records and service quality in accordance with the resultant contract standards.

The selected Proposer shall provide the cellular phone number of the Project Manager and one additional staff member that must be available twenty-four (24) hours per day, seven (7) days per week to make decisions, provide coordination and/or attend in-person meetings.

2.7 Transition of Services

The selected Proposer shall commence Services/transition and provide 100% STS Service trips to all eligible Customers according to the dates stipulated in the Notice to Proceed.

2.8 Customer Eligibility

The County will determine each ~~MDT~~ County Customer's service eligibility and will advise the selected Proposer who is eligible for service.

The determination of service eligibility criteria for the Program will be made solely by the County.

2.9 Service Area

The Service Area for trips provided under the resultant contract shall be throughout the County, South to Monroe County Mile Marker 50, and within ¾ of a mile on each side of the MDT fixed route service in Broward County. County will be responsible for maintaining the Service Area in the County's Computer System (Trapeze system).

The County may change the Service Area at any time upon thirty day (30-day) written notice to the selected Proposer. The selected Proposer shall collect fares from Customers following the County approved collection method. The County reserves the right to implement other fares, which the selected Proposer shall adhere to, such as, t~~.~~ The length of each trip would fall into a pre-determined fare level based on the mileage of the trip further stipulated by the County.

2.10 Hours and Days of Service

The selected Proposer shall provide transportation services twenty-four (24) hours a day, seven (7) days a week, where a comparable fixed route service is available, or as directed by the County.

The selected Proposer shall accept advance reservations from Customers seven (7) days per week, from 8:00 a.m. to 5:00 p.m.

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By written notice to the selected Proposer, the County may change the timeframe the selected Proposer shall accept reservations.

2.11 Multi-Loading

The selected Proposer shall multi-load advance reservations, Same-Day Reservations, Immediate Response Service, Will-Calls for Customers, and wheelchair customers with ambulatory Customers, without Excessive Travel Time to the Customers and within existing ADA and TD regulations. At no time, shall the selected Proposer allow the multi-loading of Customers to exceed the capacity of a vehicle. Customers shall not be multi-loaded if an operable seat belt is not available for each Customer's personal use during transport, including shoulder harnesses for wheelchair customers. The selected Proposer shall ensure that all vehicles utilized by the selected Proposer, including the capacity for ambulatory and wheelchair seating, are entered and updated into the County's Trapeze software system.

2.12 Late Vehicle Assistance and Estimated Time of Arrival Inquiries

The selected Proposer has a thirty (30) minute Service Window from the Scheduled Pickup Time. In the event the Chauffeur arrives prior to the Scheduled Pickup Time, the Chauffeur shall wait until the Scheduled Pickup Time. If the Customer agrees to board the vehicle early (prior to the Scheduled Pickup Time) then such pickup shall be considered on time for the purpose of the resultant contract. In the event the Customer is not ready or does not wish to board early, then the Chauffeur shall either wait for the Schedule Pickup Time or shall leave and return within the Service Window. In the event the Service Window is not adhered to by the Chauffeur and the Customer calls for Late Vehicle Assistance, the selected Proposer –shall immediately dispatch a vehicle, if no vehicle is currently in route to the Customer, and provide an estimated time of arrival (ETA) to the Customer. Upon the Rider's or the County's request, the selected Proposer shall initiate a call between the Customer, selected Proposer and the dispatcher when obtaining ETA's. Upon request by the Rider or the County, the dispatcher shall be required to provide the Chauffeur's current location by intersection. In the event the Customer is not at the pickup location at the Scheduled Pickup Time or within the Service Window, the Chauffeur shall follow the process of Subsection 2.20.8.ix herein. The selected Proposer shall adhere to the County's policy pertaining to No-Show once implemented by the County.

The selected Proposer shall provide the County with a report of all Late Vehicle Assistance calls received on a weekly basis. If subcontractors ~~ed carriers~~ are used in the resultant contract, the selected Proposer shall ensure the ~~carriers~~ subcontractors do not receive Late Vehicle Assistance calls directly.

Customers are permitted to request and the selected Proposer shall provide an ETA as early as twenty (20) minutes after the Scheduled Pick-up Time. Such calls are considered to be ETA inquiries rather than Late Vehicle Assistance calls.

2.13 Program Feedback and Response

Program Feedback, including all complaints, other than Late Vehicle Assistance calls, will be immediately referred to the County's STS Customer Service Office using an automated telephone transfer process. Program Feedback correspondence from the Customer(s) received via mail, email, or any other means by the selected Proposer directly ~~from the Customer(s)~~ shall be delivered immediately to the County's STS Customer Service Office.

All Formal Complaints received by the County will be forwarded to the selected Proposer. For each individual Formal Complaint received, the selected Proposer shall generate a fully researched and specific response, as each Formal Compliant forwarded to the selected Proposer is deemed a legitimate concern. The selected Proposer shall submit to the County a written response to the Formal Complaint within three (3) business days in the event of urgent matters or seven (7) ~~working~~ business days for non-urgent matters~~, as determined by the County,~~ from the selected Proposer's receipt of the Formal Complaint. The selected Proposer's response shall result from its evaluation and deposition, and include the corrective action to be taken by the selected Proposer to prevent reoccurrence. In the event the County requests the selected Proposer to revise its response, the revised response shall be resubmitted to the County within twenty-four (24) hours of the request. The County

will direct and the selected Proposer shall proceed with the actions of the written response or an alternate response provided by the County.

2.14 County's Computer System (Software)

2.14.1 Description of the County's Computer System

The Computer System currently used by the County is Trapeze PASS Module 4.471, a computer assisted reservation, scheduling, routing, dispatching and information software. The Computer System is designed to track Customer eligibility records, record each Customer's unique service needs, assign Customers to the most efficient route segment, assist the schedulers to group/cluster trips that can be effectively served by the same vehicle route segment, develop efficient daily vehicle itineraries, produce the reports necessary to calculate invoicing, evaluate service performance based on data statistics, and more.

2.14.2 County Responsibilities (Software)

The County will:

i. Provide and maintain the County's Computer System Trapeze and will provide software support for this system to the selected Proposer.

ii. Provide remote login access via the Internet to the Computer System to the selected Proposer's personnel. All selected Proposer's personnel that need to access the Computer System must be pre-approved by the County.

iii. Provide the initial Computer System training for up to two (2) trainers of the selected Proposer.

iv. Provide support information, including support hours, names of contact personnel and phone numbers, to the selected Proposer for the Computer System.

v. The County reserves the right to require the selected Proposer, at any point during the Contract, to transition from one Computer System to another Computer System procured and implemented by the County.

~~v.~~vi. The County has an enterprise license for the Trapeze MON module and will be responsible for the ongoing maintenance and support fees.

2.14.3 Selected Proposer Responsibilities (Software and Hardware)

The selected Proposer shall:

i. Provide at least two (2) intermediate-level computer users to serve as primary and backup trainers who will be responsible for the Computer System training to the selected Proposer's personnel, after the initial training provided by the County or its software vendor. The selected Proposer's trainers shall also be responsible for training any new selected Proposer's personnel and any refresher training for personnel on the Computer System, deemed necessary by the selected Proposer or the County. After the initial Computer System training provided by the County, the selected Proposer shall be responsible for all costs associated with any additional training by the County, third-party vendors, and/or any other computer related training.

ii. Provide at least two (2) intermediate-level computer users to serve as Computer System primary and backup points of contact (POC) for support questions and issues to the County. The selected Proposer's trainers may serve as the POC's to meet this requirement.

iii. Provide Internet connectivity (bandwidth at minimum a dedicated Full T1 service with 1.5Mbps) and personal computers to access the Computer System that are dedicated to conduct activities and responsibilities required under the resultant contract.

iv. Permit County staff to observe all selected Proposer personnel, such as reservationists, schedulers/routers, dispatchers, chauffeurs, agents, monitors, and administrators, in all aspects of Computer System operations at the Trip Center and any other facilities used by the selected Proposer at any time during normal business and service hours.

v. Provide twenty-four (24) hour, seven (7) day per week, access to the Trip Center or any other facilities as required to support and troubleshoot issues related to the Computer System.

vi. Call the County designated representative for support of the Computer System.

vii. In the event, during the term of the resultant contract, the County transitions from one Computer System to another, cooperate with the County in any data system conversion and re-training using the new Computer System. Also, no later than thirty (30) days prior to any conversion date, unless otherwise specified by the County, the selected Proposer shall submit a request for compensation with supporting documentation to the County for negotiation should the selected Proposer project incurring exceptional cost as a result of ~~for~~ the conversion.

viii. Attend design/interface meeting(s) between the County and the software vendors for the County's Computer System and Automated Fare Collection System.

ix. Submit personnel access requests to the Computer System for approval, at least seven (7) days prior to the personnel's start date.

x. Install, support, and maintain a separate Local Area Network (LAN) with secured connectivity to the Internet and provide all equipment, cabling, security and network connectivity needed to connect effectively and use the Computer System via the Internet. The connectivity shall be secured either by a managed firewall service provided by the Internet Service Provider (ISP). To maintain optimal response time, no network ports may be open to the Internet. The network configuration shall be restricted to the County's Computer System and associated applications. ~~The required bandwidth of the Internet connectivity shall be at least 64kbits/s for downloads and 32kbits/s for upload stream per user simultaneously connecting to the Computer System.~~ All connections shall comply with the County's, specifically the Enterprise Technology Services Department and MDT's, latest security policies in effect through the term of the resultant contract.

2.14.4 Computer System Modification Requests

The selected Proposer may request modifications to the Computer System, as deemed necessary to better meet the needs of the daily operations, by writing to the County.

The County reserves the right to approve or disapprove any request for modifications received from the selected Proposer. The selected Proposer shall be responsible for any costs associated with selected Proposer requested/approved software modifications unless the County agrees, in writing, to assume all or part of the cost for the overall good of the Service.

2.14.5 AVL/GPS Equipment and Mobile Data Terminals

The selected Proposer shall:

1. ~~The selected Proposer shall~~ Ppurchase, install, and maintain in good working order Automatic Vehicle Locating/Global Positioning System (AVL/GPS) equipment in each vehicle authorized to provide ~~s~~Services under the provisions of the resultant contract. The equipment shall interface with the

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County's Computer System and allow for "real time" location of each vehicle, as well as historical data of stops made by the vehicle and the time of day the vehicle arrived and departed from each stop.

2. ~~The selected Proposer shall p~~Purchase, install, and maintain mobile data terminals~~, or comparable technology,~~ that interfaces with the County's Computer System, providing "real time" status of each pick-up/drop-off. The use of Mobile Data Terminals shall enhance dispatching and chauffeur communication by the selected Proposer. After installation and training provided by the selected Proposer, all Chauffeurs shall receive the daily Driver's Manifests electronically from the County's Computer System, through the mobile data terminals ~~or comparable technology,~~ and execute trip functions including, but not limited to, arrival time, pick-up time, drop-off time, no-show approvals, accident/incident reporting, and any other applicable trip related function. In addition, the mobile data terminals shall be able to receive real-time cancellations/add-ons to the Driver's trip information from the County's Computer System.

3. Purchase, install, and maintain contactless smartcard read/writer hardware that has received written confirmation from Cubic Transportation Systems, Inc. validating that the hardware is a supported solution to integrate with the County's Automated Fare Collection System and EASY Card. The contactless smartcard reader/writers shall have the ability to receive remote updates for device configurations. The EASY Card integration functions shall include:
   - allowing Clients the ability to utilize the County's Automated Fare Collection System infrastructure to load value onto their EASY Card
   - allowing Clients the ability to use value on their EASY Card to pay the fare for STS trips
   - populating the account balance field in the Trapeze System with the respective balance from the Client's account in the County's Automated Fare Collection System
   - providing the ability to use the EASY Card to validate Customers and as an alternative to vouchers
   - receiving and transmitting EASY Card transactions/activities in real-time

   The selected Proposer shall ensure that the contactless smartcard read/writers are updated daily with a current catalog of Hotlisted EASY Cards in the County's Automated Fare Collection System. Hotlisted cards are those identified in the System to be rejected due to reported lost, stolen, expired, cancelled, or any other reason to no longer be in use. The selected Proposer's contactless smartcard reader/writer shall reject any Hotlisted EASY Cards and the mobile data terminal shall display a message to notify the Driver of a Hotlisted EASY Cards.

4. Be responsible for all costs, including third-party software licenses for mobile data terminals and/or contactless smartcard read/writers and any nonrecurring engineering costs, required to integrate the County's Trapeze System, selected Proposer's mobile data terminals, and the selected Proposer's contactless smartcard read/writers.

5. Provide the primary, secondary, and disaster recovery servers required for the mobile data terminals, in addition to, a primary, secondary, and disaster recovery application server required for any other integrated solution of the selected Proposer. All servers supplied by the selected Proposer shall be approved by the County as per the following minimum specifications:

   Reference-HP ProLiant DL380 G6 Server
   Max Height: 2U; Drive Bays: 8 Hot Plug; Memory: Upgradable to 64GB; Front and rear video ports; Two front accessible USB 2.0 ports"

QTY	Description
2	Quad-Core Intel® Xeon® Processors X5560 (2.80GHz, 8M Cache, 95 Watts, 1333MHz)
1	16GB 8GB PC3-10600E 4x4GB 2Rank Memory
1	Smart Array P410/512MB Controller
1	Smart Array Cache Battery Kit

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2	72GB Hot Plug 2.5 SAS Dual Port 15,000 rpm Hard Drive
6	146GB Hot Plug 2.5 SAS 10,000 rpm Hard Drive
1	Slimline DVD+RW 8X drive
1	1000-W Hot-Plug Power Supply with NEMA cable
1	1000-W Redundant Hot-Plug Power Supply with NEMA cable
1	Dual Embedded Multifunction Gigabit Network Adapter
1	Universal Mounting Rails
1	Integrated Lights Out (iLO2) Advanced Pack 1 Server License
1	Warranty - 3 Years Parts and on-site Labor, 24x7 Support, Next Business Day Service
*	Must be 100% compatible with HP Insight Manager

6. Be responsible for any recurring communication costs that may be incurred in the event the Contractor uses cellular communications between any of its equipment and the County's Computer System.

~~2.~~7. ~~The selected Proposer shall h~~Have at least 98% of the vehicles ready and fully operational with AVL/GPS equipment, ~~and~~ mobile data terminals, and contactless smartcard read/writers at least 30 days prior to the start of service. Issuance of the Notice to Proceed will be contingent on the County's confirmation, following the selected Proposer submitting notice accompanied with supporting evidence to the County, that at least 98% of the selected Proposer's vehicles are ready and fully operational with AVL/GPS equipment, ~~and~~ mobile data terminals, and contactless smartcard read/writers. The remaining 2% of the selected Proposer's vehicles shall be ready and fully operational with AVL/GPS equipment, mobile data terminals, and contactless smartcard read/writers ~~and Mobile Data Terminals~~ at least forty-five (45) days after issuance of the Notice to Proceed and ~~.~~the selected Proposer shall ensure the Drivers of these remaining vehicles submit a paper Driver's Manifest with Client in compliance with Section 2.25.2, herein. Thereafter, the selected Proposer shall have AVL/GPS equipment, ~~and~~ mobile data terminals, and contactless smartcard read/writers installed/assigned in all of the vehicles authorized under the resultant contract prior to the vehicle's use in Service.

2.14.6 Future Computer Enhancements

To improve customer service quality and/or increase the efficiency of operations, the County reserves the right to add any deemed-necessary, future enhancements, software modules or technologies to the County's existing Computer System provided to the selected Proposer. These enhancements and/or software modules or technologies include, but are not limited: to WEB-based trip reservation, confirmation and cancellation; Interactive Voice Response for trip confirmation and cancellation; and Geographical Information System (GIS). The selected Proposer shall cooperate with the County to implement these enhancements and/or software modules or technologies, and use the enhancements as intended to operate services as specified under the resultant contract. Any changes required of the selected Proposer's equipment to operate the enhanced County Computer System in order to perform as required by the resultant contract shall be the responsibility of the selected Proposer.

2.15 County Computer System Data

Upon approval, the County will make available to the selected Proposer the County's Computer System data for extraction, analysis, auditing, reporting, and as necessary to fulfill the required obligations of the resultant contract.

Data extracted from the County's Computer System shall be solely for the purpose of importing into the selected Proposer intrinsic software (scheduling, billing, payroll, etc). A detailed description of the intention, where and how the data will be used, the required fields of the extraction, and frequency of extraction must be submitted in writing to the County. Any approved data extraction will be provided by the County and only in flat file format. Any recurring extraction of data will require a separate interface to be created by the County between the selected Proposer's system and the County's Computer System. Should the selected Proposer request recurring extraction of data, the selected Proposer shall be responsible for the cost presented by the County for creating the interface.

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The selected Proposer shall be responsible for the accuracy of all data entered into the Computer System by the selected Proposer's personnel.

2.16 Reservation Process

The selected Proposer shall receive all requests for service from Customers and conduct Trip Screening. The selected Proposer shall use the County's Computer System to perform this function and shall not purge or modify Customer files.

The selected Proposer shall not impose priorities based on trip purpose or restrictions upon eligible Customers.

The selected Proposer shall ensure all dispatch and radio communication amongst Chauffeurs and other personnel are provided in English.

The selected Proposer shall provide reservation and call taking personnel at the Trip Center to cover the dedicated Service telephone lines in accordance with hours established per Section 2.10, Hours and Days of Service. The selected Proposer shall provide at least one supervisor present in the Trip Center during all hours of operations to offer sufficient supervision of service operations, provide assistance to Customers, and direct Chauffeurs or other personnel.

Reservation and other call taking personnel shall be trained to meet the performance standards specified under the resultant contract. At~~T~~ a minimum, the personnel shall:

i. Demonstrate knowledge in key aspects of STS Service operations, including computerized reservations procedures, the resultant contract provisions, and STS Program rules.

ii. Serve the volume of incoming telephone requests for Service in a timely manner, and demonstrate knowledge of the phone system being used, including proficiency in the use of TDD.

iii. Accurately enter the required Customer trip information to efficiently and effectively reserve trips.

iv. At the conclusion of the reservation process, verify reservation accuracy by repeating the following information back to the Customer: scheduled trip date, origin address, Requested Pick-up Time, Scheduled Pick-up Time and Service Window, the drop off address, appointment time (if applicable), Companion request, PCA request, mobility aids, and booking ID (confirmation number).

v. Maintain a courteous and polite attitude in all dealings with the public and receive training to ensure customer orientation service including the ability to handle disgruntled Customers.

vi. Use the most efficient method available to process reservation requests from the Computer System.

2.17 Schedules

The selected Proposer shall develop vehicle schedules based on Computer System generated reservations, ensure on-time performance, and accurate travel time using the County's Computer System. The selected Proposer shall use the most efficient method for scheduling, which may include on-line, batching, or a combination of both as approved by the County and facilitated by the County's Computer System. The selected Proposer shall not change the Scheduled Pick-up Time once agreed upon with the Customer, and shall perform the trip within the Service Window.

The selected Proposer shall design routes that are direct, provide efficient and cost effectual service to the County Clients. Circuitous routing is not permitted.

The selected Proposer shall monitor the daily schedules to ensure adherence, take immediate action to correct any Service delays in the schedule as they occur, and ensure that Chauffeurs are reporting pick-up and drop-off times, as established by the County. The selected Proposer shall reconcile and verify monthly scheduled service versus actual service provided and make any authorized adjustments or request modification to the Computer System's internal scheduling parameters to ensure that future schedules can be performed on time and within the standards established in Section 2.18, Performance Standards.

The selected Proposer shall request approval from the County for any adjustments to the Computer System's internal scheduling parameters and shall implement such changes approved in writing.

In the event that a Customer is determined by the County not to be at fault for a No-Show, the selected Proposer shall provide the Customer Immediate Response Service from the time the selected Proposer is notified.

For Immediate Response Service, the selected Proposer shall ensure prompt notification to the Chauffeur.

The selected Proposer shall request a Backup for all Stranded Customers. Incidences where a Backup is provided and Cancellations are received shall be fully documented through the Computer System.

The selected Proposer may authorize Will-Call and Immediate Response Service to improve customer service and ensure transportation reliability for specific cases pre-approved by the County. In all other cases, the County will pre-authorize all Immediate Response Service and Same-Day Services.

2.18 Performance Standards

The selected Proposer shall provide Service in a manner which complies with ADA, all other regulatory requirements, meet the minimum performance standards prescribed by the County herein, and maximize operational productivity and efficiency wherever possible.

The selected Proposer shall employ a means of detecting and correcting its deficiencies that contribute to failure to achieve the performance standards prior to the deficiencies reaching a level unacceptable by the County. Deficiencies may include, but are not limited to, performance that does not satisfy the minimum requirements listed in the Performance Standards Table below. Should deficiencies persist or become unacceptable, the County may take whatever actions are available under the resultant contract, including the assessment of liquidated damages.

The County will perform service audits as deemed necessary and use all available information, not limited to Trip Center data, Driver's Manifests, reports, and the County's Computer System, to measure the performance level for the entire Program and to determine if the selected Proposer meets the performance requirements. In the event that the required minimum Performance Standards established below or elsewhere in the resultant contract are not met by the selected Proposer for three (3) consecutive months without noticeable service improvements, the County may request the removal of any personnel or subcontractor determined to be at fault, or find the selected Proposer in default of the resultant contract. Such decision shall be at the sole discretion of the County.

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Performance Standards	Required Minimum
Trip Denial. Trip denials measured per report of an occurrence.	0
On-time Performance. On-time performance is defined as a vehicle arriving at the correct location for a pick-up within the Service Window. On time performance will be measured based on all trips performed each month as verified by the AVL/GPS System.	~~90~~80%
Average Speed of Answer (ASA). The sum of all wait times for all calls entering the ACD queue (and eventually answered), divided by the number of incoming calls answered. Wait time is calculated from the time that the call enters the queue until the call is answered. ASA will be measured weekly for each individual queue on an hourly basis.	45 seconds
Rate of Calls Abandoned. The number of ACD accepted calls that were abandoned in the queue, i.e. the caller disconnected. The rate of calls abandoned will be measured weekly for each individual queue on a basis of ten (10) second intervals.	8% after 10 seconds
Average Hold Time. Average time on hold on any queue within the ACD System measured on an hourly basis.	2 minutes
Customer Travel Time. Customer time traveled equivalent to 110% of the comparable fixed route travel time measured monthly using a sample, as determined by the County consistent with industry standards, or 100% of all trips performed each month.	98% of the trips sampled
Customer Complaint Ratio. Customer Complaint ratio measured monthly as a percent of total trips performed.	0.5%
System Safety. Measure of preventable vehicle accidents, as defined by the National Safety Council, per 100,000 revenue miles.	3
Data Verification for Trips for each Vehicle by GPS/AVL System at all times.~~Trips verified by GPS/AVL.~~	98%
Working GPS/AVL System in Contractor's vehicles in service at all times.~~Working GPS/AVL (System)~~	98%

The County and the selected Proposer may annually review Section 2.18, Performance Standards for adjustments. The County will make the final decision regarding any adjustments.

2.19 Liquidated Damages

Where the selected Proposer fails to perform in accordance with the established Required Minimum Performance Standards as elsewhere described, the County will assess liquidated damages as prescribed in this Section. The County has the sole discretion to modify this Section.

2.19.1 Liquidated Damages

2.19.1.1 Trip Denials / Missed Trips:

The selected Proposer will be assessed liquidated damages in the amount of $100.00 for any occurrence of a Trip Denial.

The selected Proposer will be assessed liquidated damages in the amount of $200.00 for any occurrence of a Missed Trip.

2.19.1.2 On-Time Performance:

The selected Proposer will be assessed liquidated damages in the amount of $1,000.00 for each month where the on-time performance for the month is below 8~~9~~0%.

The selected Proposer will be assessed liquidated damages for each reported occurrence of a trip performed outside of the Service Window and prescribed below:

1) Between 31 minutes and 45 minutes after the Scheduled Pick-up Time (15 minutes outside the Service Window).	10% of trip rate per occurrence
2) Between 46 minutes and 60 minutes after the Scheduled Pick-up Time (30 minutes outside the Service Window).	15% of trip rate per occurrence
3) Between 61 minutes to 90 minutes after the Scheduled Pick-up Time (60 minutes outside the Service Window) or Immediate Response Service pick-up time.	25% of trip rate per occurrence
4) 91+ minutes after the Scheduled Pick-up Time (60+ minutes outside the Service Window) or Immediate Response Service pick-up time.	50% of trip rate per occurrence
5) 16+ minutes before the Scheduled Pick-up Time, Complaint Only.	25% of trip rate per occurrence
6) 181+ minutes after the Same-Day Service pick-up time	50% of trip rate per occurrence

2.19.1.3 Average Speed of Answer:
For each week where the weekly Average Speed of Answer, per queue and hour of operation, is greater than 45 seconds the selected Proposer will be assessed liquidated damages in the amount of $600.00 per week.

2.19.1.4 Rate of Calls Abandoned:
For each week where the average Rate of Calls Abandoned is greater than 8% after 10 seconds the selected Proposer will be assessed liquidated damages in the amount of $600.00 per week.

2.19.1.5 Average Hold Time:
For each week where the Average Hold Time per queue and hour of operation is greater than 2 minutes, the selected Proposer will be assessed liquidated damages in the amount of $~~100~~750.00 per week.

In addition, the County, at the selected Proposer's expense, reserves the right to hire and assign temporary reservation/call taking personnel to remain with the selected Proposer until such time as the call taking standards are met or exceeded for a full four (4) weeks of operation.

2.19.1.6 Customer Travel Time:
The selected Proposer will be assessed $500.00 for each month where the Customer Travel Time is greater than the comparable fixed route travel time on 98% of the trips sampled.

2.19.1.7 Excessive Travel Time:
The selected Proposer will be assessed liquidated damages per trip in the amount of 25% of the trip rate for Excessive Travel Time.

2.19.1.8 Customer Complaint Ratio:
The selected Proposer will be assessed liquidated damages in the amount of $200.00 for each month where the Customer Complaint Ratio is greater than 0.5% of total trips provided.

2.19.1.9 Mobile Data Terminals:
The selected Proposer will be assessed liquidated damages in the amount of $200.00 per vehicle per day for each day equipment is not installed and operational as specified in Section 2.14.5, AVL/GPS Equipment and Mobile Data Terminals.

~~2.19.1.9 Backup:~~
~~The selected Proposer will be assessed liquidated damages in the amount of the trip rate for any instance when a Customer with a valid reservation is picked up by a Backup.~~

2.19.1.10 Invalid No-Show:
The selected Proposer will be assessed liquidated damages in the amount of 25% of the trip rate where the Driver claims the Customer is a No-Show; however, the data from the ~~without verification by~~ AVL/GPS system

does not support the claim, and Service was later rendered. If the Services were never rendered, the liquidated damages will be in the amount of twice the trip rate.

~~The selected Proposer will be assessed liquidated damages in the amount of twice the trip rate where the Driver claims the Customer is a No-Show without verification by AVL/GPS and Service was never rendered.~~

2.19.1.11 System Safety:
The selected Proposer will be assessed liquidated damages in the amount of $1,000.00 for each month where the number of preventable vehicle accidents, as defined by the National Safety Council, is greater than three (3) per 100,000 revenue miles.

2.19.1.12 Scheduled Pick-up Time:
The selected Proposer will be assessed liquidated damages in the amount of $10.00 for each occurrence where the Scheduled Pick-up Time given to the Customer is changed after the reservation has been accepted by the Customer.

2.19.1.13 Invoicing:
In the event a paper Driver's Manifest is used for a trip, per Section 2.25.2, Driver's Manifest, the~~The~~ selected Proposer will be assessed liquidated damages in the amount of the trip rate if information required under List ~~in~~ A ~~accordance with~~of Section 2.25.2~~1~~, ~~Required Records~~Driver's Manifest, ~~A List~~ is not properly documented on a Driver's Manifest~~.~~ or

~~The selected Proposer will be assessed liquidated damages in the amount of~~ $10.00 per trip, if information required under List B of ~~in accordance with~~ Section 2.25.2~~1~~, ~~Required Records~~Driver's Manifest, ~~B List~~ is not properly documented on the Driver's Manifests.

The selected Proposer will be assessed liquidated damages in the amount of $~~75~~200.00 per one-way trip documented on the Driver's Manifest, provided to the County for payment and subsequently proven to be invalid or the trip did not occur. In addition, the County will request immediate removal of the offending Chauffer, and/or, if utilized, may request the immediate removal of the offending subcontractor~~ed carrier~~ from Services under the resultant contract. Within two weeks of notice by the County to the selected Proposer of an invalid Driver's Manifest, the selected Proposer shall submit to the County a correction plan of the selected Proposer's steps to prevent repeated offenses. ~~The selected Proposer shall submit to the County within two weeks of notice an invalid Driver's Manifest a correction plan of the selected Proposer's steps to prevent repeated offenses.~~ The correction plan shall be implemented by the selected Proposer as stipulated by the County. Said liquidated damage will be in addition to the County not being charged for such trip.

2.19.1.14 Reporting:
The selected Proposer will be assessed the following liquidated damages for failure to submit on a timely basis the reports required in the corresponding sections. The liquidated damages will also be assessed if documentation is submitted with missing information until the proper documentation is submitted.

i. Formal Complaint Responses: The selected Proposer will be assessed liquidated damages in the amount of $10.00 per day, when a response to a Formal Complaint is not submitted as required in Section 2.13, Program Feedback and Response.

ii. Vehicle Documentation: The selected Proposer will be assessed liquidated damages in the amount of $55.00 per day, when documentation is not submitted as required in Section 2.20.3, Vehicle Inspections and Documentation Requirement.

iii. Chauffeur Personnel: The selected Proposer will be assessed liquidated damages in the amount of $55.00 per day, when documentation is not submitted as required in Section 2.20.7, Chauffeur Standards or 2.28.3, Chauffeur Documentation.

iv. Training: The selected Proposer will be assessed liquidated damages in the amount of $55.00 per day, when documentation is not submitted as required in Section 2.28.4, Proof of Training.

v. DBE Reports: The selected Proposer will be assessed liquidated damages in the amount of $60.00 per day, when a report is not submitted as required in Exhibit C, Miami Dade County Special Transportation Services DBE/EEO Requirements.

vi. National Transit Database (NTD) Reporting: The selected Proposer and County agree in the event the selected Proposer fails to submit the NTD Report as required in Section 2.28.1, the selected Proposer shall be assessed liquidated damages in an amount equivalent to the federal funds the County would have been entitled to had the selected Proposer submit a timely report. The liquidated damages will be determined by collecting the data and calculating the amount that the revenue miles and passenger miles would have yielded. ~~Currently about 20% of STS funding is attributed federal funds.~~

vii. Capital Cost of Contracting: The selected Proposer will be assessed liquidated damages in the amount of $60.00 per day, when a report is not submitted as required in Section 2.28.2, Capital Cost of Contracting.

viii. On-Time Performance: The selected Proposer will be assessed liquidated damages in the amount of $40.00 per day, when a report and backup documentation is not submitted as required in Section 2.28.5, On-Time Performance.

ix. Cancellation and No-Show Report: The selected Proposer will be assessed liquidated damages in the amount of $40.00 per day, when a report is not submitted as required in Section 2.28.6, Cancellation and No-Show Report.

x. ACD Report: The selected Proposer will be assessed liquidated damages in the amount of $40.00 per day, when a report is not submitted as required in Section 2.28.7, ACD Report.

xi. Performance Target and Action Plan Report: The selected Proposer will be assessed liquidated damages in the amount of $100.00 per day, when a report is not submitted as required in Section 2.28.8, Performance Target and Action Plan Report.

xii. Drug and Alcohol Reporting: The selected Proposer will be assessed liquidated damages in the amount of $50.00 per day, when a report is not submitted as required in Section 2.28.9, Drug and Alcohol Reporting.

xiii. Accidents and Incidents: The selected Proposer will be assessed liquidated damages in the amount of $45.00 per day, when an accident or incident report is not submitted as required in Section 2.34, Accidents and Incidents.

xiv. Annual Pro-forma: The selected Proposer will be assessed liquidated damages in the amount of $60.00 per day the annual pro-forma operating report is not submitted as required in Section 2.28.12, Pro-forma Statement.

xv. Annual Audit Report: The selected Proposer will be assessed liquidated damages in the amount of $40.00 per day, when the annual audit report is not submitted as required in Section 2.36, Annual Audit Report.

xvi. For any other report(s) or plan(s) that are required in accordance with the resultant contract or requested by the County in conjunction with the resultant contract, the selected Proposer will be assessed liquidated damages in the amount of $100.00 per day, when the report or plan is not

submitted as stipulated. In the event a due date is not specified herein or in the County's request, the liquidated damages will begin to be assessed after two (2) days from the request being made.

2.19.1.15 Mobile Radio:
The selected Proposer will be assessed liquidated damages in the amount of $50.00 per day per vehicle for an in-operable or missing two-way mobile radio or communication system as required in Section 2.20.2.xi, Vehicle Standards.

2.19.1.16 AM/FM Radio:
The selected Proposer will be assessed liquidated damages in the amount of $10.00 per occurrence of a Chauffeur playing an AM/FM radio or other audio equipment when Customers are in the vehicle, as determined by a County audit or valid Customer Complaint.

2.19.1.17 Air Conditioning:
The selected Proposer will be assessed liquidated damages in the amount of $25.00 per trip of a vehicle with a non-functioning air conditioner including if the Chauffeur fails to turn the air conditioner on, as determined by a County audit or valid Customer Complaint.

2.19.1.18 Cell-Phones:
The selected Proposer will be assessed liquidated damages in the amount of $50.00 per a Chauffeur uses a cell phone without the use of a hands free device, as determined by a County audit or valid Customer Complaint.

2.19.1.19 Unauthorized Chauffeur or Vehicle:
The selected Proposer will be assessed liquidated damages in the amount of the trip rate per trip performed by an unauthorized vehicle or Chauffeur. Said liquidated damage will be in addition to the County not being charged for such trip.

2.19.1.20 Improper Wheelchair Tie-Down:
The selected Proposer will be assessed liquidated damages in the amount of $50.00 per occurrence of the Driver failing to secure the wheelchair in accordance with ADA regulations, as determined by a County audit or valid Customer Complaint.

2.19.1.21 Route Performance Updates:
The selected Proposer will be assessed liquidated damages in the amount of $5.00 per occurrence of the selected Proposer personnel failing to update a route in the Computer System at least once within a 60 minute time period.

2.19.2 Periodic Review
The County and the selected Proposer may annually review Section 2.19, Liquidated Damages for adjustments. The County will make the final decision regarding any adjustments.

2.19.3 Assessment of Liquidated Damages
Customers authorized for STS Service are reliant on the service for daily and critical activity. A failure on the part of the selected Proposer results in serious disruptions to lives and livelihood. Consequently, the assessment of liquidated damages is meant as a deterrent to future failures and motivation to implement immediate corrective action to avoid recurrences.

The sum of individual liquidated damages assessed by the County against the selected Proposer will be deducted from payments due to the selected Proposer for service rendered to County.

The County will notify the selected Proposer of liquidated damages intended to be assessed. Should the selected Proposer wish to appeal any liquidated damages, the selected Proposer shall submit a request to

appeal specific liquidated damages to the County within seven (7) calendar days after notification of the County's intent to assess liquidated damages is issued to the selected Proposer. Following receipt of the selected Proposer's request to appeal, the County will contact the selected Proposer to schedule a meeting to proceed with MDT's appeals process. Failure to submit a request to appeal as specified will be deemed by the County as the selected Proposer's acceptance of said liquidated damages and will result in final assessment. Appeals will be finalized by the County's Project Manager.

The assessment and/or appeal of liquidated damages will not delay payment less the liquidated damages amount.

2.19.4 Force Majeure

The selected Proposer will not be in default or penalized because of any failure to perform the resultant contract if the failure arises from causes beyond the control and without the fault or negligence of the selected Proposer. Examples of these causes are (1) acts of nature; (2) acts of law enforcement such as public road closures or restrictions; and (3) acts of war, civil disobedience or terrorism. Traffic congestion and/or rain are not considered an excusable delay unless major arteries are closed, or limited, thereby significantly affecting the normal flow of traffic.

The force majeure provisions will not apply and the selected Proposer may be deemed in default if:

1. The selected Proposer services were obtainable from another service provider; or

2. The County ordered the selected Proposer, in writing, to purchase these services from another source and the selected Proposer failed to comply reasonably with this order.

The County will ascertain the facts and extent of the selected Proposer's failure to perform. If the County determines that any failure to perform resulted from one or both of the causes above, the County may assess liquidated damages or terminate the resultant contract for default as a result of such failure to perform.

2.20 Transportation (Vehicle and Chauffeur) Standards

2.20.1 Display of Decals on Vehicles

The selected Proposer shall ensure all STS permitted vehicles used in providing Services under the resultant contract display on the exterior side doors of the vehicle a 12" X 18" decal as provided by the County. In addition, all vehicles shall display the County assigned permit number on all four corners of the vehicle.

2.20.2 Vehicle Standards

The selected Proposer shall ensure that vehicles used in the provision of services under the resultant contract comply with or exceed the manufacturer's safety and mechanical standards for the particular vehicle and model, FDOT Rule 14-90, and applicable standards set by PTRD regulations.

The selected Proposer shall ensure that vehicles used in the provision of Services under the resultant contract shall not exceed six (6) model years during the contract period.
~~The service vehicles shall not exceed six (6) model years during the contract period.~~

All selected Proposer's vehicles, including the selected Proposer's Backup vehicles, used in providing services under the resultant contract shall:

i. Have a rear-view mirror and side-view mirrors mounted on both sides of the vehicle.

ii. Have a functioning interior light within the Customer(s) compartment.

iii. Have functioning window and door mechanisms which ensure that all access doors and windows are capable of being opened from the inside and outside and remain closed and secure during travel.

iv. Have a functioning speedometer indicating speed in miles per hour and a functioning odometer correctly indicating distance in tenths of a mile.

v. Be equipped with operational heater ventilation/air conditioning systems. If the system of a vehicle becomes inoperable during service provision, the vehicle shall be removed from Service as quickly as practical but no later than the end of the pre-assigned run on the day the system becomes inoperable.

vi. Have exterior free of grime, oil, or other substances and free from cracks, breaks, dents, and damaged paint that noticeably detracts from the overall appearance of the vehicle.

vii. Be equipped with hubcaps, wheel covers, or wheels designed not to require caps/covers.

viii. Have all body molding in place, or if removed, holes shall be filled and painted.

ix. Have passenger compartment that shall be clean and without torn upholstery or floor coverings, damaged or broken seats, protruding sharp edges, vermin, or insects. The floor shall be kept free of unsecured objects at all times.

x. Have unobstructed vision on all sides.

xi. Be equipped with an operable two-way mobile radio or any other two-way communication system which affords contact with the vehicle during all hours of operation. Beepers are not an acceptable substitute. If portable radio/cell phone communication systems are used, Chauffeurs shall use "hands-free" radio accessories.

xii. Have installed or assigned an operable AVL/GPS equipment, ~~and~~ mobile data terminals, and contactless smartcard read/writers in accordance with Section 2.14.5.

xiii. Meet all safety and mechanical standards established by County Codes, Florida State Statutes and Federal regulations, if any and have passed all required inspections.

xiv. Not have leaks of any kind, including fumes.

xv. Be equipped with a functioning horn.

xvi. Have an operable seat belt for each passenger seat (based on capacity of the vehicle) and driver seat.

xvii. Have fully charged, certified and non-expired fire extinguishers per applicable code.

xviii. Vehicles which provide non-emergency wheelchair services shall secure each wheelchair using a four-point tie down strap and shall secure each wheelchair-bound customer using a lap belt and shoulder harness. While in service, each lift/ramp-equipped vehicle shall maintain on-board a sufficient number of chair and customer tie-downs to meet the vehicle's maximum wheelchair passenger capacity. Tie down straps shall be clean and well maintained.

xix. Have a manual backup to its lift system as required by ADA. The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails.

2.20.3 Vehicle Inspections and Documentation Requirements
The selected Proposer shall maintain an accurate list of all vehicles providing Services under the resultant contract, including but not limited to, specific type of vehicle, County operating permit numbers, vehicle identification numbers (VIN), and STS Certificates of Transportation numbers issued by the County. The information shall be provided to the County on the fifth (5th) of each month and at any other time requested by the County. The selected Proposer shall provide the County with proof of vehicle permit, licensing and a passed For-Hire Vehicle inspection conducted by PTRD for all vehicles to provide Services under the resultant contract prior to initiating Service. The selected Proposer shall notify the County within twenty-four (24) hours of vehicles being removed from Service, of any permit changes, and any other changes as they occur. Legible copies of PTRD Form TD42 or Vehicle Inspection Report, as may be changed from time to time, will suffice. All vehicles shall be made available for inspection during normal business hours by the County, at its discretion. PTRD inspection costs shall be paid by the selected Proposer.

The County further reserves the right to order the immediate removal from Service any vehicle of the selected Proposer not in compliance with any standards referenced herein or required by any other local, State or Federal laws.

The selected Proposer shall maintain, at minimum, and document a spare vehicle ratio of 5% of the total fleet.

The selected Proposer shall provide the County a certificate of insurance for each vehicle in accordance with Section 31-206 of the Code, even if the selected Proposer utilizes subcontractor~~ed carriers~~ to perform any part of the resultant contract.

2.20.4 Child Restraint
The selected Proposer shall ensure that Chauffeurs comply with Florida Statute Chapter 316.613, Child Restraint Requirements when transporting a child five (5) years of age or younger. When reserving trips for Customers, the selected Proposer's personnel shall determine if child restraint devices are required for the Customer or Companion. ~~The selected Proposer shall provide child restraint devises for all applicable trips.~~

2.20.5 Personal Care Attendants (PCA), Companion, Guide Dogs, and Service Animals
Only one PCA is allowed per Customer. No fare shall be collected from the PCA. The selected Proposer shall not bill the County for trips taken by PCAs and the selected Proposer will not be paid for PCAs. The County will not deduct fare for PCAs from the selected Proposer's trip rate.

One Companion may travel with a Customer, in addition to the PCA, provided that the Companion and Customer are picked up and dropped off at the same address. Companions shall ride on the basis of available space and pay the same fare as the Customer.

A guide dog or service animal shall be considered a passenger for vehicle capacity determination purposes. No fare shall be collected for a guide dog or service animal. The selected Proposer shall transport in a vehicle no more than one (1) Customer with a guide dog or service animal for a trip. The Customer may request to bring an additional guide dog or service animal. A Companion and PCA shall also be allowed to accompany each Customer with a guide dog or service animal. Although a seat-space shall be maintained for each service animal, service animals are required to sit on the floor, but not under the feet of a Customer.

2.20.6 Use of Vehicles
When a vehicle is being used in providing Services, the selected Proposer shall ensure that it transports only County authorized Customers in that vehicle.

2.20.7 Chauffeur Standards
Prior to placing a Chauffeur in Service, the selected Proposer shall conduct a thorough driver's license check for a minimum of five (5) years in the past to ensure that all newly hired Chauffeurs providing Services under the resultant contract will have no history of DUI, DWI, reckless driving convictions, leaving the scene of an

accidents, or any other serious offenses. The selected Proposer shall ensure that all newly hired Chauffeurs providing Services under the resultant contract shall have no more than three (3) moving violation points on their State drivers and/or chauffeurs license within the last three (3) years. Prior to placing a Chauffeur in Service, the selected Proposer shall obtain a nationwide criminal background check by fingerprint through the National Crime Information Center (NCIC). This shall include, as a minimum, any history of convictions for crimes against children or vulnerable adults in any state to ensure that all newly hired Chauffeurs providing services under the resultant contract will have no history of such offenses. Records of criminal background checks shall be kept on file by the selected Proposer and made available to the County upon request. The selected Proposer shall review Motor Vehicle Reports bi-annually for all Service Chauffeurs and perform NCIC background checks annually to ensure that all of the requirements stated herein for newly hired Chauffeurs are applicable to all Chauffeurs at the time of each bi-annual review. If the selected Proposer becomes aware of any Chauffeur not in compliance with the requirements stated herein, the selected Proposer shall immediately remove the Chauffeur from Service.

MDT's STS Accident Review Committee will review all Chauffeurs' accidents. Following its review, the Committee will require the selected Proposer to remove any Chauffeur it deems in the best interest of the County.

The Chauffeur is required at all times to prominently display his or her Miami-Dade County Chauffeur's Registration in clear view of the Customer, when providing transportation services. Chauffeurs shall notify the selected Proposer immediately of any citation, arrest, or suspension or revocation of driver's license or Miami-Dade County Chauffeur's Registration. The selected Proposer shall notify the County of any Chauffeur who has his/her Driver's License or Miami-Dade County Chauffeur's Registration suspended or revoked by close of business the next business day after such notification by the Chauffeur. The selected Proposer shall also immediately notify the County of all Chauffeur resignations or terminations.

In addition to successfully completing PTRD's testing for English proficiency as part of the Chauffeur's registration, Drivers who are determined by the County to fail to sufficiently speak and understand English phraseologies common to paratransit service, communicate mayday and/or emergency information in English effectively, or provide assistance, comfort, and safety to Customers shall be removed at the County's request.

2.20.8 Chauffeur Duties:
The selected Proposer shall ensure that Chauffeurs used to provide Service under the resultant contract:

i. Have and maintain the driving record standards from start of services.

ii. Perform their duties with due regard for the safety, comfort, and convenience of Customers and their property.

iii. Prior to daily Service start, ensure that wheelchair Service vehicles have a sufficient number of passenger securement devices, a sufficient number of wheelchair tie-down straps and securement devices to secure wheelchairs in accordance with ADA regulations, and that all securement devices are functioning properly. Wheelchair passengers shall be secured in either a forward or rearward facing position using a four-point tie down for the wheelchair and a lap belt and shoulder harness for the wheelchair passenger. The ADA prohibits the Chauffeur from securing wheelchair passengers in a sideways facing orientation. Tie-down straps and lap and shoulder belts shall be maintained in good condition, kept clean (so as not to soil the customer's clothes) and properly stored in an off-the-floor rack, cabinet or pouch when not in use. Straps and tie-downs shall not be left on the vehicle floor as they damage the passenger's wheelchair wheels.

iv. Comply with all applicable Federal, State and County laws, regulations and licensing requirements, including drug testing.

v. Maintain a current valid Miami-Dade County Chauffeur Registration and State of Florida Driver's License, or Commercial Driver's License, if required, and complete all training requirements herein.

vi. Notify the selected Proposer, upon receipt of a citation, arrest, and/or suspension, revocation, or cancellation of license. This notification shall be immediate if operating a vehicle at the time of such loss of privilege or prior to operating a vehicle.

vii. Provide door-to-door service. This is defined as getting out of the vehicle and opening and closing the vehicle door when Customers enter or exit the vehicle. Provide assistance to or from the main accessible entrance at the pick-up location to the vehicle and from the vehicle to the main accessible door at the place of destination including locking and/or unlocking outside door. This does not include bodily lifting of any Customer.

viii. Appropriately announce their presence at the specified entrance (indicated on the Driver's Manifest) of the building of trip origin in an attempt to locate the Customer, if the Customer does not appear for pick-up at the scheduled time. Sounding horn does not constitute an appropriate announcement and is prohibited.

ix. Contact the dispatcher before leaving a designated location without picking up the Customer, when encountering problems such as Customer not being ready, Customer not waiting at the designated pick-up location, incorrect addresses, or addresses which are inaccessible to wheelchairs. If the Chauffeur arrives at the pick-up location on time or within the Service Window, and the Customer is not there, the Chauffeur shall immediately contact the dispatcher to advise of the situation. The dispatcher shall contact the selected Proposer and obtain authorization from the selected Proposer for the Chauffeur to leave. The selected Proposer shall attempt to locate the Customer. If the selected Proposer cannot locate the Customer or the Customer does not respond within five (5) minutes after the Chauffeur's arrival time, the selected Proposer shall advise the dispatcher to instruct the Chauffeur to leave without the Customer. It is at this point, that the Customer is declared a No-Show. –When the Driver arrives outside of the Service Window, the same process for notification and authorization described herein shall apply. In no event, shall a Customer be designated as a No-Show if the Chauffeur fails to arrive within the Service Window or fails to comply with the notification and authorization requirements within this paragraph.

x. Ensure the Chauffeur does not transport a Customer prior to the Scheduled Pick-up Time, as defined by the Service Window, unless the Customer has given the consent to leave early. Chauffeur's arriving before the Scheduled Pick-up Time, shall wait five (5) minutes past the Scheduled Pick-up Time before requesting authorization to leave without the Customer. The selected Proposer shall not cancel Customer trips in advance of the trip when the Customer is not reachable by phone.

xi. Call dispatcher or designee at specific intervals as required by the selected Proposer or County to provide a status update. At minimum, Chauffeurs shall call the dispatcher when he or she is not running on schedule, either early or late, and when an unexpected event, accident, or incident occurs.

xii. Wear clothing which is clean, neat, and professional in appearance and wear shirts with collars and a logo identifying them as a representative of the selected Proposer or ~~carrier~~subcontractor, if utilized.

xiii. Ensure that there is no smoking, alcoholic beverage consumption, and/or eating in vehicles by the Customers or Chauffeurs.

xiv. Ensure that no playing of audio/visual equipment in vehicles is permitted unless such equipment is used by a Customer with a headset and kept at a level not audible to other Customers or the Chauffeur. Chauffeurs may not play audio or video equipment while Customers are in the vehicle with the exception of dispatch radios which are permitted.

2.20.9 Chauffeur Conduct:
The following acts are not permissible by Chauffeurs when providing Services for the resultant contract or while on County premises:

i. Use liquors, narcotics or controlled substance of any kind (excluding doctors' prescriptions which do not impair Chauffeur's driving ability) while on duty or not report to duty under the influence of such products.

ii. Gambling in any form.

iii. Smoking and other uses of tobacco while on duty except in places or at times designated for that purpose. Smoking is never permitted in service dedicated vehicle even when Customers are not being transported.

iv. Carrying of pistols, firearms, or concealed weapons.

v. Resorting to abuse or physical violence to settle a dispute with a fellow employee, Customer or the general public while on duty. In self-defense, a Chauffeur may use no more force than is reasonably necessary.

vi. Use of loud, threatening, indecent or profane language and/or making threatening or obscene gestures toward Customers or others.

vii. Physically touching and/or assisting a Customer without first obtaining the Customer's permission to do so.

viii. Unprofessional conversation, behavior, jokes, or comments which can be construed as sexual harassment or offensive to others.

ix. Entering a Customer's home.

x. The use of a personal cell phone when Riders are in the vehicle.

xi. Playing an AM/FM radio, satellite radio, or other personal audio equipment when Riders are in the vehicle.

2.20.10 Complaints against Chauffeurs, Dispatchers, or Personnel of the Selected Proposer
Complaints against Chauffeurs, dispatchers or other selected Proposer's personnel will be taken by the County. The County may request removal of Chauffeurs, dispatchers, or other selected Proposer personnel from Services under the resultant contract in the event a personnel is determined by the County of not handling calls, reserving trips, providing Late Vehicle Assistance, or otherwise assisting Customers in an efficient, knowledgeable, and courteous manner based on the County's audit or five (5) valid Complaints form five (5) different Customers. In cases where the selected Proposer disputes the validity of a Complaint, the County will make the final determination.

2.21 Training
The selected Proposer shall ensure standardized training of all personnel providing Services under the resultant contract, using the Project Action ADA Training Program, prepared by the American Bus Association, unless an alternate manual is approved by the County in writing.

The selected Proposer shall ensure that Chauffeurs who are involved in two (2) accidents in a 12-month period, and will continue to provide services, attend a refresher Defensive Driving Training.

The County reserves the right to require additional training of any or all of the selected Proposer's personnel, including Chauffeurs and dispatchers, as deemed necessary by the County.

The selected Proposer shall also ensure that, at minimum, four (4) hours of refresher training is provided annually to all personnel. This includes any and all specialized training requirements which may be determined at the discretion of the County. The selected Proposer shall allow Customers to participate in the training as designated by the County, such as acting as a customer in a mock training session.

The selected Proposer shall, at a minimum, include the following trainings in its training program and shall ensure that the trainings are completed by all personnel prior to start of service provided, with the exception of Defensive Driving Training which only Chauffeurs are required to complete. Any Chauffeur found not in conformity with the training requirements may be deemed unauthorized to perform trip. Said Chauffeur may be removed from providing Service under the resultant contract until subsequently trained.

2.21.1 Defensive Driving Training: As offered by the Miami-Dade County Safety Council or the National Safety Council. Defensive Driver Training shall include, but not be limited to the following:

i. Techniques of steering, acceleration, and braking.
ii. Time and distance braking and intersection stopping test.
iii. Right/left hand turns, changing lanes, and passing.
iv. Intersections, backing, parking, adverse weather conditions, and expressway driving.

2.21.2 Understanding the Americans with Disabilities Act of 1990: Training shall include, but not be limited to the following:

i. Basic explanation of general purpose and scope of legislation designed to eliminate discrimination against individuals with disabilities.
ii. Basic explanation of ADA service requirements and Chauffeur responsibilities.

2.21.3 Passenger Assistance Techniques (PAT) or Equivalent Training: To ensure sensitivity to and safe transport of persons with disabilities, training shall include, but not be limited to the following:

i. Basic professional courtesy, customer service, and the elimination of attitudinal barriers.
ii. Passenger assistance techniques for Customers with: wheelchairs including four-point wheelchair tie down procedures, walkers, canes, crutches, speech impairments, vision impairments (including sighted guide techniques), hearing impairments, mental/cognitive impairments, Alzheimer's Disease, seizure disorders, and a basic explanation of dialysis treatment and its effect on the Customer's stamina during transport.
iii. Dealing with service animals and guide dogs.
iv. Prohibition against transport to any destination other than the address on the Driver's Manifest unless authorized by the selected Proposer or County.
v. Definition of PCA versus Companion(s) and impact on fare collection.

2.21.4 Program Policies and Procedures: To ensure full understanding of all Program policies and procedures, training shall include but not be limited to the following:

i. Full coverage of the resultant contract definitions and general responsibilities of the selected Proposer and other pertinent sections including but not limited to Section 2.20, Transportation (Vehicle and Chauffeur) Standards; Section 2.21, Training; Section 2.27, Required Reports; etc. Emphasize that Chauffeurs cannot require Customers to leave before the Scheduled Pick-up Time and cannot enter classrooms, medical offices, etc. to try to convince Customers to leave early.
ii. STS Program Rules (see STS Rider's Guide).

2.22 Marketing/Customer Service and Information

Each Program vehicle shall display a sign designed and provided by the County that lists the County's toll-free STS Customer Service telephone number, TD Help Line, and the TDD phone number to be used by Customer's who wish to report Complaints or commendations.

Chauffeurs will, when requested by the County, hand out notices to Customers.

The selected Proposer's Project Manager or management level designee shall attend the monthly STS Rider's Advisory Group Meeting to address Customer concerns.

The selected Proposer shall provide at least one personnel available for presenting information to the public or County officials (public relations) upon request by the County.

In the event the selected Proposer is contacted directly by non-County representatives with a request for STS statistics, plans, and/or information for publish in newspapers, magazines, or any other media form, including interviews, the selected Proposer shall channel all response/information through the County for prior approval before release. This requirement should not be considered a limitation to the requirements of Public Records Law under Florida Statues. ~~The selected Proposer shall channel all written or verbal presentations of STS Service statistics, plans and information for publish in newspapers, magazines, or any other media form through the County for prior approval before release.~~ The selected Proposer is prohibited from facilitating, distributing or advertising STS applications, taking any action designed to solicit new Customers, market service availability, offer free service and/or otherwise promote ridership unless a marketing campaign is authorized in writing by the County.

2.23 Telephone System Requirements

The selected Proposer shall obtain, provide, and maintain a telephone system that has a toll-free number as the main number for all STS Service Area calls from Customers for service requests regarding the STS Program (except those services precluded by the County). At least one (1) TTY/TDD telephone with an independent phone line shall be staffed and in working condition in accordance with the hours established per Section 2.10, Hours and Days of Service. The selected Proposer shall provide Customers requiring the use of a Telephone Relay Service a special telephone number and give the line priority assistance.

The telephone system shall provide, at a minimum, automated menu driven options in multiple languages with selections for all services, as determined by the County, regarding the STS Program. The telephone system shall include an option to connect to the County's STS Customer Service Line, Certification Office, or other MDT office. The selected Proposer shall ensure that calls are automatically transferred to the County's main telephone number or designated queue based on the Customer's selection.

The selected Proposer shall maintain adequate telephone lines, staff and supervision to ensure the average weekly telephone statistics, as specified herein, are met. In addition, the equipment shall be structured with sufficient capacity to preclude busy signals. The selected Proposer shall provide all new telephone equipment including ACD at the start of the resultant contract. The ACD equipment shall be capable of tracking and tabulating statistics including, but not limited to, the number of incoming calls, the number of abandoned calls, the average time on hold per call, the average length of a completed phone call, the average agents per hour, and producing reports in a daily, weekly, or monthly format. The selected Proposer shall provide the County access to ACD reporting tools via an Internet Secure Sockets Layer (SSL) accessible connection.

The telephone system shall also have the ability to interface with an Interactive Voice Response device.

The selected Proposer shall provide Service announcements, as approved or required by the County whenever Customers are "on hold". The County reserves the right to require the selected Proposer to utilize up to five (5) dedicated lines and call taking staff to work with County call takers to address and resolve Customer late vehicle issues.

Thirty (30) days prior to expiration or upon notice of termination of the resultant contract, the selected Proposer shall transfer ownership of the toll-free number and TTY/TDD number for STS calls to the County. Any costs or fees related to the transfer of the phone number/phone service to the County shall be borne by the selected Proposer.

2.24 Facilities and Other Requirements

The selected Proposer shall adequately provide the facility(ies) and furniture for the operation of Services specified under the resultant contract. The selected Proposer shall also certify that any existing mechanical and structural infrastructure of the office facility was constructed in accordance to the County and local city Building Code.

The selected Proposer shall have sufficient backup power and utilities to maintain standalone operations for the service hours of the resultant contract in the event of power failure from a sustained emergency or temporary event.

The selected Proposer shall ensure that any facility lease/rental agreement entered into for the purpose of establishing the Trip Center shall include language granting the County the right of first refusal, in general, the right to lease the facility before an offer is made available to others, with the same terms and conditions as existed between the space provider and the selected Proposer.

The selected Proposer shall ensure that at least one (1) furnished office space will be established for County use within the Trip Center.

The selected Proposer shall have the facility(ies) ready for operation within 60 days of award approval of the resultant contract. The County will inspect the selected Proposer's facilities subsequent to award approval of the resultant contract to ensure readiness as to its ability to provide Services. The inspection will consist of checking all existing computer network cabling in the facility(ies) of the selected Proposer, and subcontractors if any. The selected Proposer shall correct any computer network cabling that is not compliant with the County and local City Building Code, prior to a final inspection and any additional cabling to be installed by the County. After a final inspection, the County may find the selected Proposer in default of the resultant contract if the County declares the facility not ready as stipulated. The County's determination that the facility(ies) is ready for operation following a final inspection is a condition of issuance of the Notice to Proceed.

If during the term of the resultant contract, the County acquires facilities for the selected Proposer's operations, the selected Proposer shall be required to relocate to such facilities. Relocation costs will be negotiated between the County and selected Proposer prior to the move.

2.25 Record Keeping and Data Collection

The selected Proposer shall provide the County with the service operation data, reports and information described below. In addition, the selected Proposer shall assist the County with the collection of service information required by the federal government and conducting periodic surveys of Customers, as well as any other information the County may find necessary to obtain that may not be provided via the County's Computer System. The selected Proposer shall submit to the County any reports relating to the resultant contract within twenty-four (24) hours of a written request from the County, unless otherwise specified. All paper documents submitted by the selected Proposer to the County in an original format must be completed in blue ink to certify as an original document. No changes shall be made to an original document unless made by the originator or the selected Proposer's Project Manager and change clearly indicated and initialed. ~~(See A List and B List in Section 2.25.1)~~

2.25.1 Required Records

The selected Proposer shall deliver to the County all records and accounts including property, personnel, and financial records to ensure proper accounting for all Project funds. All records regarding the resultant contract are considered public records under Florida Statute. The system of accounting for Project funds shall be in

accordance with generally accepted accounting principles and practices, consistently applied, and in accordance with any applicable local, Federal, and State laws or regulations.

2.25.2 Driver's Manifests

Chauffeurs shall receive the daily trip information electronically from the County's Computer System, through the mobile data terminals, and use the mobile data terminal to execute trip functions for data to be transmitted back to the County's Computer System. In the event the trip information is not transferred electronically between the mobile data terminals and the County's Computer System for any reason, such as network outages, the selected Proposer shall ensure that the County is notified immediately that data cannot be transferred electronically and paper Driver's Manifests will be used for the affected trips. The selected Proposer shall provide on the same day of completion, the original, untampered Driver's Manifests. The selected Proposer shall ensure Drivers have an adequate supply of Driver's Manifests available at the beginning of each shift. Data items which the selected Proposer shall retain on the Driver's Manifest include, but are not limited to:

~~A List~~List A

i. Trip ID Number
ii. Customer ID Number
iii. Customer's Name
iv. Customer's Trip Origin (Address)
v. Customer's Trip Destination (Address)
vi. Signature of Customer(s), or a designation of Unable-To-Sign (U.T.S.) only the eligible Rider may sign. When Client is unable to sign due to his or her disability, the Driver shall sign "U.T.S." in the signature line and accompany the Driver's Manifest with the appropriate form provided by the County. No third party may sign on behalf of the Client.
vii. Transporting Chauffeur's printed name, signature and Chauffeur's Registration Number (also known as Hack License)
viii. Transporting Vehicle Number
ix. Any unauthorized changes to the Driver's Manifest.

~~B List~~List B

i. Passenger Miles
ii. Scheduled Pick-up Time
iii. Actual Pick-up Time
iv. Actual Drop-off Time
v. Fare Collected or Voucher Serial Number, as required
vi. Companions and/or PCAs transported, as applicable
vii. Trip Status
viii. Fare Zone assigned, if applicable
ix. Actual vehicle odometer reading for each stop point (trip odometer may not be used).

~~2.25.2~~2.25.3 Customer File and Reservation

Any personal data such as address or telephone numbers which needs to be updated in the Customer file shall be immediately communicated to the County by the selected Proposer's personnel as necessary to reflect current information. The selected Proposer shall not change Customer eligibility or Customer file data.

Reservations data entered by the selected Proposer into the County's Computer System shall include, but is not limited to, Requested Pick-up Time, Negotiated Pick-up Time, Scheduled Pick-up Time, requested drop off time (if applicable), date of request, Companion, PCA, service animal, mobility aides, trip type, special needs, special instructions, and person placing the request (if other than eligible Customer).

The selected Proposer shall have a documented manual method for accepting and processing reservations and Late Vehicle Assistance available in the event of a Computer System failure. Written procedures detailing the manual method and sample data, logs, in-take forms, and any other utilized documents shall be made

available to the County from the selected Proposer as part of the Training Plan and Training Manuals required in Section 2.29.5. The data and logs completed from a manual intake occurrence shall be maintained and shall be made available to the County upon request. Any manual intake shall be entered into the Computer System by the selected Proposer as soon as it becomes available.

The selected Proposer shall maintain the eligible Customer's subscription records with up-to-date information. The selected Proposer shall review and confirm the accuracy of subscription trips as entered into the Computer System on an as needed basis, but at a minimum of monthly, and as required by the County.

The selected Proposer shall review the accuracy of trip history data entered into the Computer System prior to submitting an invoice to the County and at any other time as required by the County.

The selected Proposer shall provide other data or analysis as needed upon written request of the County.

~~2.25.3~~2.25.4 Electronic File Requirements

The selected Proposer shall take all reasonable steps to independently review and correct data-entry omissions, errors and/or deficiencies found in the Computer System within County-defined computer access parameters which are available to the selected Proposer. In addition, the selected Proposer shall print, review, respond and assist with database correction as identified and required by the County.

The selected Proposer shall provide electronic files as requested by the County, including the Audit and Management Services, Office of Commission Auditors, and Office of Inspector General, and any statistical data relevant to the Services provided through the resultant contract which may be maintained independent of the Computer System. Such requests will be sent to the selected Proposer in writing. Within the Notice to Proceed, the County will provide the selected Proposer the format and naming convention for all electronic file submissions that complies with the standards of the County's EDMS.

2.26 County-Furnished Property

County-furnished property means all property owned or acquired by or leased to the County and subsequently made available to the selected Proposer for use under the terms of the resultant contract.

The County may deliver to the selected Proposer, for use in conjunction with the resultant contract, County-furnished property, including but not limited to, electronic location devices, radios, computer system, and computer equipment/peripherals together with any related data and information that the selected Proposer may request and is reasonably required for the intended use of the Service. County-furnished property provided to the selected Proposer will be formally documented in supplemental usage agreements/permits for record purposes and the selected Proposer shall use said property only for performing Services in conjunction with the resultant contract.

The County may, by written notice, take-back or substitute County-furnished property. The selected Proposer shall promptly take such action as the County may direct regarding the removal, acceptance, or disposal of County-furnished property. The County shall have access at all reasonable times to the premises in which any County-furnished property is located for the purpose of inspecting.

Title to County furnished property shall remain in the County. The selected Proposer shall maintain adequate property control records of County-furnished property in accordance with sound business practices.

Any property purchased by the selected Proposer for which the County has previously agreed in writing to reimburse the selected Proposer will be reimbursed for the property at a direct cost. Title of said property shall pass to and vest in the County.

Unless otherwise provided in the resultant contract, the selected Proposer, upon receipt of any County-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto

except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of the resultant contract or until the equipment is returned to the County.

The selected Proposer shall be responsible for loss or destruction of, or damage to, the County-furnished property provided under the resultant contract, including expenses incidental, that results from negligence, willful misconduct or lack of good faith on the part of the selected Proposer personnel to establish and administer a practice for the control, use, protection, preservation, maintenance, and repair of County-furnished property as required.

Upon completion or termination of the resultant contract, the selected Proposer shall return all County-furnished property not consumed in the performance of the resultant contract or not delivered to the County, as may be directed or authorized by the County.

2.27 Required Reports

The County will utilize its Computer System and the data provided through the selected Proposer's AVL/GPS, mobile data terminals, and any other available equipment to produce many Program reports. In the event data is not transferred or available through the selected Proposer's equipment and the Computer System, the~~The~~ selected Proposer shall provide the County and the County's Project Manager with an electronic file, or as specified by the County, of any of the Required Reports as listed herein, any ad-hoc reports, or records upon request. The electronic file shall be in the format provided in the Notice to Proceed that complies with the standards of the County EDMS. The selected Proposer shall immediately submit any records or reports relating to the resultant contract upon written request by the County.

2.28.1 National Transit Database (NTD) Reporting

The selected Proposer shall provide the County upon request Annual Reporting Statistics as required by the FTA NTD (formerly known as Section 15 Reporting), as defined in the annual FTA National Transit Database Reporting Manual and FTA Circular 2710.2A, "Sampling Procedures for Obtaining Demand Responsive Bus System Operating Data". The data collected shall consist of selected financial and operating data that generally describe mass transportation characteristics. Supporting documentation shall be submitted to the County if requested in writing.

2.28.2 Capital Cost of Contracting

Funding for Services provided under the resultant contract may be provided, in part, through a grant from the FTA. Additionally, the County intends to recover an amount equal to 80% of the allowable depreciation on equipment and facilities through federal funding. The FTA Circular 7010.1 entitled "Capital Cost of Contracting", details allowable depreciation expenses. The selected Proposer shall become familiar with, and comply with Circular 7010.1 in the completion of reporting under the resultant contract. Additional information, regarding the nature and use of capital equipment, may also be required based on the promulgation of the proposed Code of Federal Regulations rule 49 CFR 639, Capital Leases.

The County retains the right to direct changes in the method of accounting used by the selected Proposer as it specifically relates to the resultant contract, if necessary, to comply with the provisions of this Section.

2.28.3 Chauffeur Documentation

The selected Proposer shall provide accurate monthly listing of all Program Chauffeurs with the type of vehicle each is trained to operate and a copy of each Chauffeur's Florida Driver's License and County Chauffeur's Registration. The list is due for each Chauffeur prior to start of Service and an updated listing of all Chauffeurs is due on the sixth (6th) of each month.

2.28.4 Proof of Training

The selected Proposer shall supply the County with proof within five (5) working days of the conclusion of each training session that all personnel to provide Services under the resultant contract have received all required training prior to the personnel providing Service. Proof is considered documentation signed by the trainer such as a certificate of completion and shall specify the personnel's name, date(s), course title(s), course content,

the number of hours of training, and registration number for Chauffeurs. Cumulative training reports, including refresher training reports of the selected Proposer's personnel, shall be submitted to the County upon request and verified and signed by the selected Proposer's personnel overseeing the training.

2.28.5 On-Time Performance
The selected Proposer shall use automated technology, the Computer System's features, and/or manual data entry to ensure that Chauffeur arrival times are documented and provided to the County with a report of on-time performance. The selected Proposer shall document actual Chauffeur arrivals for all trips performed on a daily basis and provide a report to the County in the absence of automated technology(ies). If manual keypunching from the Driver's Manifest is used, the selected Proposer shall verify that the information provided on the Driver's Manifest is correct and take immediate corrective action with Chauffeurs or other personnel that are falsifying on-time reporting information. The selected Proposer shall submit this report to the County monthly, by no later than the 14th of the following month.

2.28.6 Cancellation and No-Show Report
Customer No-Shows and Cancellations including the actual time of the occurrence or notification shall be accurately recorded and reported to the County at no less than weekly intervals, as determined by the County. Cancellations made less than one (1) hour before the Scheduled Pick-up Time is considered a Late Cancellation.

2.28.7 Automated Call Distributor (ACD) Report
The selected Proposer shall provide ACD Reports to the County weekly and shall specify hourly statistics for each queue, including the Average Speed of Answer, the Average Hold Time and the Rate of Call Abandoned for each day of operation. The report shall also indicate the hourly average number of agents working on each queue, each day. If the selected Proposer uses a subcontracted ACD vendor, the selected Proposer shall provide documentation from its ACD vendor, upon request by the County, specifying ACD Report definitions and explaining calculations used to achieve the Average Speed of Answer and Rate of Calls Abandoned specified in the resultant contract. The County may require other ACD data that can be produced by the system by advising the selected Proposer in writing.

2.28.8 Performance Target and Action Plan Report
Performance Standards as established in Section 2.18 shall be reviewed and reported by the selected Proposer on a monthly basis by no later than the 14th of the following month. The report shall include a specific plan of corrective action for each indicator that falls below the Minimum Required Performance Standard.

2.28.9 Drug and Alcohol Reporting
The selected Proposer shall provide the County quarterly management reports summarizing test results and annual management information system (MIS) reports of the results of the selected Proposer's anti-drug and alcohol misuse testing programs performed in compliance with 49 CFR Part 655.

Additionally, by the 5th day of each month the selected Proposer shall provide a list of all Safety Sensitive Personnel to be included in the random testing pool for that month.

2.28.10 Productivity and Efficiency
The selected Proposer shall provide the County, upon request, detailed information to review efficiency of multi-loading algorithm, including mileage and trip time by segments.

2.28.11 Vehicle Revenue Hours
The selected Proposer shall report its Vehicle Revenue Hours provided on a weekly basis, relative to the weekly invoice. Revenue Hour is the amount of time for one vehicle as measured from the time of arrival at the first pickup of the day to the time of departure from the last destination of the day. Not included as part of revenue hours are lunch breaks, other breaks required by law, pre-trip inspection time, unscheduled/scheduled maintenance periods (breakdowns), accidents or any other event that prevents the vehicle from transporting

passengers. Time spent fueling a vehicle, including driving to and from the fueling station, shall also be excluded from revenue hours. Time spent traveling from the drop off of one Customer to the pickup of the next Customer shall be considered as Vehicle Revenue Hours, even if the vehicle is empty during this period of time. Miles traveled during these Revenue Hours will determine the Revenue Miles.

2.28.12 Pro-forma Statement
The selected Proposer shall provide an annual pro forma statement. The pro forma statement is due to the County within ninety (90) days from a one-year period from the commencement of Services date for this resultant and each one-year period thereafter, and within thirty (30) days following termination of the resultant contract~~after each anniversary date of the resultant contract~~.

The pro forma shall provide the selected Proposer's projected revenue, gross income, net income, expenses, and excess or loss for the current year and each remaining contract year. The pro forma shall support the financial offer and capital investment, and outline any changes and developments affecting the selected Proposer's financial capacity to carry out the resultant contract and the annual cash flow. The pro forma shall reflect business activity for the resultant contract only.

2.29 Manuals and Plans

2.29.1 Operations Manual
The selected Proposer shall develop and submit to the County for review and approval an Internal Operations Manual detailing all procedures to be used in the performance of Services and overall compliance with the resultant contract. The Operations Manual shall include a "Quality Assurance" section describing the specific actions the selected Proposer will take to ensure that Service performance meets the Service criteria specified in the resultant contract. The Internal Operations Manual shall be delivered to the County within 30 days after award of the resultant contract and is a condition for issuance of the Notice to Proceed by the County.

2.29.2 System Safety Program Plans (SSPP)
The selected Proposer shall provide to the County within thirty (30) days after award of the resultant contract, a System Safety Program Plan (SSPP) and a Safety Certification as required under Florida Statute 341.061(2)(a) and FDOT Rule 14-90 for itself and/or subcontracted carriers, if utilized under the resultant contract. Submission of the SSPP is a condition for issuance of the Notice to Proceed by the County. By January 15th of each succeeding year for the resultant contract, the selected Proposer shall re-certify its SSPP, in accordance with FDOT Rule 14-90, with the County. Services under the resultant contract will be contingent upon acceptance and approval by the County of the SSPP. The County may require revisions to the SSPP, as required by local, State or Federal requirements. The SSPP of the selected Proposer shall include the selected Proposer providing two personnel for participating on MDT's STS Accident Review Committee.

2.29.3 Disaster Recovery Plan
The selected Proposer shall work with the County in the event of a disaster that causes long-term outages.

The County's primary Computer System will be located at the County's Transit central computing facility. The Disaster Recovery Computer System will be located at a secondary County Transit computer facility. In the event of a disaster, the Disaster Recovery Computer System will provide total system functionality at a lower user capacity. The selected Proposer shall provide in its Disaster Recovery Plan the names of essential staff that will require access to the Disaster Recovery Computer System.

The selected Proposer shall develop and submit to the County for review and approval a Disaster Recovery Plan that provides the exact location of an alternate facility for long term outages caused by fire, flood, or other natural disasters that does not require evacuation and shall include details describing how the selected Proposer plans on establishing access to the Computer System from its facility(ies) including business office, Trip Center, and vehicle base. The plan shall state the actions to be taken by the selected Proposer in the event of an emergency to protect County-furnished property. The plan shall also provide sufficient detail to ensure that Service to the Customers will not be interrupted including manual procedures to be in place in the

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event of a Computer System failure. The Disaster Recovery Plan shall be delivered to the County within 30 days after award of the resultant contract and is a condition for issuance of the Notice to Proceed by the County. This plan shall be revised upon any changes in the location of the County's Computer System.

2.29.4 Hurricane/Emergency Evacuation Plan

The selected Proposer shall develop and submit to the County for review and approval a Hurricane/Emergency Evacuation Plan detailing procedures to be used in the event of a hurricane, nuclear explosion, civil disturbance, acts of terrorism, or any incident that requires evacuation. The plan shall include provisions for evacuating Customers and non-STS approved persons with medical conditions or disability to a public evacuation center. The plan shall establish directives and responsibilities for ensuring effective coordination and execution of emergency operation before, during, and after the emergency. The Hurricane/Emergency Evacuation Plan shall be provided to the County within 30 days after award of the resultant contract and is a condition for issuance of the Notice to Proceed by the County. The selected Proposer shall update the plan annually and shall provide the revised version to the County on April 1st.

2.29.5 Training Plan and Training Manuals

The selected Proposer shall develop and submit to the County for review and approval a Training Plan including a detailed curriculum, schedule and all Training Manuals to be used for training all selected Proposer personnel used to provide Services under the resultant contract. The Training Plan shall include a detailed training curriculum which shall be used to administer the training programs described in Section 2.21, Training. The Training Plan and Training Manuals shall be delivered to the County for approval by the County within 30 days after award of the resultant contract and is a condition for issuance of the Notice to Proceed by the County.

2.29.6 Computer System Implementation and Information Plan

The selected Proposer shall submit to the County a detailed plan for the use of the County's Computer System which shall include, at minimum, the following information:

i. List of names and responsibilities of the selected Proposer personnel who will be using the Computer System. This list shall be updated as needed with the most current personnel or upon request by the County.

ii. The number of workstations recommended for the provision of Services; this number shall be subject to negotiation and final County approval.

iii. Specifications for the personal computers for review and approval.

iv. A completed County-furnished application form for each of the users who will require access to the Computer System.

v. A list of information such as Chauffeur information, vehicle information, run availability, and any other information that needs to be input prior to utilizing the Computer System as required under the resultant contract.

vi. The names of at least two (2) Intermediate-level computer users, primary and backup, as point of contact for support questions and issues to the County. At any given time, at least one of the intermediate-level computer users should be on staff to provide support.

vii. The names of at least two (2) intermediate-level computer users, primary and backup, as the trainers.

viii. A list of the selected Proposer personnel that will require access to the Disaster Recovery Computer System.

The Computer System Implementation and Information Plan shall be delivered to the County within 30 days after award of the resultant contract and is a condition for issuance of the Notice to Proceed by the County.

2.30 Fares and Accounting

The selected Proposer shall ensure that all Chauffeurs providing Services under the resultant contract charge and collect such fares as required by the County or other Agencies, such as cash, voucher tickets sold by the County to Customers, and transactions via EASY Cards sold by the County to Customers. The Chauffeur shall enter the Customer's fare payment method in the mobile data terminal. For trips where the Customer is required to pay a fare, the amount of the fare shall be shown on the mobile data terminal or paper Driver's Manifest, if the mobile data terminals are not operational. The Chauffeur shall obtain payment of this fare from the Customer and any Companions that accompany the Customer. The selected Proposer shall collect cash fares and be solely liable for mishandled or missing fares. -The selected Proposer shall deny boarding to any Customer who does not have the proper fare. The selected Proposer shall note such Customer as directed by the County.

The selected Proposer shall provide the County and each Agency with reports and records of the daily operations including an account of fares collected, Customers carried and other such data as the County may require.

The County will deduct the total trip fare required to be collected as entered on the mobile data terminals or Driver's Manifest from the selected Proposer's invoice(s) even if the selected Proposer fails to collect the required fare. The County will not deduct fares from selected Proposer's trip rate for a) any Customer who pays the fare using a voucher sold by the County, b) any Customer who the Contractor is directed by the County to transport without a fare, or c) any Customer who pays the fare using an EASY Card.

2.30.1 Voucher System

The County prefers the selected Proposer to implement a fare replacement program that uses the County's EASY Card to replace the County's voucher program, which currently uses a paper voucher ticketing system. Each Proposer is required to provide the pricing and solution for a fare replacement program, at the County's option.

The implementation shall include the purchase, installation, and placement of point of sale devices at specific centers that provide services to County customers, and will be specified by the County. Currently there are approximately sixty-nine centers. The implementation shall also include the integration of the point of sale devices with the County's Automated Fare Collection System. Each center must have the ability to use the point of sale devices to add dollar values to the EASY Card. The point of sale devices shall have the functionally to earmark dollar values for trips to be taken to and from the respective centers.

If the option to replace the County's fare replacement program (currently voucher) by the selected Proposer is not exercised, the selected Proposer shall accept paper vouchers sold by the County. In this case, the mobile data terminals shall have the ability to allow Drivers to input the voucher number to link the voucher number to each trip, and to validate with the County's database. If the Driver's Manifests are used, the voucher number shall be written on the Driver's Manifest at the time of collection by the Driver when the Rider boards the vehicle.

~~The selected Proposer shall develop, print, and administer a cash fare replacement or voucher system for Customers and Agencies. The voucher system shall include, at a minimum, the collection and accounting of vouchers to be accepted in the same manner as cash fares, identify individual vouchers by serial number, apply a minimum of six (6) month "use by" expiration date to vouchers, and account for the voucher transactions such as quantity of vouchers printed, purchased, collected, and unsold.~~

~~2.30.2 EASY Card Payment System~~

~~At the request of the County, the selected Proposer shall integrate the Transit EASY Card payment system once it is implemented by the County. EASY Cards are prepaid cards (like SunPass) that will allow the~~

~~Customer to pay for the trip without using cash. Devices shall be installed in the vehicles in order to read the cards in accordance with Section 2.14.5, AVL/GPS Equipment and Mobile Data Terminals.~~

~~2.30.3~~2.30.2 Trips Not Provided
The selected Proposer shall ensure that trips which are not provided for any reason, such as No-Shows or Missed Trips, are not invoiced or paid for by the County or Agency.

The County will not reimburse the selected Proposer for returning lost articles to Riders, except as directed by the County in writing.

2.31 Changes
The County may, at any time during the progress of Work, increase or decrease the quantities of Work to be performed under the resultant contract and make alterations in the details of the Work within the general scope of the Services. Such increase, decrease or alteration shall not invalidate the resultant contract and the selected Proposer shall accept the Work as altered, the same as if it had been a part of the original resultant contract. Such changes and alterations will be authorized in writing by the County. Payment of increased and decreased quantities of Work will be made in accordance with the established pricing.

2.32 Emergency Operation including Hurricanes and Civil Unrest
In the event of any natural disaster, such as hurricanes, floods, acts of terrorism, or other acts of nature or civil disturbances, the County will notify the selected Proposer if and when to suspend scheduled Service for the duration of such emergency. The County and the selected Proposer shall promptly agree upon the actions to be taken so as to minimize Customer inconvenience and costs of such disruption to the County. Service will be restored as directed by the County in conjunction with the restoration of MDT service.

The selected Proposer shall make available to the County all vehicles, Chauffeurs and supervisory resources for emergency evacuation purposes per notification by the County. The selected Proposer shall structure work rules in order to ensure that employees report to work, or in the event that they are already at work, continue to perform their duties for emergency related operations as directed by the County.

The payment terms to compensate to the selected Proposer for expenses incurred during the emergency, in excess of the normal expense of operating, may be negotiated between the County and the selected Proposer.

2.33 Emergency Calls
The selected Proposer shall ensure that all in-service emergency calls are referred to the police, "911" or an ambulance, as necessary. In such cases the selected Proposer shall immediately notify the County.

2.34 Accidents and Incidents
In addition to emergency and police notifications, the selected Proposer shall ensure that all accidents and incidents are promptly reported to the County and subsequently that adequate and appropriate documentation of investigation, using National Safety Council definitions, be furnished to the County within three (3) calendar days. Accidents and incidents shall include any unusual or extraordinary event that causes disruption of Services which occurs while a vehicle/Chauffeur is in Service that may or may not include intervention of the County, the selected Proposer, and/or other governmental agencies, Fire Rescue, and Police. Initial notification of accidents or incidents shall be reported on a form approved by the County within twenty-four (24) hours of occurrence. Any accident involving major damage, serious personal injury, or loss of life shall be reported to the County within one (1) hour of occurrence. Records shall be kept for five (5) years for each accident a vehicle is involved in, including the repair work required to return the vehicle to Service.

2.35 Certification of Performance of Safety-Sensitive Functions
The attached certificate entitled "Certification of Performance of Safety-Sensitive Functions", Exhibit FED-DA1, shall be completed, signed and notarized prior to contract award. A Policy Statement, in compliance with 49 CFR Part 655 - Prevention of Alcohol and Prohibited Drug Misuse in Transit Operations, shall be submitted to the County within 30 days after award of the resultant contract and is a condition for issuance of the Notice to

Proceed by the County. Failure to comply with these regulations may result in contract termination or suspension of business activity conducted with the County until compliance is evident.

2.36 Annual Audit Report

Within ninety (90) days from a one-year period from the commencement of Services date for this Contract and each one-year period thereafter, ~~of each calendar year of the effective date of the resultant contract~~ and within thirty (30) days following termination of the resultant contract, the selected Proposer shall provide to the County an audited report of all revenues earned from the County and all payments made by the selected Proposer to each subcontractor under the resultant contract for the previous year, containing an opinion, prepared and attested to by an independent certified public accounting firm licensed in the State of Florida. The audited report shall include a schedule of monthly ambulatory trips and non-ambulatory trips, amount of payment per trip received from the County, amount of payment per trip received by the selected Proposer from the Customer, administrative fee per trip, number of Customers carried, any subcontracted carrier (if applicable) payment and vehicle revenue hours on a per carrier basis and any other such data as the County may require. The report shall also cover any compensation received by the selected Proposer in the event that the selected Proposer is authorized by the County to be compensated for certain work related expenditures outside trip payments.

The report shall also be accompanied by a management letter, which contains the findings discovered during the course of the examination, such as recommendations to improve accounting procedures, and internal controls, as well as significant matters under the resultant contract. In addition, the audit shall also include comprehensive compliance procedures to determine whether the books of accounts, records and reports, were kept in accordance with the terms of the resultant contract for the period of examination and submit such report in a separate letter. There shall be no changes in the scope of the reports and letters required hereunder without the specific prior written approval of the County.

If such schedules indicate that the selected Proposer owes monies to the County, the selected Proposer shall submit such payment immediately together with any interest fee at the rate established from time to time by the Board of County Commissioners of Miami-Dade County, Florida from the date such amounts were paid by the County.

2.37 Trip Verification and Quality of Service Monitoring

The selected Propose shall ensure that safety regulations are strictly abided by and not compromised and that customers are treated with respect and sensitivity to their special needs, and that the County, and other Agencies using the services are only charged for trips that were actually performed. The County will conduct audits to verify trips each month. The method of trip verification shall be statistically valid and monitoring shall include electronic monitoring, telephone calls to customers, regular and unannounced reviews and inspections.

2.38 Notice to Proceed

The County will provide written notice to the selected Proposer, as a Notice to Proceed, specifying the date on which the selected Proposer shall commence Services/transition of Services of the resultant contract.

Issuance of the Notice to Proceed will be contingent on:

i. The County's confirmation that at least 98% of the selected Proposer's vehicles are ready and fully operational with AVL/GPS equipment and Mobile Data Terminals per Section 2.14.5, AVL/GPS Equipment and Mobile Data Terminals.
ii. The County's determination that the selected Proposer's facility(ies) is ready for operation per Section 2.24, Facilities and Other Requirements.
iii. The County's receipt and approval of the selected Proposer's Internal Operations Manual per Section 2.29.1.
iv. The County's receipt and approval of the selected Proposer's SSPP per Section 2.29.2.
v. The County's receipt and approval of the selected Proposer's Disaster Recovery Plan per Section 2.29.3.
vi. The County's receipt and approval of the selected Proposer's Hurricane/Emergency Evacuation Plan per Section 2.29.4.

vii. The County's receipt and approval of the selected Proposer's Training Plan and Training Manuals per Section 2.29.5.
viii. The County's receipt and approval of the selected Proposer's Computer System Implementation and Information Plan per Section 2.29.6.
ix. The County's receipt and approval of the selected Proposer's Policy Statement per Section 2.35, Certification of Performance of Safety-Sensitive Functions.

2.39 Post-Delivery Audit

If the selected Proposer purchases rolling stock for the resultant contract, it shall ensure that the County is given proper notification of any associated purchases so that a Post-Delivery audit is completed by the County before title to the rolling stock is transferred to the selected Proposer or before rolling stock can be placed into any type of service.

The selected Proposer shall comply with the Buy America Post-Delivery audit requirements, in accordance with 49 C.F.R. Part 661 and 49 C.F.R. Part 663. The Post-Delivery audit, in the case of rolling stock, requires the County to complete the following three (3) certifications based upon actual components used: 1) the Buy America Certification, 2) the Purchaser's Requirements Certification, and 3) the Federal Motor Vehicle Safety Standards (FMVSS) Certification.

3.0 RESPONSE REQUIREMENTS

3.1 Submittal Requirements

In response to this Solicitation, Proposer should **return the entire completed Proposal Submission Package** (see Attachment B). Proposers should carefully follow the format and instructions outlined therein. All documents and information shall be fully completed and signed as required.

The proposal shall be written in sufficient detail to permit the County to conduct a meaningful evaluation of the proposed services. However, overly elaborate responses are not requested or desired.

4.0 EVALUATION PROCESS

4.1 Review of Proposals for Responsiveness

Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in this Solicitation. A responsive proposal is one which follows the requirements of this Solicitation, includes all documentation, is submitted in the format outlined in this Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may result in the proposal being deemed non-responsive.

4.2 Evaluation Criteria

Proposals will be evaluated by an Evaluation/Selection Committee which will evaluate and rank proposals on criteria listed below. The Evaluation/Selection Committee will be comprised of appropriate County personnel and members of the community, as deemed necessary, with the appropriate experience and/or knowledge, striving to ensure that the Evaluation/Selection Committee is balanced with regard to both ethnicity and gender. The criteria are itemized with their respective weights for a maximum total of one thousand (1,000) points per Evaluation/Selection Committee member.

Technical Criteria	Points
1. Experience and Key Personnel	150
2. Financial Capability	150

3.	Equipment and Facility	100
4.	Service Plan and Capability	100
5.	Programs and Plans	100
Price Criteria		Points
6.	Proposed Price	400

4.3 Oral Presentations

Upon completion of the technical criteria evaluation indicated above, rating and ranking, the Evaluation/Selection Committee may choose to conduct an oral presentation with the Proposer(s) which the Evaluation/Selection Committee deems to warrant further consideration based on, among other considerations, scores in clusters and/or maintaining competition. (See **Form A-2** regarding registering speakers in the proposal for oral presentations.) Upon completion of the oral presentation(s), the Evaluation/Selection Committee will re-evaluate, re-rate and re-rank the proposals remaining in consideration based upon the written documents combined with the oral presentation.

4.4 Selection Factor

INTENTIONALLY OMITTED

4.5 Price Evaluation

After the evaluation of the technical proposal, in light of the oral presentation(s) if necessary, the County will evaluate the price proposals of those Proposers remaining in consideration. The price proposal will be assigned a maximum of four hundred (400) points per Evaluation/Selection Committee member. Price will be evaluated in the following manner:

1. The price proposal with the lowest total price will be given the full weight of points assigned to the price criterion.

2. Every other proposal will be given points proportionately in relation to the lowest price. This point total will be calculated by dividing the lowest price by the total price of the proposal being evaluated with the result being multiplied by the maximum weight for price to arrive at a cost score of less than the full score for price.

Example: $\frac{\text{Lowest Price Proposed}}{\text{Proposer's Proposed Price}} \times \text{Total Points for Price} = \text{Price Score}$

The application of the above formula will result in a uniform assignment of points relative to the criterion of price.

The pricing formula is used as part of the evaluation process to determine the highest ranked Proposer. The County reserves the right to negotiate the final terms, conditions and pricing of the contract as may be in the best interest of the County.

4.6 Local Preference

INTENTIONALLY OMITTED

4.6 Negotiations

The County may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the Proposer's best terms from a monetary and technical standpoint.

The Evaluation/Selection Committee will evaluate, score and rank proposals, and submit the results of their evaluation to the County Manager with their recommendation. The County Manager or designee will determine with which Proposer(s) the County shall negotiate, if any. In his sole discretion, the County Manager or designee may direct negotiations with the highest ranked Proposer, negotiations with multiple Proposers, or may request best and final offers.

Notwithstanding the foregoing, if the County and said Proposer(s) cannot reach agreement on a contract, the County reserves the right to terminate negotiations and may, at the County Manager's or designee's discretion, begin negotiations with the next highest ranked Proposer(s). This process may continue until a contract acceptable to the County has been executed or all proposals are rejected. No Proposer shall have any rights against the County arising from such negotiations or termination thereof.

Any Proposer recommended for negotiations shall:

a) Complete a Collusion Affidavit, in accordance with Sections 2-8-1.1 and 10-33.1 of the Miami-Dade County Code as amended by Ordinance 08-113. (If a Proposer fails to submit the required Collusion Affidavit, said Proposer shall be ineligible for award.)

Any Proposer recommended for negotiations may be required to provide to the County:

a) Information concerning any prior or pending litigation, either civil or criminal, involving a governmental agency or default and/or termination of any contract, in which the Proposer, any of its employees or subcontractors is or has been involved within the last six years.

Upon successful negotiations with a Proposer, as specified in Section 4.7, the County will conduct a Buy America Pre-Award audit, in accordance with 49 C.F.R. Part 661 and 49 C.F.R. Part 663. The Pre-Award audit, in the case of rolling stock, requires the County to complete: 1) the Buy America Certification, 2) the Purchaser's Requirement's Certification, and 3) the Federal Motor Vehicle Safety Standards (FMVSS) Certification.

If the Proposer fails to satisfy the Buy America Pre-Award requirements, the Proposer shall be ineligible for award.

4.7 Contract Award

Any contract, resulting from this Solicitation, will be submitted to the County Manager or designee for approval. All Proposers will be notified in writing when the County Manager or designee makes an award recommendation. The Contract award, if any, shall be made to the Proposer whose proposal shall be deemed by the County to be in the best interest of the County. Notwithstanding the rights of protest listed below, the County's decision of whether to make the award and to which Proposer shall be final.

4.8 Rights of Protest

A. A recommendation for contract award or rejection of all proposals may be protested by a Proposer in accordance with the procedures contained in Sections 2-8.3 and 2-8.4 of the County Code, as amended, and as established in Implementing Order No. 3-21.

B. A written intent to protest shall be filed with the Clerk of the Board and mailed to all participants in the competitive process and to the County Attorney within three (3) County workdays of the filing of the County Manager's recommendation. This three day period begins on the County workday after the filing of the County Manager's recommendation. Such written intent to protest shall state the particular grounds on which it is based and shall be accompanied by a filing fee as detailed in Para C below.

C. The written intent to protest shall be accompanied by a non-refundable filing fee, payable to the Clerk of the Board, in accordance with the schedule provided below:

Award Amount	Filing Fee
$25,000-$250,000	$500
$250,001-$500,000	$1,000
$500,001-$5 million	$3,000
Over $5 million	$5,000

D. For award recommendations greater than $250,000, the County's recommendation to award or reject will be immediately communicated (via mail, fax or e-mail) to all participants in the competitive process and filed with the Clerk of the Board.

E. For award recommendations from $25,000 to $250,000, recommendations to award or reject will be posted on the Department of Procurement Management website.

Any question, issue, objection or disagreement concerning, generated by, or arising from the published requirements, terms, conditions or processes contained or described in the solicitation document shall be deemed waived by the protester and shall be rejected as a basis for a protest unless it was brought by that Proposer to the attention, in writing, of the procurement agent, buyer, contracting officer or other contact person in the County department that issued the solicitation document, at least two working days (not less than 48 hours) prior to the hour of the due date for proposal submission.

5.0 TERMS AND CONDITIONS

The anticipated form of agreement is attached. The terms and conditions summarized below are of special note and can be found in their entirety in the agreement:

A. Vendor Registration
Prior to being recommended for award, the Proposer shall complete a Miami-Dade County Vendor Registration Package. Effective June 1, 2008, the new Vendor Registration Package, including a Uniform Affidavit Packet (Affidavit form), must be completed. The Vendor Registration Package, including all affidavits can be obtained by downloading from the DPM website at www.miamidade.gov or from the Vendor Assistance Unit at 111 N.W. 1st Street, 13th Floor, Miami, FL. The recommended Proposer shall affirm that all information submitted with its Vendor Registration Package is current, complete and accurate, at the time they submitted a response to the Solicitation, by completing an Affirmation of Vendor Affidavit form.

B. Insurance Requirements
The Contractor shall furnish to the County, Department of Procurement Management, prior to the commencement of any work under any agreement, Certificates(s) of Insurance which indicate insurance coverage has been obtained that meets the stated requirements.

6.0 ATTACHMENTS

Attachment A – Form of Agreement
Attachment B – Proposal Submission Package
Attachment C – Form A-1 (Cover page) and Affidavits/Acknowledgements A-2 through A-6
Attachment D – Federal Transit Administration Affidavits
Attachment E – Proposer Information
Attachment F – Form B-1, Price Proposal Schedule

Exhibit A – Federally Required Clauses
Exhibit B – Supplemental General Condition (Living Wage)
Exhibit C – Miami Dade County Special Transportation Services DBE/EEO Requirements

ATTACHMENT A

FORM OF AGREEMENT

(This is the form of Agreement the County anticipates awarding to the selected Proposer.)

Special Transportation Service

Contract No. 709

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between _____ , a corporation organized and existing under the laws of the State of _____, having its principal office at _____ (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 Paratransit Service, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 709 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 _____, 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 Paratransit Service for the County, in accordance with the terms and conditions of this Agreement;

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

ARTICLE 1. DEFINITIONS

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

a) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFP No. 709 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.

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

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

d) The word "Contractor" to mean _____ 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. 709 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

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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. The County may negotiate the contract scope, terms and price to address any significant material changes resulting from policy changes by the Board of County Commissioners.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date indicated on the first page of this agreement and shall be for the duration of five (5) years. The County, in its sole discretion, reserves the right to exercise the option to

renew for this Contract for one (1) additional five-year period unless the Contractor notifies the County, at least one-year prior to the expiration of the initial term, that the average of all price adjustments, applied to this contract in accordance with Article 8, has increased beyond 3%. Upon receipt of this notification, the County will renegotiate the contract with the Contractor for the option-to-renew period. The re-negotiated contract for the option-to-renew period will be presented to the Board of County Commissioners for approval.

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
Attention:
Phone:
Fax:

and,
b) to the Contract Manager:

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

(2) To the Contractor

Attention:
Phone:
Fax:
E-mail:

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 in accordance with Appendix 0, Price Schedule. The County shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the County and the Contractor.

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

With respect to travel costs and travel related expenses, the Contractor agrees to adhere to Section 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses including employee lodging, transportation, per diem, and all miscellaneous cost-and fees. The County shall not be liable for any such expenses that have not been approved in advance, in writing, by the County.

ARTICLE 8. PRICING

Prices shall remain firm and fixed for a six-month period from the effective date of the Contract. Prior to the end of the initial six-month period and for each subsequent six-month period thereafter, including any option-to-renew or extensions thereof, the County will review price adjustments based on the weighted average of the percentage change in the value of the most recent Consumer Price Index (CPI)*-All Items (Weight = 75%) and percentage change in value of CPI-Private Transportation (Weight = 25%). Any upward adjustments will not exceed 3% annually. This adjustment will be in lieu of any other price adjustment, such as an adjustment for changes in the living wage rate.

*The CPI data will be based on All Urban Consumers, Not Seasonally Adjusted, Miami-Fort Lauderdale, and FL Area.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Services, the Contractor shall bill the County once per week, upon invoices certified by the Contractor pursuant to Appendix B – Price Schedule. The invoice shall be a completely verified and accurate account of all trips completed and reflect a billing cycle for Services provided for the period of one (1) week prior to the date of submission. The invoice shall be accompanied with the original corresponding Driver's Manifests. 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 including electronic data reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor.

It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust shall be made in a timely manner and that interest payments be made on late payments. In accordance with Florida Statutes, Section 218.74 and Section 2-8.1.4 of the Miami-Dade County Code, the time at which payment shall be due from the County or the Public Health Trust shall be forty-five (45) days from receipt of a proper invoice. The time at which payment shall be due to small businesses shall be thirty (30) days from receipt of a proper invoice. All payments due from the County or the Public Health Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Manager, or his or her designee(s), not later that sixty (60) days after the date on which the proper invoice was received by the County or the Public Health Trust.

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

Miami-Dade County
Paratransit Operations Division
701 NW 1st Court, Suite 1100
Miami, FL 33136
Attention: _____

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

Late invoicing of trips for a given billing period which are submitted more than three (3) weeks after the established billing cycle will be refused for payment.

The Contractor offers the County a prompt payment discount of three quarters of a percent (.75%) of the amount then due and owing provided payment is received within thirty (30) days following receipt of properly executed invoices. The County shall make any necessary adjustments in subsequent billing periods.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

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

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

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

B. Public Liability Insurance on a comprehensive basis in an amount not less than $1,000,000 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.

C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage.

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

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

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

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

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

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

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

ARTICLE 11. MANNER OF PERFORMANCE

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

b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the

removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.

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

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

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

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

ARTICLE 12. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR

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

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 14. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

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

b) The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every

order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

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

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

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

ARTICLE 15. MUTUAL OBLIGATIONS

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

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

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

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of five (5) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The County, or its duly authorized representatives or governmental agencies shall, until the expiration of five (5) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

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

ARTICLE 18. SUBSTITUTION OF PERSONNEL

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

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

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

ARTICLE 20. SUBCONTRACTUAL RELATIONS

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

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

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

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

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

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

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

ARTICLE 22. SEVERABILITY

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

ARTICLE 23. TERMINATION FOR CONVENIENCE AND SUSPENSION OF WORK

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

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

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

In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time,

in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor and in such event:

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

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

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

iii. cancel orders;

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

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

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

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

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

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

ARTICLE 24. EVENT OF DEFAULT

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE /TERMINATION

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

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

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

a) lost revenues;

b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for reprocurement of Services, including procurement and administrative costs; and,

c) such other direct damages.

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

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

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

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

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

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

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

ARTICLE 28. CONFIDENTIALITY

a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.

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

c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or

threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

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

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

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

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

ARTICLE 30. PROPRIETARY RIGHTS

a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection of the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

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

c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have

any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.

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

ARTICLE 31. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST

a) Vendor Registration

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

1. **Miami-Dade County Ownership Disclosure Affidavit**
(Section 2-8.1 of the County Code)

2. **Miami-Dade County Employment Disclosure Affidavit**
(Section 2.8-1(d)(2) of the County Code)

3. **Miami-Dade Employment Drug-free Workplace Certification**
(Section 2-8.1.2(b) of the County Code)

4. **Miami-Dade Disability and Nondiscrimination Affidavit**
(Section 2-8.1.5 of the County Code)

5. **Miami-Dade County Debarment Disclosure Affidavit**
(Section 10.38 of the County Code)

6. **Miami-Dade County Vendor Obligation to County Affidavit**
(Section 2-8.1 of the County Code)

7. **Miami-Dade County Code of Business Ethics Affidavit**
(Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)

8. **Miami-Dade County Family Leave Affidavit**
(Article V of Chapter 11 of the County Code)

9. **Miami-Dade County Living Wage Affidavit**
(Section 2-8.9 of the County Code)

10. **Miami-Dade County Domestic Leave and Reporting Affidavit**
(Article 8, Section 11A-60 11A-67 of the County Code)

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

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

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

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

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

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

17. **Small Business Enterprises**

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

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

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

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal (Exhibit A), State and the County orders, statutes, ordinances, rules and regulations as amended 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) Environmental Protection Agency (EPA), as applicable to this Contract.

c) Miami-Dade County Code, Chapter 4, Article 3 "Nonemergency Medical Transportation" and Chapter 31, "Vehicles For Hire".

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

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

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

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

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

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

safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

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

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

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

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

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

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

   ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.

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

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

e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above,

Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

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

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

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

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

ARTICLE 37. BANKRUPTCY

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

ARTICLE 38. GOVERNING LAW

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

ARTICLE 39. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION and/or PROTECTED HEALTH INFORMATION

Any person or entity that performs or assists Miami-Dade County with a function or activity involving the use or disclosure of "Individually Identifiable Health Information (IIHI) and/or Protected Health Information (PHI) shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Miami-Dade County Privacy Standards Administrative Order. HIPAA mandates for privacy, security and electronic transfer standards, include but are not limited to:

1. Use of information only for performing services required by the contract or as required by law;
2. Use of appropriate safeguards to prevent non-permitted disclosures;
3. Reporting to Miami-Dade County of any non-permitted use or disclosure;
4. Assurances that any agents and subcontractors agree to the same restrictions and conditions that apply to the Contractor and reasonable assurances that IIHI/PHI will be held confidential;
5. Making Protected Health Information (PHI) available to the customer;

6. Making PHI available to the customer for review and amendment; and incorporating any amendments requested by the customer;
7. Making PHI available to Miami-Dade County for an accounting of disclosures; and
8. Making internal practices, books and records related to PHI available to Miami-Dade County for compliance audits.

PHI shall maintain its protected status regardless of the form and method of transmission (paper records, and/or electronic transfer of data). The Contractor must give its customers written notice of its privacy information practices including specifically, a description of the types of uses and disclosures that would be made with protected health information.

ARTICLE 41. LETTER OF CREDIT

The Contractor shall furnish a Letter of Credit (LOC) in an amount of in the amount of 12.5% (45-days) of the yearly contract value.

The LOC shall be on forms provided and/or approved by the County. Said LOC shall be drawn on a financial institution authorized to do business and with offices in the State of Florida. Provisions of the LOC shall not limit, in any way, any liability of the Contractor to the County.

The Contractor may in lieu of an irrevocable letter of credit, submit a cash bond, conditioned upon the faithful performance of the work in strict accordance with this Contract and with the Plans and Specifications and the completion of the same free from all liens and within the time limit herein specified.

ARTICLE 42. DISALLOWANCE

In the event the Contractor is compensated for trips which are subsequently determined as disallowed by the County, the Contractor shall refund such amount to the County. The County may elect to deduct the disallowance from subsequent payments to the Contractor.

ARTICLE 43. SUPPLEMENTAL GENERAL CONDITION (LIVING WAGE)

The provisions of Miami-Dade County Ordinance 99-44 apply to this Contract. The Contractor hereby agrees to comply with the provisions of Ordinance 99-44 as presented in the Supplemental General Condition (Exhibit B), and acknowledges awareness of the penalties for non-compliance.

ARTICLE 44. 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.

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

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

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ATTACHMENT B

PROPOSAL SUBMISSION PACKAGE

Request for Proposals (RFP) No. 709
Transit Operator Performance Monitoring Services

In response to the Solicitation, Proposer shall RETURN THIS ENTIRE PACKAGE completed as follows:

1. **Form A-1 and Affidavits/Acknowledgements (Attachment C)**
   Complete and sign the following forms by the Proposer or representative of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer as required.
   - Form A-1, Cover page of Proposal
   - Form A-2, Lobbyist Registration for Oral Presentations
   - Form A-3, Acknowledgement of Addenda
   - Form A-5, Proposer's Disclosure of Subcontractors and Suppliers
   - Form A-6, Fair Subcontracting Policies

2. **Federal Transit Administration Affidavits (Attachment D)**
   Complete and sign the following forms by the Proposer or representative of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer as required.
   - EXHIBIT FED-DB-1, Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion (Lower Tier Covered Transaction)
   - EXHIBIT FED-LB1, Lobbying Certification
   - EXHIBIT FED-BY2, Buy America Certificate of Compliance or Non-Compliance
   - EXHIBIT FED-DA1, Certification of Performance of Safety-Sensitive Functions
   - Information for MDT Bidders List

3. **Proposer Information (Attachment E)**
   Complete the Proposer Information section following the requirements therein.

   Note: The Proposer Information document is available in Microsoft Word 2003 format by submitting a written request via e-mail to the County contact person for this Solicitation.

4. **Form B-1, Price Proposal Schedule (Attachment F)**
   Complete and sign by Proposer or representative of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer as required.

5. **Proposal Submission**
   Submit in hardcopy format an original, complete Proposal Submission Package, seven (7) copies, and a compact disc (CD) of the complete package **by the Proposal Due Date** (see front cover of Solicitation) in a sealed envelope/container addressed as follows:

Proposer's Name Proposer's Address Proposer's Telephone Number	Clerk of the Board Stephen P. Clark Center 111 NW 1st Street, 17th Floor, Suite 202 Miami, FL 33128-1983
RFP No.: 709 RFP Title: Paratransit Service Proposal Due Date:	

ATTACHMENT C

FORM A-1 (COVER PAGE) AND AFFIDAVITS/ACKNOWLEDGEMENTS A-2 THROUGH A-6

FORM A-1

PROPOSER'S NAME (Name of firm, entity or organization):

FEDERAL EMPLOYER IDENTIFICATION NUMBER:

NAME AND TITLE OF PROPOSER'S CONTACT PERSON:

Name: Title:

MAILING ADDRESS:
Street Address: _____

City, State, Zip: _____

TELEPHONE:	***FAX:***	***E-MAIL ADDRESS:***
(_____) _____	(_____) _____	_____

PROPOSER'S ORGANIZATIONAL STRUCTURE:
____ Corporation ____ Partnership ____ Proprietorship ____ Joint Venture

____ Other (Explain): _____

IF CORPORATION:
Date Incorporated/Organized: _____ State Incorporated/Organized: _____

States registered in as foreign corporation: _____

PROPOSER'S SERVICE OR BUSINESS ACTIVITIES OTHER THAN WHAT THIS SOLICITATION REQUESTS FOR:

LIST NAMES OF PROPOSER'S SUBCONTRACTORS OR SUBCONSULTANTS FOR THIS PROJECT:

LOCAL CERTIFIED SERVICE-DISABLED VETERAN BUSINESS ENTERPRISE:
A Local Certified Service-Disabled Veteran Business Enterprise is a firm that is a) a local business pursuant to Section 2-8.5 of the Code of Miami-Dade County and b) prior to proposal submittal is certified by the State of Florida Department of Management Services as a service-disabled veteran business enterprise pursuant to Section 295.187 of the Florida Statutes. At the time of proposal submission, the Local Certified Service-Disabled Veteran Business Enterprise must affirm in writing its compliance with the certification requirements of Section 295.187 of the Florida Statutes and submit said affirmation and a copy of the actual certification along with the proposal submission.

☐ Place a checkmark here only if affirming Proposer is a certified Local Certified Service-Disabled Veteran Business Enterprise. A copy of the required certification must be submitted with the proposal.

CRIMINAL CONVICTION DISCLOSURE:
Pursuant to Miami-Dade County Ordinance No. 94-34, any individual who has been convicted of a felony during the past ten years and any corporation, partnership, joint venture or other legal entity having an officer, director, or executive who has been convicted of a felony during the past ten years shall disclose this information prior to entering into a contract with or receiving funding from the County.

☐ Place a checkmark here only if Proposer has such conviction to disclose to comply with this requirement.

PROPOSER'S AUTHORIZED SIGNATURE

The undersigned hereby certifies that this proposal is submitted in response to this solicitation.

THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF PROPOSER TO BE BOUND BY THE TERMS OF ITS PROPOSAL. FAILURE TO SIGN THIS SOLICITATION WHERE INDICATED BELOW BY AN AUTHORIZED REPRESENTATIVE SHALL RENDER THE PROPOSAL NON-RESPONSIVE. THE COUNTY MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY PROPOSAL THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE PROPOSER TO THE TERMS OF ITS OFFER.

Signed By: _____ Date: _____

Print Name: _____ Title: _____

A-1 Rev. 11/9/09

FORM A-2
AFFIDAVIT OF MIAMI-DADE County
LOBBYIST REGISTRATION FOR ORAL PRESENTATION

(1) ProjectTitle:_____ Project No.:_____
(2) Department: _____
(3) Proposer's Name: _____
Address: _____ Zip: _____
Business Telephone: (_____) _____

(4) **List All Members of the Presentation Team Who Will Be Participating in the Oral Presentation:**

NAME	TITLE	EMPLOYED BY	TEL. NO.

(ATTACH ADDITIONAL SHEET IF NECESSARY)

The individuals named above are Registered and the Registration Fee is <u>not</u> required for the Oral Presentation ONLY.

Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection, technical review or similar committee must be listed on an affidavit provided by the County. The affidavit shall be filed with the Clerk of the Board at the time the response is submitted. The individual or firm must submit a revised affidavit for additional team members added after submittal of the proposal with the Clerk of the Board at least two days prior to the oral presentation. Any person not listed on the affidavit or revised affidavit may not participate in the oral presentation.

Other than for the oral presentation, Proposers who wish to address the county commission, county board or county committee concerning any actions, decisions or recommendations of County personnel regarding this solicitation in accordance with Section 2-11.1(s) of the Code of Miami-Dade County MUST register with the Clerk of the Board and pay all applicable fees.

I do solemnly swear that all the foregoing facts are true and correct and I have read or am familiar with the provisions of Section 2-11.1(s) of the Code of Miami-Dade County as amended.

Signature of Authorized Representative: _____ Title: _____
STATE OF _____
County OF _____

The foregoing instrument was acknowledged before me this _____,
by_____, a _____, who is personally known
(Individual, Officer, Partner or Agent) (Sole Proprietor, Corporation or Partnership)
to me or who has produced _____ as identification and who did/did not take an oath.

_____
(Signature of person taking acknowledgement)

_____
(Name of Acknowledger typed, printed or stamped)

_____ _____
(Title or Rank) (Serial Number, if any)

Revised 2/7/05

FORM A-3

ACKNOWLEDGEMENT OF ADDENDA

Instructions: Complete Part I or Part II, whichever is applicable.

PART I: Listed below are the dates of issue for each Addendum received in connection with this solicitation.

Addendum #1, Dated _____, 200___

Addendum #2, Dated _____, 200___

Addendum #3, Dated _____, 200___

Addendum #4, Dated _____, 200___

Addendum #5, Dated _____, 200___

Addendum #6, Dated _____, 200___

Addendum #7, Dated _____, 200___

Addendum #8, Dated _____, 200___

Addendum #9, Dated _____, 200___

PART II:

____ No Addendum was received in connection with this solicitation.

Authorized Signature:_____ Date: _____

Print Name: _____ Title: _____

Firm Name: _____

A-3 - Rev. 1/27/00

FORM A-5

SUBCONTRACTOR/SUPPLIER LISTING
(Ordinance 97-104)

Name of Proposer:

This form, or a comparable listing meeting the requirements of Ordinance No. 97-104, **MUST** be completed by all bidders and proposers on County contracts for purchase of supplies, materials or services, including professional services which involve expenditures of $100,000 or more, and all bidders and proposers on County or Public Health Trust construction contracts which involve expenditures of $100,000 or more. **This form, or a comparable listing meeting the requirements of Ordinance No. 97-104, must be completed and submitted even though the bidder or proposer will not utilize subcontractors or suppliers on the contract. The bidder or proposer should enter the word "NONE" under the appropriate heading of Form A-7.1 in those instances where no subcontractors or suppliers will be used on the contract.** A bidder or proposer who is awarded the contract shall not change or substitute first tier subcontractors or direct suppliers or the portions of the contract work to be performed or materials to be supplied from those identified except upon written approval of the County.

Business Name and Address of First Tier Subcontractor/Subconsultant	Principal Owner	Scope of Work to be Performed by Subcontractor/Subconsultant	(Principal Owner) *Gender*	*Race*

Business Name and Address of Direct Supplier	Principal Owner	Supplies/Materials/Services to be Provided by Supplier	(Principal Owner) *Gender*	*Race*

I certify that the representations contained in this Subcontractor/Supplier Listing are to the best of my knowledge true and accurate.

Signature of Proposer's Authorized Representative	Print Name	Print Title	Date

(Duplicate if additional space is needed)
Form A-5(new 5/7/99)

FORM A-6

FAIR SUBCONTRACTING POLICIES
(Ordinance 97-35)

FAIR SUBCONTRACTING PRACTICES

In compliance with Miami-Dade County Ordinance 97-35, the Proposer submits the following detailed statement of its policies and procedures for awarding subcontracts:

_____

I hereby certify that the foregoing information is true, correct and complete.

Signature of Authorized Representative: _____

Title: _____ Date: _____

Firm Name: _____

Form A-6 Rev. 2/13/01

ATTACHMENT D

FEDERAL TRANSIT ADMINISTRATION
AFFIDAVITS

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EXHIBIT FED-DB-1

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION (LOWER TIER COVERED TRANSACTION)

The prospective Lower Tier Participant certifies, by submission of this bid or proposal, that neither it nor its "principals" as defined at 49 C.F.R. 29.105(p) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

If the prospective Lower Tier Participant is unable to certify to the statement above, it shall attach an explanation, and indicate it has done so, by placing an "X" in the following space: _____.

THE BIDDER OR OFFEROR,_____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THIS CERTIFICATION AND EXPLANATION, IF ANY.

IN ADDITION, THE LOWER-TIER BIDDER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND EXPLANATION, IF ANY.

_____Signature of Participant's Authorized Official

_____Name and Title of Participant's Authorized Official

_____Date

EXHIBIT FED-LB1

LOBBYING CERTIFICATION

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The Contractor certifies, to the best of its knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an Federal department or agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification thereof.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by Government wide Guidance for New Restrictions on Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed Reg 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements), and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. 3801 et seq. apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractors Authorized Official

_____ Date

EXHIBIT FED-BY2

BUY AMERICA
CERTIFICATE OF COMPLIANCE OR NON-COMPLIANCE

The Buy America requirements apply to the following types of contracts: Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than $100,000).

If the bidder does not submit a signed certification with the bid, submits the wrong certification of compliance, or certifies both compliance and non-compliance, that bid is non-responsive and cannot be considered.

Select only one of the following certifications:

☐ Certification requirement for procurement of steel, iron, or manufactured products. Certificate of Compliance with 49 U.S.C. 5323(j)(1). The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

- OR -

☐ Certification requirement for procurement of buses, other rolling stock and associated equipment. Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C). The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

- OR -

☐ Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1). The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) or 49 U.S.C. 5323(j)(2)(C), and 49 C.F.R. 661.5 or 49 C.F.R. Part 661.11, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date_____

Signature_____

Company Name_____

Title_____

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EXHIBIT FED-DA1

CERTIFICATION OF PERFORMANCE OF SAFETY-SENSITIVE FUNCTIONS

I, _____, _____,
(Print Name) *(Title)*

representing _____, certify that, based on
(Name of Company)

the definitions in 49 CFR part 655 safety-sensitive functions are to be performed for Miami-Dade Transit by

_____ under Purchase Order or Contract Number
(Name of Company)

_____ entitled _____.
(Bid No.) *(Bid Title)*

I further certify that by _____ 20_____, _____
(Date) *(Name of Company)*

will be in compliance with 49 CFR part 655- Prevention of Alcohol and Prohibited Drug Misuse in Transit Operations. I understand that this will require that my company establish and maintain a comprehensive drug and alcohol program in accordance with each section of 49 CFR parts 655 and CFR 40.

ACKNOWLEDGMENT

_____
Representative's Signature

INFORMATION FOR MDT BIDDERS LIST

Bid Description: _____

Bid No.: _____ SIC: _____

Instructions to Bidders: Prime must complete a form for itself and must provide a form for each firm which was contacted as a potential subcontractor. An authorized representative of each firm must complete and sign this affidavit.

BIDDER INFORMATION:

Firm Name: _____ F.E.I.D. _____

Street Address: _____ Suite No.: _____

City: _____ State: _____ Zip Code: _____

Submitted as Prime Bidder?: Yes ____ No _____ If No, enter name of Prime: _____

Year Firm Founded: _____ Annual Gross Receipts of Firm: $_____

Phone No.: _____ FAX No.: _____ Email: _____

DBE INFORMATION

Certified in Dade County as DBE?: Yes ____ No If Yes, enter expiration date: ____/____/_____

Ethnicity (Circle one): Black Hispanic Native American Asian-Pacific American
Subcontinent Asian American Other: _____

Gender: Male _____ Female _____ DBE Commitment by Prime: _____%

AFFIDAVIT

I affirm that the information submitted is correct to the best of my knowledge.

_____	_____	_____	_____
Signature	Name printed or typed	Title	Date

For MDT use only: Was the subject bid awarded to this prime? Yes _____ No _____
DBE Goal? Yes _____ No _____ DBE Goal Percent _____ %

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ATTACHMENT E

PROPOSER INFORMATION

1. Experience and Key Personnel

A. Provide the number of years that the Proposer has been in existence; describe the services the Proposer specialize in, and the primary markets served.

B. Provide detailed descriptions of three (3) transportation/paratransit service contracts which the Proposer has either ongoing or completed within the past six (6) years that best demonstrate the Proposer's experience with services similar in scope to those requested herein. Where possible, list and describe those projects performed for government clients or similar size private entities (excluding any work performed for the County).
   i. The description should, at a minimum, identify for each contract:
      a. client,
      b. contract number and/or title,
      c. total dollar value of the contract,
      d. dates covering the term of the contract,
      e. client contact person, title, and phone number,
      f. statement of whether Proposer was the prime contractor or subcontractor,
      g. description of work, and
      h. the results of the project .
   ii. The description of work should include, at minimum, the Proposer's experience in:
      a. identifying particular Federal, State and Local guidelines and complying with such guidelines;
      b. utilizing and managing client-furnish property;
      c. fare collection, accounting, and auditing; and
      d. call taking services.

C. List all contracts which the Proposer and subcontractors have performed for Miami-Dade County. The County will review all contracts the Proposer has performed for the County in accordance with Section 2-8.1(g) of the Miami-Dade County Code, which requires that "a Bidder's or Proposer's past performance on County Contracts be considered in the selection of Consultants and Contractors for future County Contracts." As such the Proposer must list and describe all work performed for Miami-Dade County and include for each project: (i) name of the County Department which administers or administered the contract, (ii) description of work, (iii) total dollar value of the contract, (iv) dates covering the term of the contract, (v) County contact person and phone number, (vi) statement of whether Proposer was the prime contractor or subcontractor, and (vii) the results of the project.

D. Describe the Proposer's experience with Trapeze, Inc. software products, Automatic Vehicle Locating/Global Positioning Systems (AVL/GPS), ~~and~~ mobile data terminals~~-~~, and contactless smartcard read/writer~~or comparable technology~~.

E. Provide a copy of the most currently available report that the Proposer has generated for an organization, such as DBE report, Annual Reporting Statistics as required by the Federal Transit Administration National Transit Database, or drug and alcohol reporting in accordance with 49 CFR 655, that best demonstrates the Proposer's data collections, record keeping, and reporting capabilities and experience. The report should be accompanied with details regarding how the information was collected and organized.

F. Provide an organization chart showing all key personnel that will be assigned to this project. Key personnel refer to all managers, supervisors, trainers, technical users, legal, and other professional staff, including those of subcontractors. This chart should clearly identify:
   i. the title of each key personnel,
   ii. distinguish the Proposer's employees and employees of the subcontractors or subconsultants,

iii. describe the functions to be performed by each key personnel, and
iv. identify the Proposer's Project Manager.

G. List the names and addresses of all first tier subcontractors, including carriers, who will be assigned to this project. Describe the extent of work to be performed by each first tier subcontractor, the relevant experience on previous similar projects, qualifications, and other vital information.

H. Provide resumes describing the relevant experience on previous similar projects, qualifications, and other vital information of all key personnel who will be assigned to this project.

Note: After proposal submission, but prior to the award of any contract issued as a result of this Solicitation, the Proposer has a continuing obligation to advise the County of any changes, intended or otherwise, to the key personnel identified in its proposal.

2. Financial Capability

A. Provide evidence to demonstrate that the Proposer has the necessary financial resources to perform the services in a satisfactory manner. Evidence of financial capability may be established by the Proposer's most recent certified business financial statements and proof of available funds through bank credits as of a date not earlier than the end of the Proposer's preceding official tax accounting period, together with a statement in writing, signed by a duly authorized representative, stating that the present financial condition is materially the same as that shown on the balance sheet and income statement submitted, or with an explanation for a material change in the financial condition. A copy of the most recent business income tax return will be accepted if certified financial statements are unavailable.

B. Describe how the Proposer plans to use its financial resources to perform the services for the contract term. The description should include, but not be limited to, the Proposer's allotment for startup capital, payroll, and fleet operations.

3. Equipment and Facility

A. The County prefers and encourages the selected Proposer to utilize fuel efficient vehicles to provide Services. Describe the Proposer's vehicle fleet to be provided for this project and its plans to utilize fuel efficient vehicles. Identify vehicles owned and/or operated by the Proposer and/or subcontractor(s) and, at a minimum, the year, make, model, and quantity of each vehicle to include spares. Also describe the Proposer's plan for future purchases to replace aging fleet used to service Customers.

B. Describe the Proposer's planned equipment, excluding vehicles, detailing quantity, make, model, product information, and performance specifications. Where applicable provide details on equipment installation and maintenance plans. As part of the description, identify the security feature(s), at minimum those applicable in the Equipment Security Features List below, which is integrated in the equipment. The equipment described should include, but not be limited to:
i. Automatic Vehicle Locating/Global Positioning System (AVL/GPS) equipment,
ii. Mobile Data Terminals or comparable technology,
iii. "smart card" read/writing capable system,
iv. telephone systems,
v. automated call distribution equipment,
vi. office computers, and
vii. any other ~~office equipment~~software that will be used by the Proposer to provide accurate, real-time and historical data/reporting to the County through direct access to the software by County staff.

C. Provide evidence that the Proposer's Automatic Vehicle Locating/Global Positioning System (AVL/GPS) equipment, ~~and~~ mobile data terminals, and contactless smartcard read/writer to be used for the services are compatible and approved by Trapeze. Also identify the past recent years the equipment has successfully interfaced with Trapeze.

D. Describe the Proposer's facilities, such as office space, vehicle base(s), and Trip Center that the Proposer will operate in conjunction with this project. Include the facilities' capabilities for standalone operations during Service hours in the event of power failure from a sustained or temporary event.

E. Describe the Proposer's plan for information technology hardware and software, its functions for supporting transportation service, and its features, or scalability, for web-based trip reservation, confirmation, and cancellation; smart/swipe cards for customer identification and fare collection; Interactive Voice Response for trip confirmation and cancellation; and a Geographical Information System (GIS) and any other advance feature.

4. Service Plan and Capability

A. Provide the Proposer's detailed plan for transition and service start-up from the present Contractor identifying timelines and duration for specific key tasks. This plan should include, but not be limited to:
   i. specific details if the Proposer plans to provide parallel reservation, scheduling, and/or dispatch operations with the present Contractor;
   ii. a description of how the transition will impact existing reservations, scheduling, and transportation functions;
   iii. a description of the installation, testing, and operation of technology hardware and software, AVL/GPS equipment, ~~and~~ mobile data terminals~~—~~, and contactless smartcard read/writer~~or comparable technology~~; and
   iv. the Proposer's detailed plan and capacity to have at least 98% of its vehicles ready and fully operational with AVL/GPS equipment and Mobile Data Terminals at least 30 days prior to start of services.

B. Describe, at minimum, the Proposer's detailed plan and procedures to:
   i. comply with all STS Program requirements,
   ii. achieve efficient vehicle scheduling for services throughout the Service Area,
   iii. establish and maintain relationships with ~~carriers~~subcontractors, if utilized, and the specific scope of work to be performed by each subcontractor,
   iv. achieve or exceed the performance standards goals,
   v. ensure professionally effective and productive use and management of information technology hardware and software of the Proposer and of the County,
   vi. ensure data accuracy, and
   vii. provide an accurate trip payment and billing method.

C. Describe how the Proposer will handle communications with multi-lingual Customers, (such as Spanish and French/Creole speaking) to provide service to such clients.

D. Identify if Proposer has taken any exception to the terms of this Solicitation. If so, indicate what alternative is being offered and the cost implications of the exception(s).

~~D.~~E. The County prefers implementation of a fare replacement program that uses the County's EASY Card to replace the County's voucher program, which currently uses a paper voucher ticket. Describe the Proposer's solution for a fare replacement program that uses the County's EASY Card.

5. Programs and Plans

A. Describe the Proposer's training program for this project; include course names, course descriptions, length, and instruction methods. Detail the Proposer's training process, the frequency of follow-up training, additional training, re-training plans, and any circumstances that would warrant re-training. The training program courses should include, but not limited to:
   i. defensive driving training,
   ii. understanding the American with Disabilities Act as it relates to the project,

iii. Passenger Assistance Techniques (PAT) or equivalent training,
iv. expectations of driver conduct,
v. mobile data terminals ~~or comparable technology~~ training, and
vi. policies and procedures of the STS Program for each position category.

B. Describe the Proposer's hiring/staffing program and the planned staffing level of drivers and personnel at the Trip Center. The hiring/staffing program should include, but not be limited to, the minimum qualifications necessary for all positions.

C. Describe the Proposer's safety program and any other methods to be utilized to promote safety awareness. The safety program should include, but not be limited to, the following topics:
i. accident response plan,
ii. accident review process and analysis,
iii. determination of an accident as preventable or non-preventable, utilizing the National Safety Council guidelines,
iv. employee retraining provisions,
v. daily procedures to ensure drivers and vehicles begin shifts in compliance,
vi. driver incentive/disincentive provisions.

D. Describe the Proposer's Substance Abuse Testing Program as it complies with the Omnibus Transportation Testing Act of 1991 and Department of Transportation (DOT) regulations, 49 C.F.R. parts 40 and 655 as referenced herein.

E. Provide an outline and description of the following manuals/plans that the Proposer will provide for this project;
i. operations manual,
ii. Systems Safety Program Plans,
iii. Disaster Recovery Plan,
iv. Hurricane/Emergency Evacuation Plan, and
v. computer system and information plan.

Equipment Security Features List
(referenced in Proposer Information, Item 3C above)

a. Provide the ability for each user to be uniquely identified by ID.

b. Provide basic authentication through use of passwords.

c. Provide the ability to enforce password expiration.

d. Provide the ability to require automatic password expirations when initially assigned or reset.

e. Provide ability to configure password parameters such as password lengths, user access to expiration settings and other behaviors, enabling alphanumeric characters, etc.

f. Provide the ability to encrypt transmitted data and authentication information over internal and external networks.

g. Provide support for Secure Socket Layer (SSL) 128 bit and 256 bit encryption.

h. Provide a password database encrypted in storage.

i. Provide ability to protect audit logs from unauthorized access.

j. Provide ability to log activities performed by specific user ID and IP address and to time-date stamp all activities.

k. Provide ability to identify and log all subsequent access points to ensure accountability is maintained throughout session.

l. Provide ability to limit concurrent sessions.

m. Provide ability to log changes to administrative functions.

n. Provide ability to automatically archive audit logs.

o. Provide ability to set an unsuccessful access attempt limit and suspend IDs after reaching the unsuccessful access threshold.

p. Provide ability to send alerts to administrators for unauthorized access attempts.

q. Enable automatic logoff of ID after a defined period of session inactivity, and perform subsequent re-log-on password authentication.

r. Provide ability to lock out user or group ID by date or time.

s. Provide centralized administration, user authorization, registration and termination.

t. Provide integration with single sign-on systems and provide the ability to share an existing or migrate to a future Single Sign-On (SSO) user store.

u. Provide strong authentication via digital certificates.

v. Provide authentication via hardware tokens or machine ID.

w. Provide support for, or have a plan in the product roadmap to support, authentication via biometrics and/or smart cards.

x. Supports controlled public access to documents where permitted.

y. Provide the ability to synchronize passwords throughout a network.

z. Provide support for electronic signatures.

aa. Support or integrate with Public Key Infrastructure (PKI) solutions for certificate management.

bb. Provide ability to log changes to the product's security configurations or administrative functions.

cc. Provide the ability for password resets to be done by the user on the Portal by answering specific questions.

dd. Provide the ability for user accounts to be created that are not part of a Lightweight Directory Access Protocol (LDAP) or Active Directory.

ee. Provide the ability to use multiple LDAPs.

ff. Provide the ability to use multiple LDAPs and Active Directories simultaneously.

gg. Provide the ability to use multiple LDAPs located in different domains.

ATTACHMENT F

FORM B-1

PRICE PROPOSAL SCHEDULE

INSTRUCTIONS:
The Proposer's price shall be submitted on this Form B-1 "Price Proposal Schedule", and in the manner stated herein; **there is no exception allowed to this requirement.** Proposer is requested to fill in the applicable blanks on this form and to make no other marks.

NOTE: Miami-Dade County is exempt from all taxes (Federal, State, and Local). Tax Exemption Certificate furnished upon request.

A. PROPOSED PRICE
The Proposer shall state its price for providing all services as stated in Section 2.0 of this RFP. The Proposer shall submit its pricing stated as a flat, fixed price per trip which shall include all expenses to be paid under any contract issued as a result of this RFP.

Price Per Trip for each certified STS customer transported regardless of the number of persons in the vehicle, the mileage, and the time consumed.

Type of Trip	Price Per Trip	Estimated Number of Trips for the Initial Five (5) Year Contract Term	Extended Total Price
Ambulatory	$	~~5,537,423~~5,704,188	
Non-Ambulatory	$	~~1,348,623~~1,696,320	
		Total	

NOTE:
1. The above Price Per Trip includes the per trip ~~charge/~~fare that is collected from the Customer by the selected Proposer. The County will deduct the total trip fare required to be collected from the selected Proposer's invoice(s) (see Section 2.30, Fares and Accounting of the Scope for more details).

2. The estimated number of trips is based on past utilization figures that are not validated by the County and are provided by the incumbent ~~and~~vendor ~~is an estimate only~~. The County does not guarantee that trips will surpass or even equal the estimated numbers specified within this solicitation. As such, the estimated numbers are not a guarantee, commitment, or a promise that in the future the County will guarantee any minimum quantity of service, percentage of service, or number of trips.

3. In the event of a discrepancy between the Price Per Trip and the Extended Total Price, the Price Per Trip will prevail.

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B. ~~BREAKDOWN~~CALL TAKING FUNCTIONS

In the event the County elects to perform the call taking functions, Reservations or Late Vehicle Assistance, the price per ambulatory and non-ambulatory trip shown in Section A, above, shall be reduces as follows:

Reservation Call Taking:

Type of Trip	Price Per Trip
Ambulatory	$
Non-Ambulatory	$

Late Vehicle Assistance Call Taking:

Type of Trip	Price Per Trip
Ambulatory	$
Non-Ambulatory	$

C. FARE REPLACEMENT PROGRAM

In the event the County elects not to exercise the option of the selected Proposer providing the fare replacement program, the price per ambulatory and non-ambulatory trip shown in Section A, above, shall be reduces as follows:

Type of Trip	Price Per Trip
Ambulatory	$
Non-Ambulatory	$

~~The Proposer shall state the percentage breakdown of its Extended Total Price (from Section A above) for the following:~~

~~Reservations Call Taking Services~~	~~%~~
~~Late Vehicle Assistance Call Taking Services~~	~~%~~
~~Facility Costs for the Trip Center, excluding equipment and personnel~~	~~%~~

~~NOTE: The above breakdown will be used for informational purposes only and will not be scored.~~

Proposer: _____

Authorized Signature: _____

Print Name & Title: _____

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EXHIBIT A

FEDERALLY REQUIRED CLAUSES

1. FLY AMERICA REQUIREMENTS

49 U.S.C. §40118
41 CFR Part 301-10

Applicability to Contracts
The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down Requirements
The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

Model Clause/Language
The relevant statutes and regulations do not mandate any specified clause or language. FTA proposes the following language.

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

2. BUY AMERICA REQUIREMENTS

49 U.S.C. 5323(j)
49 CFR Part 661

Applicability to Contracts
The Buy America requirements apply to the following types of contracts: Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than $100,000).

Flow Down
The Buy America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance. The $100,000 threshold applies only to the grantee contract, subcontracts under that amount are subject to Buy America.

Mandatory Clause/Language
The Buy America regulation, at 49 CFR 661.13, requires notification of the Buy America requirements in FTA-funded contracts, but does not specify the language to be used. The following language has been developed by FTA.

Buy America - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (Exhibit FED-BY2) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron, or manufactured products.

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3. CHARTER BUS REQUIREMENTS

49 U.S.C. 5323(d)
49 CFR Part 604

Applicability to Contracts
The Charter Bus requirements apply to the following type of contract: Operational Service Contracts.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down Requirements
The Charter Bus requirements flow down from FTA recipients and subrecipients to first tier service contractors.

Model Clause/Language
The relevant statutes and regulations do not mandate any specific clause or language. The following clause has been developed by FTA.

Charter Service Operations - The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided

under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

3. SCHOOL BUS REQUIREMENTS

49 U.S.C. 5323(F)
49 CFR Part 605

INTENTIONALLY OMITTED

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4. CARGO PREFERENCE REQUIREMENTS

46 U.S.C. 1241
46 CFR Part 381

Applicability to Contracts
The Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
The Cargo Preference requirements apply to all subcontracts when the subcontract may be involved with the transport of equipment, material, or commodities by ocean vessel.

Model Clause/Language
The MARAD regulations at 46 CFR 381.7 contain suggested contract clauses. The following language is proffered by FTA.

Cargo Preference - Use of United States-Flag Vessels - The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of -lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

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5. SEISMIC SAFETY REQUIREMENTS

42 U.S.C. 7701 et seq. 49
CFR Part 41

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INTENTIONALLY OMITTED

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6. ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.
49 CFR Part 18

Applicability to Contracts
The Energy Conservation requirements are applicable to all contracts.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
The Energy Conservation requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

Model Clause/Language
No specific clause is recommended in the regulations because the Energy Conservation requirements are so dependent on the state energy conservation plan. The following language has been developed by FTA.

Energy Conservation - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

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7. CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

Applicability to Contracts
The Clean Water requirements apply to each contract and subcontract which exceeds $100,000.

Flow Down
The Clean Water requirements flow down to FTA recipients and subrecipients at every tier.

Model Clause/Language
While no mandatory clause is contained in the Federal Water Pollution Control Act, as amended, the following language developed by FTA contains all the mandatory requirements.

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

8. BUS TESTING

49 U.S.C. 5323(c)
49 CFR Part 665

INTENTIONALLY OMITTED

9. PRE-AWARD AND POST DELIVERY AUDITS REQUIREMENTS

49 U.S.C. 5323
49 CFR Part 663

Applicability to Contracts
These requirements apply only to the acquisition of Rolling Stock/Turnkey.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
These requirements should not flow down, except to the turnkey contractor as stated in Master Agreement.

Model Clause/Language
- Clause and language therein are merely suggested. 49 C.F.R. Part 663 does not contain specific language to be included in third party contracts but does contain requirements applicable to subrecipients and third party contractors.

- Buy America certification is mandated under FTA regulation, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. 663.13.

-- Specific language for the Buy America certification is mandated by FTA regulation,

"Buy America Requirements--Surface Transportation Assistance Act of 1982, as amended,"

49 C.F.R. 661.12, but has been modified to include FTA's Buy America requirements codified at 49 U.S.C. A 5323(j).

Pre-Award and Post-Delivery Audit Requirements - The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

(1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

(2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

(3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

BUY AMERICA CERTIFICATE OF COMPLIANCE WITH FTA REQUIREMENTS
FOR BUSES, OTHER ROLLING STOCK, OR ASSOCIATED EQUIPMENT

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10. LOBBYING

31 U.S.C. 1352
49 CFR Part 19
49 CFR Part 20

Applicability to Contracts
The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

Mandatory Clause/Language
- Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of $100,000 or

more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements (Exhibit FED-LB1) to be submitted with each bid or offer exceeding $100,000.

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11. ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325
18 CFR 18.36 (i)
49 CFR 633.17

Applicability to Contracts
Reference Chart "Requirements for Access to Records and Reports by Type of Contracts"

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
FTA does not require the inclusion of these requirements in subcontracts.

Model Clause/Language
The specified language is not mandated by the statutes or regulations referenced, but the language provided paraphrases the statutory or regulatory language.

Access to Records - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial

assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at $100,000.

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

7. FTA does not require the inclusion of these requirements in subcontracts.

Requirements for Access to Records and Reports by Types of Contract

Contract Characteristics	Operational Service Contract	Turnkey	Construction	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
I State Grantees						
a. Contracts below SAT ($100,000)	None	Those imposed on state pass thru to Contractor	None	None	None	None
b. Contracts above $100,000/Capital Projects	None unless[1] non-competitive award		Yes, if non-competitive award or if funded thru[2] 5307/5309/5311	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award

II Non State Grantees a. Contracts below SAT ($100,000) b. Contracts above $100,000/Capital Projects		Yes[3] Yes[3]	Those imposed on non-state Grantee pass thru to Contractor	Yes Yes	Yes Yes	Yes Yes	Yes Yes

Sources of Authority:

[1] 49 USC 5325 (a)

[2] 49 CFR 633.17

[3] 18 CFR 18.36 (i)

12. FEDERAL CHANGES

49 CFR Part 18

Applicability to Contracts
The Federal Changes requirement applies to all contracts.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
The Federal Changes requirement flows down appropriately to each applicable changed requirement.

Model Clause/Language
No specific language is mandated. The following language has been developed by FTA.

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

13. BONDING REQUIREMENTS

INTENTIONALLY OMITTED

14. CLEAN AIR

42 U.S.C. 7401 et seq
40 CFR 15.61
49 CFR Part 18

Applicability to Contracts
The Clean Air requirements apply to all contracts exceeding $100,000, including indefinite quantities where the amount is expected to exceed $100,000 in any year.

Flow Down
The Clean Air requirements flow down to all subcontracts which exceed $100,000.

Model Clauses/Language
No specific language is required. FTA has proposed the following language.

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

15. RECYCLED PRODUCTS

42 U.S.C. 6962
40 CFR Part 247
Executive Order 12873

Applicability to Contracts
The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or contractor procures $10,000 or more of one of these items during the fiscal year, or has procured $10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases $10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was $10,000.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
These requirements flow down to all to all contractor and subcontractor tiers.

Model Clause/Language
No specific clause is mandated, but FTA has developed the following language.

Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

16. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

INTENTIONALLY OMITTED

17. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

INTENTIONALLY OMITTED

18. [RESERVED]

19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts
Applicable to all contracts.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
Not required by statute or regulation for either primary contractors or subcontractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

Model Clause/Language
While no specific language is required, FTA has developed the following language.

No Obligation by the Federal Government.

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

31 U.S.C. 3801 et seq.
49 CFR Part 31 18 U.S.C. 1001
49 U.S.C. 5307

Applicability to Contracts
These requirements are applicable to all contracts.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

Model Clause/Language
These requirements have no specified language, so FTA proffers the following language.

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq . and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

21. TERMINATION

49 U.S.C. Part 18
FTA Circular 4220.1E

Applicability to Contracts
All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. (For contracts with nonprofit organizations and institutions of higher education the threshold is $100,000.) In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

Flow Down
The termination requirements flow down to all contracts in excess of $10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

Model Clause/Language
FTA does not prescribe the form or content of such clauses. The following are suggestions of clauses to be used in different types of contracts:

a. Termination for Convenience (General Provision) The County may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the County to be paid the Contractor. If the Contractor has any property in its possession belonging to the County, the Contractor will account for the same, and dispose of it in the manner the County directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the County may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the County that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the County, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The County in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to the County's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from the County setting forth the nature of said breach or default, the County shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the County from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the County elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by the County shall not limit the County's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) The County, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the County may terminate this contract for default. The County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the County may terminate this contract for default. The County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the County, protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and the County shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County.

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the County may terminate this contract for default. The County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. the contractor, within 10 days from the beginning of any delay, notifies the County in writing of the causes of delay. If in the judgment of the County, the delay is excusable, the time for completing the work shall be

extended. The judgment of the County shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

i. Termination for Convenience or Default (Architect and Engineering) The County may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contact or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

j. Termination for Convenience of Default (Cost-Type Contracts) The County may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the County or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the County, or property supplied to the Contractor by the County. If the termination is for default, the County may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the County and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the County, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the County determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the County, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

49 CFR Part 29
Executive Order 12549

Background and Applicability
In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, *Debarment and Suspension*, Executive Order 12689, *Debarment and Suspension*, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed $25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29. 220(b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from $100,000 to $25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Clause Language
The following clause language is suggested, not mandatory. It incorporates the optional method of verifying that contractors are not excluded or disqualified by certification.

Suspension and Debarment
This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

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23. PRIVACY ACT

5 U.S.C. 552

Applicability to Contracts
When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
The Federal Privacy Act requirements flow down to each third party contractor and their contracts at every tier.

Model Clause/Language
The text of the following clause has not been mandated by statute or specific regulation, but has been developed by FTA.

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

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24. CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.

Applicability to Contracts
The Civil Rights Requirements apply to all contracts.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
The Civil Rights requirements flow down to all third party contractors and their contracts at every tier.

Model Clause/Language
The following clause was predicated on language contained at 49 CFR Part 19, Appendix A, but FTA has shortened the lengthy text.

Civil Rights - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

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25. BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18
FTA Circular 4220.1E

Applicability to Contracts
All contracts in excess of $100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Flow Down
The Breaches and Dispute Resolutions requirements flow down to all tiers.

Model Clauses/Language
FTA does not prescribe the form or content of such provisions. What provisions are developed will depend on the circumstances and the type of contract. Recipients should consult legal counsel in developing appropriate clauses. The following clauses are examples of provisions from various FTA third party contracts.

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the County's Project Manager. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Project Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Project Manager shall be binding upon the Contractor and the Contractor shall abide be the decision.

Performance During Dispute - Unless otherwise directed by the County, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the County and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the County is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the County or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

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26. PATENT AND RIGHTS IN DATA

37 CFR Part 401
49 CFR Parts 18 and 19

Applicability to Contracts
Patent and rights in data requirements for federally assisted projects ONLY apply to research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

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Flow Down
The Patent and Rights in Data requirements apply to all contractors and their contracts at every tier.

Model Clause/Language
The FTA patent clause is substantially similar to the text of 49 C.F.R. Part 19, Appendix A, Section 5, but the rights in data clause reflects FTA objectives. For patent rights, FTA is governed by Federal law and regulation. For data rights, the text on copyrights is insufficient to meet FTA's purposes for awarding research grants. This model clause, with larger rights as a standard, is proposed with the understanding that this standard could be modified to FTA's needs.

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

A. **Rights in Data** - This following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not

completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause , provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e. , a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. **Patent Rights** - This following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the

Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

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27. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS

INTENTIONALLY OMITTED

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28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

Background and Applicability

The newest version on the Department of Transportation's Disadvantaged Business Enterprise (DBE) program became effective July 16, 2003. The rule provides guidance to grantees on the use of overall and contract goals, requirement to include DBE provisions in subcontracts, evaluating DBE participation where specific contract goals have been set, reporting requirements, and replacement of DBE subcontractors. Additionally, the DBE program dictates payment terms and conditions (including limitations on retainage) applicable to all subcontractors regardless of whether they are DBE firms or not.

The DBE program applies to all DOT-assisted contracting activities. A formal clause such as that below must be included in all contracts above the micro-purchase level. The requirements of clause subsection b flow down to subcontracts.

A substantial change to the payment provisions in this newest version of Part 26 concerns retainage (see section 26.29). Grantee choices concerning retainage should be reflected in the language choices in clause subsection d.

Clause Language

The following clause language is suggested, not mandatory. It incorporates the payment terms and conditions applicable to all subcontractors based in Part 26 as well as those related only to DBE subcontractors. The suggested language allows for the options available to grantees concerning retainage, specific contract goals, and evaluation of DBE subcontracting participation when specific contract goals have been established.

Disadvantaged Business Enterprises

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.* The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is **20%.** ~~A separate contract goal **has not** been established for this procurement.~~

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a

material breach of this contract, which may result in the termination of this contract or such other remedy as the County deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the County. In addition, is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

e. The contractor must promptly notify the County, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the County.

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29. [RESERVED]

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30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

FTA Circular 4220.1E

Applicability to Contracts
The incorporation of FTA terms applies to all contracts.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down
The incorporation of FTA terms has unlimited flow down.

Model Clause/Language
FTA has developed the following incorporation of terms language:

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any County requests which would cause the County to be in violation of the FTA terms and conditions.

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31. DRUG AND ALCOHOL TESTING

49 U.S.C. §5331
49 CFR Parts 653 and 654

Applicability to Contracts
The Drug and Alcohol testing provisions apply to Operational Service Contracts.

Applicability to Micro-Purchases
Micro-purchases are defined as those purchases under $2,500. These requirements do not apply to micro-purchases.

Flow Down Requirements
Anyone who performs a safety-sensitive function for the recipient or subrecipient is required to comply with 49 CFR 653 and 654, with certain exceptions for contracts involving maintenance services. Maintenance contractors for non-urbanized area formula program grantees are not subject to the rules. Also, the rules do not apply to maintenance subcontractors.

Model Clause/Language

Introduction
FTA's drug and alcohol rules, 49 CFR 653 and 654, respectively, are unique among the regulations issued by FTA. First, they require recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with Parts 653 and 654. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its subrecipients and/or contractors comply with them.

How a recipient does so depends on several factors, including whether the contractor is covered independently by the drug and alcohol rules of another Department of Transportation operating administration, the nature of the relationship that the recipient has with the contractor, and the financial resources available to the recipient to oversee the contractor's drug and alcohol testing program. In short, there are a variety of ways a recipient can ensure that its subrecipients and contractors comply with the rules.

Therefore, FTA has developed three model contract provisions for recipients to use "as is" or to modify to fit their particular situations.

Explanation of Model Contract Clauses
Under Option 1, the recipient ensures the contractor's compliance with the rules by requiring the contractor to participate in a drug and alcohol program administered by the recipient. The advantages of doing this are obvious: the recipient maintains total control over its compliance with 49 CFR 653 and 654. The disadvantage is that the recipient, which may not directly employ any safety-sensitive employees, has to implement a complex testing program. Therefore, this may be a practical option only for those recipients which have a testing program for their employees, and can add the contractor's safety-sensitive employees to that program.

Under Option 2, the recipient relies on the contractor to implement a drug and alcohol testing program that complies with 49 CFR 653 and 654, but retains the ability to monitor the contractor's testing program; thus, the recipient has less control over its compliance with the drug and alcohol testing rules than it does under option 1. The advantage of this approach is that it places the responsibility for complying with the rules on the entity that is actually performing the safety-sensitive function. Moreover, it reserves to the recipient the power to ensure that the contractor complies with the program. The disadvantage of Option 2 is that without adequate monitoring of the contractor's program, the recipient may find itself out of compliance with the rules.

Under Option 3, the recipient specifies some or all of the specific features of a contractor's drug and alcohol compliance program. Thus, it requires the recipient to decide what it wants to do and how it wants to do it. The advantage of this option is that the recipient has more control over the contractor's drug and alcohol testing program, yet it is not actually administering the testing program. The disadvantage is that the recipient has to specify and understand clearly what it wants to do and why.

Drug and Alcohol Testing
Option 2

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Florida, or the County, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before February 15th and to submit the Management Information System (MIS) reports before February 15th to the County's Project Manager. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

EXHIBIT B

SUPPLEMENTAL GENERAL CONDITION (LIVING WAGE)

The provisions of Miami-Dade County Ordinance 99-44 apply to this Contract. The Contractor hereby agreeing to comply with the provisions of Ordinance 99-44, and to acknowledge awareness of the penalties for non-compliance. A copy of this ordinance may be obtained from the department issuing the Solicitation.

This Supplemental General Condition is organized with the following sections:

1. Definitions
2. Minimum Wages and Posting of Information.
3. Liability for Unpaid Wages; Liquidated Damages; Withholding
4. Payrolls, Basic Records and Reporting
5. Subcontracts
6. Complaints and Hearings; Contracts Termination and Debarment

1. DEFINITIONS

A. Administrative hearing officer means a qualified arbitrator appointed by the County Manager to resolve disputes arising from the enforcement of Miami-Dade County Ordinance 99-44.

B. Applicable department means the County department(s) using the service contract.

C. Complaint means any written charge/allegation presented to the Compliance Officer alleging a practice prohibited by the Ordinance.

D. Compliance officer means the County Manager or his/her designee to review compliance with Ordinance 99-44 and this Administrative Order.

E. Contract means an agreement for services covered by Ordinance 99-44 involving the County or Public Health Trust, or approved by the County, the Procurement Director or his/her designee, or the Public Health Trust.

F. Contracting officer means the Department of Procurement Management and Public Health Trust staff or any other County personnel responsible for issuing County service contracts.

G. County means the government of Miami-Dade County or the Public Health Trust.

H. Covered employee means anyone employed by any service contractor, as further defined in Ordinance 99-44, either full or part time, as an employee with or without benefits that is providing covered services pursuant to the service contractor's contract with the County.

I. Covered employer means any and all service contractors and subcontractors of service contractors providing covered services. Service contractor is any individual, business entity, corporation (whether for profit or not-for-profit), partnership, limited liability company, joint venture, or similar business that is conducting business in Miami-Dade County or any immediately adjoining county and meets the following criteria:

(1) the service contractor is paid in whole or in part from the County's general fund, capital projects funds, special revenue funds, or any other funds either directly or indirectly, for contracted covered service whether by competitive bid process, informal bids, requests for proposals, some form of solicitation, negotiation, or agreement, or any other decision to enter into a

contract; and

(2) the service contractor and any subcontractor is engaged in the business to provide covered services either directly or indirectly for the benefit of the County; or

(3) the service contractor is a GASP permittee at Miami International Airport.

J. Covered services are services purchased by the County that are subject to the requirements of the Living Wage Ordinance which are one of the following:

(1) County Service Contracts - Contracts awarded by the County that involve a total contract value of over $100,000 per year for the following services:

(i) food preparation and/or distribution;

(ii) security services;

(iii) routine maintenance services such as custodial, cleaning, refuse removal, repair, refinishing and recycling;

(iv) clerical or other non-supervisory office work, whether temporary or permanent;

(v) transportation and parking services including airport and seaport services;

(vi) printing and reproduction services; and,

(vii) landscaping, lawn and/or agricultural services

(2) GASP Permittee - Any covered service that is provided by a GASP permittee at Miami International Airport without reference to any contract value.

(3) Services Performed by County Employees - Should any services that are being performed by County employees at the time Ordinance 99-44 was enacted be solicited in the future by the County to be performed by a service contractor, such services shall be covered subject to this Ordinance regardless of the value of the contract and language requiring same shall be inserted into any implementing legislation.

K. Debar means to exclude a service contractor, its individual officers, its principal shareholders, its qualifying agent or its affiliated businesses from County contracting and subcontracting for a specific period of time, not to exceed five (5) years, pursuant to section 10-38 of the Code of Miami-Dade County.

L. Living wage means the minimum hourly pay rate with or without health benefits as further described in Ordinance 99-44.

M. Living Wage Commission means a fifteen person commission established by the County Commission for the purpose of reviewing the effectiveness of the Living Wage Ordinance, reviewing certifications submitted by covered employers, reviewing quarterly reports on complaints filed by employees and making recommendations to the County Mayor and Commission.

N. Project manager means the person assigned under a contract, usually a department director of the using agency or his/her designee, who has primary responsibility to manage the contract and enforce contract requirements.

2. MINIMUM WAGES AND POSTING OF INFORMATION

A. All covered employees providing covered services shall be paid a living wage in accordance with the current rate for the given year in the manner provided for herein for the adjustment of the Living Wage rate. When the covered employer seeks to comply with the Code by choosing to pay the wage rate applicable when also providing a qualifying Health Benefit Plan, such health benefit plan shall consist of a per hour contribution towards the provision of a Health Benefit Plan for employees and, if applicable, their dependents in accordance with the current rate for the given year. Proof of the provision of such a health benefit plan must be submitted to the awarding authority to qualify for the wage rate for employees with a health benefit plan.

B. Covered employees shall be paid by company or cashier's check, not less than bi-weekly, and without

subsequent deduction or rebate on any account. The covered employer shall pay wage rates in accordance with federal and all other applicable laws such as overtime and similar wage laws.

C. Covered employers must post in a visible place on the site where such contract work is being performed, a notice specifying the (1) wages/benefits to be paid; (2) the amount of liquidated damages for any failure to pay such specified combined overall hourly wage rate and benefits; and (3) the name and address of the responsible official in Miami-Dade County to whom written complaints should be sent. Posting requirements will not be required where the employer prints the following statements on the front of the covered employee's paycheck and every six months thereafter: "You are required by Miami-Dade County law to be paid at least [insert applicable rate under this Chapter] dollars an hour. If you are not paid this hourly rate, contact your supervisor or a lawyer." All notices will be printed in English, Spanish and Creole. Any written complaints of underpayment should be filed with the Director of the Department of Business Development, 175 Northwest First Avenue, 28th Floor, Miami, Fl., 33128, (305) 349-3111.

D. Covered employers must refrain from terminating or otherwise retaliating against an employee performing work on the contract even though a complaint of practices prohibited by Ordinance 99-44 has been filed by the employee or other investigative or enforcement action is being taken regarding such service contractor.

3. LIABILITY FOR UNPAID WAGES; PENALTIES; WITHHOLDING

A. In the event of any underpayment of required wage rates, the contractor shall be liable to the underpaid employee for the amount of such underpayment within thirty (30) days of the findings of violation. Covered employers found to be in violation of the requirements of Ordinance 99-44 shall be required to pay liquidated damages of $500 to the County for each employee of the covered employer, who performs any portion of the contract work for each week, or portion thereof, that is paid less than the specified living wage rate and health benefits. Written request for appeals of violations must be filed with compliance officer within ten (10) days of receipt of the violation.

B. Any wages not collected by underpaid employees shall be remitted, by the employer responsible for paying the wage debt, to the Department of Business Development (DBD) for depository into the DBD Trust Fund. Proceeds from the "Trust Fund" shall be held for one (1) year and if not claimed by the underpaid employee, shall be transferred to the State of Florida.

C. The County may withhold from service contractor any moneys payable on account of work performed under the contract, such sums as may be determined to be necessary to satisfy any liabilities for unpaid wages and penalties as provided herein. In order to preserve the rights of the affected workers under Ord. 99-44, the project manager may withhold or cause to be withheld from the service contractor under this agreement so much of the accrued payments or advances as may be considered necessary to pay employees of the covered employer the full amount of wages required by the contract. In the event of failure to pay any covered employee, employed or working on the project, all or part of the wages required by the contract, the project manager may, after written notice to the service contractor, take such action as may be necessary to cause the suspension of any further payment, until such violations have ceased. The withheld monies shall be remitted to the covered employee only in accordance with the provisions of Section 6, "Complaints and Hearings; Contract Termination and Debarment".

D. In addition to the payment of penalties and back wages, repeat offenders may be debarred from doing business with the County for a period of up to five years and/or have their contracts terminated.

4. PAYROLL; BASIC RECORDS; REPORTING

A. Each covered employer shall maintain payrolls for all covered employees and basic records relating

thereto and shall preserve them for a period of three (3) years. The records shall contain: the name and address of each covered employee, the job title and classification, the number of hours worked each day, the gross wages earned and deductions made; annual wages paid; a copy of the social security returns and evidence of payment thereof; a record of health benefit payments including contributions to approved plans; and any other data or information the Living Wage Commission or compliance officer should require from time to time.

B. The service contractor shall provide a certificate to the applicable department, with every invoice or requisition for payment, that includes the name, address, and phone number of the covered employer, a local contact person, and the specific project for which the service contract is sought; the amount of the contract and the applicable department the contract will serve; a brief description of the project or service provided; a statement of the wage levels for all employees; and a commitment to pay all employees a living wage as set forth in the contract specifications; and the name and social security number of every employee that provided service for that requisition for payment.

C. The covered employer shall submit the information required hereunder every six (6) months, to the applicable department a complete payroll showing the employer's payroll records for each covered employee working on the contract for covered services for one payroll period.

D. The covered employer shall file with the applicable department, every six months, reports of employment activities to be made publicly available, including: race and gender of employees fired and terminated; zip codes of employees hired and terminated; and wage rates of employees hired and terminated.

E. The covered employer shall make the records required to be kept hereunder available for inspection, copying or transcription by authorized representative of the County, and shall permit such representative to interview employees during working hours on the job. Failure to submit the required reports upon request or to make records available may be grounds for debarment. The service contractor is responsible for the submission of the information required hereunder and for the maintenance of records and provision of access to same by all subcontractors.

5. SUBCONTRACTS

The service contractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 6 of this provision and also a clause requiring the subcontractors to include these clauses in any subcontracts. The service contractor shall be responsible for compliance by any subcontractor with the clauses set forth in paragraphs 1 through 6 of this provision.

6. PROCEDURES FOR APPEAL THROUGH ADMINISTRATIVE HEARING OFFICER PROCESS; CONTRACT TERMINATION AND DEBARMENT

A. Appeals of findings of violation and imposition of penalties by the compliance officer shall be heard by an administrative hearing officer. Upon the receipt of a written appeal, the compliance officer shall notify the County Manager in writing and the County Manager shall appoint an administrative hearing officer and set a time for an administrative hearing. Failure to appeal within the specified time shall be considered a waiver of the appeal process provided for in Section 3.A.

B. Notification of hearing date shall be served by the compliance officer upon the covered employer against whom the complaint is made within ten (10) working days of the appointment of the administrative hearing officer. Such notice shall be by certified mail, return receipt requested. Such notice shall include:

1) A copy of the written complaint, including reasons and causes for the proposed administrative hearing outlining alleged prohibited practices upon which it is based;

2) The penalties assessed;
3) That an administrative hearing shall be conducted before an administrative hearing officer on a date and time not to exceed thirty (30) business days after service of the notice. The notice shall also advise the covered employer that they may be represented by an attorney, may present documentary evidence and verbal testimony, and may cross-examine or rebut evidence and testimony presented against them; and,
4) A description of the effect of the issuance of the notice of the proposed administrative hearing and the potential effect(s) of this administrative hearing.

C. The compliance officer or his/her designee shall, with the assistance of the project manager, present evidence and arguments to the administrative hearing officer.

D. No later than seven (7) days prior to the scheduled hearing date, the covered employer must furnish the compliance officer a list of the defenses the covered employer intends to present at the administrative hearing. If the covered employer fails to submit the list, in writing, at least seven (7) days prior to the administrative hearing, or fails to seek an extension of time within which to do so, the covered employer shall be deemed to have waived the opportunity to be heard at the administrative hearing. The administrative hearing officer shall have the right to grant or deny an extension of time, and the decision may only be reviewed upon an abuse of discretion.

E. Hearsay evidence shall be admissible at the administrative hearing, but shall not form the sole basis for finding a violation of Ordinance 99-44. The administrative hearing shall be transcribed, taped or otherwise recorded by a court reporter, at the election of the administrative hearing officer and at the expense of the County. Copies of the hearing tape or transcript shall be furnished at the expense and request of the requesting party. The cost of such transcription may be assessed, by the hearing officer, against a service contractor that has been found to violate Ordinance 99-44,

F. In addition to the payment of penalties and back wages, the County Manager may debar, for a period not to exceed five (5) years, a service contractor or subcontractor and the principal owners and/or qualifying agents thereof found to have violated the requirements of Ordinance 99-44 a second time. If the County Manager determines a covered employer failed to comply with these provisions a third time, the non-complying covered employer's service contract with the County may be terminated.

G. The County Manager may order the withheld amount equal to any underpayment remitted to the employee. In addition, the County Manager may order payment of a penalty to the County. If the required payment is not made within a reasonable period of time, the County Manager may order debarment as described above.

H. A breach of the clauses contained in this Supplemental General Condition shall be deemed a breach of this contract and may be grounds for termination of the contract, and for debarment, and any other remedies available to the County.

EXHIBIT C

MIAMI-DADE COUNTY
PROFESSIONAL SERVICES AGREEMENT
SPECIAL TRANSPORTATION SERVICES (STS)
DBE/EEO REQUIREMENTS

Revised (7/2009)

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SECTION I. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

A. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the execution of this contract, the contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, disability, ancestry, marital status, pregnancy, sexual orientation, veteran's status, or national origin. The contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, disability, marital status, pregnancy, sexual orientation, veteran's status, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships. Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by MDC setting forth the provisions of this Equal Opportunity clause.

B. DISCRIMINATION PROHIBITED

The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or any other remedy as MDC deems appropriate. (49 CFR Part 26.13(b))

C. NONDISCRIMINATION

The Contractor will comply with all regulations of the U. S. Department of Transportation, all applicable provisions of the Civil Rights act of 1964, Executive Order 11246 of September 24, 1964 as amended by Executive Order 11375 Executive Order 11625 of October 13, 1971, the Age Discrimination in Employment Act effective June 12, 1968, the rules regulations and relevant orders of the Secretary of Labor; Chapter 760 (Florida Civil Rights Act of 1992, as amended); Dade County Ordinance 75-46 and Articles 3 and 4 of Chapter 11a of the Code of Miami-Dade County which prohibit discrimination because of race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or veteran's status of any individual.

D. DISABILITY NONDISCRIMINATION.

It is hereby declared to be the national policy that elderly persons and persons with disabilities have the same right as other persons to utilize mass transportation and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly persons and persons with disabilities of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportation (including the programs under this chapter) should contain provisions implementing this policy. (49 U.S.C. Part 5301(d)) Further, each contractor agrees to insert a similar provision and requirement in each subcontract it awards in the conduct of this project or contract.

SECTION II: DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

A. DEFINITIONS: As used in this Disadvantaged Business Enterprise (DBE) Contractor Participation Provision ("Provision"), the following terms shall have the following meanings (the definitions shall not apply outside of this Provision where inconsistent with those contained elsewhere in the bid documents):

1. Affidavit of Continuing Eligibility – Form certifying that a DBE firm continues to meet the program requirements, at the time of submittal

2. Affirmative Action - Positive activities undertaken to eliminate discrimination and effects of past discrimination and to ensure nondiscriminatory practices in the future.

3. Board -Board of County Commissioners, Miami-Dade County, Florida.

4. Challenge- A formal filing by a third party to rebut the presumption that a particular individual is socially and economically disadvantaged.

5. Commercially Useful Function - Work performed by a DBE firm in a particular transaction that, in light of industry practices and other relevant considerations, has a necessary and useful role in the transaction, i.e., the firm's role is not a superfluous step added in an attempt to obtain credit toward goals. If, the County believes that a firm (even though an eligible DBE) does not perform a commercially useful function in the transaction, no credit toward the goal may be awarded.

6. Contracts Compliance Officer - A person designated by MDT to assist and to make recommendations with respect to compliance with this Provision.

7. Contract- Also Agreement, a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them; the Contract, executed by MDC and the successful proposer, of which this Provision is a part. For the purposes of this program, a lease is considered to be a contract.

8. Contract Goal – Stated Goal or DBE Goal, or Participation Goal.

9. Contract Price - the total bid price of the successful proposer as awarded by the Board.

10. Contracting Officer - The Director of the contracting agency or his/her designee.

11. Contracting Opportunity - Any decision by the County or contractor to institute a procurement action to obtain a product or service commercially (as opposed to intergovernmental actions).

12. Disadvantaged Business Enterprise or DBE - A "for-profit" small business concern--

a. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged as defined in 49 CFR Part 26.5, or in the case of a corporation, in which at least 51 percent of the stock of which is owned by one or more such individuals; and

b. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged owner(s).

13. DBE Certification Letter- A letter from a certifying agency within the state of Florida, evidencing that a firm has been certified as a DBE pursuant to 49 CFR Part 26.

14. DBE Directory- a listing of certified DBE Contractors on MDC web portal, aiming at supplying contractors with available DBE firms.

15. Goal- Also Stated Goal or DBE Goal, or Participation Goal, the numerically expressed objective for this Contract solicitation which proposers are required to make good faith efforts to achieve; a numerical percentage that is not rigid and inflexible and which can be reasonably attained by means of applying every reasonable and sufficient effort to utilize DBE Contractors in the performance of work under this project and in accordance with the terms and requirements of this provision.

16. Letter of Certification -- Letter from any certifying member of the Florida Uniform Certification Program (UCP), indicating that the Contractor has met the requirements of the DBE program, prior to or at the time of proposal submittal and pursuant to the guidelines of 49 CFR Part 26.

17. Manufacturer - An individual (or individuals) who owns, operates, or maintains a factory or establishment that produces on the premises the components, materials, or supplies obtained by the County, Contractor, or Transit Vehicle Manufacturer.

18. MDC - Miami-Dade County, Dade County, or the County, or Miami-Dade Transit, or MDT, or Owner.

19. Primary Recipient - A grantee who receives DOT financial assistance and passes all or some of the assistance on to a subrecipient.

20. Proposer – Also Bidder or Offeror, an individual, firm, partnership, corporation, joint venture, or combination thereof submitting a proposal or bid to perform the work as a prime.

21. Qualified - a Contractor is qualified to do specific work if it meets all of the following criteria:

a. It has obtained or is able to obtain any and all licenses required to do such work;

b. It has the minimum necessary experience, organization, and facilities to do such work;

c. It is able to comply with the performance schedule reasonably needed for such work;

d. It does not have an unsatisfactory record of integrity, judgment and performance;

e. It is able to meet the applicable equal employment opportunities requirements; and

f. It is not otherwise ineligible to perform such work under applicable laws and regulations.

22. Recipient - means any entity, public or private, to which financial assistance from the U. S. Department of Transportation (DOT) is extended whether directly or through another recipient, through the programs of the Federal Transit Administration (FTA), the Federal Highway Administration (FHWA), or the Federal Aviation Administration (FAA), or who has applied for such assistance.

23. Regular Dealer means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this definition.

24. A Small Business Concern, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, is defined in section 3 of the Small Business Act and in Small Business Administration regulations implementing the Act (13 CFR Part 121). Additionally, a small business concern cannot exceed the cap on average annual gross receipts specified in 49 CFR 26.65(b).

25. Socially and Economically Disadvantaged Individual - means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

a. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.

b. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

1) "Black Americans," which includes persons having origins in any of the black racial groups of Africa;

2) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;

3) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U. S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

5) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

6) Women;

7) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such time as the SBA designation becomes effective.

26. Schedule of Participation by DBE Contractors - a schedule, in the form annexed to this Provision, containing certain information with respect to work to be performed by DBE Contractors.

27. Subcontractor- Also Subconsultant, any and all contractors vendors and suppliers providing service on this contract under the prime contractor

28. Sub-recipient - Any entity that receives Federal financial assistance from FTA through a primary recipient.

29. Successful proposer – Also Contractor or Consultant, to which the Contract is awarded.

30. Transportation Improvement Program (TIP) means an annual or biennial listing of capital and operating assistance projects proposed for funding by FTA.

31. Unavailable - a Contractor is unavailable to do specific work if:

a. It has that knowledge of the terms and specifications of the Contract needed to formulate intelligently a proposal to do such work or to decline intelligently an opportunity to formulate such a proposal; and

b. It does not intend, or is unable, to make a proposal because of lack of interest, inability to meet the reasonable and ordinary demands connected with doing such work, unwillingness to meet the specifications for such work, unwillingness to work on this project or in this geographic area, or such other reason as is determined by MDC to be sufficient.

32. Unified Planning Work Program (UPWP) - A listing of planned projects proposed for funding by FTA.

33. U.S. Department of Transportation Regulations - the final rules and regulations published in the Federal Register (Vol. 64, No. 21, P. 5126 et seq.) dated Tuesday, February 2, 1999, entitled PART 26--PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS.

34. DBE Contractor Identification Statement- a statement, in the form annexed to this Provision, to be signed by and containing information on a DBE Contractor.

B. UTILIZATION OF DBE CONTRACTORS:

1. Affirmative Action Obligation

All projects, with or without Federal Funding.

a. Policy. MDC is committed to carry out the DBE Program and of meeting the objectives stated in the program, including nondiscrimination in the award and administration of DOT assisted contracts in MDC's transit programs; creating a level playing field on which DBEs can compete fairly; and ensuring that MDC's DBE program is narrowly tailored in accordance with applicable law. Consequently, the DBE requirements of 49 CFR Part 26 applies to this project.

b. DBE Obligation. Each proposer agrees to ensure that DBE Contractors, as defined in 49 CFR Part 26 and this Provision, are given the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal Funds provided under this project. In this regard all proposers shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 and this Provision to ensure that DBE Contractors have the opportunity to compete for and perform contracts. Proposers shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

All determinations of compliance or non-compliance of the proposers with the requirements of this Provision, and of the appropriate consequences of non-compliance, shall be final and binding, except for administrative reconsideration from an adverse decision by MDC as provided in Section 26.53. All determinations shall be final and the result is not administratively appealable to the U.S. Department of Transportation. Nothing in this Provision shall be construed to diminish the legal responsibility or authority of MDC.

2. Stated Goal

A "Stated Goal" is a portion of the total contract dollar amount that a contractor is expected to expend with a minimum number of certified DBE firms. For this contract, the Stated Goal for participation by DBE firms is **~~Twenty~~ twelve percent (12~~20~~%)**.

3. DBE Proposer

A Proposer which is itself a DBE Contractor may achieve the stated goal by performing work with its own forces at a value of at least equal to the percentage goal, subject to compliance with the applicable requirements of Section II.B.(1) and (2) of this Provision and any other requirements pursuant to 49 CFR Part 26.

4. Title VI Compliance (Civil Rights Act of 1964)

During the performance of this contract, the contractor itself, or its assignees or successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

a. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, color, sex, age, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age, or national origin.

d. Information and Reports: The contractor shall provide all information, including copies of subcontracts at any tier and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books; records; accounts; subcontracts at any tier; other sources of information and its facilities as may be determined by Miami-Dade County (MDC) or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such regulations, orders and instructions. Given the possibility of information required from a contractor may be in the exclusive possession of another party who may fail or refuse to furnish such information, the contractor shall make every effort to make this requirements part of its subcontracts to ensure compliance.

e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, MDC shall impose such contract sanctions as it or the FTA may deem appropriate, including, but not limited to:

(1) Withholding of payments to the contractor under the contract until the contractor complies, and/or

(2) Cancellation, termination or suspension of the contract, in whole or in part.

f. Incorporation of Provisions: The contractor shall include the provisions of paragraph II. B (4) (a) through (f) of this section in all subcontracts, including procurements of materials and leases of equipment, at any tier, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurements as MDC or the FTA may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request MDC to enter into such litigation to protect the interests of MDC, and, additionally, the contractor may request the services of the Attorney General in such litigation to protect the interests of the United States.

C. PROPOSAL REQUIREMENTS AND PROCEDURES PRIOR TO CONTRACT AWARD

1. Proposal Submittal

a. At the time of submittal, all proposals shall include an executed Certification of Assurance.

AND if applicable

b. Good Faith Effort.

1) If the proposer does not meet the DBE goal, it can document adequate good faith efforts. This means that the proposer must show that it took all necessary and reasonable steps to achieve a DBE goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful. The SCHEDULE FOR PARTICIPATION, the LETTERS OF INTENT, and an affidavit from potential DBE

certifying that they will not be available to perform on this project may be used as part of this documentation.

(2) In any situation in which MDC has established a contract goal, MDC will use the good faith efforts mechanism spelled out in 49 CFR Part 26, Appendix A. MDC will make a fair and reasonable judgment whether a proposer that did not meet the goal made adequate good faith efforts. MDC will consider the quality, quantity and intensity of the different kinds of efforts that the proposer has made. The efforts employed by the proposer should be those that one could reasonably expect a proposer to take if the proposer were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE Contract Goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. MDC emphasizes that the determination concerning the sufficiency of the proposer's good faith efforts is a judgment call: meeting quantitative formulas is not required.

(3) MDC does not require that a proposer meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, providing the proposer makes an adequate good faith efforts showing. MDC will give fair and serious consideration to bona fide good faith efforts.

(4) The following is a list of types of actions which the proposer should consider as part of its good faith efforts to obtain DBE participation. The list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

a) Soliciting through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The proposer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

b) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

c) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

d) (i) Negotiating in good faith with interested DBEs. It is the proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(ii) A proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a proposer's failure to meet the contract DBE goal, as long as such

costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the proposer of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

e) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

f) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

g) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

h) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

5) In determining whether a proposer has made good faith efforts, MDC may take into account the performance of other proposers in meeting the Contract goal. For example, when the apparent successful proposer fails to meet the contract goal, but other proposers meet it, MDC may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful proposer could have met the goal. If the apparent successful proposer fails to meet the goal, but meets or exceeds the average DBE participation obtained by other proposers, MDC may view this, in conjunction with other factors, as evidence of the apparent successful proposer having made good faith efforts.

6) Good Faith Efforts (Invitation for Bid/Request for Proposal). Good faith efforts, under the Invitation for Bid (IFB) method of procurement, to be considered must have been carried out prior to bid opening. Under a Request for Proposal (RFP) or similar method, good faith efforts must have been accomplished prior to receipt of best and final offers. MDC may request any other information as may be required to determine the listed DBE contractor's qualification.

7) Agreements between a proposer and a DBE Contractor in which the DBE Contractor promises not to provide subcontracting quotations to other proposers are prohibited. The listing of a DBE Contractor by a proposer on its Schedule shall constitute a representation by the proposer that such DBE Contractor is Qualified and Not Unavailable, and a commitment by the proposer that if it is awarded the contract, it will enter into a subcontract with such minority contractor for the portion of the work and at the price set forth in its submittal subject to the terms of this Provision.

A proposal that fails to include Certificate of Assurance and, if applicable, the good faith efforts documents shall be deemed non-responsive.

2. Submittal Prior to Negotiation
The selected proposer(s), as a condition of responsiveness, shall submit to MDC two days prior to negotiation for each proposed DBE, the following documents:

a) A copy of the Letter of Certification

b) A completed Schedule for Participation

c) A Letter of Intent

d) A Copy of the most current Affidavit of Continuing Eligibility (without Attachments)

A Selected Proposer which does not submit the four forms listed above may be found non-responsive; therefore, disqualified from consideration for this project.

3. Submittals during Contract Negotiations

The selected proposer(s), as a condition of responsibility, shall submit to MDC prior to contract award:

Evidence of insurability of all listed DBE Contractors as required by the contract documents and by law and regulations, if applicable.

4. Selection Criteria to Ensure that Prime Contracts Are Awarded to Proposers that Meet the DBE Goal or Demonstrate Good Faith Efforts to Meet the DBE Goal.

If any one proposer meets or exceeds the Contract Goal, MDC may take into consideration whether proposers who failed to meet the Goal failed to exert sufficient reasonable efforts to meet the Goal and are, therefore, ineligible to be awarded the contract.

5. DBE Participation shall be counted toward meeting the DBE Goal as follows:

a. Once a firm is determined by MDC to be an eligible DBE, the dollar value of the work performed by such firm is counted toward the DBE Goal, except as limited by paragraph II.C.2 (b and c), and in accordance with *49 CFR §26.55 (a)*.

b. MDC shall count toward the DBE Goal a portion of the total dollar value of a contract with a joint venture equal to the percentage of the ownership and control of the DBE partner(s) in the joint venture, and in accordance with *49 CFR §26.55(b)*.

c. MDC shall count toward the DBE Goal only expenditures to DBEs that perform a commercially useful function in the work of a contract, and in accordance with *49 CFR § 26.55(c)*.

(1) A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing and supervising the work involved. To determine whether a DBE is performing a commercially useful function, the proposer shall evaluate the amount of work subcontracted, industry practices, and other relevant factors.

(2) Consistent with normal industry practices, a DBE may enter into subcontracts. If a DBE Contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function.

d. MDC shall count toward DBE goals expenditures for materials and supplies obtained from DBE suppliers and manufacturers, provided that the DBEs assume the actual and contractual responsibility for the provisions of the materials and supplies.

(1) MDC shall count toward DBE goals the entire expenditure to a DBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale).

(2) MDC shall count toward DBE goals 60 percent of the expenditures to DBE suppliers that are not manufacturers provided that the DBE supplier performs a commercially useful function in the supply process.

6. Determination of Compliance

The total price for work to be performed by DBE contractors as indicated in the Proposer's Schedule of Participation is required to be sufficient to fulfill the stated goal, unless the Proposer shall demonstrate adequate good faith efforts, as provided in paragraph II.C.1.b.

7. Award of Contract

MDC shall not award a contract to any Proposer which it determines fails to comply with the applicable requirements of these provisions. Nothing herein shall relieve any Proposer or any Contractor performing any work under the Contract from any of the terms, conditions or requirements of the Contract or modify the Owner's rights as reserved in the Contract Documents.

8. Procedures for Determination of Compliance

The selected proposer shall cooperate with the DBE Contracts Compliance Officer during the determination of compliance process as described below:

a. Investigation and Recommendation by DBE Contracts Compliance Officer.

In the event that the Proposer has not met the stated goals, but has submitted the good faith efforts, the Proposer may be required to meet with the DBE Contracts Compliance Officer at the Miami Dade Transit Agency, 701 N. W. First Court, Suite 17th Floor, Miami, FL 33136, phone 786/469-5479, or such other place as the Contracts Compliance Officer may designate.

The purpose of this meeting shall be for the Contracts Compliance Officer to consider whether to recommend that the proposer's proposal be determined to be in compliance with the requirements of this Provision or to recommend award not be made to the proposer. At this meeting, the proposer will have an opportunity to present information and arguments pertinent to its compliance with the applicable requirements. Upon request of the Contracts Compliance Officer, the proposer shall produce in writing at this meeting the information required in paragraph II.C.1.b, including the following:

(1) A detailed statement of the efforts made to contact and to negotiate with DBE Contractors, including:

(a) The names, addresses and telephone numbers of DBE Contractors who were contacted;

(b) A description of the information provided to DBE Contractors regarding the plans and specifications for portions of the work to be performed; and

(c) A detailed statement of the reasons why additional prospective agreements with DBE Contractors, if needed to meet the stated goal, were not reached;

(2) A detailed statement of the efforts made to select portions of the work proposed to be performed by DBE Contractors in order to increase the likelihood of achieving the stated goal;

(3) As to each DBE Contractor contacted but which the proposer considered to be not qualified, a detailed statement of the reasons for the proposer's conclusion;

(4) As to each DBE Contractor contacted but which the proposer considered to be unavailable, either

(a) A written statement from the DBE Contractor that it is unavailable, or

(b) a statement from the proposer that the DBE Contractor refused to give such written certification after reasonable request, and a detailed statement from the proposer of the reasons for the proposer's conclusion that the DBE Contractor was unavailable (the DBE Contractor Unavailability Statement may be used for this purpose where appropriate);

(5) Attendance at a pre-bid meeting, if any, scheduled by the proposer to inform DBEs of subcontracting opportunities under a given solicitation;

(6) Advertisements in general circulation media, trade association publications, and minority-focus media for at least 20 days before bids or proposals are due concerning subcontracting opportunities (if the interval between MDC advertising is so short that 20 days are not available, then publication for a shorter reasonable time is acceptable).

(7) Efforts made to assist the DBEs contacted that needed assistance in obtaining bonding or insurance required by the proposer or MDC; and

(8) Written notification to DBEs that their interest in the contract is solicited.

The Contracts Compliance Officer may require the proposer to produce such additional information as the Contracts Compliance Officer deems appropriate and may obtain whatever other and further information from whatever other sources he deems appropriate.

Not later than fifteen (15) days after given notice of his initial meeting with the proposer, the Contracts Compliance Officer shall make a written recommendation to the Contracting Officer (CO) which shall include a statement of the facts and reasons upon which it is based.

b. Determination by MDC.

Following receipt of the Contracts Compliance Officer's recommendation, the CO shall send to the proposer a Notice of Opportunity to meet with the CO, enclosing a copy of the Contracts Compliance Officer's recommendation. Such Notice shall indicate the date, time and place at which the proposer may, if it so requests in writing, meet with the CO and have an opportunity to present pertinent arguments and information relating to the recommendation by the Contracts Compliance Officer regarding the proposer's compliance with this Provision. The CO may request such further information from the proposer as it deems appropriate, and may rely upon any factual conclusion reported by the Contracts Compliance Officer which is not contradicted by the proposer. The CO may also conduct informal conferences, to which the proposer shall be invited, in which other parties

invited by the CO may offer information relevant to the issues on which its recommendation to the Board will be based.

As soon as practicable, the CO shall make a determination, in writing and setting forth the facts and reasons upon which it is based, whether the bid of such proposer complies with the requirements of this Provision or recommending to the Board that the Contract is not awarded to the proposer. A copy of such determination shall be sent to the proposer. Such determination shall not affect the power of the Board to reject the proposer's proposal for any other reason or to take action on the recommendation of the CO it deems appropriate.

c. Consideration of Other Bids.

If MDC deems it advisable in the interests of expediting the award of the Contract, the procedures set forth in this Section II (C) may be carried out concurrently or separately with respect to bids from one or more additional proposers, with each such proceeding to be conducted separately.

d. Failure of proposer to Participate.

The proposer will be bound by proceedings under this Provision to which it has been given required notice without regard to its participation or lack of participation in them. Its lack of participation, upon receiving notices and requests pursuant to this Provision, shall not be grounds for reconsideration of any actions taken in the procedure.

9. Substitution of DBE Contractors for those Listed in the Schedule for Participation

A proposer may change information required by this Provision from that provided in its Schedule of Participation of DBE Contractors, only when directed to do so by the CO. The CO may make such a direction if the CO determines, in the course of any proceeding conducted pursuant to the Paragraph II.C.1.b, that

a. Although listed by a proposer in good faith, a Contractor appearing on the proposer's Schedule is not a DBE Contractor, is not qualified or is unavailable and that

b. If the work scheduled to be performed by said Contractor or its equivalent is not performed by a DBE Contractor, the proposer will not achieve the level of participation listed on its Schedule.

Upon receiving such a direction, the proposer shall make every reasonable effort to replace a contractor listed in its Schedule with a qualified DBE Contractor to perform, for not less than the lesser of the same price or the price necessary to achieve the level of participation listed in its Schedule, the same work or other work not appearing on the Schedule included with its proposal submission. For the purpose of determining the proposer's compliance with this Provision, the revised list of DBE Contractors shall be considered. However, a failure by a proposer to make the efforts required by the preceding paragraph prior to Contract award shall be grounds for a determination by the Board that the contract not is awarded to the proposer. If a proposer is awarded the Contract and it fails to make such efforts upon notice by MDC, MDC shall subject the proposer to sanctions as provided in Section II.D.4.

D. REQUIREMENTS AND PROCEDURES SUBSEQUENT TO CONTRACT AWARD

1. Proposal, Execution, and Compliance with Subcontracts

a. The successful contractor shall enter into subcontracts corresponding in all respects to the proposed agreements listed on the contractor's Schedule for Participation included in its proposal with substitutions authorized under this Provision. The contractor shall enter into each such subcontract, and shall thereafter neither terminate any such subcontract nor reduce the scope of the work to be performed by, or decrease the price to be paid to, the DBE Contractor thereunder without in each instance receiving the prior written approval of the CO.

b. MDC retains the right to approve or disapprove any subcontract with a DBE Contractor proposed under this Provision for the same reasons and in the same manner that MDC may approve or disapprove any other subcontract proposed to it. If MDC disapproves a subcontract required to be proposed under this Provision for reasons relating to its form, the contractor shall propose for approval another subcontract with the same DBE Contractor, for the same work and at the same price, in a form acceptable to MDC. If MDC disapproves a subcontract required to be proposed under this Provision for any other reason, the contractor shall be excused from proposing that subcontract and shall be subject to the provisions of Section II.D.2 below.

2. Substitution of Subcontractors

a. Excuse from Entering Subcontracts.

If prior to execution of a subcontract required by this Provision, the contractor submits a written request to the CO and demonstrates to the satisfaction of the CO that, as a result of a change in circumstances beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of award of the Contract, a DBE Contractor which is to enter into such subcontract has become not Qualified, or that the DBE Contractor has unreasonably refused to execute the subcontract, the contractor shall be excused from executing such subcontract.

b. Rightful Termination of Subcontracts.

If, after execution of a subcontract required by this Provision, the contractor submits a written request to the CO and demonstrates to the satisfaction of the CO that, as a result of a change in circumstances beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of execution of such subcontract, a DBE Contractor which entered into such subcontract has become not Qualified or has committed and failed to remedy a material breach of the subcontract, the contractor shall be entitled to exercise such rights as may be available to it to terminate the subcontract.

c. Determination of Excuse of Rightful Termination.

If the contractor, at any time, submits a written request to the CO, under the provisions of either Section II.D.1 or Section II.D.2, the CO, as soon as practicable, shall determine whether the contractor has made the requisite demonstration, and shall not determine that such a demonstration has not been made without first providing the contractor upon notice, an opportunity to present pertinent information and arguments.

d. Alternative Subcontracts.

If the contractor is excused from proposing a subcontract under Section II.D.1 or from executing a subcontract under Section II.D.2(a), or rightfully terminates a subcontract under Section II.D.2.b. and without such subcontract the contractor will not achieve the stated level of DBE participation on which the contract was awarded, the contractor shall make every reasonable effort to propose and

enter into an alternative subcontract or subcontracts for the same work to be performed by another Qualified DBE Contractor or Contractors for a contract price or prices totaling not less than the contract price under the excused or terminated subcontract, less all amounts previously paid thereunder. The contractor shall be deemed to satisfy the requirements of this Section II.D.2.d if:

(1) It shall propose and enter each such alternative subcontract for the same work; or

(2) It demonstrates to the satisfaction of the CO that it has made every reasonable effort to contact and negotiate with DBE Contractors in an attempt to subcontract such work, but that it was unable to subcontract the work because DBE Contractors were

(a) Not Qualified;

(b) Unavailable; or

(c) Although Qualified and not Unavailable, unwilling or unable to propose a price for such work equal to or less than the greater of the price originally scheduled for such work (less all amounts previously paid therefor), or the price stated in another bona fide proposal, of which such DBE Contractors had knowledge, submitted by another contractor to which the contractor proposes to subcontract such work; or

(3) It shall propose and enter into subcontracts with another qualified DBE Contractor or Contractors, for prices totaling the price originally scheduled for such work (less all amounts previously paid therefor) for the performance of other work not included in its Schedule as it may be modified according to this Provision.

In any situation covered by this Section II.D.2., the Contracts Compliance Officer shall promptly meet with the contractor and provide it an opportunity to demonstrate compliance with these requirements. The Contracts Compliance Officer shall, as promptly as practicable, recommend to the CO whether the contractor should be determined to be in compliance with these requirements.

The Contracts Compliance Officer may require the contractor to produce such information as the Contracts Compliance Officer deems appropriate and may obtain whatever other and further information from whatever sources the Contracts Compliance Officer deems appropriate. A copy of the Contracts Compliance Officer's recommendation shall be promptly hand delivered or sent by registered mail to the contractor. The Contracts Compliance Officer shall not make his recommendation under this paragraph without giving the contractor notice and an opportunity to present pertinent information and arguments. MDC will consider objections to the Contracts Compliance Officer's recommendation only if such written objections are received by the CO within five (5) calendar days from the contractor's receipt of the Contracts Compliance Officer's recommendation. The CO with or without a hearing, as he in his discretion may determine, will reply to the contractor's written objection within ten (10) working days of receipt of these objections.

3. Continued Compliance

MDC shall monitor the compliance of the contractor with the requirements of this Provision during the course of the work to be performed under the Contract. The contractor shall permit MDC to have access to the job site and to necessary records, and to examine such information as appropriate for the purpose of investigating and determining compliance with this Provision, including, but not limited to, manning tables, records of expenditures, change orders, observations at the job site, and contracts between the contractor and other parties entered into during the life of the Contract.

4. Sanctions for Violations

If at any time MDC has reason to believe that the contractor is in violation of its obligations under this Provision, or has otherwise failed to comply with this Provision, MDC may, in addition to pursuing any other available legal remedy, commence proceedings to impose sanctions on the contractor. Such sanctions may include, but are not limited to, one or more of the following:

a. The suspension of any payment or part thereof due the contractor until such time as the issues concerning the contractor's compliance are resolved;

b. The termination or cancellation of the Contract in whole or in part unless the contractor is able to demonstrate within a reasonable time its compliance with the terms of this Provision; and

c. The denial to the contractor of the right to participate in any further contracts awarded by MDC for a period of not longer than three (3) years. No such sanction shall be imposed by MDC upon the contractor except pursuant to a hearing conducted by the CO.

5. Prime Contractor DBE Reporting Requirements.

The Prime Contractor shall submit monthly payment activity reports on the 20th day after the end of the month for which the report is being submitted, using the Monthly Progress Report form or similar format, for payments activity to all subcontractors on the project, including DBE. Such report must be accompanied by proof of payment, which may be telecopy of canceled checks made to the subcontractor or notarized affidavit from an authorized representative of the subcontractor certifying the date of receipt of the payments; the amount of money received; and the work done.

6. Prompt Payment.

(1) Pursuant to 49 CFR part 26.29 and 26.37, prime contractors shall pay subcontractors, including DBE'S, for satisfactory performance of their contracts no later than 30 calendar days after the date on which the payment request or a proper invoice is stamped received. Further, the prime contractor will return retainage payments to the subcontractor, including DBE firms, within 30 days of the subcontractor's satisfactory completion of work.

(2) The following correct information constitutes a proper invoice and is required as payment documentation:

a. Name of Subcontractor;

b. Invoice date;

c. Invoicing period;

d. MDT Contract number;

e. Subcontractor's invoice number; account number; and/or any other identifying number agreed by contract;

f. Description and nature of work completed;

g. Taxpayer Identification Number (TIN);

h. Bank Information; and/or EFT and Financial EDI Statements

i. Contact person's name, title and Telephone Number.

j. Other substantiating documentation, information required by contract.

(3) An invoice shall be deemed to be received on the receipt date stamped on the invoice by the contractor. If the contractor fails to annotate the invoice with a date of receipt, the date placed on the invoice by the subcontractor shall control.

(4) The Prime Contractor shall make timely payment on a payment request or invoice without regard as to whether MDT has tendered payment and/or reimbursement to the Prime contractor.

(5) The Prime Contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed, and upon which a payment request or proper invoice was submitted and received. Nothing herein shall prohibit a prime contractor or subcontractor from disputing, pursuant to the terms of the contract, all or any portion of a payment alleged to be due to another party.

(6) In the event of a payment dispute, the contractor and subcontractor may withhold the disputed portion of any such payment, if the contractor, or subcontractor notifies the party whose payment is disputed, in writing, of the amount in dispute and the actions required to cure the dispute. The undisputed portion shall be paid timely.

(7) The Prime and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payments disputes, including but not limited to mediation, arbitration and/or an MDT's Ombudsperson.

(8) In cases of disputes, proceedings to resolve the dispute shall be commenced not later than 20 days after the date on which the payment request or proper invoice was received by the contractor and shall be concluded by final decision not later than 30 days after the date on which the payment request or proper invoice was received by the contractor. Such procedures shall not be subject to chapter 120, and such procedures shall not constitute an administrative proceeding which prohibits a court from deciding de novo any action arising out of the dispute. If the dispute is resolved in favor of the Prime Contractor, then interest charges shall begin to accrue 15 days after the final decision. If the dispute is resolved in favor of the subcontractor, then interest shall begin to accrue as of the original date the payment became due.

(9) The prime contractor may reject a payment request or invoice within 10 business days after the date on which the payment request or invoice is stamped as received. The rejection must be written and must specify the deficiency in the payment request or invoice and the action necessary to make the payment request or invoice proper.

(10) If a payment request or an invoice is rejected under subsection (9) and the subcontractor submits a corrected payment request or invoice which corrects the deficiency specified in writing by the prime,

the corrected payment request or invoice must be paid or rejected on the later of Ten (10) business days after the date the corrected payment request or invoice was stamped as received.

(11) All payments due under this section and not made within the period specified by this section shall bear interest at the rate of 1.5% per month, or the rate specified by contract whichever is greater.

(12) Late payment interest penalties shall be paid without regard to whether the subcontractor has requested payment of such penalty, and shall be accompanied by a notice stating the amount of the interest penalty, the number of day late and the rate used. Interest payment of less than one dollar need not be paid. In the event of a dispute, interest penalties under this clause will not continue to accrue.

(13) The Prime and subcontractor in their business judgment and of their own volition may negotiate reasonable cash discounts, or any other means of payment reduction for early payments, if the parties can agree to mutually advantageous terms.

(14) A provision in an agreement between a subcontractor and a contractor is void and unenforceable to the extent that it purports to waive or preclude the rights, remedies, or requirements set forth in this subsection; or that it purports to limit it or preclude any liability of the prime contractor to the subcontractor or of the subcontractor to the contractor, arising under this subsection.

APPENDIX OF FORMS
Certification of Assurance Form
DBE Contractor Identification Statement
Prime and Subcontractors Information Form
Schedule for Participation
DBE Subcontractor Letter of Intent
Subcontractors Monthly Progress Payments
Affidavit of Continuity Eligibility

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MIAMI-DADE COUNTY
PROFESSIONAL SERVICES AGREEMENT

CERTIFICATION OF ASSURANCE FORM

The undersigned hereby gives assurance to Miami-Dade County of having identified certified Disadvantaged Business Enterprise firm(s) to achieve the Stated Goal as follows:

Professional Services _____ percent
(Engineering, legal, accounting, etc.)

_____ _____
Authorized Signature Name

_____ _____
Title Date

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MIAMI-DADE TRANSIT OFFICE OF CIVIL RIGHTS AND LABOR RELATIONS DBE PROGRAM

DBE CONTRACTOR IDENTIFICATION STATEMENT

1) Name of DBE Contractor _____

2) Year business established _____

3) Address and telephone number _____

_____

4) DBE Type: Women_____ Black_____ Hispanic_____ Other (specify)_____

All DBEs must show ownership percentage by gender-- Male_____% Female_____%

5) Name of principal officer _____

6) Principal type of work _____

7) Name of persons involved in management of firm and positions held:

	NAME	RACE	SEX	POSITION/TITLE
A.				
B.				
C.				
D.				
E.				

If additional space is needed, please use another sheet.

8) For a Corporation or Professional Association (PA): Identify those who own five percent or more of the firm's stock or five percent or more share of a Professional Association.

	NAME	RACE	SEX	OWNERSHIP PERCENTAGE	YEARS OF OWNERSHIP	VOTING PERCENTAGE
A.						
B.						
C.						
D.						

dditional space is needed, please use another sheet. (Continued on Page 2)

DBE CONTRACTOR IDENTIFICATION STATEMENT

MDT DBE Participation Program

9) For a Proprietorship, indicate the DBE status and gender of the proprietor:

Black Male _____ Black Female _____ Hispanic Male _____ Hispanic Female _____

Other Male (Specify) _____ Other Female (Specify) _____

10) Does the firm have an 8(a) Certification issued by the Small Business Administration under Section 8(a) of the Small Business Act as amended (15 U.S.C. 637 (a)?

NO _____ YES _____, Certified as an 8(a) Contractor (date) _____

11) Date certified as a DBE _____ Cert. No._____ Expires _____.

12) The undersigned agrees to provide other relevant information concerning ownership and control if requested to do so by MDC or its representative.

_____ _____

Signature of Official of DBE Company Title of Official

_____

Date

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MIAMI-DADE TRANSIT OFFICE OF CIVIL RIGHTS AND LABOR RELATIONS DBE PROGRAM

PRIME AND SUBCONTRACTORS INFORMATION FORM

INSTRUCTIONS: To be completed by the prime and by all subcontractors that submitted a bid on the project.

Bid Description: _____ Bid No. _____

Percentage of DBE Goal _____%

BIDDER INFORMATION

Firm Name _____ F.E.I.N.* _____

Street _____ Suite No. _____

City _____ State _____ Zip Code _____

Prime Bidder? Yes _____ No _____ If No, enter name of Prime _____

Year Founded_____ Annual Gross Receipts: Under $500k_____ Over $500k_____

Phone No. _____ FAX No. _____ Email _____

SPECIALTY

USE APPROPRIATE TWO-DIGITS SBA STANDARD INDUSTRIAL CLASSIFICATION CODE (SIC):

Construction: Building--SIC 15 ___ Heavy--SIC 16 ___ Specialty Trades--SIC 87 ___

Professional Services (Architectural, Engineering, Accounting, etc.) SIC 87 ____

Goods, Equipment and Non-professional Services _____

MIAMI-DADE COUNTY CERTIFIED DBE:

Certificate Expiration Date: ____/____/_____ Ethnicity _____ Gender _____

AFFIDAVIT

I certify that I am an authorized representative of above named firm.

_____	_____	_____	_____
Signature	Name	Title	Date

For MDC Use Only: Was the subject bid awarded to this bidder? Yes _____No _____

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MIAMI-DADE TRANSIT OFFICE OF CIVIL RIGHTS AND LABOR RELATIONS DBE PROGRAM

SCHEDULE FOR PARTICIPATION

Instructions for Contractors: List your DBE firms and sign.

DBE FIRM (1):

Name _____

Type of Work to Be Performed: _____

Percentage and Dollar Amount of Total Bid Committed: _____% $_____

Proposed Commencement Date:_____ Proposed Completion Date:_____

DBE Firm (2):

Name _____

Type of Work to Be Performed: _____

Percentage and Dollar Amount of Total Bid Committed: _____% $_____

Proposed Commencement Date:_____ Proposed Completion Date:_____

DBE Firm (3):

Name _____

Type of Work to Be Performed: _____

Percentage and Dollar Amount of Total Bid Committed: _____% $_____

Proposed Commencement Date:_____ Proposed Completion Date:_____

DBE Firm (4):

Name _____

Type of Work to Be Performed: _____

Percentage and Dollar Amount of Total Bid Committed: _____% $_____

Proposed Commencement Date:_____ Proposed Completion Date:_____

The undersigned certifies that it is committed to hire the above firms to do the work listed above on project _____, as part of it obligations under said project, and agrees to make the DBE & EEO Requirements of said project part of any tier of its subcontracts.

_____ _____

Authorized Signature Print Name and Title Date

_____

Name of Contractor

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MIAMI-DADE TRANSIT OFFICE OF CIVIL RIGHTS AND LABOR RELATIONS DBE PROGRAM

LETTER OF INTENT FROM DBE SUBCONTRACTOR, SUPPLIER AND/OR CONSULTANT

To: _____ and Miami-Dade County
(Name of Prime Contractor)

From: _____
(Name of DBE Firm)

The undersigned DBE is prepared to perform the following described services and/or supply the following described goods, in connection with the following project/contract for a total dollar amount of $_____ and certifies that, upon the execution of a contract with the Prime Contractor, it will not subcontract any part of such contract to any firm, at any tier, without obtaining prior written consent from Miami-Dade County, through the Prime Contractor; it further certifies that it has received from Prime Contractor a true copy of the Affirmative Action provisions, which must include the Davis Bacon requirements and wage determinations, if applicable.

Prime Contractor _____ Project Name _____

DBE ASSIGNMENTS:

Item No.	Work to be performed	Dollar Amount Per Bid Form
_____	_____	$_____
_____	_____	$_____
_____	_____	$_____

Item/Supply Description	Quantity	Dollar Amount
_____	_____	_____
_____	_____	_____

_____ Title _____
Authorized Signature

_____
Print Name Date

MIAMI-DADE TRANSIT OFFICE OF CIVIL RIGHTS AND LABOR RELATIONS DBE PROGRAM

SUBCONTRACTORS MONTHLY PROGRESS REPORT

Report Period:

CONTRACT NUMBER _____ **PROJECT NAME** _____

CONTRACTOR NAME _____ **CONTRACT AMOUNT $** _____

DBE GOAL _____ **%** **PAID TO PRIME CONTRACTOR TO DATE $** _____

DBE FIRMS	SEX	ETHNIC	TYPE OF WORK/SERVICE	MONTHLY PAYMENT	PAYMENT TO DATE	CONTRACT AMOUNT

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PAYMENTS TO NON-DBES	TYPE OF SERVICE	AMOUNT

I certify that the above information is true and accurate to the best of my knowledge and understand that if I misrepresent or falsify such information, I may be subject to civil and or criminal prosecution under Title 18 United State Code Section 1001.

Authorized Signature Print Name and Title Date