Memorandum

MIAMI-DADE COUNTY

Date: February 1, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

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

From: George M. Burgess
County Manager

Subject: Recommendation to Uphold Clerk of the Circuit and County Courts' Award Recommendation of Contract Nos. RFQ723A, RFQ723B, RFQ723C and RFQ723D: Debt Collection Services Pool for Clerk of the Courts

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Attached for your consideration is a recommendation from Mr. Harvey Ruvin, Clerk, Circuit and County Courts' (Clerk) to uphold his recommendation to award Contract Nos. RFQ723A, RFQ723B, RFQ723C and RFQ723D to Linebarger Goggan Blair & Sampson, LLP, AllianceOne Receivables Management, Inc., Penn Credit Corporation, and Law Enforcement Systems, Inc., respectively. This item is being submitted for approval pursuant to Implementing Order No. 3-21, Bid Protest Procedures, which requires that the hearing examiner's findings and recommendation be presented to the Board of County Commissioner's by the County Manager.

The hearing examiner recommended that the Clerk grant Gila Corporation d/b/a Municipal Services Bureau's (MSB) protest, reconvene an Evaluation/Selection Committee to re-evaluate and re-rank the proposers, and make a new recommendation of award, as appropriate. Notwithstanding the Hearing Examiner's findings, the Clerk's recommendation to award remains unchanged.

Assistant County Manager

Attachment:

Memorandum from Harvey Ruvin to Board of County Commissioners

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: February 1, 2011

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

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

Please note any items checked.

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

_____ **6 weeks required between first reading and public hearing**

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

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

✓ **No committee review**

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

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(O)(1)(B)
2-1-11

RESOLUTION NO. _____

RESOLUTION CONCURRING WITH RECOMMENDATION OF THE CLERK OF THE CIRCUIT AND COUNTY COURTS TO AWARD CONTRACT NOS. RFQ723A, RFQ723B, RFQ723C AND RFQ723D TO LINEBARGER, GOGGAN, BLAIR & SAMPSON, LLP, ALLIANCEONE RECEIVABLES MANAGEMENT, INC., PENN CREDIT CORPORATION, AND LAW ENFORCEMENT SYSTEMS, INC., RESPECTIVELY, FOR PROVISION OF DEBT COLLECTION SERVICES TO THE CLERK AND AUTHORIZING THE CLERK TO EXECUTE SUCH CONTRACTS AND TO TAKE ANY AND ALL ACTIONS NECESSARY TO EFFECTUATE SUCH CONTRACTS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, pursuant to Section 28.246, Florida Statutes, the Clerk of the Circuit and County Courts (the "Clerk") has the authority to contract for the services of an attorney or collection agent to recover unpaid fees, service charges, fines, court costs and liens ("Debt Collection Services"); and

WHEREAS, the Clerk utilized the services of the County's Department of Procurement Management in order to develop, issue and oversee the procurement of Request for Qualifications ("RFQ") No. 723 for the Debt Collection Services contract(s) for the Clerk; and

WHEREAS, a bid protest was filed following the issuance of the Clerk's recommendation to award the Debt Collection Services contracts to (1) Linebarger, Goggan, Blair, & Sampson, LLP ("Linebarger"), (2) AllianceOne Receivables Management, Inc.

("AllianceOne"), (3) Penn Credit Corporation ("Penn Credit"), and (4) Law Enforcement Systems, Inc. ("LES"); and

WHEREAS, RFQ No. 723 afforded the proposers a right to protest the Clerk's recommendation in accordance with Section 2-8.4 of the County Code, which requires this Board to take action on the recommendation to award,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby concurs with the recommendation of Harvey Ruvin, the Clerk, to award contract nos. RFQ723A, RFQ723B, RFQ723C, and RFQ723D to Linebarger, AllianceOne, Penn Credit and LES, respectively, for the provision of debt collection services to the Clerk, and authorizes the Clerk to execute such contracts and to exercise any cancellation and renewal provisions and to take any and all actions necessary to effectuate such contracts.

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

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of February, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. MR

Monica Rizo

Memorandum

MIAMI-DADE COUNTY

Date: February 1, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Harvey Ruvin
Clerk, Circuit and County Courts

Subject: Report of the Clerk of the Circuit and County Courts Recommending Concurrence in Award of Contract Nos. RFQ723A, RFQ723B, RFQ723C and RFQ723D: Debt Collection Services Pool for Clerk of the Courts

RECOMMENDATION

It is recommended that the Board of County Commissioners concur with the recommendation of the Clerk of the Circuit and County Courts (Clerk) to award Contract Nos. RFQ723A, RFQ723B, RFQ723C and RFQ723D to Linebarger Goggan Blair & Sampson, LLP, AllianceOne Receivables Management, Inc., Penn Credit Corporation, and Law Enforcement Systems, Inc., respectively. The Clerk's award recommendation is attached. These contracts will allow the Office of the Clerk to continue to pursue the collection of outstanding traffic, parking, misdemeanor, criminal fines and court costs levied by, or at the request of, a court of competent jurisdiction in the manner prescribed by Florida Statutes.

Under Florida Statute 28.246, the Clerk has the authority to contract for the services of an attorney or collection agent to recover unpaid fees, service charges, fines, court costs, and liens. The Clerk elected to utilize the services of the County's Department of Procurement Management to develop, issue and oversee Request for Qualifications (RFQ) No. 723 to procure these services. A protest of the Clerk's award of these contracts was filed by Gila Corporation d/b/a Municipal Services Bureau (MSB) and Penn Credit Corporation (Intervenor) intervened in the action. The County's protest procedures, Section 2-8.4 of the County Code, stipulate that when a protest is filed, the hearing examiner's findings and recommendation shall be presented to the Board together with the recommendation. Since a protest was filed, the Clerk agreed to submit this item to the Board pursuant to the Code.

The protest was heard by a Hearing Examiner on September 7, 2010. The Hearing Examiner recommended that the Clerk grant MSB's protest, but did not recommend that a contract be awarded to MSB. Instead, he recommended that the Evaluation/Selection Committee reconvene to re-evaluate and re-rank the proposers, and make a new recommendation of award. I have carefully considered the Hearing Examiner's recommendation and I believe that it is legally and factually flawed. Therefore, I strongly disagree with the Hearing Examiner's decision, and my award of the contract remains unchanged. The Written Intent to Protest, Miami-Dade County's Opposition to MSB, and Findings of Fact, Conclusions of Law and Recommendations of Hearing Examiner are attached.

BACKGROUND

The County issued, on behalf of the Clerk, Request for Qualifications No. 723, Debt Collection Services Pool for Clerk of the Courts. Eighteen proposals were received in response to the solicitation. The method of award in the solicitation allows the Clerk to select **up to** six firms to participate in the Pool. The Evaluation/Selection Committee evaluated the proposals and recommended the top six ranked proposers, with their corresponding scores, be considered for participation in the pool as follows:

1)	Linebarger Goggan Blair & Sampson, LLP	474
2)	AllianceOne Receivables Management, Inc.	467
3)	Penn Credit Corporation	462
4)	Law Enforcement Systems, Inc.	461
5)	Gila Corporation d/b/a Municipal Services Bureau (MSB)	433
6)	Pioneer Credit Recovery, Inc.	406

I selected the top four ranked proposers for the pool, as only 13 points separated the Number 1 and the Number 4 ranked firms. There was a distinct gap of 28 points between the total scores of the fourth and fifth ranked proposers, creating a natural break to cut off selection into the pool. The award recommendation to the top four firms was posted and notice was sent to all proposers on August 11, 2010.

Gila Corporation d/b/a Municipal Services Bureau (MSB) filed their intent to protest the award recommendation on August 16, 2010. MSB claimed that information provided by one of the Evaluation/Selection Committee members at a Committee meeting regarding complaints filed with the Clerk against the firm negatively impacted the scoring by the Evaluation/Selection Committee members. The firm further alleged that MSB was unfairly targeted, as performance issues with other incumbent vendors were not discussed.

A pre-protest meeting was held on September 1, 2010 with MSB to allow the proposer the opportunity to express its concerns and to settle the protest by mutual agreement. Representatives from the Department of Procurement Management, County Attorney's Office, and Clerk's Office were in attendance. At the conclusion of the meeting with MSB, the County acknowledged that MSB would proceed with the formal protest process to be heard by a hearing examiner, as an agreement regarding the protest could not be reached.

The Evaluation/Selection Committee members reviewed and scored the proposals individually in accordance with the rating guidelines. As part of the evaluation process, Evaluation/Selection Committee members held discussions prior to finalizing their scores. One Evaluation/Selection Committee member, Martha Alcazar, the Clerk's Comptroller and the project manager listed in the contract, appropriately raised performance issues encountered with a firm that she felt important. While all the incumbent firms have had complaints filed with the Clerk regarding provision of the services, the complaints against the other firms, which were operational issues, were subsequently cured. However, in the case of MSB, there were two complaints that were not operational. These complaints were mentioned at the Evaluation/Selection Committee meeting and involved a lack of courtesy and professionalism in the treatment of public by the firm. The performance issues involving MSB were appropriately discussed as they were more egregious, rising to a higher level than an operational issue. This is significant since it is of utmost importance that the selected vendors, as agents of the state court system, conduct themselves in a respectful, fair and judicious manner to the public.

One Evaluation/Selection Committee member scored MSB significantly lower than the other members. This Committee member was quite experienced in procurement matters as he often represented the County's Small Business Development and Minority Affairs on County selection committees. The member was questioned at the protest hearing regarding how much importance in his scoring he placed on the firm's past performance issues. The Evaluation/Selection Committee member who gave MSB the lowest score testified that the complaints mentioned against MSB had no bearing on his scores.

I attended the protest hearing in its entirety. In the interval between receipt of the Hearing Examiner's findings and recommendations and the presentation of this item to the Board, I have carefully considered the evidence presented at the protest hearing and the respective arguments of counsel for MSB, the Intervenor and the County. I have considered the testimony, evidence and arguments in the context of the appropriate legal standard which is whether the decision subject to protest was based on fraud, arbitrariness, illegality or dishonesty. Upon reflection and analysis I have concluded that the rankings of the Evaluation/Selection Committee were rationally based and rendered in good faith. The Hearing Examiner **did not** recommend that the contract be awarded to MSB. Instead, he

recommended that the Evaluation/Selection Committee be re-convened to re-evaluate and re-rank the 18 proposals. I believe such an exercise is unnecessary and unwarranted.

First, the Hearing Examiner signed the proposed findings of fact and conclusions of law in the form which MSB presented before the hearing began and which do not accurately reflect the testimony and evidence presented at the hearing. For example, the Hearing Examiner's findings and recommendations contain and rely upon evidence that the Hearing Examiner had deemed inadmissible at the hearing. The Hearing Examiner's decision also contains inaccurate findings based on arguments that were withdrawn at the outset of the hearing and, further, completely disregards the arguments and evidence presented by the County and by the Intervenor. Furthermore, the Hearing Examiner's findings and recommendations fail to consider or discuss any witness testimony presented at the hearing and failed to give deference to the Clerk's decision, as required by law.

Second, the Hearing Examiner incorrectly accepted MSB's argument that it should have been ranked first based on its record of collections in its existing contract with the Clerk. Not only did the Hearing Examiner improperly substitute his judgment for that of the Evaluation/Selection Committee in this regard, he did so by relying on a factor, *i.e.,* the amount of money collected under the existing contract, which was not an evaluation criterion. If the amount of money collected under the existing contract was the overriding criterion, the RFQ process would be unfairly skewed in favor of incumbents. The purpose of the RFQ process is to encourage competition, not stifle it.

Accordingly, the RFQ included a three-page, 13-item Proposer Information requirement (attached) delineating detailed submittals to be provided by all proposers. The information required was directly and specifically related to the Evaluation/Selection Committee's evaluation criteria. In order to address all the information required, the proposers' responses were voluminous. MSB's own proposal was 99 pages in length, exclusive of numerous exhibits. The suggestion that MSB's record of collections under the existing contract trumps all other required information and criteria shows a lack of understanding of the RFQ in its entirety. The Evaluation/Selection Committee performed a valuable service in reviewing and assessing the many volumes of documentation submitted by the 18 proposers. The Hearing Examiner's recommendation that the Evaluation/Selection Committee re-convene and do it all over again demonstrates his failure to appreciate how comprehensive, thorough and deliberative the members of the Evaluation/Selection Committee were in discharging their duties.

The Hearing Examiner also suggests that it was inappropriate for one member of the Evaluation/Selection Committee to mention two written complaints received regarding MSB without also mentioning complaints concerning other incumbent vendors. Since consideration of complaints is clearly appropriate, I have duly considered the complaints against other vendors brought to my attention by MSB through its protest. As one Evaluation/Selection Committee member testified at the hearing, some complaints are to be expected in a debt collection program. In this case, however, there was no evidence that the mention of two complaints altered the rankings. To the contrary, the only testimony presented at the protest hearing indicated that it did not. As a result, I have concluded that this issue, as raised by the Hearing Examiner, does not merit a change in my recommended award.

I maintain my recommendation to award contracts to Linebarger Goggan Blair & Sampson, LLP, AllianceOne Receivables Management, Inc., Penn Credit Corporation and Law Enforcement Systems, Inc. and respectfully request the concurrence of the Board. The Evaluation/Selection Committee performed evaluations in accordance with all County policies. The four recommended firms can more than satisfactorily meet the needs of the Clerk's office. These four firms provide a range of expertise and the necessary resources to meet the Clerk's debt collection needs.

Attachments

Clerk's Memo (dated July 6, 2010)
Recommendation for Approval to Award Contracts (dated August 3, 2010)
Written Intent to Protest (dated August 16, 2010)
Miami-Dade County's Opposition to MSB (dated September 3, 2010)
Findings of Fact, Conclusions of Law and Recommendations of Hearing Examiner (dated September 13, 2010)
Proposer Information excerpt from RFQ 723

MEMORANDUM

TO: Pearl P. Bethel, CPPB
Procurement Contracting Agent
Chairperson, Evaluation/Selection Committee

DATE: July 6, 2010

SUBJECT: Collection Agencies

FROM: Harvey Ruvin, Clerk
Circuit and County Courts

Based on the Evaluation/Selection Committee's recommendation, I have decided to include the following recommended firms into the Clerk's debt collection pool:

1) Linebarger Goggan Blair & Sampson, LLP
(Parking/Traffic/Criminal)

2) AllianceOne Receivables Management, Inc.
(Traffic/Criminal)

3) Penn Credit Corporation
(Parking/Traffic)

4) Law Enforcement Systems, Inc.
(Parking)

Please prepare the corresponding contracts with the selected companies with an award date of December 1, 2010.

Thank you for your invaluable assistance during this process.

cc: Miriam Singer, CPPO
Director, Department of Procurement Management

Memorandum

MIAMI-DADE COUNTY

CLERK OF THE BOARD
2010 AUG 11 PM 4:02
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.
#1

Date: August 3, 2010

To: Harvey Ruvin
Clerk, Circuit and County Courts

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

Subject: Recommendation for Approval to Award Contract Nos. RFQ723A, RFQ723B, RFQ723C and RFQ723D: Debt Collection Services Pool for Clerk of the Courts

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RECOMMENDATION

Pursuant to your delegated authority, it is recommended that approval be granted to award these contracts to provide Debt Collection Services.

CONTRACT NOS: RFQ723A, RFQ723B, RFQ723C and RFQ723D

CONTRACT TITLE: Debt Collection Services Pool for Clerk of the Courts

DESCRIPTION: To obtain proposals from qualified firms to pursue the collection of any outstanding traffic, misdemeanor, criminal fines and court costs levied by, or at the request of, a court of competent jurisdiction in the manner prescribed by Florida Statutes.

TERM: Four years with two, one-year options to renew

APPROVAL TO ADVERTISE: April 27, 2010

CONTRACT AMOUNT: The vendors shall add a 40% collection fee to the debt owed, pursuant to Florida Statute 28.246, as compensation for all work and services performed under this pool.

USING/MANAGING AGENCY AND FUNDING SOURCE:

Department	Allocation	Funding Source	Contract Manager
Clerk of the Courts	Cost Neutral	Statutory Allowed Collection Fee	Martha Alcazar

METHOD OF AWARD: Award to up to six recommended responsive, responsible vendors based on the evaluation criteria established in the solicitation for participation in the pool. A full and open competitive Request for Qualifications process was used. The four highest ranked vendors are recommended for award.

VENDORS RECOMMENDED FOR AWARD:

Vendor	Address	Principal
Linebarger Goggan Blair & Sampson, LLP (Non-local vendor)	2700 Via Fortuna Drive Suite 400 Austin, TX 78746	Mike Vallandingham
AllianceOne Receivables Management, Inc. (Non-local vendor)	4850 E. Street Road Suite 300 Trevose, PA 19053	Harry Neerenberg
Penn Credit Corporation (Non-local vendor)	916 S. 14th Street Harrisburg, PA 17104	Donald C. Donagher, Jr.
Law Enforcement Systems, Inc. (Non-local vendor)	30-30 47th Avenue 7th Floor Long Island City, NY 11101	Dawn Carrier

VENDORS NOT RECOMMENDED FOR AWARD:

Gila Corporation d/b/a Municipal Services Bureau (MSB)
Pioneer Credit Recovery, Inc.
NCO Financial Systems, Inc.
GC Services Limited Partnership
Harris & Harris, LTD
Unifund Government Services, LLC
Broward Adjustment Services, Inc.
Sequoia Concepts, Inc. dba Sequoia Financial Services
Accounts Receivables, Inc.
Wakefield & Associates
Oxford Management Services
NCSPlus Incorporated
RSI Enterprises, Inc.
Avadanian & Adler LLC

PERFORMANCE DATA: There are no known performance issues.

COMPLIANCE DATA: There are no known compliance issues.

CONTRACT MEASURES: No Measure-cost neutral

LIVING WAGE: The services being provided are not covered under the Living Wage Ordinance.

USER ACCESS PROGRAM: The User Access Program provision will not apply as this is a cost neutral contract.

LOCAL PREFERENCE: The Local Preference was applied in accordance with the Ordinance and did not affect the outcome.

ESTIMATED CONTRACT COMMENCEMENT DATE: Three business days after recommendation is filed with the Clerk of the Board.

BACKGROUND

The Clerk's Office provides services in areas which include civil, criminal, juvenile and traffic court operations and parking violations. The four Clerk Divisions of Parking, Traffic, Civil and Criminal (misdemeanor) assess fines, charges and costs that result in accounts which may become delinquent and necessitate collection actions.

Florida Statute 28.246 authorizes the Clerk to collect the full face-value of these fines, charges and costs through the use of collection services paid by means of a 40% collection fee added to the amount owed. The County will expend no funds, nor receive any revenue, in connection with the provision of these services. The sole compensation to the vendors will be the collection fee.

The solicitation allowed for up to six vendors to be included in the pool. Upon review of the rating and ranking of the proposals, approval was received from the Clerk to recommend the top four highest ranked vendors be included in the pool.

APPROVED

Harvey Ruvin
Clerk, Circuit and County Courts

8/10/10
Date

NOT APPROVED

Harvey Ruvin
Clerk, Circuit and County Courts

Date

Gila Corporation

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CLERK OF THE BOARD
2010 AUG 16 PM 2:46
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.
#1

August 16, 2010

NOTICE OF INTENT TO PROTEST

Via Hand Delivery

Mr. Harvey Ruvin
Clerk of the Board
Stephen P. Clark Center
111 Northwest 1st Street, Suite 17-202
Miami, Florida 33128-1905

Re: Recommendation for Approval to Award Contract Nos. RFQ723A, RFQ723B, RFQ723C and RFQ723D
Debt Collection Services for the Clerk of the Courts

Dear Clerk of the Board:

We are in receipt of Pearl P. Bethel's letter dated August 11, 2010 regarding the above-referenced matter. Pursuant to Implementing Order No. 3-21, please accept this correspondence as Gila Corporation d/b/a Municipal Services Bureau's ("MSB") Notice of Intent to Protest the August 3, 2010 Recommendation for Approval to Award Contract Nos. RFQ723A, RFQ723B, RFQ723C and RFQ723D—Debt Collection Services Pool for the Clerk of the Courts.

We have previously tendered to the Clerk a Filing Fee in the amount of $3,000.00 for the Notice of Intent to Protest.

The specific facts and grounds on which the protest is based are as follows. As will be detailed in our Bid Protest and as is set forth in the attached documentation, since beginning service to Miami-Dade Clerk of the Courts, MSB has collected and remitted significantly more revenue to Miami-Dade County than its competitors, Alliance One Receivables Management, Inc. ("Alliance One") and Linebarger, Goggan, Blair & Sampson, LLP ("Linebarger"). Both Alliance One and Linebarger have been recommended as Vendors for Award.

MSB has *outperformed Alliance One and Linebarger 72% of the reporting months since January 2008 and have collected over $1,400,000 more than Alliance One and $700,000 more than Linebarger in the same time periods.* MSB incorporates by reference the attached collection calculations and tables as if fully set herein.

MSB has been a collection vendor for the Miami Dade County since 2004. During this time, we have recovered more than $27,000,000 in traffic and criminal fines, received a 100% satisfaction score in our customer surveys and maintained the highest ethical collection practices. MSB has liquidated as much as 60% of monthly submissions placed.

In connection with the Bid Protest, MSB will rely on the following specific facts and

grounds as a basis to

1. The State of Florida recently selected MSB as a vendor which could be utilized by State of Florida Agencies to perform collection work on the State's behalf. Subsequently, 16 of the 23 Agencies selected MSB to be eligible to perform this work.
2. City of Fort Lauderdale, Florida and City of Palm Bay, Florida have selected MSB as their vendor of choice for collection activities within the last 60 days.
3. MSB has outcollected Alliance One and Linebarger in total gross collections in Miami and in every other jurisdiction in the country in which we compete head-to-head. For example, in Anchorage, Alaska, MSB competed against Alliance One, and Anchorage sole-sourced with MSB because MSB outperformed Alliance One and MSB had significantly less customer disputes.
4. In Travis County, Texas, MSD out-collected Linebarger almost 2 to 1 and MSB has had significantly fewer disputes.
5. Miami-Dade's own staff has given MSB tremendous praise and rave customer satisfaction reviews, including Joe Gonzales, who prior to his retirement, gave us a 100% customer satisfaction rating and stated, ***"MSB soars, shows great leadership and professionalism. Their support is excellent."*** (Joe Gonzales, Former Court Operations Officer). **Ralph Padron also scored us as perfect and wants us to *"stay as is"*.**
6. MSB has had an insignificant amount of lawsuits in comparision to Alliance One and Linebarger. MSB is the only firm that maintains an A+ rating with the Better Business Bureau.
7. In Orange County, California, Alliance One is a distant third in collections, and MSB recovers almost 3 to 1 in terms of revenue with the same submissions level.
8. Alliance One was recently terminated in 14 counties in Kansas, and MSB was asked to take over all collections for those counties.
9. In a competitive contract for CPS Energy in San Antonio, Texas, 2 of the 3 firms, including Penn Credit, were terminated—MSB was the only firm renewed.
10. In the last annual client meeting you attended in 2008, you thanked MSB for the terrific job and alluded to adding an additional agency to the Contract, which we welcomed.
11. We are in the process of hiring staff in Miami-Dade County to enhance your services. Not awarding MSB the contract would be a missed jobs creation opportunity.
12. MSB, through its legal department overseen by our General Counsel, has the ability to enforce judgments, initiate litigation, and pursue estates as deemed appropriate by the Clerk.

In addition, MSB adheres to the highest ethical standards: recording and archiving every phone call for 2 years; quality monitoring every agent every week for proper talk-offs; implementing a 24 hour complaint and dispute resolution policy; and maintaining an A+ rating with the Better Business Bureau. MSB would respectfully submit that one of the Vendors recommended for Award does not adhere to the same ethical standards. *See*:

Finally, Removing MSB from this contract will result in the loss of revenue for the County, and will result in a significant reduction of closed cases on your behalf; which is our specialty. MSB is dedicated to the success of the Clerk's collection project and will open a local office to solidify our commitment to continuing to be a superior collection vendor.

We thank you in advance for your time and consideration. We look forward to hearing from you soon. Until then, I remain

Your Truly Yours,

A. Lee Rigby

Encls.

cc: Monica Rizo, Assistant County Attorney, Miami-Dade County
All Responding Proposers (per August 11, 2010 Distribution List)

CLERK OF THE
BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

In re: Debt Collection Services Pool
For Clerk of the Courts
RFQ No. 723
Bid Protest of Gila Corp. d/b/a
Municipal Services Bureau
_____/

MIAMI-DADE COUNTY'S OPPOSITION TO
GILA CORP. d/b/a MUNICIPAL SERVICES BUREAU

Gila Corp. d/b/a Municipal Services Bureau ("MSB") protests the Clerk of the Circuit and County Courts of Miami-Dade County, Florida (the "Clerk's") recommended contract award to (1) Linebarger Goggan Blair & Sampson, LLP ("Linebarger"), (2) AllianceOne Receivables Management, Inc. ("Alliance"), (3) Penn Credit Corporation ("Penn") and (4) Law Enforcement Systems, Inc. ("LES") for inclusion into the debt collection services pool for the Clerk. For the reasons set forth below, Miami-Dade County respectfully requests that the Hearing Examiner affirm the Clerk's recommendation to award the contract for inclusion into the debt collection services pool for the Clerk to the above-named four (4) firms.

BACKGROUND

On April 27, 2010, Miami-Dade County issued a request for qualifications ("RFQ") to establish a pool of qualified firms to provide debt collection services for the Clerk. The RFQ provided that the Clerk would select **up to** six (6) firms to participate in the pool. The RFQ provided that proposals would be evaluated by an Evaluation/Selection Committee which would rank and evaluate proposals on the following criteria and assessed the following points:

(1) Proposer's relevant experience, qualifications, and past performance	35 points
(2) Relevant experience and qualifications of key personnel of subcontractors, that will be assigned to this project, and experience and qualification of subcontractors	30 points
(3) Proposer's approach and operational plan to provide the services requested in this Solicitation	35 points

The RFQ provided that the Evaluation/Selection Committee would evaluate, score and rank proposals, and submit the results of their evaluation to the Clerk with their recommendation. Pursuant to the RFQ, the Clerk would determine, in his discretion, which proposers to award a contract for inclusion into the pool based on the best interest of the Clerk.

No less than eighteen (18) firms submitted proposals for consideration by the Evaluation/Selection Committee on or before May 19, 2010. MSB submitted a proposal. Yet, before submission of its proposal, MSB failed to raise any question, issue, objection or disagreement concerning the evaluation criteria prior to the date the proposals were due. The five members of the evaluation committee reviewed the proposals on their own, compared the proposals, and met on June 7, 2010 to discuss the proposals and to provide their evaluations of the proposals. At that June 7, 2010 meeting, it was discussed that the Clerk had received serious complaints as to the overly aggressive nature of one of the proposers, MSB and that the complaints were recent. The Evaluation/Selection Committee members discussed that such information/knowledge was directly relevant to technical criteria No. 1 and/or No. 3.

Once the evaluations were tabulated, the proposers were ranked in the order of their scores and MSB was ranked fifth, significantly below the first four proposers. The Clerk, upon the review of the report of the Evaluation/Selection Committee whereby the Evaluation/Selection

Committee "recommended the top six ranked proposers be considered for participation in the pool," the Clerk decided to award a contract to the top four ranked firms.

ARGUMENT

MSB now seeks to object to the method by which the selection committee applied such evaluation criteria to MSB. Thus, MSB's only basis for its protest is that because, in its own opinion, it is far superior than any of the other proposers, a decision by the selection committee to rank it fifth instead of first among the eighteen proposers can only be classified as "arbitrary and capricious." MSB seeks to have the hearing examiner in this bid protest substitute his judgment for that of the members of the selection committee and/or the Clerk. Florida courts, however, have consistently struck down similar arguments on the grounds that there is strong judicial deference accorded a government agency's decision with respect to competitively bid contracts.

MSB's bid protest attempts to do what it cannot, asks the hearing examiner to step into the shoes of the Clerk and the Evaluation/Selection Committee and become a contracting authority. See, e.g., Miami-Dade County v. Church and Tower, Inc., 715 So. 2d 1084, 1089 (Fla. 3rd DCA 1998) ("So long as such a public agency acts in good faith, even though they may reach a conclusion on facts upon which reasonable men may differ, the courts will not generally interfere with their judgment, even though the decision reached may appear to some persons to be erroneous."); See also Liberty County v. Baxter's Asphalt & Concrete, Inc., 421 So. 2d 505, 507 (Fla. 1982). In stating its protest, MSB does not allege that the County acted with illegality, fraud, oppression, or misconduct but rather argues that County staff, the Evaluation/Selection Committee, and the Clerk simply got it wrong. This violates a core tenet of bid protest hearing

where, "the hearing officer's sole responsibility [in reviewing a protest] is to ascertain whether the agency acted fraudulently, arbitrarily, illegally, or dishonestly." Dep't of Transp. v. Groves-Watkins Constructors, 530 So. 2d 912, 914 (Fla. 1988).

Although couched in the catchphrase of an "arbitrary decision," MSB's bid protest merely states that the County got it wrong. That is not the test. In attacking a contracting entity's decision on arbitrariness, the test is whether the contracting agency provided a coherent and reasonable explanation of its exercise of discretion, and the disappointed bidder bears a heavy burden or showing that the award decision had no rational basis. Banknote Corporation of America, Inc. v. United States, 365 F.3d 1345, 1351 (Fed. Cir. 2004) (citing Impresa Construzioni Geom. Domenico Garufi v. United States, 238 F.3d 1324, 1332 (Fed. Cir. 2001)).

Here, the Evaluation/Selection Committee based its evaluations of all of the proposers on the evaluation criteria set forth in the RFQ after reviewing each proposer's proposal and considering their own knowledge and experience with certain proposers. The Clerk based his selection of the top four ranked proposers on the fact that (1) he only needed a minimum of two (2) firms to provide debt collection services for each of two "categories" of the Divisions within the Clerk's office, (2) that there was a substantial difference between the points accorded to the fourth proposer and those accorded to the fifth proposers thus presenting a natural breaking point, and (3) on the Clerk's past experiences and knowledge with MSB's performance under its current debt collection services contract.

To overturn a public contract award, especially to the low bidder, MSB must demonstrate that the County acted fraudulently, arbitrarily, illegally or dishonestly. MSB does not and cannot

meet this exceedingly difficult burden. Accordingly, the Hearing Examiner should affirm the Clerk's recommended contract award to (1) Linebarger, (2) Alliance (3) Penn and (4) LES.

Respectfully submitted,
R. A. CUEVAS, JR.
Miami-Dade County Attorney
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128

By: Monica Rizo

Monica Rizo
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E-mail: rizo@miamidade.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via facsimile this 3rd day of September, 2010 to: David Hazouri, Attorney for Protester Gila Corp. d/b/a Municipal Services Bureau, Fax: (305) 381-9457.

Monica Rizo

Harvey Ruvin
CLERK OF THE CIRCUIT AND COUNTY COURTS
Miami-Dade County, Florida

CLERK OF THE BOARD OF COUNTY COMMISSIONERS
STEPHEN P. CLARK MIAMI-DADE GOVERNMENT CENTER
SUITE 17-202
111 N.W. 1st Street
Miami, FL 33128-1983
Telephone: (305) 375-5126
Fax: (305) 375-2484

September 14, 2010

David R. Hazouri, Esq.
Shubin & Bass
46 S.W. 1st Street, 3rd Floor
Miami, Florida 33130

Re: Bid Protest – RFQ No. 723 - Debt Collection Services for the Clerk of the Courts

Dear Mr. Hazouri:

Pursuant to Section 2-8.4 of the Code and Implementing Order 3-21, forwarded for your information is a copy of the Findings and Recommendations filed by the hearing examiner in connection with the foregoing bid protest which was held on September 7, 2010.

Should you have any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,
HARVEY RUVIN, Clerk
Circuit and County Courts

By Diane Collins
Diane Collins, Acting Division Chief
Clerk of the Board Division

DC/fcd
Attachments

cc: Honorable Carlos Alvarez, Mayor, Miami-Dade County (via email)
George Burgess, County Manager (via email)
Hugo Benitez, Assistant County Attorney (via email)
Monica Rizo, Assistant County Attorney (via email)
Honorable Harvey Ruvin, Clerk, Circuit and County Courts (via email)
Martha Alcazar, Comptroller, Contract Manager, Clerk of Courts (via email)
Elizabeth Soto, Clerk of Courts (via email)
Juanita Mitchell, Clerk of Courts (via email)
Miriam Singer, Director, Department of Procurement Mgmt. (via email)
Rita Silva, Department of Procurement Mgmt. (via email)
Amos Roundtree, CPSM, Department of Procurement Mgmt. (via email)
Pearl B. Bethel, CPPB, Department of Procurement Mgmt. (via email)
Walter Fogarty, DPM (via facsimile)
Linebarger Goggan Blair & Sampson, LLP
AllianceOne Receivables Management, Inc.
Penn Credit Corporation
Law Enforcement Systems, Inc.
Gila Corporation d/b/a Municipal Services Bureau (MSB)
Pioneer Credit Recovery, Inc.
NCO Financial Systems, Inc.
GC Services Limited Partnership
Harris & Harris, LTD
Unifund Government Services, LLC
Broward Adjustment Services, Inc.
Sequoia Concepts, Inc., d/b/a Sequoia Financial Services
Accounts Receivables, Inc.
Wakefield & Associates
Oxford Management Services
NCSPlus Incorporated
RSI Enterprises, Inc.
Avadanian & Adler LLC

HARVEY RUVIN, CLERK OF THE BOARD

GILA CORP. d/b/a MUNICIPAL SERVICES BUREAU,

Petitioner,

v.

MIAMI-DADE COUNTY,

Respondent,

&

PENN CREDIT CORP.,

Intervenor.

_____/

BID PROTEST

RE: PROTEST OF SEPT. 7, 2010 RECOMMENDATION OF AWARD OF CONTRACT FOR RFQ 723 DEBT COLLECTION SERVICES

CLERK OF THE BOARD
2010 SEP 14 AM 11:35
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.
#1

RECOMMENDED ORDER GRANTING GILA CORP'S BID PROTEST

A hearing in this matter was conducted on September 7, 2010, in Miami, Florida, before Hearing Examiner Senior Judge Robert Deehl, who bases his recommendation upon the following findings and conclusions, on the evidence and law presented.

I. STATEMENT OF THE ISSUES

1. Whether the Clerk's proposed award of contract to participate in a "pool" of Debt Collection Services to Linebarger, Goggan, Blair, alliance One Receivables, Penn Credit Corp., and Law Enforcement Systems is void *ab initio* as being in violation of the County's Charter, Code, Administrative Orders and the subject RFQ which require the submission of all procurements in excess of $1,000,000.00 to the County Commission for final approval.

2. Whether the Clerk's proposed award of contract to participate in a "pool" of Debt Collection Services to Linebarger, Goggan, Blair, AllianceOne Receivables, Penn Credit Corp., and Law Enforcement Systems is void as being arbitrary and capricious because the process used to rank and recommend these top-four proposers was not based upon facts reasonably tending to support the conclusions reached by the Evaluation/Selection Committee, but, rather, demonstrated "favoritism" that was prejudicial to Gila Corp. d/b/a Municipal Services Bureau.

23

3. Whether the Clerk's proposed award of a contract to participate in a "pool" of Debt Collection Services to Penn Credit corp. was arbitrary and capricious in that Penn Credit Corp.'s proposal included an expired Florida Debt Collection license and therefore should have been thrown out as being nonresponsive.

II. FINDINGS OF FACT

4. The Bid Protest at issue concerns Request for Qualification 723 issued on April 27, 2010. The argument of Petitioner Gila Corp. d/b/a Municipal Services Bureau ("MSB" or "Petitioner") relates to the failure of the Clerk of Court ("Clerk") to properly consider, as part of its current evaluation, MSB's exemplary past performance since its initial selection by the Clerk in 2003 and how the Committee conducted its bid review on June 7, 2010.

County's Original Evaluation and Selection of MSB in 2003 Under Prior RFQ 56

5. At the time the current RFQ 723 was issued, a contractual relationship was already in place between the Clerk and MSB that had existed since 2003 for the exact same debt collection services. The original contract award in 2003 was for one year with three one-year extensions and was procured through the County's RFQ 56. (Petitioner's Ex. D.)[1]

6. Similar to the current RFQ, the selection criteria set forth in the 2003 RFQ 56 were as follows:

(1) Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFQ	35 points
(2) Experiences and qualifications of individuals, Including subcontractors, that will be assigned to this project	35 points
(3) Proposer's approach to provide the type of services Described in this RFQ	30 points

(Petitioner's Ex. D at p. 22.)

7. In recommending MSB for selection under RFQ 56, the 2003 Evaluation Committee ranked MSB in first place out of nineteen (19) proposers. Alliance One Receivables ("Alliance One") was ranked second, Linebarger, Goggan, Blair ("Linebarger") was ranked third, Law Enforcement Systems ("LES") was ranked fourth and Penn Credit Corp. ("Penn") was ranked sixth. The Evaluation Committee only recommended the first five ranked proposers for award, which initially did not include Penn. (Petitioner's Ex. E.)

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[1] "Petitioner's Ex.____ "shall refer and correspond to documents or audio on DVD attached as exhibits to Petitioner's August 19, 2010 Formal Bid Protest.

8. Pursuant to RFQ 56 and the resulting contracts entered into between the Clerk and MSB, the Clerk, in his sole discretion, could terminate MSB at anytime and refuse to renew any of the successive authorized renewal terms. (Petitioner's Ex. D at p. 3.)

MSB's Experience and Head-to Head Performance
As An Incumbent Leading Up To The Current RFQ In 2010

9. From 2003 through to the submission of its response to the current RFQ in 2010, MSB collected over $26,000,000.00 for the Clerk on over 539,000 delinquent accounts. (Petitioner's Ex. C at p. 8.) This was the highest figure collected for this period by any incumbent vendor in a head-to-head comparison of the same account types (eg., traffic, criminal).

10. Based upon the County's historical data, the aggregate annual value for all accounts placed with the existing five contractors during 2009 was $91,182,384.00. The dollars collected and retained by MSB via the allowable surcharge (i.e. 40%) on the accounts placed with it by the Clerk during 2009 was $1,690,000.00. (Petitioner's Ex. B at p. 5 and Addendum 1 at p. 2.)

11. From January 2008 through to the submission of its response to the current RFQ in 2010, MSB collected over $1,400,000.00 more in delinquent accounts for the Clerk than AllianceOne in the account-categories in which the two firms competed head-to-head (traffic and criminal). (Petitioner's Ex. C at p. 25.)

12. From January 2008 through to the submission of its response to the current RFQ in 2010, MSB collected over $700,000.00 more in delinquent accounts for the Clerk than Linebarger in the account-categories in which the two firms competed head-to-head (traffic and criminal). (Petitioner's Ex. C at p. 25.)

13. MSB out-performed AllianceOne and Linebarger in head-to-head collections (traffic and criminal) 76% of the reporting months from January 2008 to the RFQ submission date. (Petitioner's Ex. C at p. 24.)

14. On June 6, 2008, Clerk of Courts ("COC") employee Joseph Gonzalez-Patino wrote a "To Whom It May Concern" letter of recommendation on COC letterhead, a true and correct copy of which is attached to MSB's Formal Bid Protest as Exhibit F, that gave an unqualified endorsement of MSB based upon its performance for the Clerk.

15. MSB received highest written performance review marks for certain periods in 2008 and 2009 from the following current or former COC employees: Joseph

Gonzalez-Patino, Ralph Padron and Sharma Alexander. (Petitioner's Ex. G.)

The Current Request for Qualifications 723

16. On April 27, 2010, the County Advertised Request for Qualifications No. 723 ("RFQ") for Debt Collection Services Pool for Clerk of Courts that is the subject of this Bid Protest. (Petitioner's Ex. B.)

17. The County issued the RFQ on behalf of the Clerk by means of County Resolution No. 1204-98, which specifically authorized the Clerk to identify and select contractors to pursue the collection of delinquent fines, charges and costs owed to the Clerk for parking, traffic, civil (misdemeanor) and criminal infractions. (Petitioner's Ex. B at p. 5; Petitioner's Ex. I.)

18. As stated in the RFQ, payment to the selected contractors for their collection services would be based upon a 40% surcharge that they were permitted to add on and recover on delinquent fines pursuant to Florida Statutes 28.246, 938.30 and 938.35. (Petitioner's Ex. B at p. 2, 5.)

19. The award of contract under the RFQ was anticipated to be for an initial four year term, followed by two one-year optional renewal terms, and could include up to a total of six contractors in the pool. (Petitioner's Ex. B at p, 2.)

20. The winning proposers were to be selected in accordance with the County's competitive bidding laws and guidelines as set forth in the County Charter (5.03(D)), Code (2-8.1; 2-8.4), Administrative Orders (1.0. 3-21; A.O. 3-38) and the RFQ, itself. (Petitioner's Ex. B at p. 13-14, Petitioner's Exs. J, K and L.)

21. The County's Master Procurement Administrative Order 3-38 speaks directly to the County's policy and purpose in using ITBs, RFPs and RFQs in implementing the competitive bid process for goods and services:

> To obtain the best value for the taxpayers' dollar and to promote equitable economic participation by all segments of our community, it is the policy of Miami-Dade County to purchase goods and services via open and competitive process... .
>
> The purpose of this Administrative Order, and the corresponding Procurement Guidelines issued by the DPM, is to simplify and clarify the procurement process, establish clear lines of procurement authority and accountability, consolidate and standardize the procedures governing procurement countywide, enhance public confidence, ensure the fair treatment of vendors, foster competition and help safeguard the quality and integrity of procurement in Miami-Dade County.

(Petitioner's Ex. J.)

22. The County received proposals from eighteen contractors in response to the RFQ by the May 19, 2010 submission date, including incumbents Petitioner MSB; Linebarger; LES; AllianceOne; and Penn. (Petitioner's Ex. E.)

23. An Evaluation/Selection Committee ("Evaluation Committee") comprising the following five voting members was formed to review and rank the submitted proposals according to certain Evaluation Criteria set forth in the RFQ: four Clerk Of Courts staff members and one Department of Small Business Development ("SBD") staff member. (Petitioner's Ex. B; Petitioner's Ex, N.)

24. The three criteria used by the Evaluation Committee were described in the RFQ as follows:

(1) Proposer's relevant experience, qualifications, and past performance	35 points
(2) Relevant experiences and qualifications of key personnel of subcontractors, that will be assigned to this project, and experience and qualification of subcontractors	30 points
(3) Proposer's approach and operational plan to provide the services requested in this Solicitation	35 points

(Petitioner's Ex. 13 at p. 12.)

25. In a May 19, 2010 internal memo to the Evaluation Committee, the Clerk further elucidated the factors each member was permitted to consider pursuant to the three evaluation criteria set forth in the RFQ as follows:

> You are directed to assist me in the selection process considering the factors delineated in the advertised document. These factors may include methodology and management approach, qualifications and experience of principals and staff, financial stability, proposer's past performance of similar scope and size, proposer's detailed plans to meet objectives of each task,. activity, etc., pursuant to any schedule, proposer's previous County experience, history and experience of the fine or individual(s), understanding of the project and the County's objectives, responsiveness to the established requirements, and Cost/Revenue ..."

(Petitioner's Ex. N.)

MSB Ranked Fifth Under the Current RFQ 723 and Left Out of the Cleric's Pool

26. The Evaluation Committee met on June 7, 2010 to deliberate and render their written scores. At the conclusion of their meeting, the Evaluation Committee decided to dispense with the need for receiving oral presentations from the proposers before finalizing their results. (Petitioner's Ex. H; Petitioner's Ex. M.)

27. On June 24, 2010, the Chairperson of the Evaluation Committee "thru" (sic) the Director of the Department of Procurement Management ("DPM"), issued a written report to the Clerk concerning the results of the Evaluation Committee's evaluation recommendation ("Report"). In the Report, the Chairperson noted that all proposers met the minimum qualification requirement set forth in the RFQ. (Petitioner's Ex. M.)

28. The Report attached the Committee Members' individual score cards and ranked all eighteen proposers. The Evaluation Committee recommended the top six of these proposers for award, which were as follows in order of ranking based on a possible point total of 500:

(1) Linebarger w/ 474 points;
(2) Alliance One w/ 467 points;
(3) Penn w/ 462 points;
(4) LES w/ 461 points;
(5) **MSB w/ 433 points;** and
(6) Pioneer Credit Recovery, Inc. w/ 406 points

(Petitioner's Ex. M.)

29. The individual Committee Members' scores as to each criteria for all of the proposers are set forth in the signed score sheets attached as part of Exhibit M of Petitioner's Bid Protest.

30. In their "Consensus Statement" set forth at the end of the Report, the Evaluation Committee stated:

> The Evaluation/Selection Committee has determined that the six highest ranked firms, and the firms' proposed staff, have the experience to provide the required services. Each of the recommended firms has a) a sound business approach to providing the services, and b) an understanding of the applicable laws and regulations for debt collection. Five of the recommended firms have performed well in the current pool. Approval of up to six of the recommended firms into the pool will provide the Clerk with firms with a range of expertise and the necessary resources to meet the debt collection needs.

(Petitioner's Ex M at p. 3.)

31. By Memorandum dated July 6, 2010, the Clerk advised the Chairperson of the Evaluation Committee that, based upon its recommendation, *he was* selecting only the top four ranked proposers for award of contract. The Clerk directed DPM therein to prepare contracts with each of these entities to be made effective December I, 2010. {Petitioner's Ex. M.)

32. In his July 6, 2010 Memorandum, the Clerk directed that the contract for Penn include not only accounts concerning parking but also account concerning traffic. (Petitioner's Ex. M.) Previously, the Clerk had not been placing traffic-related accounts with Penn for collection. These accounts had been previously placed with MSB, Linebarger and AllianceOne.

33. Pursuant to the Clerk's direction, on August 3, 2010, the DPM issued its formal Recommendation to the Clerk for award of contract under the RFQ to the four highest ranked proposers as follows: (1) Linebarger, (2) AllianceOne, (3) Penn, and (4) LES ("Recommendation"). (Petitioner's Ex. A.

34. The Clerk counter-signed the Recommendation on August 10, 2010, thereby signifying his approval. The Recommendation was filed with the Clerk of Board and sent to all proposers on August 11, 2010. (Petitioner's Ex. A.)

MSB's Bid Protest and Summary of Its Argument

35. On August 16, 2010, MSB filed its Notice of Intent to file this Bid Protest with the Clerk of the Court. MSB made Public Records Act requests to the Clerk and County, receiving responses on a rolling basis. MSB has attempted to supplement the record in support of its Bid Protest as documents were received and evaluated. The essence of its Bid Protest, as more particularly set forth below, was that the Clerk acted in an arbitrary and capricious manner when he effectively ignored the MSB's relevant past performance and experience as reflected in the historical record as well as its current qualifications.

36. MSB provided the Evaluation Committee with the information that it maintained an A+ rating by the Better Business Bureau. (Petitioner's Ex.C at p. 4.)

37. The Evaluation Committee did not know or attempt to discover the Better Business Bureau rating of any of the top four ranked proposers. The four top-ranked proposers had BBB ratings of B, B+, C and B, respectively.

38. MSB provided the Evaluation Committee with the information that it is one of less than 60 out of over 7,000 debt collection firms nationwide that is Professional Practices Management Systems Certified through the American Collectors Assoc., International. (Petitioner's Ex.C at p. 15.)

39. The Evaluation Committee knew that none of the top four ranked proposers claimed in their proposal to be Professional Practices Management Systems Certified.

40. The Evaluation Committee had access to records that would have shown them the total annual collections for the Clerk by each of the top five proposers for the last six years.

41. At the Evaluation Committee's June 7, 2010 final meeting at which time they voted, Committee Member Martha Alcazar advised the other Members that she was aware that the COC had received two written complaints about MSB. (Petitioner's Ex.H.) However, Ms. Alcazar did not produce these complaints to the Committee, and further she essentially testified at page 4 line 18 from personal knowledge stating "but I just wanted to bring that to the record, because I'm the only one who knows that."

42. Neither Ms. Alcazar nor anyone else at the meeting raised or discussed the fact that COC had received at least three (3) complaints concerning Linebarger and nine (9) complaints concerning Penn. (Petitioner's Supplemental Exs. S and T) Petitioner has also filed additional rebuttal evidence in the form of documents obtained from the Florida Attorney General pursuant to a Public Records Act request indicating that the AG's Office received seventeen (17) complaints for Linebarger; fifteen (15) complaints for AllianceOne; thirteen (13) complaints for Penn and only ten (10) complaints for MSB. (Petitioner's Ex.U.)

43. According to the information supplied by Penn in its own March 19, 2010 proposal to the RFQ, Penn's Consumer Collection Agency License with the State of Florida had expired on December 31, 2009. (Petitioner's Ex. P.)

44. The RFQ required each proposer to submit proof of a valid Florida Consumer Collection Agency License as of the date of submission. (Petitioner's Ex. B.)

45. The Clerk has confirmed that he will be seeking final approval from the County Commission of his recommendation of contract awards under the RFQ to Linebarger, AllianceOne, Penn and LES.

III. CONCLUSIONS OF LAW

A. JURISDICTION AND STANDING

46. The Hearing Examiner has jurisdiction over the parties and the subject matter pursuant to Miami-Dade County Code Section 2-8.4. The parties have stipulated in writing that the Hearing Examiner is competent to hear this matter.

47. Petitioner has standing to file this protest because it was an incumbent participant in the RFQ and has challenged the validity and fundamental fairness of the selection process and was adversely affected by the Clerk's resulting Recommendation,

which ranked MSB fifth behind the top four ranked proposers selected for the debt collection services pool out of a potential pool of six service providers

B. BURDEN OF PROOF

48. The burden of proof is on MSB, as protester, to establish a ground for invalidating the Recommendation to rank MSB fifth and leave it out of the debt collection services pool, *See State Contracting & Eng'rg Corp. v. Dep 't of Transp., 709 So,* 2d *607* (Fla. 1st DCA 1998).

49. The standard of proof is whether the Recommendation to rank MSB fifth and leave it out of the debt collection services pool was based upon material facts reasonably tending to support the determination and did not arbitrarily or capriciously discriminate against MSB. *See City of Pensacola v. Kirby,* 47 *So.* 2d 533 (Fla. 1950); *Marriott Corp. v. Metropolitan Dade Co., 383 So.* 2d 662 (Fla. 3d DCA 1980).

C. PUBLIC POLICY REGARDING THE AWARD OF GOVERNMENT CONTRACTS

50. The purpose of the competitive bidding process is to ensure that public entities do not arbitrarily or capriciously discriminate between bidders or make an award of a public contract or expend public funds on the basis of personal preference. *See Eng 'g Contractors Ass 'n of S. Fla., Inc. v. Broward County,* 789 So. 2d 445, 450 (Fla. 4th DCA 2001). As the Florida Supreme Court explained in *Wester v. Belote,* 138 *So. 721* (Fla. 1931):

> The object and purpose of competitive bidding statutes [are] to protect the public against collusive contracts; to secure fair competition upon equal terms to all bidders; to remove, not only collusion, but temptation for collusion and opportunity for gain at public expense; to close all avenues to favoritism and fraud in its various forms; to secure the best values at the lowest possible expense; and to afford an equal advantage to all desiring to do business with the public authorities, by providing an opportunity for an exact comparison of bids.

Id. at 722.

D. CONCLUSIONS RELATED TO THE AUTHORITY OF THE CLERK TO AWARD CONTRACT WITHOUT APPROVAL OF THE COUNTY COMMISSION

51. While the Petitioner's Formal Bid Protest asserts that the Clerk has exceeded

the Scope of his authority to award the contracts pursuant to RFQ 723 without first obtaining approval from the County Commission based upon a contract value in excess of $1,000,000.00, the Clerk has since confirmed that he will be submitting his Recommendation to the County Commission for approval without conceding the validity of Petitioner's position. Accordingly, this issue is rendered moot.

E. CONCLUSIONS RELATED TO THE RFQ SELECT PROCESS

1. The Evaluation Committee's Evaluation Lacked Material Facts Tending To Support Ranking MSS Fifth and Demonstrated Impermissible "Favoritism"

52. The purpose of a competitive bidding process is to ensure that public entities do not arbitrarily or capriciously discriminate between bidders or make an award of a public contract or expend public funds on the basis of personal preference. *See Eng'g Contractors Ass 'n of S. Fla., Inc. v. Broward County,* 789 So. 2d 445, 450 (Fla. 4th DCA 2001).

53. By employing the competitive bid process in way that fails to consider each bidder's proposal through an even-handed application of established criteria, the public entity engages in impermissible "favoritism" as a matter of law. *See Florida Dept of the Lottery v. GTECH Corp.,* 816 So. 2d 648, 653 (Fla. 1st DCA 2001) (Lottery could not impermissibly favor its preferred vendor by using RFP as a preliminary ranking tool and then negotiate a contract on terms different than set forth in RFP); *Emerald Correctional Mgt. v. Bay Co. Bd. Of Co. Commssrs,* 955 So. 2d 647, 653 (Fla. 1st DCA 2007) (County's relying on modifications of figures requested from one bidder but not from another amounted to "impermissible favoritism.")

54. In *Marriott Corp. v. Metropolitan Dade Co.,* 383 So. 2d 662 (Fla. 3d DCA 1980), for example, the County published an invitation for proposals to operate bars at Miami International Airport. Compensation for the successful proposer was to be in the form of a percentage of gross revenues retained from the sale of alcoholic beverages. Marriott and Jerry's were determined by the selection committee to be "equally qualified to provide the services of the types and caliber required in this unique facility." However, Marriott proposed to retain only 40% of the revenues while Jerry's proposed to retain 50%. The Selection Committee and County Manager recommended Marriott based upon the objectively clear advantage Marriott's revenue share provided over Jerry's. However, the Dade County Board of Commissioners rejected the recommendation and chose Jerry's based upon its preference of Jerry's as a "local firm" and the possibility that the benefits of Marriott's higher revenue return might not ever be realized if certain sales thresholds were never met. The trial court affirmed the Board's decision and the Third DCA reversed. In so doing, the Third DCA held that there was no factual basis in the record for preferring Jerry's as a local firm and that, by virtue of the revenue percentages proposed, Marriott was the best proposer under the standards and policies set forth in the County's competitive bid laws. Judge Baskin's opinion for the Court stated "...the public authority may not arbitrarily or capriciously discriminate between bidders, or make the award on the basis of personal preference. 383 So. 2d 662 at p. 665.

55. I conclude that the same irrational elevation of purely subjective preferences over clearly and reliably objective material facts contrary to the County's own policies and procedures for competitive bidding has occurred in this instance, resulting in the showing of impermissible favoritism to the distinct disadvantage of MSB.

56. I find the Committee expressed a personal preference through a Committee Member who made statements as if she was a witness, and made factually unsupported comments on the bid record before her to create the appearance of a factual basis when there was not one.

57. When MSB, along with the other four incumbents, Linebarger, AllianceOne, LES and Penn, were first selected in 2003 for the Clerk's debt collection services pool, MSB was ranked in first place with Penn heading up the rear in sixth. Over the next seven years, MSB received excellent customer satisfaction ratings and consistently out-performed the other proposers in relevant head-to-head competition.

58. The evidence demonstrates that this performance trend continued through the two years preceding the RFQ, with MSB receiving unqualified endorsements from former and currently existing COC employees and outperforming its two head-to-head incumbent competitors in 76% of the months since January 2008.

59. In addition, there is no evidence that any of the incumbent proposers proposed to perform their services in a manner different from the way they had in the past seven years or to employ different or more experienced personnel than they had in the past seven years.

60. Nonetheless, the Evaluation Committee scored MSB markedly lower than each of the other four incumbents in each of the three categories, including categories 1 and 2 concerning previous performance and experience where MSB's objectively better track record over the previous seven years should have had the most impact. One Committee Member and SBD employee, Mr. Maldonado, gave MSB a mere 15 points out of a possible 35, while giving Linebarger 30 points, AllianceOne 25 points and Penn 30 points. In the case of Penn, this score seems to be particularly irrational given the fact that (1) the Clerk apparently intends to give Penn traffic-related delinquent accounts as part of his proposed award and (2) Penn has no past experience collecting traffic-related accounts for the Clerk. To the contrary, the factual record of past performance and experience justifies ranking MSB as the top proposer, let alone among the top four.

61. The only clue to the factual basis for MSB's diminished scores recorded anywhere by the Evaluation committee came at the June 7, 2010 Evaluation Committee Meeting where COC Employee Ms. Alcazar advised the other Committee Members that the COC had received two written complaints regarding MSB's collections efforts. However, what Ms. Alcazar apparently failed to also advise her fellow Committee Members is that the

COC had received three (3) complaints concerning Linebarger and nine (9) complaints concerning Penn. Accordingly, the impact of these statements, if any, was disproportionate and discriminatory as against MSB.

62. Even when Mr. Maldonado's arguably aberrational scores are excluded, MSB is ranked 14 points behind Penn, 21 points behind AllianceOne and 23 points behind Linebarger. In view of the evidence of record, it is clear that the Evaluation Committee, as a whole, was based upon a distinct failure to properly consider MSB's relevant past performance and experience as required under the RFQ and an improper favoritism shown to the past performance and experience of the other top-four ranked proposers, and Linebarger and Penn, in particular.

63. Although there is scant Florida case law on point with respect to the consideration that must be afforded objective indicia of past performance as part of an evaluative process, Petitioner has cited two federal procurement cases standing for the proposition. *Matter of: Inlingua Schools of Languages, B-229784, 88-1 CPD P 340, 1988 WL 227429 (Comp. Gen.); Seattle Security Services, Inc.. v. U.S., 45 Fed. Ct. 560 (Fed. Cir. 2000)* The Evaluation Committee may not create evidence beyond the submitted bids, as its function is to review the facts before it.

64. Notwithstanding its final rankings, the Evaluation Committee found that:

> [T]he six highest ranked firms, and the firms' proposed staff, have the experience to provide the required services. Each of the recommended firms has a) a sound business approach to providing the services, and b) an understanding of the applicable laws and regulations for debt collection. Five of the recommended firms have performed well in the current pool. Approval of up to six of the recommended firms into the pool will provide the Clerk with firms with a range of expertise and the necessary resources to meet the debt collection needs.

In view of this overall finding by the Evaluation Committee and the dominant objective criteria of relevant past experience and performance clearly favoring MSB and the erroneous "testimony" of a committee member, the Third DCA's decision in *Marriott* compels a finding that the Recommendation was arbitrary and capricious and does not tend to be based upon facts reasonably tending to support its conclusions. MSB should not have been ranked lower based on the erroneous "testimony" and even ranked lower than others with more complaints.

IV. RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a final order be entered sustaining the protest of MSB and determining that:

(a) the Evaluation Committee's reliance on a member's factually unsupported "testimony" for its determination to rank MSB fifth out of the five incumbent proposers was arbitrary and capricious, as was the Clerk's Recommendation of award excluding MSB from the pool of debt collection services, which Recommendation was based upon said ranking.

Accordingly, it is recommended that the Clerk grant MSB's protest, declare the Recommendation of award any contracts awarded thereunder void, and resolve to reconvene an Evaluation Committee to re-evaluate and re-rank the proposers in accordance with the evidence of record and the RFQ alone, and not to consider any arbitrary or capricious view of a standard, nor to consider factual submissions of any Committee Member, and make a new recommendation of award, as appropriate.

Robert Deehl, Senior Judge, Hearing Examiner

9/13/2010

Proposer Information

Minimum Qualification Requirements

1. Provide documentation that demonstrates Proposer's ability to satisfy all of the minimum qualification requirements. Proposers who do not meet the minimum qualification requirements or who fail to provide supporting documentation may be deemed non-responsive. The minimum qualification requirements for this Solicitation are:

   a. Proposer must be registered as a Collection Agency in the State of Florida, unless exempted by Section 559 of the Florida Statutes. Provide proof of registration or an explanation regarding exemption.

Proposer's Experience and Past Performance

2. State the number of years that the Proposer has been in existence, the current number of employees, and the primary markets served.

3. Describe the Proposer's past performance and experience in providing the type of services requested. Include specific information regarding a) performing collection services on multiple past due accounts, and b) performing active collections on at least 250 individual accounts worth a total value of at least $500,000.

4. Provide a detailed description of comparable contracts (similar in scope of services to those requested herein) which the Proposer has either ongoing or completed within the past three years. The description should identify for each project: (i) client, (ii) description of work, (iii) total dollar value of the contract, (iv) dates covering the term of the contract, (v) client contact person and phone number, (vi) statement of whether Proposer was the prime contractor or subcontractor, (vii) the type of accounts, and the results of the collection efforts and, (viii) narrative explaining how collection rates were accomplished. Where possible, list and describe those projects performed for government clients or similar size private entities (excluding any work performed for the County).

   Note: Proposer should demonstrate a minimum of three years experience in providing debt collection services.

5. List all contracts which the Proposer has 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, (vii) the type of accounts, and the results of the collection efforts, and (viii) narrative explaining how collection rates were accomplished.

Key Personnel and Subcontractors Performing Services

6. Provide an organization chart showing the Project Manager and all key personnel, including their titles, to be assigned to this project. This chart must clearly identify the Proposer's employees and those of the subcontractors or subconsultants and shall include the functions to be performed by the Project Manager and key personnel. All key personnel include all partners, managers, seniors and other professional staff that will perform work and/or services in this project.

Proposer Information

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

8. Describe the experience, qualifications and other vital information, including number of years of relevant experience on previous similar projects, of the Project Manager and all key personnel, including those of subcontractors, who will be assigned to this project.

9. Provide resumes, if available with job descriptions and other detailed qualification information on the Project Manager and all key personnel who will be assigned to this project, including any key personnel of subcontractors.

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 Project Manager and key personnel identified in its proposal.

Proposed Approach to Providing the Services

10. Describe Proposer's approach to project organization and management, including the responsibilities of Proposer's management and staff personnel that will perform work in this project.

11. Provide Proposer's operational plan that clearly indicates how the Proposer plans to provide the services requested in this Solicitation. The Proposer's operational plan must detail how the Proposer intends to fully satisfy the requirements outlined in this RFQ, and proposed actions that will be taken to ensure maximum recovery of each account that has been assigned. (See Section 2.0.) The operational plan should:

    a. Indicate how the Proposer will address client relations while maximizing collections.
    b. Provide examples of the type and series of collection notices that are proposed and indicate chronological stages of their use in the individual collection process.
    c. State the length of time a collection activity is maintained by Proposer before the particular account is downgraded or considered uncollectible.
    d. Describe Proposer's collection procedures. This description should include a comprehensive explanation of how accounts are handled upon referral to the collection agency, skip tracing resources, the notification process and parameters for case assignment.
    e. Describe Proposer's settlement procedures, and how Proposer will report to national credit bureaus all accounts that are not satisfied in a reasonable time when requested by the Clerk.
    f. Describe the Proposer's capabilities to accommodate electronic transfer of accounts, computer disk and/or hard copy paper files.
    g. Describe the methods the Proposer accepts for payment (i.e., credit card, check, etc.).
    h. Describe the Proposer's policies and methods regarding payment to the Clerk, including Proposer's approach for handling stolen or lost payments.
    i. Describe how the Proposer will address collection of outstanding fines from car rental agencies.
    j. Describe Proposer's ability to fulfill the reporting requirements, as described in the Scope of Services, Section 2.8, and provide samples of the proposed report format for each type of report.

Proposer Information

k. Include a narrative that details the complaint procedures, including the resolution process that will be followed in the event a complaint is received from a client or their representative.

12. Describe how Proposer will effect collections within all 50 States, U.S. Territories or Commonwealth, as well as Caribbean nations, Canada and foreign countries.

13. 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).

DEBT COLLECTION SERVICES POOL FOR CLERK OF THE COURTS

Contract No. RFQ723A

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Linebarger Goggan Blair & Sampson, LLP , a limited liability partnership organized and existing under the laws of the State of Texas, having its principal office at 2700 Via Fortuna Dr, Suite 400, Austin, TX 78746 (hereinafter referred to as the "Contractor"), and Miami-Dade County Clerk of the Courts (hereinafter referred to as the "Clerk"), a political subdivision of the State of Florida, having its principal office at 73 West Flagler Street, Miami, Florida 33128.

WITNESSETH:

WHEREAS, the Contractor has offered to participate in the Debt Collection Services Pool ("Pool") for Clerk of the Courts as a Pool "member" and as such has offered to provide on a non-exclusive basis debt collection services that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. RFQ 723 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 May 17, 2010 hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the Clerk desires to procure from the Contractor such Debt Collection Services for the Clerk, 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 "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 Clerk.

b) The word "Client" to mean an individual or entity that, at the time of account assignment to a Pool member, owes the Miami-Dade County Clerk of the Courts monies that are considered past due.

c) The word "Collections" to mean all activities undertaken by the Clerk or the Pool member in an effort to collect money that is past due.

d) The words "Collection Fee" to mean the compensation to the Pool member for collection services provided to the Clerk in accordance with Florida Statute 28.246.

e) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFQ No. 723 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.

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

g) 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.

h) The word "Contractor" to mean Linebarger Goggan Blair & Sampson, LLP and its permitted successors and assigns.

i) The word "County" to mean Miami-Dade County, a political subdivision of the State of Florida.

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

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

l) 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 Clerk'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 Clerk's Project Manager.

m) The words "Project Manager" to mean the Clerk of the Courts or the duly authorized representative designated to manage the Project.

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

o) 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.

p) 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 Clerk's RFQ No. 723 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.

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

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

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

ARTICLE 4. NATURE OF THE AGREEMENT

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

b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the Clerk 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 Clerk's Project Manager.

e) The Contractor acknowledges that the Clerk 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 Clerk. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the Clerk with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date set forth on the first page and shall continue through the last day of the 48th month. The Clerk, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period of two (2) additional years on a year-to-year basis. The Clerk 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 Clerk and the Contractor.

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 Clerk

a) to the Project Manager:

Miami-Dade Clerk of the Courts
73 West Flagler Street, Room 242
Miami, Florida 33130
Attention: Clerk of the Courts
Phone: (305) 375-3333
Fax: (305) 375-2485

and,

b) to the Contract Manager:

Miami-Dade County
Department of Procurement Management
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974

Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

Linebarger Goggan Blair & Sampson, LLP
2700 Via Fortuna Drive, Suite 400
Austin, TX 78746
Attention: Michael Vallandingham
Phone: (800) 262-7229
Fax: (512) 634-3789
E-mail: michaelv@publicans.com

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

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the Clerk's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order 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 the form of a 40% Collection Fee that the Contractor is allowed to add to the debt owed, as set forth in Florida Statutes 28.246 (Payment of Court-Related Fees, Charges, and Cost; Partial Payment; Distribution of Funds). The Clerk shall have no obligation to pay the Contractor any sum.

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

ARTICLE 8. COLLECTION FEE

The Collection Fee of 40% that is added to the debt owed shall remain firm and fixed for the term of the Contract, including any option or extension periods, unless changed by Florida Statute. The Collection Fee shall be added to the debt, whether the payment is partial or in its entirety.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor shall forward all monies collected which are due to the Clerk, on a daily basis. After the Clerk receives full payment for the debt owed on a Client account, the Contractor may retain the additional collected 40% Collection Fee placed on top of the debt owed to the Clerk. The fee for any direct or indirect cost associated with the Clerk providing any Public Records to the Contractor, in accordance with Florida Statute 119, shall be submitted to the Clerk with the monies collected on the applicable Client account.

In the case where a Client makes a payment to a referring Clerk Division at its local office, in response to collection efforts taken by the Contractor, the payment shall be subject to the 40% Collection Fee. The Clerk will remit the 40% Collection Fee to the Contractor when the Clerk accepts payment by a Client.

Any payment back-up documentation and reports, as stipulated in the Appendix A, Scope of Services shall be submitted by the Contractor to the Clerk, unless otherwise specified in the Appendix A, Scope of Services as another mode of submission, as follows:

Miami-Dade Clerk of the Courts
140 West Flagler Street, Room 1500
Miami. Florida 33130

Attention: Martha Alcazar

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

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and Clerk and their officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or Clerk or their 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 or Clerk, 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 Clerk or their officers, employees, agents and instrumentalities as herein provided.

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

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

2. Commercial General Liability Insurance in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.**

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

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

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 Clerk in accordance with the terms and conditions of this Agreement. The Clerk 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 Clerk 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 Clerk 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 or Clerk, 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 or Clerk. 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 Clerk, should the Clerk 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 Clerk 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 Clerk. The Contractor shall supply competent employees. The Clerk 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 Clerk. 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 Clerk 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 Clerk shall be that of an independent contractor and not as employees and agents of the Clerk.

The Contractor does not have the power or authority to bind the County or Clerk in any promise,

agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE CLERK'S PROJECT MANAGER

a) The Contractor hereby acknowledges that the Clerk'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 Clerk 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 Clerk'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 Clerk within 10 days of the occurrence, event or act out of which the dispute arises.

e) The Clerk 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 Clerk 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 Clerk 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 Clerk is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The Clerk, 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 Clerk may, at its expense, elect to participate in the defense if the Clerk should so choose. Furthermore, the Clerk may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

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

ARTICLE 17. AUDITS

The County and Clerk, or their duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County or Clerk. 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 Clerk 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 CLERK 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 Clerk.

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 Clerk 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 Clerk may require. The Clerk will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the Clerk.

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 Clerk, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the Clerk 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 Clerk that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

e) The Clerk shall have the right to withdraw his consent to a subcontract if it appears to the Clerk 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 Clerk's and Clerk's proprietary and confidential information. Contractor shall furnish to the Clerk 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 Clerk permitting the Clerk to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the Clerk finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the Clerk 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 Clerk were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the Clerk makes no representations or guarantees; and the Clerk shall not be responsible for the accuracy of the assumptions presented; and the Clerk shall not be responsible for conclusions to be drawn

therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

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

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

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

b) The Clerk may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the Clerk 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 Clerk 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 Clerk 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 Clerk:

   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 Clerk's materials and property;

   iii. cancel orders;

   iv. assign to the Clerk and deliver to any location designated by the Clerk 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 Clerk under this Agreement; and

e) In the event that the Clerk 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 Clerk 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 Clerk, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the Clerk may request that the Contractor, within the timeframe set forth in the Clerk's request, provide adequate assurances to the Clerk, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the Clerk receives such assurances the Clerk 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 Clerk the requested assurances within the prescribed time frame, the Clerk 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 Clerk shall terminate this Agreement for default, the Clerk or his designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs, in the determination of the Clerk, the Clerk 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 Clerk may be terminated. Notwithstanding, the Clerk may, in its sole discretion, allow the Contractor to rectify the default to the Clerk's reasonable satisfaction within a thirty (30) day period. The Clerk may grant an additional period of such duration as the Clerk shall deem appropriate without waiver of any of the Clerk'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 Clerk 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 Clerk for re-procurement 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 Clerk 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 or Clerk 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 Clerk'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 Clerk and defend any action brought against the County or Clerk with respect to any claim, demand, cause of action, debt, or liability.

c) In the event any Deliverable or anything provided to the Clerk 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 Clerk'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 Clerk, 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 Clerk 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 Clerk may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the Clerk'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 Clerk 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 Clerk holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the Clerk, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the Clerk, unless required by law. In addition to the foregoing, all Clerk employee information and Clerk 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 Clerk. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County and Clerk, 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 Clerk 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 Clerk shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the Clerk, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the Clerk 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 Clerk. 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 acknowledges that all computer software in the Clerk's possession may constitute or contain information or materials which the Clerk has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the Clerk has developed at its own expense, the disclosure of which could harm the Clerk'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 Clerk's property, any computer programs, data compilations, or other software which the Clerk has developed, has used or is using, is holding for use, or which are otherwise in the possession of the Clerk(hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the Clerk and, if the Computer Software has been leased or purchased by the Clerk, 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 Clerk any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the Clerk'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 Clerk retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the Clerk to the Contractor hereunder or furnished by the Contractor to the Clerk and/or created by the Contractor for delivery to the Clerk, 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 Clerk, 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 Clerk'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 Clerk, hereinafter referred to as "Developed Works" shall become the property of the Clerk.

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 Clerk, 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 Clerk 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 Clerk or entities controlling, controlled by, under common control with, or affiliated with the Clerk, or organizations which may hereafter be formed by or become affiliated with the Clerk. Such license specifically includes, but is not limited to, the right of the Clerk 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 Clerk for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the Clerk or entities controlling, controlled by, under common control with, or affiliated with the Clerk, or organizations which may hereafter be formed by or become affiliated with the Clerk. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST

a) Vendor Registration

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. ***FEIN Number or Social Security Number***
    In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- Identification of individual account records
- To make payments to individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes
- To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

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

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

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

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

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

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

Miami-Dade County Inspector General Review

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

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

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

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

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

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

ARTICLE 34. NONDISCRIMINATION

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

By entering into this Contract, 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 Clerk 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 Clerk, 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 or Clerk, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County or Clerk 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 Clerk's Project Manager. Contractor shall thereafter cooperate with the County's or Clerk'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 Clerk:

a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the Clerk, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the Clerk. Such approval may be withheld if for any reason the Clerk 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 Clerk; 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 Clerk reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the Clerk, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

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

ARTICLE 39. 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 Clerk under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

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

Contractor	Miami-Dade Clerk of Courts
By:	By:
Name: Michael T. Vallandingham	Name:
Title: Partner	Title:
Date: July 22, 2010	Date:
Attest: Peggy J. Barnett Corporate Secretary/Notary Public	Attest: Clerk of the Board
Corporate Seal/Notary Seal PEGGY J. BARNETT MY COMMISSION EXPIRES June 1, 2012	Approved as to form and legal sufficiency Assistant County Attorney

SCOPE OF SERVICES

1. Background

The Clerk of Courts' (Clerk) office is organized into four Divisions: parking, traffic, civil (misdemeanor) and criminal. For the purpose of this Contract, the Divisions have been consolidated into two categories; a) parking, and b) traffic/misdemeanor/criminal. The Clerk is responsible for the collection of fines, charges and costs assessed, from an individual or entity (Client) that owes the Clerk monies that are considered past due. Delinquent Client accounts necessitate collection actions, when Client accounts remain unpaid for 90 days or more.

The Board of County Commissioners passed Resolution No. 1204-98 authorizing the Clerk to identify and select contractors to pursue the collection on these delinquent accounts. Legislation actively sought by the Clerk (Florida Statute 938.30, 938.35) will aid in the collection of the full face value of these delinquent accounts (see table below), through the use of collection services paid by means of a collection fee to be added to the debt owed. Refer to Article 7, of the Contract, regarding payment for services.

Currently, the four Clerk Divisions are serviced by a pool of five collection agencies. The following table provides an estimated number and value of the delinquent accounts based on 2009 historical data for the Clerk Divisions that could be assigned to the Pool.

CLERK DIVISION	AVERAGE NUMBER OF ACCOUNTS (MONTHLY)	AVERAGE ACCOUNT TOTALS (ANNUAL)	AVERAGE VALUE (MONTHLY)	AVERAGE TOTAL VALUE (ANNUAL)
PARKING	13,452	161,424	$660,877	$7,930,524
TRAFFIC/MISDEMEANOR/ CRIMINAL	28,880	346,560	$6,937,655	$83,251,860
AGGREGATE ANNUAL AVERAGES	42,332	507,984	$7,598,532	$91,182,384

2. Minimum Qualification Requirements

A. The Contractor shall be registered as a Collection Agency and in good standing in the State of Florida pursuant to Chapter 559, Florida Statute, unless exempted by Chapter 559 of the Florida Statute.

3. Preferred Qualification Requirements

The County has relied on the Contractor's Proposal to determine that Contractor has met the Preferred Qualifications. The Contractor shall maintain such qualifications to the satisfaction of the County as follows:

A. Contractor should have a minimum of three (3) years experience in providing debt collection services on multiple past due accounts;

B. Contractor should possess the capability to effect collections in all 50 States, U.S. Territories or Commonwealths, as well as Caribbean nations, Canada and other countries, if applicable, and meet all interstate collection requirements; and

C. Contractor should be actively collecting on at least 250 individual accounts with a total value of at least $500,000.

4. Pool Structure

The Clerk will select up to six (6) firms to participate in the Pool. The number of collection accounts assigned to each Contractor will be determined by the Clerk. Additionally, there is no minimum or maximum number of Clerk Division accounts or value of accounts that may be assigned to any one Contractor.

At the Clerk's discretion, members may be dropped from the Pool for unsatisfactory performance. Should the number of participants in the Pool drop below six during the Pool's term, the Clerk may replenish the Pool.

5. Work Order Process

As collection services are needed the Clerk will issue a Work Order, which will define the number and provide the list of accounts being transferred to the Contractor for collection services.

Contractor will receive accounts, on a non-exclusive basis, as determined by the Clerk. During the first six months of the Contract, the Clerk will distribute delinquent accounts from each Clerk Division to the Pool members as equitably as possible, at his discretion. Thereafter, the Clerk will determine the most effective and equitable method of assigning Clerk Division accounts to the Contractor. However, based upon, among other factors, the Contractor's performance, the Clerk reserves the right to adjust account assignments to attain the most advantageous results for the Clerk.

6. Requirements and Services to be Provided

The Contractor shall adhere to the Code of Ethics prescribed by the American Collection Association, the Florida Collection Association, and any other applicable billing/collection Associations and shall abide at all times by the Fair Debt Collections Practices Act and all other applicable Federal, State or local regulations, laws or codes.

A. Services to be Provided

The Contractor shall, at a minimum:

1. Provide qualified and experienced personnel to perform the requested services in a manner consistent with all Federal, State and Local laws.
2. Use any and all legal means, procedures or techniques available to locate and engage Clients to pay the entire amount of their outstanding accounts owed to the Clerk. Collections activities shall minimally include direct contact with Clients through telephone calls, sending collection letters to the most current and last known address, locating Clients whose addresses may be unknown and providing skip tracing using a variety of informational databases on all return mail, including addresses located in foreign countries. When appropriate, Contractor shall undertake steps necessary to obtain payment from third party payers.
3. Report Clients that do not satisfy their accounts in a timely manner to the three national credit bureaus, only as requested in writing by the Clerk. The selection of accounts for reporting, and the method and timing of reporting shall be as determined by the Clerk.
4. Provide notice of any planned or recommended referral for legal action and obtain prior approval from the Clerk.
5. Pay for all fees associated with Client checks returned by any bank as "Non-Sufficient Funds" (NSF).

6. Not settle any account for less than the full amount owed, unless otherwise directed in writing by the Clerk. The Contractor shall obtain specific written consent from the Clerk prior to negotiating a final settlement or before otherwise compromising any account. All settlements shall be in compliance with applicable Clerk policies and procedures and Section 2-15 of the Miami-Dade County Code of Ethics.

7. Stop all collection activity immediately when notified by the Clerk Division. The Contractor shall return accounts to the Clerk upon recall. The Clerk reserves the right to re-evaluate, adjust, cancel or recall any account assigned to a Contractor for collection including but not limited to the following reasons:

    a. outstanding balance has been paid in full by the Client;
    b. Client has filed bankruptcy;
    c. debt on the account has been incorrectly calculated;
    d. account was referred to the Contractor in error;
    e. statute of limitation related to the account has expired;
    f. fraud is suspected of any person associated with the account or
    g. Client disputes the amount owed.

The Clerk will specify how long the Contractor may retain an account. This period can typically range from a minimum of twelve (12) months to a maximum of forty-eight (48) months. All accounts that have been assigned to a Contractor for more than 18 months may be reviewed to determine if the accounts should be closed, recalled, re-assigned or left in collection status with the Contractor.

8. Transfer all accounts back to the Clerk when in the opinion of the Contractor, collection efforts have ended, or within thirty (30) calendar days after termination of this Contract. The Clerk will be diligent in his review of any accounts transferred back to the Clerk Division, to determine if the account was truly uncollectible, or if the account was transferred back to the Clerk Division without sufficient collection effort on the part of the Contractor.

9. Designate a contract coordinator responsible for all matters relating to the Services being provided. The Contractor shall advise the Clerk in writing and request written approval, ten (10) days prior to any changes as it pertains to the contract coordinator.

10. Provide all necessary developing, copying, faxing, postal costs and all other such related services necessary to perform the collection services at the Contractor's expense.

11. Bear all costs associated with making all related records available to assist the Clerk in the event the Clerk wishes to audit any of the Contractor's activities pertaining to the services being provided.

12. Pursue an estate residual, if applicable, in the instance the Client is deceased. If recovery is not feasible, transfer the account back to the Clerk. Provide appropriate documentation, upon request from the Clerk, that a claim was filed with the decedent's estate and/or that the Contractor petitioned to have the estate liquidated to recover the debt.

13. Maintain and retain all books, records, data, and other related and relevant documentation for a minimum of three (3) years after the expiration of any Contract awarded to a Contractor as a result of this Contract.

14. Receive all monies collected from Clients, and forward payment to the Clerk in the manner determined by the Clerk, on a daily basis, along with supporting documentation, in an electronic format to be determined by the Clerk.

15. Pickup and deliver any items related to the services to be provided at no cost to the Clerk.

16. Attempt to collect all balances due, assess Client's ability to repay the debt, and as necessary, extend time payments subject to the guidelines established by the Clerk.

17. Contact the sender of monies, when there is insufficient information to identify the account/case/citation to which the payment relates.

18. Accept electronic account referrals from the Clerk and referrals that require manual input into the Contractor's collection system. Accounts sent electronically shall be in the form dictated by the Clerk, which may change from time to time. The Contractor's collection system for processing accounts shall be compatible with the Clerk's method of accounting and account referral.

19. Use litigation when the cost is economically feasible and Clients are not bankrupt, destitute or in some similarly uncollectable circumstance, as a part of Contractor's collection action. Clerk approval is required prior to initiating litigation in order to collect a debt. It is the intent of the Clerk that full payment or judgments be obtained with respect to all litigation filed on behalf of the Clerk.

20. Immediately institute legal proceedings on behalf of the Clerk, when required, for the purpose of collecting on accounts with balances of $5,000 and greater. The Clerk may also require a Contractor to use legal proceedings on his behalf in collecting debts of less than $5,000.

21. Provide the Clerk with electronic access to the Contractor's data system in order to research transaction history of any or all accounts referred to the Contractor by the Clerk.

22. Bear all costs associated with conducting tests of the Contractor's collection system using data files provided by the Clerk, and the return of the files to the Clerk for analysis. Requested corrections, changes or modifications to the Contractor's collection system shall be performed at no cost to the Clerk.

B. Clerk Division Coordination and File Transfer

Referring Clerk Divisions and the Contractor shall work cooperatively to ensure the Contractor receives the necessary information required to complete collection of past due debt.

1. It is the Contractor's responsibility to coordinate and communicate with each referring Clerk Division to ensure the transfer of all applicable information. Additionally, it is the Contractor's responsibility to maintain adequate communication which ensures that the referring Clerk Division and the Contractor are kept up to date with each account assigned for collections.

2. Although it is the Clerk's intent to provide all records in the Clerk's possession associated with a case file, additional information related to the transferred file may be received by the referring Clerk Division after initial transfer to the Contractor. If additional information is required by the Contractor to accommodate collection efforts, the Clerk will provide the information upon request. Such additional information will be considered as a Public Records Request, and subject to appropriate fee(s) in accordance with Florida Statute 119.

C. Communication Methods

To ensure that Contractor staff is available, the following communication requirements must be met by Contractor:

1. Clerk Inquiries

The Contractor's staff shall be available as specified below during regular business hours (8:00am through 5:00pm (local time) Monday through Friday, except County holidays). The Contractor's staff shall be available to provide guidance to the Clerk regarding updates on collections laws, compliance and quality control practices on an as needed basis.

a. **Verbal Inquiries:** A verbal inquiry to the Contractor, including voice mail messages, must be acknowledged by the Contractor within the next four business hours.

b. **Written Inquiries:** A written inquiry to the Contractor, including email, must be acknowledged by the Contractor by the same time on the next business day.

2. Communication

The following methods of communication must be provided to Clients whose accounts have been referred to the Contractor.

a. **Toll-Free Telephone Number:** The Contractor shall maintain a nationwide, toll-free telephone number to provide Clients a method of contact. The toll-free number must be provided on all correspondence directed to Clients.

b. **Facsimile Machine with Toll-free Number:** The Contractor shall maintain a facsimile machine with a toll-free number to provide Clients an additional means of contacting the Collection Agency. The toll-free facsimile number must be provided on all correspondence directed to Clients.

c. **Email Communication:** Contractor shall maintain an email address as an additional means of communication that is available for Clients. The e-mail address may be the same as the one utilized by the Clerk Divisions for contract communication purposes.

D. Collection Account Complaints

The Contractor shall maintain a comprehensive record of each collection account complaint received from a Client or representative and how the complaint relates to the collection activity that has taken place for the account. The record must include the date the complaint was received, nature of the complaint, whether it was verbal or written, and the resolution. Complaint records must be provided to the Clerk Division upon reasonable request. Additionally, the Contractor must notify the referring Clerk Division of the complaint within 24 hours of receipt of the complaint.

E. Client Payment Remittance

Upon receipt of payments from Clients, the Contractor shall remit collected payments to the referring Clerk Division by ACH (automated clearing house) on a daily basis, minus the collection fee the Contractor has placed on top of the debt owed by the Client, as stipulated in Article 7, of the Contract, and credit the transaction for deposit into an account specified by the Clerk Division.

F. Payments Received by Clerk Divisions

In some cases, a payment may be received by a referring Clerk Division at its local office in response to collection efforts taken by the Contractor. In such instances, the payment shall be included in the total payments collected by the Contractor and shall be subject to the Collection Fee. Referring Clerk Divisions will review incoming payments on past due accounts to verify whether a payment received is from an account that has been assigned to the Contractor for collection.

G. Accounting Reporting Procedures

1. The Contractor shall maintain an accounting system that provides accounting records that are supported with adequate documentation, and procedures to support the reporting requirements in Section 7, of the Scope of Services.

2. Account reporting procedures applied by the Contractor for each account shall be determined by the referring Clerk Division. Accounting reporting procedures shall be provided to the Contractor in writing at the time of account referral by each using Clerk Division.

H. Audits

1. The Contractor shall allow the Clerk or his duly authorized representatives, for three (3) years after Contract expiration and any extension thereof, to have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and those of its subcontractors and suppliers which apply to all matters of the Clerk. Such records shall conform to generally accepted accounting principles requirements, and shall only apply to those transactions related to any Contract resulting from this Contract.

2. The Clerk reserves the right to request Third-Party Service Audits of the Contractor, its subcontractors and suppliers no more than once every two years. A request for a Third Party Service Audit will be provided to the Contractor in writing, by the Clerk's Project Manager. Copies of the completed Third Party Service Audit report shall be provided to the Clerk's Project Manager within 120 calendar days of the audit request. The cost of the Third-Party Audit shall be borne by the Contractor. Only the Clerk's Project Manager may request a Third-Party Audit.

I. Return of Covered Data and Information

1. Upon termination, cancellation, expiration or other conclusion of the Contract, the Contractor shall return to the Clerk any and all data and information that was received from or created on behalf of the Clerk by the Contractor.

J. Electronic File Transfers and Formats

The Contractor shall provide Electronic File Transfers. All file transfer processes and formats must be approved in advance by the Clerk's Technical Services Division. At a minimum, the following requirements shall apply to all file transfers and file formats:

1. The Contractor will provide a secure FTP site to conduct the file transfers.
2. The Contractor shall use the file layouts provided by each Clerk Division utilizing the Contractor's services.
3. All files shall be in field position (info/data provided in different fields) text format or in a format otherwise requested by the referring Clerk Division.

K. Database Access

In some instances, database access by Clients, the referring Clerk Divisions and the Contractor may be required or requested. The following guidelines apply to all database access concerns:

1. **Client:** The Contractor may allow the collection Client access to the Contractor's database, by obtaining prior approval in writing from the Clerk Division. The Contractor will be required to bear all costs incurred to establish Client access to their account(s) in the Contractor's database, including obtaining secure internet connections as required by the Contractor.

2. **Referring Clerk Division:** If a referring Clerk Division requests access to the Contractor's database that contains Client account information, access shall be provided by the Contractor to the Clerk Division through a secure internet connection that meets security requirements outlined by the Clerk's Technical Services Division.

7. Reporting/Other Requirements

Contractors shall maintain a computerized database of all assigned accounts from the Clerk and shall prepare reports which describe what action(s) have been taken to collect the accounts. Reporting frequencies, dates and formats will be coordinated with the Contractor after award. Reporting requirements include, but are not limited to, the following types of reports:

1. Monthly Referral Acknowledgement Report – List in alphabetical order the accounts referred. Include the case/citation name, Clerk case number, Contractor's file number, account balance and date referred. The report shall be summarized by Clerk Division and type of account, showing the total accounts referred and the total value of accounts referred. This report shall be electronically submitted to the Clerk of the Courts.

2. Monthly Remittance and Reporting – List in alphabetical order the account name, and include the Clerk case number, Contractor's file number, credits to the accounts (for accounts involving litigation, recovered costs), total amount collected, whether the payment was made to the Contractor or directly to the Clerk, balance due and Contractor's fees associated with the collections. This report shall be summarized by Clerk Division and type of account, showing totals for all number and value categories.

3. A detailed Status Report shall be submitted to the Clerk, at the beginning of each month, or as agreed upon by the Clerk Division providing the most recent activity for the previous month on each account and totals for the accounts. This report shall include at a minimum, the name, case/citation number, status, original and modified amount due, amount paid previous month, amount paid to date for each account, balance due, amount distributed to the Clerk, fee deducted by the Contractor, and accounts reported to a credit bureau.

4. Monthly Recovery by Placement Analysis Report- This report shall analyze the accounts referred to the Contractor for each month in which accounts are referred. The report shall analyze the actual collections against the total amount referred for that month, reflecting the Contractor's liquidation rate, against the cumulative total for all accounts assigned.

5. A Cancellation/Recall Report by case/citation number(s), showing the reason for return to the Clerk and the outstanding balance. This report shall include a compilation of accounts recalled by the Clerk, information on any legal action undertaken and judgment issued (if any), bankruptcy status, or deceased status. If the Client is bankrupt, the bankruptcy case number shall be indicated. If deceased, an indication as to the status of estate and probate case number shall be provided. The report shall indicate if collection activity has stopped for any other reason than those outlined above, and any that the Contractor feels is uncollectible. All cancelled/recalled accounts listed in this report shall be totaled, and submitted monthly.

6. Other Reports, which the Clerk may require on occasion. While the Clerk does not expect to request such reports on a routine basis, there may be instances when the Clerk may require a special report as it relates to the collection of accounts. The Clerk will use reasonableness in requesting these reports.

Contractor shall provide all required reports to the Clerk, in a format, frequency (if not already stated herein) and quantity acceptable to the Clerk. With the exception of the Monthly Recovery by Placement Analysis Report, a separate set of reports shall be provided for each Clerk Division that summarizes all accounts received from the respective Clerk Division. Additionally, Contractor(s) shall meet with the Clerk's Project Manager on a quarterly basis, at a minimum, to discuss collection efforts.

8. Clerk's Responsibilities

The Clerk will:

1. Transfer accounts over 90 calendar days delinquent, except for any accounts the Clerk does not wish to transfer to Contractors. Although it is the intent of the Clerk to transfer accounts to the Contractors when accounts are more than 90 calendar days delinquent, the Clerk reserves the right to extend that period, at its sole discretion, for any additional time period the Clerk deems necessary. Additionally, individual Clerk Divisions may have the discretion to determine at what point an account is considered delinquent and how many days delinquent the account must be in order to transfer it to a Contractor.
2. Determine the most effective and equitable method of assigning accounts to Contractors. The Clerk shall take into consideration the type of account(s), total dollar value, age of account(s) and other related information when transferring accounts to Contractors. The Clerk reserves the right to exercise sole discretion as to which accounts will be transferred to Contractors. The Clerk shall notify Contractors when accounts are ready for transfer or arrange a periodic automatic transfer.
3. Reserve the right to recall assigned accounts at any time and for whatever reason, and will not be responsible for any costs incurred by the Contractor for that account.
4. Designate a Project Manager(s) responsible for matters concerning the services being provided.
5. Notify the Contractor when collection action is to be cancelled and transferred back to the Clerk, or suspended for any period of time.
6. Notify the Contractor of any adjustments or corrections made to the amount due.
7. Reserves the right to change any portion of the required services outlined herein, based upon changes in Federal, State, and Local laws, or County ordinance, written rule, resolution, administrative policy or procedure that make it necessary.
8. Remit to the Contractor, the collection fee, when the Clerk accepts payment by a Client, including collection fee, for an account referred to the Contractor. The Clerk reserves the right to not accept, at a Clerk Office, any payment(s) by Clients for any account(s) which have been referred to the Contractor.
9. Provide data files to the Contractor for purposes of testing the Contractor's collection system. The Clerk reserves the right to be sole judge as to suitability of the Contractor's collection system, based on test results. The Clerk also reserves the right to withhold account transfers to the Contractor until such time as the Contractor has satisfactorily met all corrections, changes or modifications to its system as deemed necessary to satisfy the Clerk's requirements.

DEBT COLLECTION SERVICES POOL FOR CLERK OF THE COURTS

Contract No. RFQ723B

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between AllianceOne Receivables Management, Inc. , a corporation organized and existing under the laws of the State of Delaware, having its principal office at 4850 E Street Road, Suite 300, Trevose, PA 19053 (hereinafter referred to as the "Contractor"), and Miami-Dade County Clerk of the Courts (hereinafter referred to as the "Clerk"), a political subdivision of the State of Florida, having its principal office at 73 West Flagler Street, Miami, Florida 33128.

WITNESSETH:

WHEREAS, the Contractor has offered to participate in the Debt Collection Services Pool ("Pool") for Clerk of the Courts as a Pool "member" and as such has offered to provide on a non-exclusive basis debt collection services that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. RFQ 723 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 May 17, 2010 hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the Clerk desires to procure from the Contractor such Debt Collection Services for the Clerk, 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 "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 Clerk.

b) The word "Client" to mean an individual or entity that, at the time of account assignment to a Pool member, owes the Miami-Dade County Clerk of the Courts monies that are considered past due.

c) The word "Collections" to mean all activities undertaken by the Clerk or the Pool member in an effort to collect money that is past due.

d) The words "Collection Fee" to mean the compensation to the Pool member for collection services provided to the Clerk in accordance with Florida Statute 28.246.

e) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFQ No. 723 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.

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

g) 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.

h) The word "Contractor" to mean AllianceOne Receivables Management, Inc. and its permitted successors and assigns.

i) The word "County" to mean Miami-Dade County, a political subdivision of the State of Florida.

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

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

l) 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 Clerk'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 Clerk's Project Manager.

m) The words "Project Manager" to mean the Clerk of the Courts or the duly authorized representative designated to manage the Project.

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

o) 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.

p) 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 Clerk's RFQ No. 723 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.

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

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

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

ARTICLE 4. NATURE OF THE AGREEMENT

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

b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the Clerk 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 Clerk's Project Manager.

e) The Contractor acknowledges that the Clerk 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 Clerk. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the Clerk with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date set forth on the first page and shall continue through the last day of the 48th month. The Clerk, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period of two (2) additional years on a year-to-year basis. The Clerk 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 Clerk and the Contractor.

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 Clerk

a) to the Project Manager:

Miami-Dade Clerk of the Courts
73 West Flagler Street, Room 242
Miami, Florida 33130
Attention: Clerk of the Courts
Phone: (305) 375-3333
Fax: (305) 375-2485

and,

b) to the Contract Manager:

Miami-Dade County
Department of Procurement Management
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974

Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

AllianceOne Receivables Management, Inc.
4850 E Street Road, Suite 300
Trevose, PA 19053
Attention: Harry Neerenberg
Phone: (866) 568-9235
Fax: (215) 354-5514
E-mail: harry.neerenberg@allianceoneinc.com

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

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the Clerk's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order 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 the form of a 40% Collection Fee that the Contractor is allowed to add to the debt owed, as set forth in Florida Statutes 28.246 (Payment of Court-Related Fees, Charges, and Cost; Partial Payment; Distribution of Funds). The Clerk shall have no obligation to pay the Contractor any sum.

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

ARTICLE 8. COLLECTION FEE

The Collection Fee of 40% that is added to the debt owed shall remain firm and fixed for the term of the Contract, including any option or extension periods, unless changed by Florida Statute. The Collection Fee shall be added to the debt, whether the payment is partial or in its entirety.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor shall forward all monies collected which are due to the Clerk, on a daily basis. After the Clerk receives full payment for the debt owed on a Client account, the Contractor may retain the additional collected 40% Collection Fee placed on top of the debt owed to the Clerk. The fee for any direct or indirect cost associated with the Clerk providing any Public Records to the Contractor, in accordance with Florida Statute 119, shall be submitted to the Clerk with the monies collected on the applicable Client account.

In the case where a Client makes a payment to a referring Clerk Division at its local office, in response to collection efforts taken by the Contractor, the payment shall be subject to the 40% Collection Fee. The Clerk will remit the 40% Collection Fee to the Contractor when the Clerk accepts payment by a Client.

Any payment back-up documentation and reports, as stipulated in the Appendix A, Scope of Services shall be submitted by the Contractor to the Clerk, unless otherwise specified in the Appendix A, Scope of Services as another mode of submission, as follows:

Miami-Dade Clerk of the Courts
140 West Flagler Street, Room 1500
Miami. Florida 33130

Attention: Martha Alcazar

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

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and Clerk and their officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or Clerk or their 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 or Clerk, 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 Clerk or their officers, employees, agents and instrumentalities as herein provided.

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

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

2. Commercial General Liability Insurance in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.**

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

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

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 Clerk in accordance with the terms and conditions of this Agreement. The Clerk 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 Clerk 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 Clerk 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 or Clerk, 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 or Clerk. 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 Clerk, should the Clerk 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 Clerk 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 Clerk. The Contractor shall supply competent employees. The Clerk 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 Clerk. 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 Clerk 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 Clerk shall be that of an independent contractor and not as employees and agents of the Clerk.

The Contractor does not have the power or authority to bind the County or Clerk in any promise,

agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE CLERK'S PROJECT MANAGER

a) The Contractor hereby acknowledges that the Clerk'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 Clerk 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 Clerk'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 Clerk within 10 days of the occurrence, event or act out of which the dispute arises.

e) The Clerk 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 Clerk 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 Clerk 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 Clerk is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The Clerk, 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 Clerk may, at its expense, elect to participate in the defense if the Clerk should so choose. Furthermore, the Clerk may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

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

ARTICLE 17. AUDITS

The County and Clerk, or their duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County or Clerk. 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 Clerk 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 CLERK 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 Clerk.

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 Clerk 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 Clerk may require. The Clerk will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the Clerk.

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 Clerk, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the Clerk 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 Clerk that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

e) The Clerk shall have the right to withdraw his consent to a subcontract if it appears to the Clerk 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 Clerk's and Clerk's proprietary and confidential information. Contractor shall furnish to the Clerk 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 Clerk permitting the Clerk to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the Clerk finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the Clerk 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 Clerk were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the Clerk makes no representations or guarantees; and the Clerk shall not be responsible for the accuracy of the assumptions presented; and the Clerk shall not be responsible for conclusions to be drawn

therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

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

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

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

b) The Clerk may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the Clerk 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 Clerk 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 Clerk 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 Clerk:

   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 Clerk's materials and property;

   iii. cancel orders;

   iv. assign to the Clerk and deliver to any location designated by the Clerk 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 Clerk under this Agreement; and

e) In the event that the Clerk 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 Clerk 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 Clerk, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the Clerk may request that the Contractor, within the timeframe set forth in the Clerk's request, provide adequate assurances to the Clerk, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the Clerk receives such assurances the Clerk 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 Clerk the requested assurances within the prescribed time frame, the Clerk 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 Clerk shall terminate this Agreement for default, the Clerk or his designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs, in the determination of the Clerk, the Clerk 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 Clerk may be terminated. Notwithstanding, the Clerk may, in its sole discretion, allow the Contractor to rectify the default to the Clerk's reasonable satisfaction within a thirty (30) day period. The Clerk may grant an additional period of such duration as the Clerk shall deem appropriate without waiver of any of the Clerk'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 Clerk 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 Clerk for re-procurement 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 Clerk 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 or Clerk 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 Clerk'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 Clerk and defend any action brought against the County or Clerk with respect to any claim, demand, cause of action, debt, or liability.

c) In the event any Deliverable or anything provided to the Clerk 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 Clerk'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 Clerk, 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 Clerk 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 Clerk may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the Clerk'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 Clerk 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 Clerk holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the Clerk, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the Clerk, unless required by law. In addition to the foregoing, all Clerk employee information and Clerk 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 Clerk. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County and Clerk, 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 Clerk 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 Clerk shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the Clerk, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the Clerk 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 Clerk. 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 acknowledges that all computer software in the Clerk's possession may constitute or contain information or materials which the Clerk has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the Clerk has developed at its own expense, the disclosure of which could harm the Clerk'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 Clerk's property, any computer programs, data compilations, or other software which the Clerk has developed, has used or is using, is holding for use, or which are otherwise in the possession of the Clerk(hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the Clerk and, if the Computer Software has been leased or purchased by the Clerk, 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 Clerk any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the Clerk'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 Clerk retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the Clerk to the Contractor hereunder or furnished by the Contractor to the Clerk and/or created by the Contractor for delivery to the Clerk, 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 Clerk, 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 Clerk'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 Clerk, hereinafter referred to as "Developed Works" shall become the property of the Clerk.

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 Clerk, 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 Clerk 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 Clerk or entities controlling, controlled by, under common control with, or affiliated with the Clerk, or organizations which may hereafter be formed by or become affiliated with the Clerk. Such license specifically includes, but is not limited to, the right of the Clerk 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 Clerk for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the Clerk or entities controlling, controlled by, under common control with, or affiliated with the Clerk, or organizations which may hereafter be formed by or become affiliated with the Clerk. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST

a) Vendor Registration

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. ***FEIN Number or Social Security Number***
    In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- Identification of individual account records
- To make payments to individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes
- To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

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

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

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

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

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

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

Miami-Dade County Inspector General Review

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

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

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

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

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

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

ARTICLE 34. NONDISCRIMINATION

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

By entering into this Contract, 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 Clerk 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 Clerk, 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 or Clerk, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County or Clerk 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 Clerk's Project Manager. Contractor shall thereafter cooperate with the County's or Clerk'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 Clerk:

a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the Clerk, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the Clerk. Such approval may be withheld if for any reason the Clerk 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 Clerk; 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 Clerk reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the Clerk, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

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

ARTICLE 39. 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 Clerk under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

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

2010 AUG -2 AM 11:08

Contractor	Miami-Dade Clerk of Courts
By: [signature]	By: _____
Name: Harry M Neerenberg	Name: _____
Title: Vice President and Treasurer	Title: _____
Date: 7/29/10	Date: _____
Attest: Cristin A. Claybome, Notary Public Corporate Secretary/Notary Public	Attest: _____ Clerk of the Board
Corporate Seal/Notary Seal	Approved as to form and legal sufficiency
COMMONWEALTH OF PENNSYLVANIA Notarial Seal Cristin A. Claybome, Notary Public Bensalem Twp., Bucks County My Commission Expires Jan. 14, 2013 Member, Pennsylvania Association of Notaries	_____ Assistant County Attorney

SCOPE OF SERVICES

1. Background

The Clerk of Courts' (Clerk) office is organized into four Divisions: parking, traffic, civil (misdemeanor) and criminal. For the purpose of this Contract, the Divisions have been consolidated into two categories; a) parking, and b) traffic/misdemeanor/criminal. The Clerk is responsible for the collection of fines, charges and costs assessed, from an individual or entity (Client) that owes the Clerk monies that are considered past due. Delinquent Client accounts necessitate collection actions, when Client accounts remain unpaid for 90 days or more.

The Board of County Commissioners passed Resolution No. 1204-98 authorizing the Clerk to identify and select contractors to pursue the collection on these delinquent accounts. Legislation actively sought by the Clerk (Florida Statute 938.30, 938.35) will aid in the collection of the full face value of these delinquent accounts (see table below), through the use of collection services paid by means of a collection fee to be added to the debt owed. Refer to Article 7, of the Contract, regarding payment for services.

Currently, the four Clerk Divisions are serviced by a pool of five collection agencies. The following table provides an estimated number and value of the delinquent accounts based on 2009 historical data for the Clerk Divisions that could be assigned to the Pool.

CLERK DIVISION	AVERAGE NUMBER OF ACCOUNTS (MONTHLY)	AVERAGE ACCOUNT TOTALS (ANNUAL)	AVERAGE VALUE (MONTHLY)	AVERAGE TOTAL VALUE (ANNUAL)
PARKING	13,452	161,424	$660,877	$7,930,524
TRAFFIC/MISDEMEANOR/ CRIMINAL	28,880	346,560	$6,937,655	$83,251,860
AGGREGATE ANNUAL AVERAGES	42,332	507,984	$7,598,532	$91,182,384

2. Minimum Qualification Requirements

A. The Contractor shall be registered as a Collection Agency and in good standing in the State of Florida pursuant to Chapter 559, Florida Statute, unless exempted by Chapter 559 of the Florida Statute.

3. Preferred Qualification Requirements

The County has relied on the Contractor's Proposal to determine that Contractor has met the Preferred Qualifications. The Contractor shall maintain such qualifications to the satisfaction of the County as follows:

A. Contractor should have a minimum of three (3) years experience in providing debt collection services on multiple past due accounts;

B. Contractor should possess the capability to effect collections in all 50 States, U.S. Territories or Commonwealths, as well as Caribbean nations, Canada and other countries, if applicable, and meet all interstate collection requirements; and

C. Contractor should be actively collecting on at least 250 individual accounts with a total value of at least $500,000.

4. Pool Structure

The Clerk will select up to six (6) firms to participate in the Pool. The number of collection accounts assigned to each Contractor will be determined by the Clerk. Additionally, there is no minimum or maximum number of Clerk Division accounts or value of accounts that may be assigned to any one Contractor.

At the Clerk's discretion, members may be dropped from the Pool for unsatisfactory performance. Should the number of participants in the Pool drop below six during the Pool's term, the Clerk may replenish the Pool.

5. Work Order Process

As collection services are needed the Clerk will issue a Work Order, which will define the number and provide the list of accounts being transferred to the Contractor for collection services.

Contractor will receive accounts, on a non-exclusive basis, as determined by the Clerk. During the first six months of the Contract, the Clerk will distribute delinquent accounts from each Clerk Division to the Pool members as equitably as possible, at his discretion. Thereafter, the Clerk will determine the most effective and equitable method of assigning Clerk Division accounts to the Contractor. However, based upon, among other factors, the Contractor's performance, the Clerk reserves the right to adjust account assignments to attain the most advantageous results for the Clerk.

6. Requirements and Services to be Provided

The Contractor shall adhere to the Code of Ethics prescribed by the American Collection Association, the Florida Collection Association, and any other applicable billing/collection Associations and shall abide at all times by the Fair Debt Collections Practices Act and all other applicable Federal, State or local regulations, laws or codes.

A. Services to be Provided

The Contractor shall, at a minimum:

1. Provide qualified and experienced personnel to perform the requested services in a manner consistent with all Federal, State and Local laws.
2. Use any and all legal means, procedures or techniques available to locate and engage Clients to pay the entire amount of their outstanding accounts owed to the Clerk. Collections activities shall minimally include direct contact with Clients through telephone calls, sending collection letters to the most current and last known address, locating Clients whose addresses may be unknown and providing skip tracing using a variety of informational databases on all return mail, including addresses located in foreign countries. When appropriate, Contractor shall undertake steps necessary to obtain payment from third party payers.
3. Report Clients that do not satisfy their accounts in a timely manner to the three national credit bureaus, only as requested in writing by the Clerk. The selection of accounts for reporting, and the method and timing of reporting shall be as determined by the Clerk.
4. Provide notice of any planned or recommended referral for legal action and obtain prior approval from the Clerk.
5. Pay for all fees associated with Client checks returned by any bank as "Non-Sufficient Funds" (NSF).

6. Not settle any account for less than the full amount owed, unless otherwise directed in writing by the Clerk. The Contractor shall obtain specific written consent from the Clerk prior to negotiating a final settlement or before otherwise compromising any account. All settlements shall be in compliance with applicable Clerk policies and procedures and Section 2-15 of the Miami-Dade County Code of Ethics.

7. Stop all collection activity immediately when notified by the Clerk Division. The Contractor shall return accounts to the Clerk upon recall. The Clerk reserves the right to re-evaluate, adjust, cancel or recall any account assigned to a Contractor for collection including but not limited to the following reasons:

    a. outstanding balance has been paid in full by the Client;
    b. Client has filed bankruptcy;
    c. debt on the account has been incorrectly calculated;
    d. account was referred to the Contractor in error;
    e. statute of limitation related to the account has expired;
    f. fraud is suspected of any person associated with the account or
    g. Client disputes the amount owed.

The Clerk will specify how long the Contractor may retain an account. This period can typically range from a minimum of twelve (12) months to a maximum of forty-eight (48) months. All accounts that have been assigned to a Contractor for more than 18 months may be reviewed to determine if the accounts should be closed, recalled, re-assigned or left in collection status with the Contractor.

8. Transfer all accounts back to the Clerk when in the opinion of the Contractor, collection efforts have ended, or within thirty (30) calendar days after termination of this Contract. The Clerk will be diligent in his review of any accounts transferred back to the Clerk Division, to determine if the account was truly uncollectible, or if the account was transferred back to the Clerk Division without sufficient collection effort on the part of the Contractor.

9. Designate a contract coordinator responsible for all matters relating to the Services being provided. The Contractor shall advise the Clerk in writing and request written approval, ten (10) days prior to any changes as it pertains to the contract coordinator.

10. Provide all necessary developing, copying, faxing, postal costs and all other such related services necessary to perform the collection services at the Contractor's expense.

11. Bear all costs associated with making all related records available to assist the Clerk in the event the Clerk wishes to audit any of the Contractor's activities pertaining to the services being provided.

12. Pursue an estate residual, if applicable, in the instance the Client is deceased. If recovery is not feasible, transfer the account back to the Clerk. Provide appropriate documentation, upon request from the Clerk, that a claim was filed with the decedent's estate and/or that the Contractor petitioned to have the estate liquidated to recover the debt.

13. Maintain and retain all books, records, data, and other related and relevant documentation for a minimum of three (3) years after the expiration of any Contract awarded to a Contractor as a result of this Contract.

14. Receive all monies collected from Clients, and forward payment to the Clerk in the manner determined by the Clerk, on a daily basis, along with supporting documentation, in an electronic format to be determined by the Clerk.

15. Pickup and deliver any items related to the services to be provided at no cost to the Clerk.

16. Attempt to collect all balances due, assess Client's ability to repay the debt, and as necessary, extend time payments subject to the guidelines established by the Clerk.

17. Contact the sender of monies, when there is insufficient information to identify the account/case/citation to which the payment relates.

18. Accept electronic account referrals from the Clerk and referrals that require manual input into the Contractor's collection system. Accounts sent electronically shall be in the form dictated by the Clerk, which may change from time to time. The Contractor's collection system for processing accounts shall be compatible with the Clerk's method of accounting and account referral.

19. Use litigation when the cost is economically feasible and Clients are not bankrupt, destitute or in some similarly uncollectable circumstance, as a part of Contractor's collection action. Clerk approval is required prior to initiating litigation in order to collect a debt. It is the intent of the Clerk that full payment or judgments be obtained with respect to all litigation filed on behalf of the Clerk.

20. Immediately institute legal proceedings on behalf of the Clerk, when required, for the purpose of collecting on accounts with balances of $5,000 and greater. The Clerk may also require a Contractor to use legal proceedings on his behalf in collecting debts of less than $5,000.

21. Provide the Clerk with electronic access to the Contractor's data system in order to research transaction history of any or all accounts referred to the Contractor by the Clerk.

22. Bear all costs associated with conducting tests of the Contractor's collection system using data files provided by the Clerk, and the return of the files to the Clerk for analysis. Requested corrections, changes or modifications to the Contractor's collection system shall be performed at no cost to the Clerk.

B. Clerk Division Coordination and File Transfer

Referring Clerk Divisions and the Contractor shall work cooperatively to ensure the Contractor receives the necessary information required to complete collection of past due debt.

1. It is the Contractor's responsibility to coordinate and communicate with each referring Clerk Division to ensure the transfer of all applicable information. Additionally, it is the Contractor's responsibility to maintain adequate communication which ensures that the referring Clerk Division and the Contractor are kept up to date with each account assigned for collections.

2. Although it is the Clerk's intent to provide all records in the Clerk's possession associated with a case file, additional information related to the transferred file may be received by the referring Clerk Division after initial transfer to the Contractor. If additional information is required by the Contractor to accommodate collection efforts, the Clerk will provide the information upon request. Such additional information will be considered as a Public Records Request, and subject to appropriate fee(s) in accordance with Florida Statute 119.

C. Communication Methods

To ensure that Contractor staff is available, the following communication requirements must be met by Contractor:

1. Clerk Inquiries

The Contractor's staff shall be available as specified below during regular business hours (8:00am through 5:00pm (local time) Monday through Friday, except County holidays). The Contractor's staff shall be available to provide guidance to the Clerk regarding updates on collections laws, compliance and quality control practices on an as needed basis.

a. **Verbal Inquiries:** A verbal inquiry to the Contractor, including voice mail messages, must be acknowledged by the Contractor within the next four business hours.

b. **Written Inquiries:** A written inquiry to the Contractor, including email, must be acknowledged by the Contractor by the same time on the next business day.

2. Communication

The following methods of communication must be provided to Clients whose accounts have been referred to the Contractor.

a. **Toll-Free Telephone Number:** The Contractor shall maintain a nationwide, toll-free telephone number to provide Clients a method of contact. The toll-free number must be provided on all correspondence directed to Clients.

b. **Facsimile Machine with Toll-free Number:** The Contractor shall maintain a facsimile machine with a toll-free number to provide Clients an additional means of contacting the Collection Agency. The toll-free facsimile number must be provided on all correspondence directed to Clients.

c. **Email Communication:** Contractor shall maintain an email address as an additional means of communication that is available for Clients. The e-mail address may be the same as the one utilized by the Clerk Divisions for contract communication purposes.

D. Collection Account Complaints

The Contractor shall maintain a comprehensive record of each collection account complaint received from a Client or representative and how the complaint relates to the collection activity that has taken place for the account. The record must include the date the complaint was received, nature of the complaint, whether it was verbal or written, and the resolution. Complaint records must be provided to the Clerk Division upon reasonable request. Additionally, the Contractor must notify the referring Clerk Division of the complaint within 24 hours of receipt of the complaint.

E. Client Payment Remittance

Upon receipt of payments from Clients, the Contractor shall remit collected payments to the referring Clerk Division by ACH (automated clearing house) on a daily basis, minus the collection fee the Contractor has placed on top of the debt owed by the Client, as stipulated in Article 7, of the Contract, and credit the transaction for deposit into an account specified by the Clerk Division.

F. Payments Received by Clerk Divisions

In some cases, a payment may be received by a referring Clerk Division at its local office in response to collection efforts taken by the Contractor. In such instances, the payment shall be included in the total payments collected by the Contractor and shall be subject to the Collection Fee. Referring Clerk Divisions will review incoming payments on past due accounts to verify whether a payment received is from an account that has been assigned to the Contractor for collection.

G. Accounting Reporting Procedures

1. The Contractor shall maintain an accounting system that provides accounting records that are supported with adequate documentation, and procedures to support the reporting requirements in Section 7, of the Scope of Services.

2. Account reporting procedures applied by the Contractor for each account shall be determined by the referring Clerk Division. Accounting reporting procedures shall be provided to the Contractor in writing at the time of account referral by each using Clerk Division.

H. Audits

1. The Contractor shall allow the Clerk or his duly authorized representatives, for three (3) years after Contract expiration and any extension thereof, to have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and those of its subcontractors and suppliers which apply to all matters of the Clerk. Such records shall conform to generally accepted accounting principles requirements, and shall only apply to those transactions related to any Contract resulting from this Contract.

2. The Clerk reserves the right to request Third-Party Service Audits of the Contractor, its subcontractors and suppliers no more than once every two years. A request for a Third Party Service Audit will be provided to the Contractor in writing, by the Clerk's Project Manager. Copies of the completed Third Party Service Audit report shall be provided to the Clerk's Project Manager within 120 calendar days of the audit request. The cost of the Third-Party Audit shall be borne by the Contractor. Only the Clerk's Project Manager may request a Third-Party Audit.

I. Return of Covered Data and Information

1. Upon termination, cancellation, expiration or other conclusion of the Contract, the Contractor shall return to the Clerk any and all data and information that was received from or created on behalf of the Clerk by the Contractor.

J. Electronic File Transfers and Formats

The Contractor shall provide Electronic File Transfers. All file transfer processes and formats must be approved in advance by the Clerk's Technical Services Division. At a minimum, the following requirements shall apply to all file transfers and file formats:

1. The Contractor will provide a secure FTP site to conduct the file transfers.
2. The Contractor shall use the file layouts provided by each Clerk Division utilizing the Contractor's services.
3. All files shall be in field position (info/data provided in different fields) text format or in a format otherwise requested by the referring Clerk Division.

K. Database Access

In some instances, database access by Clients, the referring Clerk Divisions and the Contractor may be required or requested. The following guidelines apply to all database access concerns:

1. **Client:** The Contractor may allow the collection Client access to the Contractor's database, by obtaining prior approval in writing from the Clerk Division. The Contractor will be required to bear all costs incurred to establish Client access to their account(s) in the Contractor's database, including obtaining secure internet connections as required by the Contractor.

2. **Referring Clerk Division:** If a referring Clerk Division requests access to the Contractor's database that contains Client account information, access shall be provided by the Contractor to the Clerk Division through a secure internet connection that meets security requirements outlined by the Clerk's Technical Services Division.

7. Reporting/Other Requirements

Contractors shall maintain a computerized database of all assigned accounts from the Clerk and shall prepare reports which describe what action(s) have been taken to collect the accounts. Reporting frequencies, dates and formats will be coordinated with the Contractor after award. Reporting requirements include, but are not limited to, the following types of reports:

1. Monthly Referral Acknowledgement Report – List in alphabetical order the accounts referred. Include the case/citation name, Clerk case number, Contractor's file number, account balance and date referred. The report shall be summarized by Clerk Division and type of account, showing the total accounts referred and the total value of accounts referred. This report shall be electronically submitted to the Clerk of the Courts.

2. Monthly Remittance and Reporting – List in alphabetical order the account name, and include the Clerk case number, Contractor's file number, credits to the accounts (for accounts involving litigation, recovered costs), total amount collected, whether the payment was made to the Contractor or directly to the Clerk, balance due and Contractor's fees associated with the collections. This report shall be summarized by Clerk Division and type of account, showing totals for all number and value categories.

3. A detailed Status Report shall be submitted to the Clerk, at the beginning of each month, or as agreed upon by the Clerk Division providing the most recent activity for the previous month on each account and totals for the accounts. This report shall include at a minimum, the name, case/citation number, status, original and modified amount due, amount paid previous month, amount paid to date for each account, balance due, amount distributed to the Clerk, fee deducted by the Contractor, and accounts reported to a credit bureau.

4. Monthly Recovery by Placement Analysis Report- This report shall analyze the accounts referred to the Contractor for each month in which accounts are referred. The report shall analyze the actual collections against the total amount referred for that month, reflecting the Contractor's liquidation rate, against the cumulative total for all accounts assigned.

5. A Cancellation/Recall Report by case/citation number(s), showing the reason for return to the Clerk and the outstanding balance. This report shall include a compilation of accounts recalled by the Clerk, information on any legal action undertaken and judgment issued (if any), bankruptcy status, or deceased status. If the Client is bankrupt, the bankruptcy case number shall be indicated. If deceased, an indication as to the status of estate and probate case number shall be provided. The report shall indicate if collection activity has stopped for any other reason than those outlined above, and any that the Contractor feels is uncollectible. All cancelled/recalled accounts listed in this report shall be totaled, and submitted monthly.

6. Other Reports, which the Clerk may require on occasion. While the Clerk does not expect to request such reports on a routine basis, there may be instances when the Clerk may require a special report as it relates to the collection of accounts. The Clerk will use reasonableness in requesting these reports.

Contractor shall provide all required reports to the Clerk, in a format, frequency (if not already stated herein) and quantity acceptable to the Clerk. With the exception of the Monthly Recovery by Placement Analysis Report, a separate set of reports shall be provided for each Clerk Division that summarizes all accounts received from the respective Clerk Division. Additionally, Contractor(s) shall meet with the Clerk's Project Manager on a quarterly basis, at a minimum, to discuss collection efforts.

8. Clerk's Responsibilities

The Clerk will:

1. Transfer accounts over 90 calendar days delinquent, except for any accounts the Clerk does not wish to transfer to Contractors. Although it is the intent of the Clerk to transfer accounts to the Contractors when accounts are more than 90 calendar days delinquent, the Clerk reserves the right to extend that period, at its sole discretion, for any additional time period the Clerk deems necessary. Additionally, individual Clerk Divisions may have the discretion to determine at what point an account is considered delinquent and how many days delinquent the account must be in order to transfer it to a Contractor.
2. Determine the most effective and equitable method of assigning accounts to Contractors. The Clerk shall take into consideration the type of account(s), total dollar value, age of account(s) and other related information when transferring accounts to Contractors. The Clerk reserves the right to exercise sole discretion as to which accounts will be transferred to Contractors. The Clerk shall notify Contractors when accounts are ready for transfer or arrange a periodic automatic transfer.
3. Reserve the right to recall assigned accounts at any time and for whatever reason, and will not be responsible for any costs incurred by the Contractor for that account.
4. Designate a Project Manager(s) responsible for matters concerning the services being provided.
5. Notify the Contractor when collection action is to be cancelled and transferred back to the Clerk, or suspended for any period of time.
6. Notify the Contractor of any adjustments or corrections made to the amount due.
7. Reserves the right to change any portion of the required services outlined herein, based upon changes in Federal, State, and Local laws, or County ordinance, written rule, resolution, administrative policy or procedure that make it necessary.
8. Remit to the Contractor, the collection fee, when the Clerk accepts payment by a Client, including collection fee, for an account referred to the Contractor. The Clerk reserves the right to not accept, at a Clerk Office, any payment(s) by Clients for any account(s) which have been referred to the Contractor.
9. Provide data files to the Contractor for purposes of testing the Contractor's collection system. The Clerk reserves the right to be sole judge as to suitability of the Contractor's collection system, based on test results. The Clerk also reserves the right to withhold account transfers to the Contractor until such time as the Contractor has satisfactorily met all corrections, changes or modifications to its system as deemed necessary to satisfy the Clerk's requirements.

DEBT COLLECTION SERVICES POOL FOR CLERK OF THE COURTS

Contract No. RFQ723C

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Penn Credit Corporation , a corporation organized and existing under the laws of the State of Pennsylvania, having its principal office at 916 S. 14th Street, Harrisburg, PA 17104 (hereinafter referred to as the "Contractor"), and Miami-Dade County Clerk of the Courts (hereinafter referred to as the "Clerk"), a political subdivision of the State of Florida, having its principal office at 73 West Flagler Street, Miami, Florida 33128.

WITNESSETH:

WHEREAS, the Contractor has offered to participate in the Debt Collection Services Pool ("Pool") for Clerk of the Courts as a Pool "member" and as such has offered to provide on a non-exclusive basis debt collection services that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. RFQ 723 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 May 15, 2010 hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the Clerk desires to procure from the Contractor such Debt Collection Services for the Clerk, 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 "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 Clerk.

b) The word "Client" to mean an individual or entity that, at the time of account assignment to a Pool member, owes the Miami-Dade County Clerk of the Courts monies that are considered past due.

c) The word "Collections" to mean all activities undertaken by the Clerk or the Pool member in an effort to collect money that is past due.

d) The words "Collection Fee" to mean the compensation to the Pool member for collection services provided to the Clerk in accordance with Florida Statute 28.246.

e) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFQ No. 723 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.

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

g) 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.

h) The word "Contractor" to mean Penn Credit Corporation and its permitted successors and assigns.

i) The word "County" to mean Miami-Dade County, a political subdivision of the State of Florida.

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

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

l) 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 Clerk'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 Clerk's Project Manager.

m) The words "Project Manager" to mean the Clerk of the Courts or the duly authorized representative designated to manage the Project.

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

o) 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.

p) 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 Clerk's RFQ No. 723 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.

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

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

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

ARTICLE 4. NATURE OF THE AGREEMENT

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

b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the Clerk 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 Clerk's Project Manager.

e) The Contractor acknowledges that the Clerk 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 Clerk. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the Clerk with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date set forth on the first page and shall continue through the last day of the 48th month. The Clerk, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period of two (2) additional years on a year-to-year basis. The Clerk 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 Clerk and the Contractor.

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 Clerk

a) to the Project Manager:

Miami-Dade Clerk of the Courts
73 West Flagler Street, Room 242
Miami, Florida 33130
Attention: Clerk of the Courts
Phone: (305) 375-3333
Fax: (305) 375-2485

and,

b) to the Contract Manager:

Miami-Dade County
Department of Procurement Management
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974

Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor
Penn Credit Corporation
916 S. 14th Street
Harrisburg, PA 17104
Attention: Donald C. Donagher, Jr.
Phone: (717) 238-7124
Fax: (717) 238-0901
E-mail: don.donagher@penncredit.com

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

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the Clerk's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order 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 the form of a 40% Collection Fee that the Contractor is allowed to add to the debt owed, as set forth in Florida Statutes 28.246 (Payment of Court-Related Fees, Charges, and Cost; Partial Payment; Distribution of Funds). The Clerk shall have no obligation to pay the Contractor any sum.

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

ARTICLE 8. COLLECTION FEE

The Collection Fee of 40% that is added to the debt owed shall remain firm and fixed for the term of the Contract, including any option or extension periods, unless changed by Florida Statute. The Collection Fee shall be added to the debt, whether the payment is partial or in its entirety.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor shall forward all monies collected which are due to the Clerk, on a daily basis. After the Clerk receives full payment for the debt owed on a Client account, the Contractor may retain the additional collected 40% Collection Fee placed on top of the debt owed to the Clerk. The fee for any direct or indirect cost associated with the Clerk providing any Public Records to the Contractor, in accordance with Florida Statute 119, shall be submitted to the Clerk with the monies collected on the applicable Client account.

In the case where a Client makes a payment to a referring Clerk Division at its local office, in response to collection efforts taken by the Contractor, the payment shall be subject to the 40% Collection Fee. The Clerk will remit the 40% Collection Fee to the Contractor when the Clerk accepts payment by a Client.

Any payment back-up documentation and reports, as stipulated in the Appendix A, Scope of Services shall be submitted by the Contractor to the Clerk, unless otherwise specified in the Appendix A, Scope of Services as another mode of submission, as follows:

Miami-Dade Clerk of the Courts
140 West Flagler Street, Room 1500
Miami. Florida 33130

Attention: Martha Alcazar

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

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and Clerk and their officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or Clerk or their 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 or Clerk, 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 Clerk or their officers, employees, agents and instrumentalities as herein provided.

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

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

2. Commercial General Liability Insurance in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.**

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

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

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 Clerk in accordance with the terms and conditions of this Agreement. The Clerk 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 Clerk 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 Clerk 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 or Clerk, 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 or Clerk. 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 Clerk, should the Clerk 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 Clerk 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 Clerk. The Contractor shall supply competent employees. The Clerk 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 Clerk. 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 Clerk 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 Clerk shall be that of an independent contractor and not as employees and agents of the Clerk.

The Contractor does not have the power or authority to bind the County or Clerk in any promise,

agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE CLERK'S PROJECT MANAGER

a) The Contractor hereby acknowledges that the Clerk'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 Clerk 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 Clerk'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 Clerk within 10 days of the occurrence, event or act out of which the dispute arises.

e) The Clerk 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 Clerk 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 Clerk 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 Clerk is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The Clerk, 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 Clerk may, at its expense, elect to participate in the defense if the Clerk should so choose. Furthermore, the Clerk may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

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

ARTICLE 17. AUDITS

The County and Clerk, or their duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County or Clerk. 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 Clerk 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 CLERK 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 Clerk.

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 Clerk 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 Clerk may require. The Clerk will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the Clerk.

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 Clerk, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the Clerk 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 Clerk that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

e) The Clerk shall have the right to withdraw his consent to a subcontract if it appears to the Clerk 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 Clerk's and Clerk's proprietary and confidential information. Contractor shall furnish to the Clerk 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 Clerk permitting the Clerk to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the Clerk finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the Clerk 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 Clerk were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the Clerk makes no representations or guarantees; and the Clerk shall not be responsible for the accuracy of the assumptions presented; and the Clerk shall not be responsible for conclusions to be drawn

therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

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

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

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

b) The Clerk may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the Clerk 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 Clerk 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 Clerk 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 Clerk:

   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 Clerk's materials and property;

   iii. cancel orders;

   iv. assign to the Clerk and deliver to any location designated by the Clerk 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 Clerk under this Agreement; and

e) In the event that the Clerk 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 Clerk 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 Clerk, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the Clerk may request that the Contractor, within the timeframe set forth in the Clerk's request, provide adequate assurances to the Clerk, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the Clerk receives such assurances the Clerk 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 Clerk the requested assurances within the prescribed time frame, the Clerk 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 Clerk shall terminate this Agreement for default, the Clerk or his designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs, in the determination of the Clerk, the Clerk 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 Clerk may be terminated. Notwithstanding, the Clerk may, in its sole discretion, allow the Contractor to rectify the default to the Clerk's reasonable satisfaction within a thirty (30) day period. The Clerk may grant an additional period of such duration as the Clerk shall deem appropriate without waiver of any of the Clerk'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 Clerk 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 Clerk for re-procurement 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 Clerk 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 or Clerk 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 Clerk'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 Clerk and defend any action brought against the County or Clerk with respect to any claim, demand, cause of action, debt, or liability.

c) In the event any Deliverable or anything provided to the Clerk 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 Clerk'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 Clerk, 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 Clerk 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 Clerk may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the Clerk'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 Clerk 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 Clerk holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the Clerk, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the Clerk, unless required by law. In addition to the foregoing, all Clerk employee information and Clerk 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 Clerk. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County and Clerk, 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 Clerk 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 Clerk shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the Clerk, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the Clerk 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 Clerk. 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 acknowledges that all computer software in the Clerk's possession may constitute or contain information or materials which the Clerk has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the Clerk has developed at its own expense, the disclosure of which could harm the Clerk'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 Clerk's property, any computer programs, data compilations, or other software which the Clerk has developed, has used or is using, is holding for use, or which are otherwise in the possession of the Clerk(hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the Clerk and, if the Computer Software has been leased or purchased by the Clerk, 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 Clerk any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the Clerk'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 Clerk retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the Clerk to the Contractor hereunder or furnished by the Contractor to the Clerk and/or created by the Contractor for delivery to the Clerk, 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 Clerk, 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 Clerk'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 Clerk, hereinafter referred to as "Developed Works" shall become the property of the Clerk.

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 Clerk, 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 Clerk 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 Clerk or entities controlling, controlled by, under common control with, or affiliated with the Clerk, or organizations which may hereafter be formed by or become affiliated with the Clerk. Such license specifically includes, but is not limited to, the right of the Clerk 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 Clerk for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the Clerk or entities controlling, controlled by, under common control with, or affiliated with the Clerk, or organizations which may hereafter be formed by or become affiliated with the Clerk. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST

a) Vendor Registration

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

1. ***Miami-Dade County Ownership Disclosure Affidavit***
   (Section 2-8.1 of the County Code)
2. ***Miami-Dade County Employment Disclosure Affidavit***
   (Section 2.8-1(d)(2) of the County Code)
3. ***Miami-Dade Employment Drug-free Workplace Certification***
   (Section 2-8.1.2(b) of the County Code)
4. ***Miami-Dade Disability and Nondiscrimination Affidavit***
   (Section 2-8.1.5 of the County Code*)*
5. ***Miami-Dade County Debarment Disclosure Affidavit***
   (Section 10.38 of the County Code)
6. ***Miami-Dade County Vendor Obligation to County Affidavit***
   (Section 2-8.1 of the County Code)
7. ***Miami-Dade County Code of Business Ethics Affidavit***
   (Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)
8. ***Miami-Dade County Family Leave Affidavit***
   (Article V of Chapter 11 of the County Code)
9. ***Miami-Dade County Living Wage Affidavit***
   (Section 2-8.9 of the County Code)
10. ***Miami-Dade County Domestic Leave and Reporting Affidavit***
    (Article 8, Section 11A-60 11A-67 of the County Code)
11. ***Subcontracting Practices***
    (Ordinance 97-35)
12. ***Subcontractor /Supplier Listing***
    (Section 2-8.8 of the County Code)
13. ***Environmentally Acceptable Packaging***
    (Resolution R-738-92)
14. ***W-9 and 8109 Forms***
    (as required by the Internal Revenue Service)
15. ***FEIN Number or Social Security Number***
    In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- Identification of individual account records
- To make payments to individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes
- To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

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

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

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

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

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

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

Miami-Dade County Inspector General Review

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

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

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

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

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

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

ARTICLE 34. NONDISCRIMINATION

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

By entering into this Contract, 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 Clerk 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 Clerk, 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 or Clerk, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County or Clerk 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 Clerk's Project Manager. Contractor shall thereafter cooperate with the County's or Clerk'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 Clerk:

a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the Clerk, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the Clerk. Such approval may be withheld if for any reason the Clerk 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 Clerk; 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 Clerk reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the Clerk, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

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

ARTICLE 39. 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 Clerk under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

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

Contractor	Miami-Dade Clerk of Courts
By:	By:
Name: Donald C. Donagher, Jr.	Name:
Title: President/CEO	Title:
Date: July 19, 2010	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

SCOPE OF SERVICES

1. Background

The Clerk of Courts' (Clerk) office is organized into four Divisions: parking, traffic, civil (misdemeanor) and criminal. For the purpose of this Contract, the Divisions have been consolidated into two categories; a) parking, and b) traffic/misdemeanor/criminal. The Clerk is responsible for the collection of fines, charges and costs assessed, from an individual or entity (Client) that owes the Clerk monies that are considered past due. Delinquent Client accounts necessitate collection actions, when Client accounts remain unpaid for 90 days or more.

The Board of County Commissioners passed Resolution No. 1204-98 authorizing the Clerk to identify and select contractors to pursue the collection on these delinquent accounts. Legislation actively sought by the Clerk (Florida Statute 938.30, 938.35) will aid in the collection of the full face value of these delinquent accounts (see table below), through the use of collection services paid by means of a collection fee to be added to the debt owed. Refer to Article 7, of the Contract, regarding payment for services.

Currently, the four Clerk Divisions are serviced by a pool of five collection agencies. The following table provides an estimated number and value of the delinquent accounts based on 2009 historical data for the Clerk Divisions that could be assigned to the Pool.

CLERK DIVISION	AVERAGE NUMBER OF ACCOUNTS (MONTHLY)	AVERAGE ACCOUNT TOTALS (ANNUAL)	AVERAGE VALUE (MONTHLY)	AVERAGE TOTAL VALUE (ANNUAL)
PARKING	13,452	161,424	$660,877	$7,930,524
TRAFFIC/MISDEMEANOR/ CRIMINAL	28,880	346,560	$6,937,655	$83,251,860
AGGREGATE ANNUAL AVERAGES	42,332	507,984	$7,598,532	$91,182,384

2. Minimum Qualification Requirements

A. The Contractor shall be registered as a Collection Agency and in good standing in the State of Florida pursuant to Chapter 559, Florida Statute, unless exempted by Chapter 559 of the Florida Statute.

3. Preferred Qualification Requirements

The County has relied on the Contractor's Proposal to determine that Contractor has met the Preferred Qualifications. The Contractor shall maintain such qualifications to the satisfaction of the County as follows:

A. Contractor should have a minimum of three (3) years experience in providing debt collection services on multiple past due accounts;

B. Contractor should possess the capability to effect collections in all 50 States, U.S. Territories or Commonwealths, as well as Caribbean nations, Canada and other countries, if applicable, and meet all interstate collection requirements; and

C. Contractor should be actively collecting on at least 250 individual accounts with a total value of at least $500,000.

4. Pool Structure

The Clerk will select up to six (6) firms to participate in the Pool. The number of collection accounts assigned to each Contractor will be determined by the Clerk. Additionally, there is no minimum or maximum number of Clerk Division accounts or value of accounts that may be assigned to any one Contractor.

At the Clerk's discretion, members may be dropped from the Pool for unsatisfactory performance. Should the number of participants in the Pool drop below six during the Pool's term, the Clerk may replenish the Pool.

5. Work Order Process

As collection services are needed the Clerk will issue a Work Order, which will define the number and provide the list of accounts being transferred to the Contractor for collection services.

Contractor will receive accounts, on a non-exclusive basis, as determined by the Clerk. During the first six months of the Contract, the Clerk will distribute delinquent accounts from each Clerk Division to the Pool members as equitably as possible, at his discretion. Thereafter, the Clerk will determine the most effective and equitable method of assigning Clerk Division accounts to the Contractor. However, based upon, among other factors, the Contractor's performance, the Clerk reserves the right to adjust account assignments to attain the most advantageous results for the Clerk.

6. Requirements and Services to be Provided

The Contractor shall adhere to the Code of Ethics prescribed by the American Collection Association, the Florida Collection Association, and any other applicable billing/collection Associations and shall abide at all times by the Fair Debt Collections Practices Act and all other applicable Federal, State or local regulations, laws or codes.

A. Services to be Provided

The Contractor shall, at a minimum:

1. Provide qualified and experienced personnel to perform the requested services in a manner consistent with all Federal, State and Local laws.
2. Use any and all legal means, procedures or techniques available to locate and engage Clients to pay the entire amount of their outstanding accounts owed to the Clerk. Collections activities shall minimally include direct contact with Clients through telephone calls, sending collection letters to the most current and last known address, locating Clients whose addresses may be unknown and providing skip tracing using a variety of informational databases on all return mail, including addresses located in foreign countries. When appropriate, Contractor shall undertake steps necessary to obtain payment from third party payers.
3. Report Clients that do not satisfy their accounts in a timely manner to the three national credit bureaus, only as requested in writing by the Clerk. The selection of accounts for reporting, and the method and timing of reporting shall be as determined by the Clerk.
4. Provide notice of any planned or recommended referral for legal action and obtain prior approval from the Clerk.
5. Pay for all fees associated with Client checks returned by any bank as "Non-Sufficient Funds" (NSF).

6. Not settle any account for less than the full amount owed, unless otherwise directed in writing by the Clerk. The Contractor shall obtain specific written consent from the Clerk prior to negotiating a final settlement or before otherwise compromising any account. All settlements shall be in compliance with applicable Clerk policies and procedures and Section 2-15 of the Miami-Dade County Code of Ethics.

7. Stop all collection activity immediately when notified by the Clerk Division. The Contractor shall return accounts to the Clerk upon recall. The Clerk reserves the right to re-evaluate, adjust, cancel or recall any account assigned to a Contractor for collection including but not limited to the following reasons:

    a. outstanding balance has been paid in full by the Client;
    b. Client has filed bankruptcy;
    c. debt on the account has been incorrectly calculated;
    d. account was referred to the Contractor in error;
    e. statute of limitation related to the account has expired;
    f. fraud is suspected of any person associated with the account or
    g. Client disputes the amount owed.

The Clerk will specify how long the Contractor may retain an account. This period can typically range from a minimum of twelve (12) months to a maximum of forty-eight (48) months. All accounts that have been assigned to a Contractor for more than 18 months may be reviewed to determine if the accounts should be closed, recalled, re-assigned or left in collection status with the Contractor.

8. Transfer all accounts back to the Clerk when in the opinion of the Contractor, collection efforts have ended, or within thirty (30) calendar days after termination of this Contract. The Clerk will be diligent in his review of any accounts transferred back to the Clerk Division, to determine if the account was truly uncollectible, or if the account was transferred back to the Clerk Division without sufficient collection effort on the part of the Contractor.

9. Designate a contract coordinator responsible for all matters relating to the Services being provided. The Contractor shall advise the Clerk in writing and request written approval, ten (10) days prior to any changes as it pertains to the contract coordinator.

10. Provide all necessary developing, copying, faxing, postal costs and all other such related services necessary to perform the collection services at the Contractor's expense.

11. Bear all costs associated with making all related records available to assist the Clerk in the event the Clerk wishes to audit any of the Contractor's activities pertaining to the services being provided.

12. Pursue an estate residual, if applicable, in the instance the Client is deceased. If recovery is not feasible, transfer the account back to the Clerk. Provide appropriate documentation, upon request from the Clerk, that a claim was filed with the decedent's estate and/or that the Contractor petitioned to have the estate liquidated to recover the debt.

13. Maintain and retain all books, records, data, and other related and relevant documentation for a minimum of three (3) years after the expiration of any Contract awarded to a Contractor as a result of this Contract.

14. Receive all monies collected from Clients, and forward payment to the Clerk in the manner determined by the Clerk, on a daily basis, along with supporting documentation, in an electronic format to be determined by the Clerk.

15. Pickup and deliver any items related to the services to be provided at no cost to the Clerk.

16. Attempt to collect all balances due, assess Client's ability to repay the debt, and as necessary, extend time payments subject to the guidelines established by the Clerk.

17. Contact the sender of monies, when there is insufficient information to identify the account/case/citation to which the payment relates.

18. Accept electronic account referrals from the Clerk and referrals that require manual input into the Contractor's collection system. Accounts sent electronically shall be in the form dictated by the Clerk, which may change from time to time. The Contractor's collection system for processing accounts shall be compatible with the Clerk's method of accounting and account referral.

19. Use litigation when the cost is economically feasible and Clients are not bankrupt, destitute or in some similarly uncollectable circumstance, as a part of Contractor's collection action. Clerk approval is required prior to initiating litigation in order to collect a debt. It is the intent of the Clerk that full payment or judgments be obtained with respect to all litigation filed on behalf of the Clerk.

20. Immediately institute legal proceedings on behalf of the Clerk, when required, for the purpose of collecting on accounts with balances of $5,000 and greater. The Clerk may also require a Contractor to use legal proceedings on his behalf in collecting debts of less than $5,000.

21. Provide the Clerk with electronic access to the Contractor's data system in order to research transaction history of any or all accounts referred to the Contractor by the Clerk.

22. Bear all costs associated with conducting tests of the Contractor's collection system using data files provided by the Clerk, and the return of the files to the Clerk for analysis. Requested corrections, changes or modifications to the Contractor's collection system shall be performed at no cost to the Clerk.

B. Clerk Division Coordination and File Transfer

Referring Clerk Divisions and the Contractor shall work cooperatively to ensure the Contractor receives the necessary information required to complete collection of past due debt.

1. It is the Contractor's responsibility to coordinate and communicate with each referring Clerk Division to ensure the transfer of all applicable information. Additionally, it is the Contractor's responsibility to maintain adequate communication which ensures that the referring Clerk Division and the Contractor are kept up to date with each account assigned for collections.

2. Although it is the Clerk's intent to provide all records in the Clerk's possession associated with a case file, additional information related to the transferred file may be received by the referring Clerk Division after initial transfer to the Contractor. If additional information is required by the Contractor to accommodate collection efforts, the Clerk will provide the information upon request. Such additional information will be considered as a Public Records Request, and subject to appropriate fee(s) in accordance with Florida Statute 119.

C. Communication Methods

To ensure that Contractor staff is available, the following communication requirements must be met by Contractor:

1. Clerk Inquiries

The Contractor's staff shall be available as specified below during regular business hours (8:00am through 5:00pm (local time) Monday through Friday, except County holidays). The Contractor's staff shall be available to provide guidance to the Clerk regarding updates on collections laws, compliance and quality control practices on an as needed basis.

a. **Verbal Inquiries:** A verbal inquiry to the Contractor, including voice mail messages, must be acknowledged by the Contractor within the next four business hours.

b. **Written Inquiries:** A written inquiry to the Contractor, including email, must be acknowledged by the Contractor by the same time on the next business day.

2. Communication

The following methods of communication must be provided to Clients whose accounts have been referred to the Contractor.

a. **Toll-Free Telephone Number:** The Contractor shall maintain a nationwide, toll-free telephone number to provide Clients a method of contact. The toll-free number must be provided on all correspondence directed to Clients.

b. **Facsimile Machine with Toll-free Number:** The Contractor shall maintain a facsimile machine with a toll-free number to provide Clients an additional means of contacting the Collection Agency. The toll-free facsimile number must be provided on all correspondence directed to Clients.

c. **Email Communication:** Contractor shall maintain an email address as an additional means of communication that is available for Clients. The e-mail address may be the same as the one utilized by the Clerk Divisions for contract communication purposes.

D. Collection Account Complaints

The Contractor shall maintain a comprehensive record of each collection account complaint received from a Client or representative and how the complaint relates to the collection activity that has taken place for the account. The record must include the date the complaint was received, nature of the complaint, whether it was verbal or written, and the resolution. Complaint records must be provided to the Clerk Division upon reasonable request. Additionally, the Contractor must notify the referring Clerk Division of the complaint within 24 hours of receipt of the complaint.

E. Client Payment Remittance

Upon receipt of payments from Clients, the Contractor shall remit collected payments to the referring Clerk Division by ACH (automated clearing house) on a daily basis, minus the collection fee the Contractor has placed on top of the debt owed by the Client, as stipulated in Article 7, of the Contract, and credit the transaction for deposit into an account specified by the Clerk Division.

F. Payments Received by Clerk Divisions

In some cases, a payment may be received by a referring Clerk Division at its local office in response to collection efforts taken by the Contractor. In such instances, the payment shall be included in the total payments collected by the Contractor and shall be subject to the Collection Fee. Referring Clerk Divisions will review incoming payments on past due accounts to verify whether a payment received is from an account that has been assigned to the Contractor for collection.

G. Accounting Reporting Procedures

1. The Contractor shall maintain an accounting system that provides accounting records that are supported with adequate documentation, and procedures to support the reporting requirements in Section 7, of the Scope of Services.

2. Account reporting procedures applied by the Contractor for each account shall be determined by the referring Clerk Division. Accounting reporting procedures shall be provided to the Contractor in writing at the time of account referral by each using Clerk Division.

H. Audits

1. The Contractor shall allow the Clerk or his duly authorized representatives, for three (3) years after Contract expiration and any extension thereof, to have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and those of its subcontractors and suppliers which apply to all matters of the Clerk. Such records shall conform to generally accepted accounting principles requirements, and shall only apply to those transactions related to any Contract resulting from this Contract.

2. The Clerk reserves the right to request Third-Party Service Audits of the Contractor, its subcontractors and suppliers no more than once every two years. A request for a Third Party Service Audit will be provided to the Contractor in writing, by the Clerk's Project Manager. Copies of the completed Third Party Service Audit report shall be provided to the Clerk's Project Manager within 120 calendar days of the audit request. The cost of the Third-Party Audit shall be borne by the Contractor. Only the Clerk's Project Manager may request a Third-Party Audit.

I. Return of Covered Data and Information

1. Upon termination, cancellation, expiration or other conclusion of the Contract, the Contractor shall return to the Clerk any and all data and information that was received from or created on behalf of the Clerk by the Contractor.

J. Electronic File Transfers and Formats

The Contractor shall provide Electronic File Transfers. All file transfer processes and formats must be approved in advance by the Clerk's Technical Services Division. At a minimum, the following requirements shall apply to all file transfers and file formats:

1. The Contractor will provide a secure FTP site to conduct the file transfers.
2. The Contractor shall use the file layouts provided by each Clerk Division utilizing the Contractor's services.
3. All files shall be in field position (info/data provided in different fields) text format or in a format otherwise requested by the referring Clerk Division.

K. Database Access

In some instances, database access by Clients, the referring Clerk Divisions and the Contractor may be required or requested. The following guidelines apply to all database access concerns:

1. **Client:** The Contractor may allow the collection Client access to the Contractor's database, by obtaining prior approval in writing from the Clerk Division. The Contractor will be required to bear all costs incurred to establish Client access to their account(s) in the Contractor's database, including obtaining secure internet connections as required by the Contractor.

2. **Referring Clerk Division:** If a referring Clerk Division requests access to the Contractor's database that contains Client account information, access shall be provided by the Contractor to the Clerk Division through a secure internet connection that meets security requirements outlined by the Clerk's Technical Services Division.

7. Reporting/Other Requirements

Contractors shall maintain a computerized database of all assigned accounts from the Clerk and shall prepare reports which describe what action(s) have been taken to collect the accounts. Reporting frequencies, dates and formats will be coordinated with the Contractor after award. Reporting requirements include, but are not limited to, the following types of reports:

1. Monthly Referral Acknowledgement Report – List in alphabetical order the accounts referred. Include the case/citation name, Clerk case number, Contractor's file number, account balance and date referred. The report shall be summarized by Clerk Division and type of account, showing the total accounts referred and the total value of accounts referred. This report shall be electronically submitted to the Clerk of the Courts.

2. Monthly Remittance and Reporting – List in alphabetical order the account name, and include the Clerk case number, Contractor's file number, credits to the accounts (for accounts involving litigation, recovered costs), total amount collected, whether the payment was made to the Contractor or directly to the Clerk, balance due and Contractor's fees associated with the collections. This report shall be summarized by Clerk Division and type of account, showing totals for all number and value categories.

3. A detailed Status Report shall be submitted to the Clerk, at the beginning of each month, or as agreed upon by the Clerk Division providing the most recent activity for the previous month on each account and totals for the accounts. This report shall include at a minimum, the name, case/citation number, status, original and modified amount due, amount paid previous month, amount paid to date for each account, balance due, amount distributed to the Clerk, fee deducted by the Contractor, and accounts reported to a credit bureau.

4. Monthly Recovery by Placement Analysis Report- This report shall analyze the accounts referred to the Contractor for each month in which accounts are referred. The report shall analyze the actual collections against the total amount referred for that month, reflecting the Contractor's liquidation rate, against the cumulative total for all accounts assigned.

5. A Cancellation/Recall Report by case/citation number(s), showing the reason for return to the Clerk and the outstanding balance. This report shall include a compilation of accounts recalled by the Clerk, information on any legal action undertaken and judgment issued (if any), bankruptcy status, or deceased status. If the Client is bankrupt, the bankruptcy case number shall be indicated. If deceased, an indication as to the status of estate and probate case number shall be provided. The report shall indicate if collection activity has stopped for any other reason than those outlined above, and any that the Contractor feels is uncollectible. All cancelled/recalled accounts listed in this report shall be totaled, and submitted monthly.

6. Other Reports, which the Clerk may require on occasion. While the Clerk does not expect to request such reports on a routine basis, there may be instances when the Clerk may require a special report as it relates to the collection of accounts. The Clerk will use reasonableness in requesting these reports.

Contractor shall provide all required reports to the Clerk, in a format, frequency (if not already stated herein) and quantity acceptable to the Clerk. With the exception of the Monthly Recovery by Placement Analysis Report, a separate set of reports shall be provided for each Clerk Division that summarizes all accounts received from the respective Clerk Division. Additionally, Contractor(s) shall meet with the Clerk's Project Manager on a quarterly basis, at a minimum, to discuss collection efforts.

8. Clerk's Responsibilities

The Clerk will:

1. Transfer accounts over 90 calendar days delinquent, except for any accounts the Clerk does not wish to transfer to Contractors. Although it is the intent of the Clerk to transfer accounts to the Contractors when accounts are more than 90 calendar days delinquent, the Clerk reserves the right to extend that period, at its sole discretion, for any additional time period the Clerk deems necessary. Additionally, individual Clerk Divisions may have the discretion to determine at what point an account is considered delinquent and how many days delinquent the account must be in order to transfer it to a Contractor.
2. Determine the most effective and equitable method of assigning accounts to Contractors. The Clerk shall take into consideration the type of account(s), total dollar value, age of account(s) and other related information when transferring accounts to Contractors. The Clerk reserves the right to exercise sole discretion as to which accounts will be transferred to Contractors. The Clerk shall notify Contractors when accounts are ready for transfer or arrange a periodic automatic transfer.
3. Reserve the right to recall assigned accounts at any time and for whatever reason, and will not be responsible for any costs incurred by the Contractor for that account.
4. Designate a Project Manager(s) responsible for matters concerning the services being provided.
5. Notify the Contractor when collection action is to be cancelled and transferred back to the Clerk, or suspended for any period of time.
6. Notify the Contractor of any adjustments or corrections made to the amount due.
7. Reserves the right to change any portion of the required services outlined herein, based upon changes in Federal, State, and Local laws, or County ordinance, written rule, resolution, administrative policy or procedure that make it necessary.
8. Remit to the Contractor, the collection fee, when the Clerk accepts payment by a Client, including collection fee, for an account referred to the Contractor. The Clerk reserves the right to not accept, at a Clerk Office, any payment(s) by Clients for any account(s) which have been referred to the Contractor.
9. Provide data files to the Contractor for purposes of testing the Contractor's collection system. The Clerk reserves the right to be sole judge as to suitability of the Contractor's collection system, based on test results. The Clerk also reserves the right to withhold account transfers to the Contractor until such time as the Contractor has satisfactorily met all corrections, changes or modifications to its system as deemed necessary to satisfy the Clerk's requirements.

DEBT COLLECTION SERVICES POOL FOR CLERK OF THE COURTS

Contract No. RFQ723D

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Law Enforcement Systems, Inc., a corporation organized and existing under the laws of the State of New York, having its principal office at 30-30 47th Avenue, 7th Floor, Long Island City, NY 11101 (hereinafter referred to as the "Contractor"), and Miami-Dade County Clerk of the Courts (hereinafter referred to as the "Clerk"), a political subdivision of the State of Florida, having its principal office at 73 West Flagler Street, Miami, Florida 33128.

WITNESSETH:

WHEREAS, the Contractor has offered to participate in the Debt Collection Services Pool ("Pool") for Clerk of the Courts as a Pool "member" and as such has offered to provide on a non-exclusive basis debt collection services that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. RFQ 723 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 May 17, 2010 hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the Clerk desires to procure from the Contractor such Debt Collection Services for the Clerk, 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 "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 Clerk.

b) The word "Client" to mean an individual or entity that, at the time of account assignment to a Pool member, owes the Miami-Dade County Clerk of the Courts monies that are considered past due.

c) The word "Collections" to mean all activities undertaken by the Clerk or the Pool member in an effort to collect money that is past due.

d) The words "Collection Fee" to mean the compensation to the Pool member for collection services provided to the Clerk in accordance with Florida Statute 28.246.

e) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFQ No. 723 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.

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

g) 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.

h) The word "Contractor" to mean Law Enforcement Systems, Inc. and its permitted successors and assigns.

i) The word "County" to mean Miami-Dade County, a political subdivision of the State of Florida.

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

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

l) 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 Clerk'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 Clerk's Project Manager.

m) The words "Project Manager" to mean the Clerk of the Courts or the duly authorized representative designated to manage the Project.

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

o) 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.

p) 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 Clerk's RFQ No. 723 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.

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

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

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

ARTICLE 4. NATURE OF THE AGREEMENT

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

b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the Clerk 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 Clerk's Project Manager.

e) The Contractor acknowledges that the Clerk 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 Clerk. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the Clerk with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date set forth on the first page and shall continue through the last day of the 48th month. The Clerk, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period of two (2) additional years on a year-to-year basis. The Clerk 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 Clerk and the Contractor.

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 Clerk

a) to the Project Manager:

Miami-Dade Clerk of the Courts
73 West Flagler Street, Room 242
Miami, Florida 33130
Attention: Clerk of the Courts
Phone: (305) 375-3333
Fax: (305) 375-2485

and,

b) to the Contract Manager:

Miami-Dade County
Department of Procurement Management
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974

Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

Law Enforcement Systems, Inc.
30-30 47th Avenue, 7th Floor
Long Island City, NY 11101
Attention: Dawn Carrier
Phone: (718) 715-1914
Fax: (718) 349-7049
E-mail: dawn@les2000.com

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

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the Clerk's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order 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 the form of a 40% Collection Fee that the Contractor is allowed to add to the debt owed, as set forth in Florida Statutes 28.246 (Payment of Court-Related Fees, Charges, and Cost; Partial Payment; Distribution of Funds). The Clerk shall have no obligation to pay the Contractor any sum.

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

ARTICLE 8. COLLECTION FEE

The Collection Fee of 40% that is added to the debt owed shall remain firm and fixed for the term of the Contract, including any option or extension periods, unless changed by Florida Statute. The Collection Fee shall be added to the debt, whether the payment is partial or in its entirety.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor shall forward all monies collected which are due to the Clerk, on a daily basis. After the Clerk receives full payment for the debt owed on a Client account, the Contractor may retain the additional collected 40% Collection Fee placed on top of the debt owed to the Clerk. The fee for any direct or indirect cost associated with the Clerk providing any Public Records to the Contractor, in accordance with Florida Statute 119, shall be submitted to the Clerk with the monies collected on the applicable Client account.

In the case where a Client makes a payment to a referring Clerk Division at its local office, in response to collection efforts taken by the Contractor, the payment shall be subject to the 40% Collection Fee. The Clerk will remit the 40% Collection Fee to the Contractor when the Clerk accepts payment by a Client.

Any payment back-up documentation and reports, as stipulated in the Appendix A, Scope of Services shall be submitted by the Contractor to the Clerk, unless otherwise specified in the Appendix A, Scope of Services as another mode of submission, as follows:

Miami-Dade Clerk of the Courts
140 West Flagler Street, Room 1500
Miami. Florida 33130

Attention: Martha Alcazar

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

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and Clerk and their officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or Clerk or their 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 or Clerk, 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 Clerk or their officers, employees, agents and instrumentalities as herein provided.

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

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

2. Commercial General Liability Insurance in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.**

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

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

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 Clerk in accordance with the terms and conditions of this Agreement. The Clerk 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 Clerk 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 Clerk 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 or Clerk, 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 or Clerk. 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 Clerk, should the Clerk 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 Clerk 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 Clerk. The Contractor shall supply competent employees. The Clerk 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 Clerk. 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 Clerk 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 Clerk shall be that of an independent contractor and not as employees and agents of the Clerk.

The Contractor does not have the power or authority to bind the County or Clerk in any promise,

agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE CLERK'S PROJECT MANAGER

a) The Contractor hereby acknowledges that the Clerk'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 Clerk 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 Clerk'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 Clerk within 10 days of the occurrence, event or act out of which the dispute arises.

e) The Clerk 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 Clerk 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 Clerk 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 Clerk is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The Clerk, 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 Clerk may, at its expense, elect to participate in the defense if the Clerk should so choose. Furthermore, the Clerk may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

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

ARTICLE 17. AUDITS

The County and Clerk, or their duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County or Clerk. 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 Clerk 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 CLERK 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 Clerk.

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 Clerk 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 Clerk may require. The Clerk will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the Clerk.

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 Clerk, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the Clerk 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 Clerk that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

e) The Clerk shall have the right to withdraw his consent to a subcontract if it appears to the Clerk 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 Clerk's and Clerk's proprietary and confidential information. Contractor shall furnish to the Clerk 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 Clerk permitting the Clerk to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the Clerk finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the Clerk 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 Clerk were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the Clerk makes no representations or guarantees; and the Clerk shall not be responsible for the accuracy of the assumptions presented; and the Clerk shall not be responsible for conclusions to be drawn

therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

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

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

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

b) The Clerk may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the Clerk 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 Clerk 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 Clerk 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 Clerk:

   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 Clerk's materials and property;

   iii. cancel orders;

   iv. assign to the Clerk and deliver to any location designated by the Clerk 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 Clerk under this Agreement; and

e) In the event that the Clerk 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 Clerk 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 Clerk, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the Clerk may request that the Contractor, within the timeframe set forth in the Clerk's request, provide adequate assurances to the Clerk, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the Clerk receives such assurances the Clerk 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 Clerk the requested assurances within the prescribed time frame, the Clerk 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 Clerk shall terminate this Agreement for default, the Clerk or his designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs, in the determination of the Clerk, the Clerk 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 Clerk may be terminated. Notwithstanding, the Clerk may, in its sole discretion, allow the Contractor to rectify the default to the Clerk's reasonable satisfaction within a thirty (30) day period. The Clerk may grant an additional period of such duration as the Clerk shall deem appropriate without waiver of any of the Clerk'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 Clerk 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 Clerk for re-procurement 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 Clerk 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 or Clerk 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 Clerk'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 Clerk and defend any action brought against the County or Clerk with respect to any claim, demand, cause of action, debt, or liability.

c) In the event any Deliverable or anything provided to the Clerk 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 Clerk'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 Clerk, 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 Clerk 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 Clerk may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the Clerk'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 Clerk 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 Clerk holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the Clerk, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the Clerk, unless required by law. In addition to the foregoing, all Clerk employee information and Clerk 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 Clerk. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County and Clerk, 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 Clerk 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 Clerk shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the Clerk, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the Clerk 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 Clerk. 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 acknowledges that all computer software in the Clerk's possession may constitute or contain information or materials which the Clerk has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the Clerk has developed at its own expense, the disclosure of which could harm the Clerk'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 Clerk's property, any computer programs, data compilations, or other software which the Clerk has developed, has used or is using, is holding for use, or which are otherwise in the possession of the Clerk(hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the Clerk and, if the Computer Software has been leased or purchased by the Clerk, 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 Clerk any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the Clerk'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 Clerk retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the Clerk to the Contractor hereunder or furnished by the Contractor to the Clerk and/or created by the Contractor for delivery to the Clerk, 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 Clerk, 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 Clerk'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 Clerk, hereinafter referred to as "Developed Works" shall become the property of the Clerk.

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 Clerk, 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 Clerk 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 Clerk or entities controlling, controlled by, under common control with, or affiliated with the Clerk, or organizations which may hereafter be formed by or become affiliated with the Clerk. Such license specifically includes, but is not limited to, the right of the Clerk 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 Clerk for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the Clerk or entities controlling, controlled by, under common control with, or affiliated with the Clerk, or organizations which may hereafter be formed by or become affiliated with the Clerk. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST

a) Vendor Registration

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. ***FEIN Number or Social Security Number***
    In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- Identification of individual account records
- To make payments to individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes
- To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

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

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

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

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

ARTICLE 32. INSPECTOR GENERAL REVIEWS
Independent Private Sector Inspector General Reviews

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

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

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

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

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

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

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

ARTICLE 34. NONDISCRIMINATION

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

By entering into this Contract, 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 Clerk 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 Clerk, 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 or Clerk, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County or Clerk 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 Clerk's Project Manager. Contractor shall thereafter cooperate with the County's or Clerk'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 Clerk:

a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the Clerk, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the Clerk. Such approval may be withheld if for any reason the Clerk 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 Clerk; 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 Clerk reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the Clerk, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

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

ARTICLE 39. 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 Clerk under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

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

Contractor	Miami-Dade Clerk of Courts
By: Dawn M. Carrier	By: _____
Name: Dawn M. Carrier	Name: _____
Title: Vice President	Title: _____
Date: 7/21/10	Date: _____
Attest: _____ Corporate Secretary/Notary Public	Attest: _____ Clerk of the Board
Corporate Seal/Notary Seal	Approved as to form and legal sufficiency
LAVINA E. RODNEY Notary Public - State of New York No. 01RO6201175 My Commission Expires March 20, 2013 7-21-10	_____ Assistant County Attorney

SCOPE OF SERVICES

1. Background

The Clerk of Courts' (Clerk) office is organized into four Divisions: parking, traffic, civil (misdemeanor) and criminal. For the purpose of this Contract, the Divisions have been consolidated into two categories; a) parking, and b) traffic/misdemeanor/criminal. The Clerk is responsible for the collection of fines, charges and costs assessed, from an individual or entity (Client) that owes the Clerk monies that are considered past due. Delinquent Client accounts necessitate collection actions, when Client accounts remain unpaid for 90 days or more.

The Board of County Commissioners passed Resolution No. 1204-98 authorizing the Clerk to identify and select contractors to pursue the collection on these delinquent accounts. Legislation actively sought by the Clerk (Florida Statute 938.30, 938.35) will aid in the collection of the full face value of these delinquent accounts (see table below), through the use of collection services paid by means of a collection fee to be added to the debt owed. Refer to Article 7, of the Contract, regarding payment for services.

Currently, the four Clerk Divisions are serviced by a pool of five collection agencies. The following table provides an estimated number and value of the delinquent accounts based on 2009 historical data for the Clerk Divisions that could be assigned to the Pool.

CLERK DIVISION	AVERAGE NUMBER OF ACCOUNTS (MONTHLY)	AVERAGE ACCOUNT TOTALS (ANNUAL)	AVERAGE VALUE (MONTHLY)	AVERAGE TOTAL VALUE (ANNUAL)
PARKING	13,452	161,424	$660,877	$7,930,524
TRAFFIC/MISDEMEANOR/ CRIMINAL	28,880	346,560	$6,937,655	$83,251,860
AGGREGATE ANNUAL AVERAGES	42,332	507,984	$7,598,532	$91,182,384

2. Minimum Qualification Requirements

A. The Contractor shall be registered as a Collection Agency and in good standing in the State of Florida pursuant to Chapter 559, Florida Statute, unless exempted by Chapter 559 of the Florida Statute.

3. Preferred Qualification Requirements

The County has relied on the Contractor's Proposal to determine that Contractor has met the Preferred Qualifications. The Contractor shall maintain such qualifications to the satisfaction of the County as follows:

A. Contractor should have a minimum of three (3) years experience in providing debt collection services on multiple past due accounts;

B. Contractor should possess the capability to effect collections in all 50 States, U.S. Territories or Commonwealths, as well as Caribbean nations, Canada and other countries, if applicable, and meet all interstate collection requirements; and

C. Contractor should be actively collecting on at least 250 individual accounts with a total value of at least $500,000.

4. Pool Structure

The Clerk will select up to six (6) firms to participate in the Pool. The number of collection accounts assigned to each Contractor will be determined by the Clerk. Additionally, there is no minimum or maximum number of Clerk Division accounts or value of accounts that may be assigned to any one Contractor.

At the Clerk's discretion, members may be dropped from the Pool for unsatisfactory performance. Should the number of participants in the Pool drop below six during the Pool's term, the Clerk may replenish the Pool.

5. Work Order Process

As collection services are needed the Clerk will issue a Work Order, which will define the number and provide the list of accounts being transferred to the Contractor for collection services.

Contractor will receive accounts, on a non-exclusive basis, as determined by the Clerk. During the first six months of the Contract, the Clerk will distribute delinquent accounts from each Clerk Division to the Pool members as equitably as possible, at his discretion. Thereafter, the Clerk will determine the most effective and equitable method of assigning Clerk Division accounts to the Contractor. However, based upon, among other factors, the Contractor's performance, the Clerk reserves the right to adjust account assignments to attain the most advantageous results for the Clerk.

6. Requirements and Services to be Provided

The Contractor shall adhere to the Code of Ethics prescribed by the American Collection Association, the Florida Collection Association, and any other applicable billing/collection Associations and shall abide at all times by the Fair Debt Collections Practices Act and all other applicable Federal, State or local regulations, laws or codes.

A. Services to be Provided

The Contractor shall, at a minimum:

1. Provide qualified and experienced personnel to perform the requested services in a manner consistent with all Federal, State and Local laws.
2. Use any and all legal means, procedures or techniques available to locate and engage Clients to pay the entire amount of their outstanding accounts owed to the Clerk. Collections activities shall minimally include direct contact with Clients through telephone calls, sending collection letters to the most current and last known address, locating Clients whose addresses may be unknown and providing skip tracing using a variety of informational databases on all return mail, including addresses located in foreign countries. When appropriate, Contractor shall undertake steps necessary to obtain payment from third party payers.
3. Report Clients that do not satisfy their accounts in a timely manner to the three national credit bureaus, only as requested in writing by the Clerk. The selection of accounts for reporting, and the method and timing of reporting shall be as determined by the Clerk.
4. Provide notice of any planned or recommended referral for legal action and obtain prior approval from the Clerk.
5. Pay for all fees associated with Client checks returned by any bank as "Non-Sufficient Funds" (NSF).

6. Not settle any account for less than the full amount owed, unless otherwise directed in writing by the Clerk. The Contractor shall obtain specific written consent from the Clerk prior to negotiating a final settlement or before otherwise compromising any account. All settlements shall be in compliance with applicable Clerk policies and procedures and Section 2-15 of the Miami-Dade County Code of Ethics.

7. Stop all collection activity immediately when notified by the Clerk Division. The Contractor shall return accounts to the Clerk upon recall. The Clerk reserves the right to re-evaluate, adjust, cancel or recall any account assigned to a Contractor for collection including but not limited to the following reasons:

    a. outstanding balance has been paid in full by the Client;
    b. Client has filed bankruptcy;
    c. debt on the account has been incorrectly calculated;
    d. account was referred to the Contractor in error;
    e. statute of limitation related to the account has expired;
    f. fraud is suspected of any person associated with the account or
    g. Client disputes the amount owed.

The Clerk will specify how long the Contractor may retain an account. This period can typically range from a minimum of twelve (12) months to a maximum of forty-eight (48) months. All accounts that have been assigned to a Contractor for more than 18 months may be reviewed to determine if the accounts should be closed, recalled, re-assigned or left in collection status with the Contractor.

8. Transfer all accounts back to the Clerk when in the opinion of the Contractor, collection efforts have ended, or within thirty (30) calendar days after termination of this Contract. The Clerk will be diligent in his review of any accounts transferred back to the Clerk Division, to determine if the account was truly uncollectible, or if the account was transferred back to the Clerk Division without sufficient collection effort on the part of the Contractor.

9. Designate a contract coordinator responsible for all matters relating to the Services being provided. The Contractor shall advise the Clerk in writing and request written approval, ten (10) days prior to any changes as it pertains to the contract coordinator.

10. Provide all necessary developing, copying, faxing, postal costs and all other such related services necessary to perform the collection services at the Contractor's expense.

11. Bear all costs associated with making all related records available to assist the Clerk in the event the Clerk wishes to audit any of the Contractor's activities pertaining to the services being provided.

12. Pursue an estate residual, if applicable, in the instance the Client is deceased. If recovery is not feasible, transfer the account back to the Clerk. Provide appropriate documentation, upon request from the Clerk, that a claim was filed with the decedent's estate and/or that the Contractor petitioned to have the estate liquidated to recover the debt.

13. Maintain and retain all books, records, data, and other related and relevant documentation for a minimum of three (3) years after the expiration of any Contract awarded to a Contractor as a result of this Contract.

14. Receive all monies collected from Clients, and forward payment to the Clerk in the manner determined by the Clerk, on a daily basis, along with supporting documentation, in an electronic format to be determined by the Clerk.

15. Pickup and deliver any items related to the services to be provided at no cost to the Clerk.

16. Attempt to collect all balances due, assess Client's ability to repay the debt, and as necessary, extend time payments subject to the guidelines established by the Clerk.

17. Contact the sender of monies, when there is insufficient information to identify the account/case/citation to which the payment relates.

18. Accept electronic account referrals from the Clerk and referrals that require manual input into the Contractor's collection system. Accounts sent electronically shall be in the form dictated by the Clerk, which may change from time to time. The Contractor's collection system for processing accounts shall be compatible with the Clerk's method of accounting and account referral.

19. Use litigation when the cost is economically feasible and Clients are not bankrupt, destitute or in some similarly uncollectable circumstance, as a part of Contractor's collection action. Clerk approval is required prior to initiating litigation in order to collect a debt. It is the intent of the Clerk that full payment or judgments be obtained with respect to all litigation filed on behalf of the Clerk.

20. Immediately institute legal proceedings on behalf of the Clerk, when required, for the purpose of collecting on accounts with balances of $5,000 and greater. The Clerk may also require a Contractor to use legal proceedings on his behalf in collecting debts of less than $5,000.

21. Provide the Clerk with electronic access to the Contractor's data system in order to research transaction history of any or all accounts referred to the Contractor by the Clerk.

22. Bear all costs associated with conducting tests of the Contractor's collection system using data files provided by the Clerk, and the return of the files to the Clerk for analysis. Requested corrections, changes or modifications to the Contractor's collection system shall be performed at no cost to the Clerk.

B. Clerk Division Coordination and File Transfer

Referring Clerk Divisions and the Contractor shall work cooperatively to ensure the Contractor receives the necessary information required to complete collection of past due debt.

1. It is the Contractor's responsibility to coordinate and communicate with each referring Clerk Division to ensure the transfer of all applicable information. Additionally, it is the Contractor's responsibility to maintain adequate communication which ensures that the referring Clerk Division and the Contractor are kept up to date with each account assigned for collections.

2. Although it is the Clerk's intent to provide all records in the Clerk's possession associated with a case file, additional information related to the transferred file may be received by the referring Clerk Division after initial transfer to the Contractor. If additional information is required by the Contractor to accommodate collection efforts, the Clerk will provide the information upon request. Such additional information will be considered as a Public Records Request, and subject to appropriate fee(s) in accordance with Florida Statute 119.

C. Communication Methods

To ensure that Contractor staff is available, the following communication requirements must be met by Contractor:

1. Clerk Inquiries

The Contractor's staff shall be available as specified below during regular business hours (8:00am through 5:00pm (local time) Monday through Friday, except County holidays). The Contractor's staff shall be available to provide guidance to the Clerk regarding updates on collections laws, compliance and quality control practices on an as needed basis.

a. **Verbal Inquiries:** A verbal inquiry to the Contractor, including voice mail messages, must be acknowledged by the Contractor within the next four business hours.

b. **Written Inquiries:** A written inquiry to the Contractor, including email, must be acknowledged by the Contractor by the same time on the next business day.

2. Communication

The following methods of communication must be provided to Clients whose accounts have been referred to the Contractor.

a. **Toll-Free Telephone Number:** The Contractor shall maintain a nationwide, toll-free telephone number to provide Clients a method of contact. The toll-free number must be provided on all correspondence directed to Clients.

b. **Facsimile Machine with Toll-free Number:** The Contractor shall maintain a facsimile machine with a toll-free number to provide Clients an additional means of contacting the Collection Agency. The toll-free facsimile number must be provided on all correspondence directed to Clients.

c. **Email Communication:** Contractor shall maintain an email address as an additional means of communication that is available for Clients. The e-mail address may be the same as the one utilized by the Clerk Divisions for contract communication purposes.

D. Collection Account Complaints

The Contractor shall maintain a comprehensive record of each collection account complaint received from a Client or representative and how the complaint relates to the collection activity that has taken place for the account. The record must include the date the complaint was received, nature of the complaint, whether it was verbal or written, and the resolution. Complaint records must be provided to the Clerk Division upon reasonable request. Additionally, the Contractor must notify the referring Clerk Division of the complaint within 24 hours of receipt of the complaint.

E. Client Payment Remittance

Upon receipt of payments from Clients, the Contractor shall remit collected payments to the referring Clerk Division by ACH (automated clearing house) on a daily basis, minus the collection fee the Contractor has placed on top of the debt owed by the Client, as stipulated in Article 7, of the Contract, and credit the transaction for deposit into an account specified by the Clerk Division.

F. Payments Received by Clerk Divisions

In some cases, a payment may be received by a referring Clerk Division at its local office in response to collection efforts taken by the Contractor. In such instances, the payment shall be included in the total payments collected by the Contractor and shall be subject to the Collection Fee. Referring Clerk Divisions will review incoming payments on past due accounts to verify whether a payment received is from an account that has been assigned to the Contractor for collection.

G. Accounting Reporting Procedures

1. The Contractor shall maintain an accounting system that provides accounting records that are supported with adequate documentation, and procedures to support the reporting requirements in Section 7, of the Scope of Services.

2. Account reporting procedures applied by the Contractor for each account shall be determined by the referring Clerk Division. Accounting reporting procedures shall be provided to the Contractor in writing at the time of account referral by each using Clerk Division.

H. Audits

1. The Contractor shall allow the Clerk or his duly authorized representatives, for three (3) years after Contract expiration and any extension thereof, to have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and those of its subcontractors and suppliers which apply to all matters of the Clerk. Such records shall conform to generally accepted accounting principles requirements, and shall only apply to those transactions related to any Contract resulting from this Contract.

2. The Clerk reserves the right to request Third-Party Service Audits of the Contractor, its subcontractors and suppliers no more than once every two years. A request for a Third Party Service Audit will be provided to the Contractor in writing, by the Clerk's Project Manager. Copies of the completed Third Party Service Audit report shall be provided to the Clerk's Project Manager within 120 calendar days of the audit request. The cost of the Third-Party Audit shall be borne by the Contractor. Only the Clerk's Project Manager may request a Third-Party Audit.

I. Return of Covered Data and Information

1. Upon termination, cancellation, expiration or other conclusion of the Contract, the Contractor shall return to the Clerk any and all data and information that was received from or created on behalf of the Clerk by the Contractor.

J. Electronic File Transfers and Formats

The Contractor shall provide Electronic File Transfers. All file transfer processes and formats must be approved in advance by the Clerk's Technical Services Division. At a minimum, the following requirements shall apply to all file transfers and file formats:

1. The Contractor will provide a secure FTP site to conduct the file transfers.
2. The Contractor shall use the file layouts provided by each Clerk Division utilizing the Contractor's services.
3. All files shall be in field position (info/data provided in different fields) text format or in a format otherwise requested by the referring Clerk Division.

K. Database Access

In some instances, database access by Clients, the referring Clerk Divisions and the Contractor may be required or requested. The following guidelines apply to all database access concerns:

1. **Client:** The Contractor may allow the collection Client access to the Contractor's database, by obtaining prior approval in writing from the Clerk Division. The Contractor will be required to bear all costs incurred to establish Client access to their account(s) in the Contractor's database, including obtaining secure internet connections as required by the Contractor.

2. **Referring Clerk Division:** If a referring Clerk Division requests access to the Contractor's database that contains Client account information, access shall be provided by the Contractor to the Clerk Division through a secure internet connection that meets security requirements outlined by the Clerk's Technical Services Division.

7. Reporting/Other Requirements

Contractors shall maintain a computerized database of all assigned accounts from the Clerk and shall prepare reports which describe what action(s) have been taken to collect the accounts. Reporting frequencies, dates and formats will be coordinated with the Contractor after award. Reporting requirements include, but are not limited to, the following types of reports:

1. Monthly Referral Acknowledgement Report – List in alphabetical order the accounts referred. Include the case/citation name, Clerk case number, Contractor's file number, account balance and date referred. The report shall be summarized by Clerk Division and type of account, showing the total accounts referred and the total value of accounts referred. This report shall be electronically submitted to the Clerk of the Courts.

2. Monthly Remittance and Reporting – List in alphabetical order the account name, and include the Clerk case number, Contractor's file number, credits to the accounts (for accounts involving litigation, recovered costs), total amount collected, whether the payment was made to the Contractor or directly to the Clerk, balance due and Contractor's fees associated with the collections. This report shall be summarized by Clerk Division and type of account, showing totals for all number and value categories.

3. A detailed Status Report shall be submitted to the Clerk, at the beginning of each month, or as agreed upon by the Clerk Division providing the most recent activity for the previous month on each account and totals for the accounts. This report shall include at a minimum, the name, case/citation number, status, original and modified amount due, amount paid previous month, amount paid to date for each account, balance due, amount distributed to the Clerk, fee deducted by the Contractor, and accounts reported to a credit bureau.

4. Monthly Recovery by Placement Analysis Report- This report shall analyze the accounts referred to the Contractor for each month in which accounts are referred. The report shall analyze the actual collections against the total amount referred for that month, reflecting the Contractor's liquidation rate, against the cumulative total for all accounts assigned.

5. A Cancellation/Recall Report by case/citation number(s), showing the reason for return to the Clerk and the outstanding balance. This report shall include a compilation of accounts recalled by the Clerk, information on any legal action undertaken and judgment issued (if any), bankruptcy status, or deceased status. If the Client is bankrupt, the bankruptcy case number shall be indicated. If deceased, an indication as to the status of estate and probate case number shall be provided. The report shall indicate if collection activity has stopped for any other reason than those outlined above, and any that the Contractor feels is uncollectible. All cancelled/recalled accounts listed in this report shall be totaled, and submitted monthly.

6. Other Reports, which the Clerk may require on occasion. While the Clerk does not expect to request such reports on a routine basis, there may be instances when the Clerk may require a special report as it relates to the collection of accounts. The Clerk will use reasonableness in requesting these reports.

Contractor shall provide all required reports to the Clerk, in a format, frequency (if not already stated herein) and quantity acceptable to the Clerk. With the exception of the Monthly Recovery by Placement Analysis Report, a separate set of reports shall be provided for each Clerk Division that summarizes all accounts received from the respective Clerk Division. Additionally, Contractor(s) shall meet with the Clerk's Project Manager on a quarterly basis, at a minimum, to discuss collection efforts.

8. Clerk's Responsibilities

The Clerk will:

1. Transfer accounts over 90 calendar days delinquent, except for any accounts the Clerk does not wish to transfer to Contractors. Although it is the intent of the Clerk to transfer accounts to the Contractors when accounts are more than 90 calendar days delinquent, the Clerk reserves the right to extend that period, at its sole discretion, for any additional time period the Clerk deems necessary. Additionally, individual Clerk Divisions may have the discretion to determine at what point an account is considered delinquent and how many days delinquent the account must be in order to transfer it to a Contractor.
2. Determine the most effective and equitable method of assigning accounts to Contractors. The Clerk shall take into consideration the type of account(s), total dollar value, age of account(s) and other related information when transferring accounts to Contractors. The Clerk reserves the right to exercise sole discretion as to which accounts will be transferred to Contractors. The Clerk shall notify Contractors when accounts are ready for transfer or arrange a periodic automatic transfer.
3. Reserve the right to recall assigned accounts at any time and for whatever reason, and will not be responsible for any costs incurred by the Contractor for that account.
4. Designate a Project Manager(s) responsible for matters concerning the services being provided.
5. Notify the Contractor when collection action is to be cancelled and transferred back to the Clerk, or suspended for any period of time.
6. Notify the Contractor of any adjustments or corrections made to the amount due.
7. Reserves the right to change any portion of the required services outlined herein, based upon changes in Federal, State, and Local laws, or County ordinance, written rule, resolution, administrative policy or procedure that make it necessary.
8. Remit to the Contractor, the collection fee, when the Clerk accepts payment by a Client, including collection fee, for an account referred to the Contractor. The Clerk reserves the right to not accept, at a Clerk Office, any payment(s) by Clients for any account(s) which have been referred to the Contractor.
9. Provide data files to the Contractor for purposes of testing the Contractor's collection system. The Clerk reserves the right to be sole judge as to suitability of the Contractor's collection system, based on test results. The Clerk also reserves the right to withhold account transfers to the Contractor until such time as the Contractor has satisfactorily met all corrections, changes or modifications to its system as deemed necessary to satisfy the Clerk's requirements.

Memorandum MIAMI-DADE COUNTY

Date: June 24, 2010

To: Harvey Ruvin
Clerk, Circuit and County Courts

Thru: Miriam Singer, CPPO
Director
Department of Procurement Management

From: Pearl P. Bethel, CPPB
Procurement Contracting Agent
Chairperson, Evaluation/Selection Committee

Subject: Report of Evaluation/Selection Committee for RFQ No. 723, Debt Collection Services Pool for Clerk of the Courts

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The County issued a solicitation to obtain proposals from interested parties to submit their qualifications for inclusion into the Debt Collection Services Pool for Clerk of the Courts. The solicitation allowed for selection of up to six firms to pursue the collection of any outstanding traffic, misdemeanor, criminal fines and court costs. These outstanding debts may be levied by a court of competent jurisdiction in the manner prescribed by Florida Statute 938.30 (Financial Obligations in Criminal Cases) and collected in accordance with Florida Statute 28.246 (Payment of Court-Related Fees, Charges, and Costs; Partial Payments; Distribution of Funds). The work will be assigned to the pool members by the Clerk as equitable as possible.

The Evaluation/Selection Committee has completed the evaluation of proposals submitted in response to the solicitation following the guidelines published in the solicitation.

Committee meeting dates:
May 21, 2010 (kick-off meeting)
June 7, 2010 (technical evaluation)

Verification of compliance with contract measures:
Not applicable since the Review Committee did not assign any contract measures to this solicitation.

Verification of compliance with minimum qualification requirement:
The solicitation had a minimum qualification requirement which was reviewed by the Chairperson and Martha Alcazar, the client, Clerk of Courts. All of the proposers met the requirement.

Local Certified Service-Disabled Veteran's Business Enterprise Preference:
Veteran's Preference was considered in accordance with the applicable ordinance. None of the proposers qualified for the preference.

Summary of scores:

The final scores are as follows:

Proposer	*Total Technical Score*
	(max. 500)
1. Linebarger Goggan Blair & Sampson, LLP	474
2. AllianceOne Receivables Management, Inc.	467
3. Penn Credit Corporation	462

4.	Law Enforcement Systems, Inc.	461
5.	Gila Corporation d/b/a Municipal Services Bureau (MSB)	433
6.	Pioneer Credit Recovery, Inc.	406
7.	NCO Financial Systems Inc.	399
8.	GC Services Limited Partnership	396
9.	Harris & Harris, LTD	395
10.	Unifund Government Services, LLC	352
11.	Broward Adjustment Services, Inc.	351
12.	Sequoia Concepts, Inc. dba Sequoia Financial Services	340
13.	Accounts Receivables, Inc.	325
14.	Wakefield & Associates	319
15.	Oxford Management Services	311
16.	NCSPlus Incorporated	274
17.	RSI Enterprises, Inc.	247
18.	Avadanian & Adler LLC	222

The Evaluation/Selection Committee decided not to hold oral presentations, as the proposals did not require further clarification.

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

Negotiations:
Negotiations will not be held since all recommended proposers will be offered participation in the pool. The Evaluation/Selection Committee recommended the top six ranked proposers be considered for participation in the pool: 1) Linebarger Goggan Blair & Sampson, LLP 2) AllianceOne Receivables Management, Inc., 3) Penn Credit Corporation, 4) Law Enforcement Systems, Inc., 5) Gila Corporation d/b/a Municipal Services Bureau (MSB), and 6) Pioneer Credit Recovery, Inc.

Consensus Statement: The Evaluation/Selection Committee has determined that the six highest ranked firms, and the firms' proposed staff, have the experience to provide the required services. Each of the recommended firms has a) a sound business approach to providing the services, and b) an understanding of the applicable laws and regulations for debt collection. Five of the recommended firms have performed well in the current pool. Approval of up to six of the recommended firms into the pool will provide the Clerk with firms with a range of expertise and the necessary resources to meet the debt collection needs.

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

Attachments

Approved:

Harvey Ruvin
Clerk, Circuit and County Courts

7/6/10
Date

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RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 1 of 2)

COMPOSITE

SELECTION CRITERIA / PROPOSERS	Maximum Points Per Member	Maximum Total Points (5 members)	Accounts Receivables, Inc.	AllianceOne Receivables Management, Inc.	Avadanian & Adler LLC	Broward Adjustment Services, Inc.	GC Services Limited Partnership	Harris & Harris, Ltd.	Law Enforcement Systems, Inc.	Linebarger Goggan Blair & Sampson, LLP	Gila Corporation d/b/a Municipal Services Bureau (MSB)
Proposer's relevant experience, qualifications, and past performance	35	175	108	159	76	118	132	133	157	167	144
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	150	101	143	70	106	122	119	140	142	137
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	175	116	165	76	127	142	143	164	165	152
Total Technical Points *(Total of technical rows)*	100	500	325	467	222	351	396	395	461	474	433
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%		0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	500	325	467	222	351	396	395	461	474	433

SIGNATURE: [signature]
Chairperson

[signature]
Reviewed By

PRINT NAME: Pearl P. Bethel
Annie Perez

DATE: 6/14/10
6/14/10

6/14/2010

RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 2 of 2)

COMPOSITE

SELECTION CRITERIA / PROPOSERS	Maximum Points Per Member	Maximum Total Points (5 members)	NCO Financial Systems Inc.	NCSPlus Incorporated	Oxford Management Services	Penn Credit Corporation	Pioneer Credit Recovery, Inc.	RSI Enterprises, Inc.	Sequoia Concepts, Inc. dba Sequoia Financial Services	Unifund Government Services, LLC	Wakefield & Associates
Proposer's relevant experience, qualifications, and past performance	35	175	141	99	108	163	138	89	113	123	108
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	150	123	89	99	141	126	80	106	112	115
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	175	135	86	104	158	142	78	121	117	96
Total Technical Points *(Total of technical rows)*	100	500	399	274	311	462	406	247	340	352	319
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%		0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	500	399	274	311	462	406	247	340	352	319

SIGNATURE: [signature]

Chairperson

[signature]

Reviewed By

PRINT NAME: Pearl P. Bethel

Annie Perez

DATE: 6/14/10

6/14/10

6/14/2010

RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 1 of 2)

MARTHA ALCAZAR (COC)

SELECTION CRITERIA / PROPOSERS	Maximum Points	Accounts Receivables, Inc.	AllianceOne Receivables Management, Inc.	Avadanian & Adler LLC	Broward Adjustment Services, Inc.	GC Services Limited Partnership	Harris & Harris, Ltd.	Law Enforcement Systems, Inc.	Linebarger Goggan Blair & Sampson, LLP	Gila Corporation d/b/a Municipal Services Bureau (MSB)
Proposer's relevant experience, qualifications, and past performance	35	20	34	15	25	30	30	34	34	32
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	20	29	15	20	30	30	29	29	29
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	20	34	15	25	30	34	34	34	30
Total Technical Points *(Total of technical rows above)*	100	60	97	45	70	90	94	97	97	91
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%	0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	60	97	45	70	90	94	97	97	91

RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 2 of 2)

MARTHA ALCAZAR (COC)

SELECTION CRITERIA / PROPOSERS	Maximum Points	NCO Financial Systems Inc.	NCSPlus Incorporated	Oxford Management Services	Penn Credit Corporation	Pioneer Credit Recovery, Inc.	RSI Enterprises, Inc.	Sequoia Concepts, Inc. dba Sequoia Financial Services	Unifund Government Services, LLC	Wakefield & Associates
Proposer's relevant experience, qualifications, and past performance	35	30	20	20	35	30	20	25	25	20
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	30	20	20	29	30	20	25	25	30
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	30	20	20	32	30	15	25	20	20
Total Technical Points *(Total of technical rows above)*	100	90	60	60	96	90	55	75	70	70
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%	0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	90	60	60	96	90	55	75	70	70

RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 1 of 2)

MANUEL CARAMES (COC)

SELECTION CRITERIA / PROPOSERS	Maximum Points	Accounts Receivables, Inc.	AllianceOne Receivables Management, Inc.	Avadanian & Adler LLC	Broward Adjustment Services, Inc.	GC Services Limited Partnership	Harris & Harris, Ltd.	Law Enforcement Systems, Inc.	Linebarger Goggan Blair & Sampson, LLP	Gila Corporation d/b/a Municipal Services Bureau (MSB)
Proposer's relevant experience, qualifications, and past performance	35	25	33	22	26	30	31	32	35	33
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	24	30	18	25	24	26	28	30	28
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	24	33	22	28	31	30	32	33	31
Total Technical Points *(Total of technical rows above)*	100	73	96	62	79	85	87	92	98	92
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%	0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	73	96	62	79	85	87	92	98	92

RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 2 of 2)

MANUEL CARAMES (COC)

SELECTION CRITERIA / PROPOSERS	Maximum Points	NCO Financial Systems Inc.	NCSPlus Incorporated	Oxford Management Services	Penn Credit Corporation	Pioneer Credit Recovery, Inc.	RSI Enterprises, Inc.	Sequoia Concepts, Inc. dba Sequoia Financial Services	Unifund Government Services, LLC	Wakefield & Associates
Proposer's relevant experience, qualifications, and past performance	35	32	25	26	33	28	23	26	29	25
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	25	20	22	28	26	20	23	25	24
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	33	25	26	35	30	24	26	29	26
Total Technical Points *(Total of technical rows above)*	100	90	70	74	96	84	67	75	83	75
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%	0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	90	70	74	96	84	67	75	83	75

RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 1 of 2)

ADOLPHUS JAMES (COC)

SELECTION CRITERIA / PROPOSERS	Maximum Points	Accounts Receivables, Inc.	AllianceOne Receivables Management, Inc.	Avadanian & Adler LLC	Broward Adjustment Services, Inc.	GC Services Limited Partnership	Harris & Harris, Ltd.	Law Enforcement Systems, Inc.	Linebarger Goggan Blair & Sampson, LLP	Gila Corporation d/b/a Municipal Services Bureau (MSB)
Proposer's relevant experience, qualifications, and past performance	35	28	33	10	29	32	34	33	35	32
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	24	30	14	28	30	28	30	30	30
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	32	34	15	28	33	34	34	35	30
Total Technical Points *(Total of technical rows above)*	100	84	97	39	85	95	96	97	100	92
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%	0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	84	97	39	85	95	96	97	100	92

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RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 2 of 2)

ADOLPHUS JAMES (COC)

SELECTION CRITERIA / PROPOSERS	Maximum Points	NCO Financial Systems Inc.	NCSPlus Incorporated	Oxford Management Services	Penn Credit Corporation	Pioneer Credit Recovery, Inc.	RSI Enterprises, Inc.	Sequoia Concepts, Inc. dba Sequoia Financial Services	Unifund Government Services, LLC	Wakefield & Associates
Proposer's relevant experience, qualifications, and past performance	35	33	20	15	32	33	16	26	20	25
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	28	24	18	28	27	15	26	22	23
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	34	22	21	32	34	14	29	24	25
Total Technical Points *(Total of technical rows above)*	100	95	66	54	92	94	45	81	66	73
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%	0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	95	66	54	92	94	45	81	66	73

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RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 1 of 2)

PAUL CHESTNUT (COC)

SELECTION CRITERIA / PROPOSERS	Maximum Points	Accounts Receivables, Inc.	AllianceOne Receivables Management, Inc.	Avadanian & Adler LLC	Broward Adjustment Services, Inc.	GC Services Limited Partnership	Harris & Harris, Ltd.	Law Enforcement Systems, Inc.	Linebarger Goggan Blair & Sampson, LLP	Gila Corporation d/b/a Municipal Services Bureau (MSB)
Proposer's relevant experience, qualifications, and past performance	35	15	34	14	15	18	18	34	33	32
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	13	29	13	13	15	14	29	28	27
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	15	34	14	16	16	16	34	33	32
Total Technical Points *(Total of technical rows above)*	100	43	97	41	44	49	48	97	94	91
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%	0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	43	97	41	44	49	48	97	94	91

RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 2 of 2)

PAUL CHESTNUT (COC)

SELECTION CRITERIA / PROPOSERS	Maximum Points	NCO Financial Systems Inc.	NCSPlus Incorporated	Oxford Management Services	Penn Credit Corporation	Pioneer Credit Recovery, Inc.	RSI Enterprises, Inc.	Sequoia Concepts, Inc. dba Sequoia Financial Services	Unifund Government Services, LLC	Wakefield & Associates
Proposer's relevant experience, qualifications, and past performance	35	18	19	17	33	19	15	16	19	15
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	15	15	14	29	15	13	14	15	13
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	18	19	17	34	18	15	16	19	15
Total Technical Points *(Total of technical rows above)*	100	51	53	48	96	52	43	46	53	43
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%	0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	51	53	48	96	52	43	46	53	43

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RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 1 of 2)

ANGEL MALDONADO (SBD)

SELECTION CRITERIA / PROPOSERS	Maximum Points	Accounts Receivables, Inc.	AllianceOne Receivables Management, Inc.	Avadanian & Adler LLC	Broward Adjustment Services, Inc.	GC Services Limited Partnership	Harris & Harris, Ltd.	Law Enforcement Systems, Inc.	Linebarger Goggan Blair & Sampson, LLP	Gila Corporation d/b/a Municipal Services Bureau (MSB)
Proposer's relevant experience, qualifications, and past performance	35	20	25	15	23	22	20	24	30	15
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	20	25	10	20	23	21	24	25	23
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	25	30	10	30	32	29	30	30	29
Total Technical Points *(Total of technical rows above)*	100	65	80	35	73	77	70	78	85	67
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%	0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	65	80	35	73	77	70	78	85	67

RFQ NO. 723
Debt Collection Services Pool for Clerk of the Courts
EVALUATION OF PROPOSALS - (Sheet 2 of 2)

ANGEL MALDONADO (SBD)

SELECTION CRITERIA / PROPOSERS	Maximum Points	NCO Financial Systems Inc.	NCSPlus Incorporated	Oxford Management Services	Penn Credit Corporation	Pioneer Credit Recovery, Inc.	RSI Enterprises, Inc.	Sequoia Concepts, Inc. dba Sequoia Financial Services	Unifund Government Services, LLC	Wakefield & Associates
Proposer's relevant experience, qualifications, and past performance	35	28	15	30	30	28	15	20	30	23
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	30	25	10	25	27	28	12	18	25	25
Proposer's approach and operational plan to provide the services requested in this Solicitation	35	20	0	20	25	30	10	25	25	10
Total Technical Points *(Total of technical rows above)*	100	73	25	75	82	86	37	63	80	58
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	5%	0	0	0	0	0	0	0	0	0
TOTAL POINTS	100	73	25	75	82	86	37	63	80	58

Memorandum

MIAMI-DADE COUNTY

Date: May 19, 2010

To: Those Listed Below

From: Harvey Ruvin, Clerk
Miami-Dade Circuit and County Courts

Subject: Evaluation/Selection Committee for Miami-Dade Circuit and County Courts Request for Proposals for Debt Collection Services

---

I am hereby appointing those listed below as the Selection Committee for Miami-Dade Circuit and County Courts Request for Proposals for Debt Collection Services:

Selection Committee
Pearl Bethel, DPM (Non-Voting Chairperson)
Martha Alcazar, COC
Manuel Carames, COC
Adolphus James, COC
Paul Chestnut, COC
Angel Maldonado, SBD
Lucien Hope, Finance (Alternate)

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

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

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

If you are unable to participate in the Selection process, contact this office by memorandum documenting the reason why you cannot participate. Only in cases of **dire** urgency may you be excused from participation.

The alternate committee member will serve only in the event of an approved substitution. No substitution of committee members shall be allowed after the first official meeting of the committee. The Miami-Dade Circuit and County Courts may substitute the chairperson to ensure the appropriate level of staffing expertise as deemed necessary to accommodate the needs of this solicitation.

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

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

This report should be submitted to me through the Miami-Dade Circuit and County Courts and the DPM for review and consideration for further recommendation to the Board of County Commissioners.

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

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

c: Miriam Singer, Director, DPM
Carter Hammer, Director, Finance
Penelope Townsley, Director, SBD

<u>Selection Committee</u>
Pearl Bethel, DPM (Non-Voting Chairperson)
Martha Alcazar, COC
Manuel Carames, COC
Adolphus James, COC
Paul Chestnut, COC
Angel Maldonado, SBD
Lucien Hope, Finance (Alternate)