



## MEMORANDUM

Agenda Item 5(E)

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

DATE: December 19, 2011

FROM: Honorable Harvey Ruvin, Clerk  
Circuit and County Courts

SUBJECT: Appeal of Ethics Commission  
Opinion No. RQO 11-29, by  
Kent C. Journey, Jr., Detective  
Miami-Dade County Police Dept.

Christopher Agrippa, Division Chief  
Clerk of the Board Division

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Public Hearing to hear the Appeal of Kent C. Journey, Jr., relating to RFP No. 781 (Polygraph Examination Services) from the decision of the Ethics Commission (Opinion RQO 11-29) denying exception from proscription on transacting business with the County.

CA/fcd

# M E M O

COMMISSION ON ETHICS & PUBLIC TRUST

**TO:** The Honorable Joe A. Martinez, Chair, and Members of the Board of County Commissioners

**FROM:** Joseph Centorino, Executive Director 

**DATE:** December 12, 2011

**RE:** Appeal of Ethics Commission Opinion No. RQO 11-29, by Kent C. Journey, Jr., Detective, Miami-Dade Co. Police Department

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## RECOMMENDATION:

The Board of County Commissioners should deny Appellant's request for a waiver from the provisions of Subsections 2-11.1 (c) and (d) of the Conflict of Interest and Code of Ethics Ordinance. The Conflict of Interest and Code of Ethics Ordinance prohibits an immediate family member of a County employee, either directly or through a corporation in which the person or any member of his or her immediate family has a controlling financial interest,<sup>1</sup> from contracting with the County Department that employs the County worker.

In this case, the Appellant's stepmother is seeking a County contract through her privately owned company that will be administered by the Police Department—the same department that employs her stepson, the Appellant. The Appellant's mother is the majority shareholder and has a controlling financial interest in the company.

## BACKGROUND:

Subsections 2-11.1 (c) and (d) of the Conflict of Interest and Code of Ethics Ordinance ("Conflict of Interest Ordinance") prohibit County employees and their immediate family members from entering into contracts with the County. The Conflict of Interest Ordinance defines "immediate family" to include, among others, parents, stepparents, children and stepchildren of the County employee.

Subsection 2-11.1 (c)(2) allows for a limited exception for County employees and their immediate family members under certain circumstances. Subsection 2-11.1 (c)(2) provides, in relevant part—

Notwithstanding any provision to the contrary herein, subsections (c) and (d) shall not ... prevent any employee ... or his or her immediate family ... from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the

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<sup>1</sup> The County Code at Sec. 2-11.1 ((b)(8) defines a "controlling financial interest" to be ownership, directly or indirectly, of 10% or more of the outstanding capital stock in any corporation or a direct or indirect interest of 10% or more in a firm, partnership or other business entity.

employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County, as long as (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and (3) the employee's job responsibilities and job description will not require him or her to be involved in the contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. *However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Miami-Dade County if the employee works in the County department which will enforce, oversee or administer the subject contract.* (Emphasis added.)

Subsection 2-11.1 (c)(4) provides that an employee shall seek a conflict of interest opinion from the Ethics Commission prior to submittal of a bid, response or application of any type to contract with the County, either directly or through his or her immediate family.

If the Ethics Commission finds that the requirements of Subsection 2-11.1 (c)(2) are not met and that the proposed transaction would create a conflict of interest, the person may request a waiver from the Board of County Commissioners within ten (10) days of the Ethics Commission opinion by filing a Notice of Appeal to the Ethics Commission. The Ethics Commission shall forward the Notice of Appeal and its opinion and any pertinent documents to the Clerk of the Board of County Commissioners. The Clerk shall place the request on the Commission agenda for consideration by the Board.

The Board of County Commissioners may grant a waiver upon an affirmative vote of two-thirds (2/3) of the entire Board of County Commissioners, after public hearing, if it finds that—

- (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County,
- (2) the employee has not participated in determining the subject contract requirements or awarding the contract,
- (3) the employee's job responsibilities and job description will not require him or her to be involved in the contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance; and
- (4) the employee does not work in the County department that will enforce, oversee or administer the subject contract.

Section 2-11.1 (c)(4) prohibits the County from awarding a contract to, among others, any employee or immediate family member, either individually or through a corporation in which the person or any member of his or her immediate family has a controlling financial interest. The prohibition does not apply if the Ethics Commission has rendered an opinion that entering into the contract would not be a conflict of interest or if the Board of County Commissioners waives the conflict, as provided for in the preceding paragraph.

Jurney and Associates, Inc., has submitted a proposal to RFP No. 781 to provide polygraph services to the Miami-Dade Police Department and the Corrections and Rehabilitation Department. Martha Jurney is the President of, and holds a controlling financial interest in, Jurney and Associates, Inc. Her stepson, Kent C. Jurney, Jr., is employed by the Miami-Dade Police Department as a Detective in Cutler Ridge.

On November 28, 2011, Kent C. Jurney, Jr., requested an ethics opinion on behalf of his stepmother as to restrictions that would prevent her from obtaining the contract related to RFP No. 781. A copy of Detective Jurney's request is appended to this Memo as **Attachment A**.

On November 29, 2011, the Ethics Commission issued ethics opinion RQO 11-29 to Detective Jurney stating that his stepmother was prohibited from entering into a contract with the County pursuant to RFP No. 781 because the Miami-Dade Police Department is charged with the responsibility of administering the contract and he, as Ms. Jurney's stepson, is employed by the Police Department. A copy of RQO 11-29 to Detective Jurney is appended to this Memo as **Attachment B**.

On November 29, 2011, Kent C. Jurney, Jr., filed a Notice of Appeal from RQO 11-29 with the Ethics Commission. The Notice of Appeal is appended to this Memo as **Attachment C**.

RFP No. 781 is appended to this Memo as **Attachment D**. A summary of the complete Ethics Commission record in this matter is appended as **Attachment E**.

The determination by the Ethics Commission to prohibit Jurney and Associates, Inc., from obtaining a contract pursuant to RFP No. 781 is based solely on the proscriptions found in the Conflict of Interest Ordinance and in no way should be construed to reflect negatively on the previous work provided by that corporation to the County.

## Frigo, Victoria (COE)

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**From:** Journey Jr, Kent C. <kcjurneyjr@mdpd.com>  
**Sent:** Monday, November 28, 2011 2:24 PM  
**To:** Frigo, Victoria (COE)  
**Subject:** RE: Your request for an ethics opinion should be sent by the Co. employee (your stepson)  
**Attachments:** Request for Opinion.pdf

Ms. Frigo,

This letter is sent for the purpose of my step mother (Martha Caraballo Journey) being afforded an opportunity to be heard by the ethics commission.

Thank you.

Kent C. Journey Jr.

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**From:** Frigo, Victoria (COE) [<mailto:FRIGOV@miamidade.gov>]  
**Sent:** Monday, November 28, 2011 11:36 AM  
**To:** [mjurney@teamjai.com](mailto:mjurney@teamjai.com); Journey Jr, Kent C.  
**Cc:** Carballeira, Maria (ISD)  
**Subject:** Your request for an ethics opinion should be sent by the Co. employee (your stepson)

Ms. Journey,

To proceed strictly by the wording of the Ethics Code, we would appreciate your stepson forwarding your request for an ethics opinion to our office as soon as possible. He may simply forward your earlier email that you sent to Mr. Centorino. I have attached it for your convenience.

As I mentioned previously, if you are available to attend the next Ethics Commission meeting tomorrow, Nov. 29, at 10:00 AM, at 19 W. Flagler, Suite 820, Miami, the Ethics Commission will review your request at that time.

Thank you.

**VICTORIA FRIGO, STAFF ATTORNEY**  
Phone: 305 350-0601  
Fax: 305 579-0273

**miamidade.gov** 

19 West Flagler St., Suite 820  
Miami, FL 33130

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## Frigo, Victoria (COE)

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**From:** Martha <mjourney@teamjai.com>  
**Sent:** Thursday, November 03, 2011 7:25 PM  
**To:** Ethics (COE)  
**Cc:** Frigo, Victoria (COE)  
**Subject:** Request For Opinion on RFP No. 781

November 3, 2011

Mr. Joseph Centorino  
Executive Director  
Miami-Dade Ethics and Public Trust Commission  
19 West Flagler, Suite 820  
Miami, Florida 33130

Via Email:

Re: Request for Opinion on ability to renew polygraph contract services under new RFP No. 781;

Dear Mr. Centorino,

This letter will confirm our conversation of this date in which you suggested that I address this letter to your attention. In a meeting on November 29, 2010 a determination was made that I could continue to provide polygraph services under the existing contract but would need to request an opinion when a new RFP was published. My step son is still employed by the Miami Dade Police Department as a detective in Cutler Ridge. His duties do not in anyway involve the human resource department, the hiring of new employees, and or any other activity which is in anyway associated with the hiring or screening of employees.

I am a registered SBE and MBE which depends heavily on this contract to remain in business. We are requesting an opinion to allow me perform under this contract, and hope you can take the following into consideration.

- We have serviced this contract since 1999 without incident.
- Over the years we have received many compliments for the quality of our service.
- We have provided polygraph services to different government entities in Dade County since 1976.
- Kent C Journey Jr. is my step son who is currently employed with the Miami Dade Police Department and has no involvement in my business.
- My husband is not involved in the operation of my business and is a full time employee with ABM Industries, where he has been employed as a Vice President for the past ten years. His only involvement with my business is to assist with quality control, provide me support on occasion, and or, conduct a polygraph for a private client on a major crime during the evening hours or on weekends.

In speaking with Ms. Maria Carballeira today, she advised that I should address this letter to Ms. Frigo. After speaking with Ms. Carballeira, I spoke with you, and per your suggestion have addressed this letter to your attention with a copy to Ms. Frigo., Your assistance and advice in this matter is greatly appreciated.



Sincerely,

Martha Caraballo Journey  
Journey and Associates Inc.,  
President  
Cc: Victoria Frigo,  
Staff Attorney



Via First Class Mail  
and  
email at [kciurneyjr@mdpd.com](mailto:kciurneyjr@mdpd.com)

**ETHICS COMMISSIONERS**

November 29, 2011

Dawn Addy, CHAIR  
Charlton Copeland, VICE CHAIR  
Nelson Bellido  
Judge Seymour Gelber  
Kerry E. Rosenthal

Detective Kent C. Journey, Jr.  
Miami-Dade County Police Department  
10800 SW 211<sup>th</sup> St.  
Cutler Bay, FL 33189-2805

ROBERT A. MEYERS  
EXECUTIVE DIRECTOR

**Re: RQO 11-29**

Prohibition on Contracting with the County under RFP No. 781  
See Miami-Dade County Ethics Code at Secs. 2-11.1 (c)(2) and (c)(4)

MICHAEL P. MURAWSKI  
ADVOCATE

Dear Detective Journey:

ARDYTH WALKER  
STAFF GENERAL COUNSEL

In a public meeting today, the Miami-Dade Ethics Commission found that your stepmother, Martha Journey, may not contract with the County under RFP No. 781.

The County Code at Sec. 2-11.1 (c)(2) does not allow immediate family members of County employees, including stepparents, to contract with the department that employs their relative.

In your case, your stepmother, Martha Journey, owns JURNEY & ASSOCIATES, INC., and you are employed by the Miami-Dade County Police Department. Therefore, JURNEY & ASSOCIATES, INC., is prohibited from contracting with the County if the Police Department will administer the contract. Under Article 14 of RFP No. 781, the Police Department and the Corrections & Rehabilitation Department have been given broad authority to administer the contract.

You may seek a waiver of this ethics opinion from the Board of County Commissioners by filing a Notice of Appeal to the Ethics Commission within ten days of receipt of this opinion.

Although some Ethics Commissioners voiced concerns about the limitations of the standard of review associated with the waiver provision at Sec. 2-11.1 (c)(4), an appeal of this opinion may only be granted if two-thirds of the Board of County Commissioners agree after a public hearing that—

- 1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County,
- 2) the employee has not participated in determining the subject contract requirements or awarding the contract,
- 3) the employee's job responsibilities and job description will not require him or her to be involved in the contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance, and

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- 4) the employee does not work in the County department that will enforce, oversee or administer the subject contract.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me or Victoria Frigo, Staff Attorney, if we can be of further assistance.

Sincerely,



JOSEPH CENTORINO  
Executive Director

Copies:

Martha C. Journey, President  
JURNEY & ASSOCIATES, INC.  
782 NW 42 Ave., Suite 429  
Miami, FL 33126  
[mjourney@teamjai.com](mailto:mjourney@teamjai.com)

Maria Carballeira (ISD)  
Procurement Contracting Officer  
[mc5@miamidade.gov](mailto:mc5@miamidade.gov)

## Frigo, Victoria (COE)

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**From:** Journey Jr, Kent C. <kcjurneyjr@mdpd.com>  
**Sent:** Tuesday, November 29, 2011 3:46 PM  
**To:** Frigo, Victoria (COE)  
**Cc:** mjurney@teamjai.com  
**Subject:** RE: Your Ethics Opinion (RQO 11-29)  
**Attachments:** RQO 11-29 Journey Ltr.pdf

Ms. Frigo,

Please accept this as notice of appeal on behalf of my stepmother (Martha Caraballo Journey).

Sincerely

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**From:** Frigo, Victoria (COE) [<mailto:FRIGOV@miamidade.gov>]  
**Sent:** Tuesday, November 29, 2011 3:13 PM  
**To:** Journey Jr, Kent C.  
**Cc:** [mjurney@teamjai.com](mailto:mjurney@teamjai.com); Carballeira, Maria (ISD)  
**Subject:** Your Ethics Opinion (RQO 11-29)

Detective Journey,

The ethics opinion you requested on behalf of your stepmother is attached. Please be advised that if you wish to appeal this opinion, you must contact the Ethics Commission within 10 days with a Notice of Appeal.

If you have additional questions, please do not hesitate to contact me.

Sincerely,

**VICTORIA FRIGO, STAFF ATTORNEY**  
Phone: 305 350-0601  
Fax: 305 579-0273

 miamidade.gov

19 West Flagler St., Suite 820  
Miami, FL 33130

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**REQUEST FOR PROPOSALS (RFP) No. 781  
FOR  
POLYGRAPH EXAMINATION SERVICES**

**PRE-PROPOSAL CONFERENCE TO BE HELD:**

November 8, 2011 at 10:00 AM (local time)  
111 NW 1<sup>st</sup> Street, 10<sup>th</sup> Floor, CITT Conf. Rm., Miami, Florida

**ISSUED BY MIAMI-DADE COUNTY:**

Internal Services Department (ISD)  
for  
Miami-Dade Police Department (MDPD)  
and  
Miami-Dade Corrections & Rehabilitation (MDCR)

**COUNTY CONTACT FOR THIS SOLICITATION:**

Name and Title: Maria Carballeira, Procurement Contracting Officer  
Address: 111 NW 1<sup>st</sup> Street, Suite 1300, Miami, Florida 33128  
Telephone: (305) 375-5683  
E-mail: [mc5@miamidade.gov](mailto:mc5@miamidade.gov)

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

**November 21, 2011 at 2:00 PM (local time)**  
at  
CLERK OF THE BOARD  
Stephen P. Clark Center  
111 NW 1<sup>st</sup> Street, 17<sup>th</sup> Floor, Suite 202  
Miami, Florida 33128-1983

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

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

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

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

**1.1 Introduction**

Miami-Dade County, hereinafter referred to as the County, as represented by the Miami-Dade Police Department (MDPD) and Miami-Dade Corrections & Rehabilitation (MDCR), is soliciting proposals for the provision of professional polygraph examinations and related services. These services will primarily be utilized for pre-employment selection processes and expert testimony in support of examinations.

The County anticipates awarding up to two (2) contracts for polygraph examination services for a five year period. A selected Proposer shall only be awarded one of the two contracts for the Services.

As the County determines the necessity for polygraph examination services, the County's respective Project Manager will issue a Work Order starting with the highest ranked selected Proposer. Thereafter, the selection of a selected Proposer for a Work Order will be made on a rotational basis, at the County's sole discretion. Additionally, the County makes no guarantees as to the volume of work or value of any contract the selected Proposer will receive as a result of this RFP. The current contracts' average utilization includes an aggregate of 1,573 pre-employment polygraph examinations per year. This average was derived by gathering information for the past three fiscal years.

The anticipated schedule for this Solicitation is as follows:

- Solicitation issued: October 31, 2011
- Pre-Proposal Conference: See front cover for date, time and place. Attendance is recommended but not mandatory. If you need a sign language interpreter or materials in accessible format for this event, please call the ISD ADA Coordinator at (305) 375-1530 at least five days in advance.
- Deadline for receipt of questions: November 14, 2011
- Proposal due date: See front cover for date, time and place.
- Evaluation process: December 2011 – January 2012
- Projected award date: February - March 2012

**1.2 Definitions**

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

1. The word "Contractor" to mean the Proposer that receives any award of a contract from the County as a result of this Solicitation, also to be known as "the prime Contractor".
2. The word "County" to mean Miami-Dade County, a political subdivision of the State of Florida.
3. The word "Proposer" to mean the person, firm, entity or organization, as stated on Form A-1, submitting a response to this Solicitation.
4. The words "Scope of Services" to mean Section 2.0 of this Solicitation, which details the work to be performed by the Contractor.
5. The word "Solicitation" to mean this Request for Proposals (RFP) or Request for Qualifications (RFQ) document, and all associated addenda and attachments.
6. The word "Subcontractor" to mean any person, firm, entity or organization, other than the employees of the Contractor, who contracts with the Contractor to furnish labor, or labor and materials, in connection with the Services to the County, whether directly or indirectly, on behalf of the Contractor.
7. The words "Work", "Services", "Program", or "Project" to mean all matters and things that will be required to be done by the Contractor in accordance with the Scope of Services and the terms and conditions of this Solicitation.

**1.3 General Proposal Information**

The County may, at its sole and absolute discretion, reject any and all or parts of any or all responses; accept parts of any and all responses; further negotiate project scope and fees; postpone or cancel at any time this Solicitation process; or waive any irregularities in this Solicitation or in the responses received as a result of this process. A proposal shall be the Proposer's firm commitment to provide the goods and services solicited

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in the manner requested in the Solicitation and described in the proposal. In the event that a Proposer wishes to take an exception to any of the terms of this Solicitation, the Proposer shall clearly indicate the exception in its proposal. No exception shall be taken where the Solicitation specifically states that exceptions may not be taken. Further, no exception shall be allowed that, in the County's sole discretion, constitutes a material deviation from the requirements of the Solicitation. Proposals taking such exceptions may, in the County's sole discretion, be deemed nonresponsive. The County reserves the right to request and evaluate additional information from any respondent regarding respondent's responsibility after the submission deadline as the County deems necessary.

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

Proposers are hereby notified that all information submitted as part of, or in support of proposals will be available for public inspection after opening of proposals, in compliance with Chapter 119, Florida Statutes, popularly known as the "Public Record Law". The Proposer shall not submit any information in response to this Solicitation which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any information to the County in connection with this Solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to Proposer. In the event that the Proposer submits information to the County in violation of this restriction, either inadvertently or intentionally, and clearly identifies that information in the proposal as protected or confidential, the County may, in its sole discretion, either (a) communicate with the Proposer in writing in an effort to obtain the Proposer's written withdrawal of the confidentiality restriction or (b) endeavor to redact and return that information to the Proposer as quickly as possible, and if appropriate, evaluate the balance of the proposal. Under no circumstances shall the County request the withdrawal of the confidentiality restriction if such communication would in the County's sole discretion give to such Proposer a competitive advantage over other proposers. The redaction or return of information pursuant to this clause may render a proposal non-responsive.

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

#### **1.4 Cone of Silence**

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

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

The provisions do not apply to, among other communications:

- oral communications with the staff of the Vendor Assistance Unit, the responsible Procurement Agent or Contracting Officer, provided the communication is limited strictly to matters of process or procedure already contained in the solicitation document;

- oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meeting, public presentations made to the Board of County Commissioners during any duly noticed public meeting; or
- communications in writing at any time with any county employees, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP or RFQ documents.

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

### **1.5 Public Entity Crimes**

Pursuant to Paragraph 2(a) of Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal for a contract to provide any goods or services to a public entity; may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and, may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for Category Two (\$10,000) for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

### **1.6 Lobbyist Contingency Fees**

- A) In accordance with Section 2-11.1(s) of the Code of Miami-Dade County, after May, 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
- B) A contingency fee is a fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Manager or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee.

### **1.7 Collusion**

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

### **2.1 Background**

MDPD and MDCR utilize the polygraph examination services as an integral component of the background and investigative procedure of the pre-employment selection process. Employees of MDPD and MDCR hold

positions of trust in the law enforcement community and have access to sensitive and protected information. It is imperative that applicants considered for employment with MDPD and/or MDCR are above reproach. The County is responsible for conducting background investigations on potential employees to ensure that only the most qualified applicants are hired into positions of trust. The purpose of these Services is to evaluate whether said applicants are acceptable candidates.

## **2.2 Qualifications**

### **A. Minimum Qualification Requirement**

The minimum qualification requirement for this Solicitation is:

Polygraph Examiners that will provide Services requested herein shall be a certified graduate of an American Polygraph Association (APA) accredited school as of proposal due date.

*(Note: This is a continuing requirement throughout contract award and term of agreement.)*

### **B. Preferred Qualifications**

The preferred qualifications for this Solicitation are:

1. Proposer should hold active memberships with the American Polygraph Association, Florida Polygraph Association, and/or American Association of Police Polygraphists, and should remain active for the term of any contract issued as a result of this Solicitation including extensions and renewals thereof.
2. Proposer should possess at least five (5) years of experience in providing deception detection examinations services with specific knowledge of, interrogation techniques for pre-employment screenings and law enforcement investigations.
3. Proposer facility(ies) where polygraph examinations will be performed should be located within Miami-Dade County.

## **2.3 Services to be Provided**

The selected Proposer shall conduct, as further defined herein, pre-employment polygraph examinations, specific area of inquiry polygraph examinations, and re-examination of applicants with inconclusive results, in accordance with MDPD's and MDCR's established policies and procedures for the pre-employment selection process. The examinations will include, but not be limited to, questions in the following areas:

- Falsification of application
- Education/Employment History
- Fired/Forced to Resign
- Arrests/Convictions
- Driving Record
- Undetected/Involvement in crime
- Use of Drugs
- Sale/Purchase of Narcotics
- Use of marijuana
- Theft from Employers
- Gambling
- Ineptness
- Ulterior Motives
- Application to Other Governmental Agencies
- Additional Information
- Gang Affiliation
- Social Media Affiliation
- Inmate Association

2.3.1 Design the pre-employment polygraph examination format to be utilized. The County reserves the right to review and approve examination format prior to its implementation. The County further reserves the right to modify examination format at any time during the term of any agreement issued as a result of this solicitation.

2.3.2 Conduct all polygraph examinations services between the hours of 8:00 a.m. - 5:00 p.m., Monday through Friday. The County may request that Services be conducted outside of these hours (i.e., evening and weekend hours), when deemed necessary by the County. Polygraph examinations shall only be administered to applicants exclusively authorized by the County's Project Managers. Selected Proposer shall require a County issued examination notification letter and a valid drivers' license with picture from each applicant, prior to examination.

2.3.3 Administer a second and third chart run, as deemed necessary by selected Proposer, in support of examiner's findings. Admissions by applicant relating to a deception area shall be provided in writing, to the selected Proposer. The selected Proposer shall attach the applicant's written admission statement to the comprehensive written report for submission to the County. Applicant's refusal to provide a written admission to a deception area identified by the selected Proposer shall also be noted in the written report, as applicable.

2.3.4 Provide technical assistance in support of the Services listed herein, to include consultation with the County's Project Managers, as deemed necessary by the County. The selected Proposer shall be available for telephone consultations, meetings, etc. between the hours of 8:00 a.m. - 5:00 p.m., Monday through Friday. The County reserves the right to contact selected Proposer during evening hours (after 5:00 p.m.) and/or weekends.

2.3.5 Conduct repeat pre-employment polygraph examination as directed and scheduled by the County. Prior to administering the repeat examination, the selected Proposer shall check to determine if scheduled applicant was previously administered a polygraph examination within the past 60 days and notify the County of any found. The County will determine if re-testing is required. If the County determines that the applicant is not to be retested, then a copy of the previous test results shall be submitted to the County at no additional cost.

2.3.6 Administer specific area of inquiry polygraph examination to applicants identified by the County. The County will provide the selected Proposer with a list of applicants who have been notified of, and scheduled for, a specific area of inquiry polygraph examination. The applicant listing will also contain the specific area(s) of concern that the selected Proposer shall explore in detail with each applicant. The County reserves the right to approve the examination questions to be utilized in the specific area of inquiry polygraph prior to each examination. Selected Proposer shall ensure that the examiner who performed the pre-employment polygraph examination shall not perform the specific area of inquiry polygraph examination, unless specifically requested by the County.

2.3.7 Provide expert testimony in support of examinations at depositions, pre-trial meetings and civil administrative hearings which may be required as a result of Services provided.

2.3.8 Provide a quality control mechanism for determining if any County scheduled applicant or non-scheduled examinee requesting testing for the purpose of an employment appeal or dispute, has been previously administered a polygraph examination by the selected Proposer. The selected Proposer shall refrain from administering any examination, prior to consultation with, and guidance from, the County.

2.3.9 Maintain confidentiality on all aspects of the Services rendered.

2.3.10 Perform quality assurance level reviews in accordance with industry recommendations and acceptable standards of practice.

2.3.11 Provide related services as requested by the County.

**2.4 Polygraph Examiner Background Screening**

The selected Proposer shall comply with the following tasks in providing the Services:

Conduct an annual criminal background check on each employee providing Services listed herein. Prior to commencing work, selected Proposer shall furnish to County's Project Manager proof of background screening completed on selected Proposers' employees performing Services. Thereafter, information on background screenings conducted shall be provided to the County's Project Manager annually, and upon request. The County reserves the right to reject any proposed employee based on background check information and/or in accordance with Article 12 of the agreement.

**2.5 Administrative and Related Services**

The following administrative services shall be performed by the selected Proposer:

2.5.1 Designate a Project Manager who shall serve as liaison between the County and the selected Proposer on all matters relating to the Services listed herein.

2.5.2 Ensure the maintenance and calibration of the equipment utilized to render the Services listed herein, as required by manufacturing specifications and industry recommendations. Service records depicting equipment calibration and service maintenance performed shall be preserved for the duration of any contract issued as result of this solicitation and shall be provided to the County within 48 hours of request.

The selected Proposer shall have back-up testing equipment available in order to perform the Services listed herein without interruptions resulting from equipment failure or malfunction.

2.5.3 Utilize the most technologically advanced polygraph examination equipment, but no less than analog equipment to include the following measurement components:

- i. Thoracic respiration
- ii. Abdominal respiration
- iii. Electro dermal
- iv. Cardio

The County prefers that the selected Proposer utilize an activity monitor (motion sensor) when conducting polygraph examination services.

2.5.4 Ensure each applicant is addressed in a professional manner at all times during required testing.

2.5.5 Provide to, and secure from, each applicant a signed "Waiver Form" prior to conducting any polygraph examination. The selected Proposer shall not administer the polygraph examination to any applicant that refuses to sign Waiver Form. The selected Proposer shall advise the County's respective Project Manager of applicant's refusal.

2.5.6 Maintain all applicants' records, to include name, date of examination, examiner's notes and specific examination(s) administered. Such information shall be available at the facility where examination was conducted for review by the County at any time. In addition, the selected Proposer shall maintain a complete file of each applicant for at least 5 years from the date of the completed polygraph examination. Such records shall be made available to the County within 48 hours of request.

2.5.7 Facility(ies) utilized in performing the Services listed herein shall be of sufficient size to accommodate the number of applicants scheduled at any one time, and include adequate waiting and parking areas. The facility's examination rooms shall be isolated from high passage areas, promoting a quiet environment with minimal distractions during testing.

The County reserves the right to conduct unannounced visits of the selected Proposer's facility(ies) performing the Services in order to monitor for strict compliance with, and enforcement of, requirements herein.

**2.6 Written Reports and Reporting Requirements**

**A. Examination Results**

The selected Proposer shall submit to the County's respective Project Manager (MDPD or MDCR) a fact based written comprehensive report within ten (10) working days after the completion of each polygraph examination.

The report shall include, but not be limited to, the following information for each applicant:

- a. Full name, address and telephone number;
- b. Social Security number, date and place of birth;
- c. Examination date; and beginning and ending time of polygraph examination;
- d. Examiner's name and signature;
- e. Copy of applicant's signed Waiver Form; and
- f. Polygraph test results to include administration of second and third chart runs, as applicable.

**B. Statistical Reports**

The selected Proposer shall also provide semi-annual and annual statistical reports at the request of the County. Reports shall be in the format, and contain the data fields, requested by the County. Reports shall include, but not be limited to: a) the number of applicants tested, b) the number of applicants tested by gender, race and ethnicity, and c) the results for all applicants tested.

**2.7 Work Order Assignments**

When the need arises, the County will prepare a Work Order assignment and provide the selected Proposer with information regarding the anticipated applicants to be examined. All work to be performed under any contract, as a result of this Solicitation, requires that the County issue a Work Order. The selected Proposer shall contact the County within twenty-four (24) hours of receipt of Work Order assignment to acknowledge and discuss specifics of examination requests. The County, at its sole discretion, may modify, suspend, or cancel the Work Order at any time and shall only pay for work actually performed by the selected Proposer.

The Selected Proposer shall administer pre-employment polygraph examination to all applicants as assigned through County issued Work Orders within ten (10) working days from receipt of Work Order, unless otherwise approved by the County.

Upon establishment of a Work Order, a "No Show" is identified as: 1) applicant who fails to attend scheduled examination within 30 minutes of appointment time, and the County fails to cancel the appointment by noon on the previous business day or, 2) the County fails to provide a replacement applicant for examination within 30 minutes of the scheduled examination time. The County reserves the right to fill any scheduled examination time, including those for which the selected Proposer would otherwise charge the County for a No-Show, by providing a replacement applicant at any time up to 30 minutes after the scheduled appointment time.



**3.1 Submittal Requirements**

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

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

**4.1 Review of Proposals for Responsiveness**

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

**4.2 Evaluation Criteria**

Proposals will be evaluated by an Evaluation/Selection Committee which will evaluate and rank proposals on criteria listed below. The Evaluation/Selection Committee will be comprised of appropriate County personnel and members of the community, as deemed necessary, with the appropriate experience and/or knowledge, striving to ensure that the Evaluation/Selection Committee is balanced with regard to both ethnicity and gender. The criteria are itemized with their respective weights for a maximum total of one hundred (100) points per Evaluation/Selection Committee member.

<u>Technical Criteria</u>	<u>Points</u>
1. Proposer's relevant experience, qualifications, and past performance	30
2. 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
3. Proposer's approach to providing the services requested in this Solicitation	15
4. Quality Assurance/Management of services	10
<u>Price Criteria</u>	<u>Points</u>
5. Proposer's proposed price	15

**4.3 Oral Presentations**

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

**4.4 Selection Factor**

This Solicitation includes a selection factor for Miami-Dade County Certified Small Business Enterprises (SBE's) as follows. A SBE/Micro Business Enterprise is entitled to receive an additional ten percent (10%) of the total technical evaluation points on the technical portion of such Proposer's proposal. An SBE/Micro Business Enterprise must be certified by Small Business Development for the type of goods and/or services the Proposer provides in accordance with the applicable Commodity Code(s) for this Solicitation. For certification information contact Small Business Development at (305) 375-2378 or access [www.miamidadegov/sba](http://www.miamidadegov/sba). The SBE/Micro Business Enterprise must be certified by proposal submission deadline, at contract award, and for the duration of the contract to remain eligible for the preference. Firms that graduate from the SBE program during the contract may remain on the contract.

**4.5 Local Certified Service-Disabled Veteran's Business Enterprise Preference**

This Solicitation includes a preference for Miami-Dade County Local Certified Service-Disabled Veteran Business Enterprises in accordance with Section 2-8.5.1 of the Code of Miami-Dade County. A VBE is entitled to receive an additional five percent (5%) of the total technical evaluation points on the technical portion of such Proposer's proposal. If a Miami-Dade County Certified Small Business Enterprise (SBE) measure is being applied to this Solicitation, a VBE which also qualifies for the SBE measure shall not receive the veteran's preference provided in this section and shall be limited to the applicable SBE preference.

**4.6 Price Evaluation**

The price proposal will be evaluated subjectively in combination with the technical proposal, including an evaluation of how well it matches Proposer's understanding of the County's needs described in this Solicitation, the Proposer's assumptions, and the value of the proposed services. The pricing evaluation is used as part of the evaluation process to determine the highest ranked Proposer. The County reserves the right to negotiate the final terms, conditions and pricing of the contract as may be in the best interest of the County.

**4.7 Local Preference**

The evaluation of competitive solicitations is subject to Section 2-8.5 of the Miami-Dade County Code, which, except where contrary to federal or state law, or any other funding source requirements, provides that preference be given to local businesses (see **Form A-4**). If, following the completion of final rankings by the Evaluation/Selection Committee, a non-local Proposer is the highest ranked responsive and responsible Proposer, and the ranking of a responsive and responsible local Proposer is within 5% of the ranking obtained by said non-local Proposer, then the Evaluation/Selection Committee will recommend that a contract be negotiated with said local Proposer.

**4.8 Negotiations**

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

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

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

Any Proposer recommended for negotiations shall:

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

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

- a) Its most recent certified business financial statements as of a date not earlier than the end of the Proposer's preceding official tax accounting period, together with a statement in writing, signed by a duly authorized representative, stating that the present financial condition is materially the same as that shown on the balance sheet and income statement submitted, or with an explanation for a material

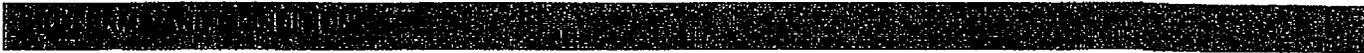
change in the financial condition. A copy of the most recent business income tax return will be accepted if certified financial statements are unavailable.

**4.9 Contract Award**

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

**4.10 Rights of Protest**

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



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

**A. Vendor Registration**

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

**B. Insurance Requirements**

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

**C. Inspector General Reviews**

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 indicated. The cost of the audit, if applicable, shall be one quarter (1/4) of one (1) percent of the total contract amount and the cost shall be included in any proposed price. The audit cost will be deducted by the County from progress payments to the Contractor, if applicable.

**D. User Access Program**

Pursuant to Miami-Dade County Ordinance No. 03-192, any agreement issued as a result of this Solicitation is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%). All sales resulting from this Solicitation and the utilization of the County contract price and the terms and conditions identified therein, are subject to the two percent (2%) UAP.



Form of Agreement  
Proposal Submission Package

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

Polygraph Examination Services  
Contract No. RFP781

THIS AGREEMENT made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, having its principal office at \_\_\_\_\_ (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide \_\_\_\_\_ on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 781 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

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

WHEREAS, the County desires to procure from the Contractor such \_\_\_\_\_ for the County, in accordance with the terms and conditions of this Agreement;

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

**ARTICLE 1. DEFINITIONS**

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

- a) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), Price Schedule (Appendix B), and RFP No. 781 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.
- b) The words "Contract Date" to mean the date on which this Agreement is effective.
- c) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- d) The word "Contractor" to mean \_\_\_\_\_ and its permitted successors and assigns.
- e) The word "Days" to mean Calendar Days.
- f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.
- h) The words "Extra Work" or "Additional Work" resulting in additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- i) The words "Project Manager" to mean the County Manager or the duly authorized representative designated to manage the Project.
- j) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- k) 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.
- l) 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) Appendices to these terms and conditions (the Scope of Services and Price Schedule), 3) the Miami-Dade County's RFP No. 781 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

**ARTICLE 3. RULES OF INTERPRETATION**

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

**ARTICLE 4. NATURE OF THE AGREEMENT**

- a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.
- b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.
- c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.
- d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of

the County's Project Manager.

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

**ARTICLE 5. CONTRACT TERM**

The Contract shall become effective on the date set forth on the first page and shall continue through the last day of the 60<sup>th</sup> month. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

**ARTICLE 6. NOTICE REQUIREMENTS**

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

**(1) to the County**

- a) to the Project Manager:

Miami-Dade County  
Miami-Dade Police Department  
9105 N.W. 25<sup>th</sup> Street  
Doral, FL 33172  
Attention: Sr. Police Bureau Commander, Personnel Management Bureau  
Phone: (305) 471-2565  
Fax: (305) 471-1739

Miami-Dade County  
Miami-Dade Corrections and Rehabilitation  
2525 N.W. 62<sup>nd</sup> Street, Room 2000  
Miami, FL 33147  
Attention: Commander, Personnel Management Bureau  
Phone: (786)263-6200  
Fax: (786)263-6121

and,

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b) to the Contract Manager:

Miami-Dade County  
Internal Services Department  
111 N.W. 1<sup>st</sup> Street, Suite 1375  
Miami, FL 33128-1974  
Attention: Assistant Director, Procurement Management  
Phone: (305) 375-5548  
Fax: (305) 375-2316

**(2) To the Contractor**

Attention:  
Phone:  
Fax:  
E-mail:

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

**ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED**

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

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

**ARTICLE 8. PRICING**

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

**ARTICLE 9. METHOD AND TIMES OF PAYMENT**

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly

attributable or properly allocable to the Services, the Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Appendix B – Price Schedule. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. Contractor shall submit invoice to the County and include the following itemized information:

- Itemize each applicant by name and social security number;
- Description of examination Services rendered in accordance with the fees contained in Appendix B – Price Schedule for each applicant. Fees for services not specified in Price Schedule shall not be invoiced;
- Date of Service; and
- Identification of examiner rendering examination Services.

Payment will not be processed for Services rendered until the complete Written Examination Report is submitted to the County. The Contractor shall address all invoice discrepancies as identified by the County and submit requested documentation for consideration and final approval.

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

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

Miami-Dade County  
Miami-Dade Police Department  
9105 N.W. 25<sup>th</sup> Street  
Doral, FL 33172  
Attention: Sr. Police Bureau Commander, Personnel Management Bureau  
Phone: (305) 471-2565  
Fax: (305) 471-1739

Miami-Dade County  
Miami-Dade Corrections and Rehabilitation  
2525 N.W. 62<sup>nd</sup> Street, Room 2000  
Miami, FL 33147  
Attention: Commander, Personnel Management Bureau  
Phone: (786)263-6200  
Fax: (786)263-6121

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

**ARTICLE 10. INDEMNIFICATION AND INSURANCE**

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

Upon County's notification, the Contractor shall furnish to the Internal Services Department, 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 on a comprehensive basis in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.
4. Professional Liability Insurance in an amount not less than \$1,000,000 per claim.

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 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 Financial Services 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 ten (10) business days after notification of recommendation to award. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall have an additional five (5) business 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 fifteen (15) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

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

**ARTICLE 11. MANNER OF PERFORMANCE**

- a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.

- c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

**ARTICLE 12. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR**

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

**ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP**

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

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

**ARTICLE 14. AUTHORITY OF THE COUNTY'S PROJECT MANAGER**

- a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence,

fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.

- b) The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- d) In the event of such dispute, the parties to this Agreement authorize the County Manager or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Manager within 10 days of the occurrence, event or act out of which the dispute arises.
- e) The County Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Manager for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Manager is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Manager, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

#### **ARTICLE 15. MUTUAL OBLIGATIONS**

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

- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

#### **ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING**

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

#### **ARTICLE 17. AUDITS**

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

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

#### **ARTICLE 18. SUBSTITUTION OF PERSONNEL**

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

#### **ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT**

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

#### **ARTICLE 20. SUBCONTRACTUAL RELATIONS**

- a) If the Contractor will cause any part of this Agreement to be performed by a

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

- b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.
- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the County finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any subcontractor hereunder as more fully described herein.

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

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

using this information.

**ARTICLE 22. SEVERABILITY**

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

**ARTICLE 23. TERMINATION AND SUSPENSION OF WORK**

- a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.
- d) In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor.
- e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
  - i. stop work on the date specified in the notice ("the Effective Termination Date");
  - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
  - iii. cancel orders;
  - iv. assign to the County and deliver to any location designated by the County any noncancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
  - v. take no action which will increase the amounts payable by the County under this Agreement; and
- f) In the event that the County exercises its right to terminate this Agreement, 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.
- g) All compensation pursuant to this Article are subject to audit.

#### **ARTICLE 24. EVENT OF DEFAULT**

- a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:
- i. the Contractor has not delivered Deliverables on a timely basis.
  - ii. the Contractor has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled Staff Personnel;
  - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
  - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
  - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
  - vi. the Contractor has failed to provide "adequate assurances" as required under subsection "b" below;
  - vii. the Contractor has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the County receives such assurances the County may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed time frame, the County may:
- i. treat such failure as a repudiation of this Agreement;
  - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.
- c) In the event the County shall terminate this Agreement for default, the County or its designated representatives, may immediately take possession of all applicable

equipment, materials, products, documentation, reports and data.

**ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE**

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

**ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT**

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

- a) lost revenues;
- b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for reprourement of Services, including procurement and administrative costs; and,
- c) such other direct damages.

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

**ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION**

- a) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment, programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.
- b) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.
- c) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the

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Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

- d) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.
- e) The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

#### **ARTICLE 28. CONFIDENTIALITY**

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County applicant and employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.
- b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents,

subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

**ARTICLE 29. PROPRIETARY INFORMATION**

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

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

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

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

**ARTICLE 30. PROPRIETARY RIGHTS**

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

Works" shall become the property of the County.

- c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

**ARTICLE 31. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST**

**a) Vendor Registration**

The Contractor shall be a registered vendor with the County – Internal Services Department, 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:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>1. <b>Miami-Dade County Ownership Disclosure Affidavit</b><br/>(Section 2-8.1 of the County Code)</li> <li>2. <b>Miami-Dade County Employment Disclosure Affidavit</b><br/>(Section 2-8-1(d)(2) of the County Code)</li> <li>3. <b>Miami-Dade Employment Drug-free Workplace Certification</b><br/>(Section 2-8.1.2(b) of the County Code)</li> <li>4. <b>Miami-Dade Disability and Nondiscrimination Affidavit</b><br/>(Section 2-8.1.5 of the County Code)</li> <li>5. <b>Miami-Dade County Debarment Disclosure Affidavit</b><br/>(Section 10.38 of the County Code)</li> <li>6. <b>Miami-Dade County Vendor Obligation to County Affidavit</b><br/>(Section 2-8.1 of the County Code)</li> <li>7. <b>Miami-Dade County Code of Business Ethics Affidavit</b></li> </ul> | <ul style="list-style-type: none"> <li>(Section 2-8.1(f) 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)</li> <li>8. <b>Miami-Dade County Family Leave Affidavit</b><br/>(Article V of Chapter 11 of the County Code)</li> <li>9. <b>Miami-Dade County Living Wage Affidavit</b><br/>(Section 2-8.9 of the County Code)</li> <li>10. <b>Miami-Dade County Domestic Leave and Reporting Affidavit</b><br/>(Article 8, Section 11A-60 11A-67 of the County Code)</li> <li>11. <b>Subcontracting Practices</b><br/>(Ordinance 97-35)</li> <li>12. <b>Subcontractor /Supplier Listing</b><br/>(Section 2-8.8 of the County Code)</li> <li>13. <b>Environmentally Acceptable Packaging</b></li> </ul> |
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(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 requires that 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, competing or applying for a contract, 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. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered 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, 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 a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
  - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
  - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

**ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION**

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

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information

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- would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and
  - c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

#### **ARTICLE 37. BANKRUPTCY**

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

#### **ARTICLE 38. GOVERNING LAW**

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

#### **ARTICLE 39. COUNTY USER ACCESS PROGRAM (UAP)**

##### **a) User Access Fee**

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

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

##### **b) Joint Purchase**

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this Section. Contractor participation in this

joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within 3 work days of receipt of an order, of a decision to decline the order.

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

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

**c) Contractor Compliance**

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

**ARTICLE 40. SURVIVAL**

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

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

Contractor

Miami-Dade County

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
Corporate Secretary/Notary Public

Attest: \_\_\_\_\_  
Clerk of the Board

Corporate Seal/Notary Seal

Approved as to form  
and legal sufficiency

\_\_\_\_\_  
Assistant County Attorney

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**PROPOSAL SUBMISSION PACKAGE**  
**Request for Proposals (RFP) No. 781**  
**Polygraph Examination Services**

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

**1. Form A-1, Cover Page of Proposal**

Complete and sign (by Proposer or representative of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer) as required.

**2. Proposer Information**

Complete following the requirements therein.

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

**3. Affidavits/Acknowledgements**

Complete and sign the following forms:

- Form A-2, Lobbyist Registration for Oral Presentations
- Form A-3, Acknowledgement of Addenda
- Form A-4, Local Business Preference
- Form A-5, Proposer's Disclosure of Subcontractors and Suppliers
- Form A-6, Fair Subcontracting Policies

**4. Form B-1, Price Proposal Schedule**

Complete following the requirements therein.

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

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

<b>PROPOSER'S NAME</b> (Name of firm, entity or organization):		
<b>FEDERAL EMPLOYER IDENTIFICATION NUMBER:</b>		
<b>NAME AND TITLE OF PROPOSER'S CONTACT PERSON:</b>		
Name:		Title:
<b>MAILING ADDRESS:</b>		
Street Address: _____		
City, State, Zip: _____		
<b>TELEPHONE:</b> ( ) _____	<b>FAX:</b> ( ) _____	<b>E-MAIL ADDRESS:</b> _____
<b>PROPOSER'S ORGANIZATIONAL STRUCTURE:</b>		
<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other (Explain): _____		
<b>IF CORPORATION:</b>		
Date Incorporated/Organized: _____ State Incorporated/Organized: _____		
States registered in as foreign corporation: _____		
<b>PROPOSER'S SERVICE OR BUSINESS ACTIVITIES OTHER THAN WHAT THIS SOLICITATION REQUESTS FOR:</b>		
<b>LIST NAMES OF PROPOSER'S SUBCONTRACTORS OR SUBCONSULTANTS FOR THIS PROJECT:</b>		
<b>LOCAL CERTIFIED SERVICE-DISABLED VETERAN BUSINESS ENTERPRISE:</b>		
A Local Certified Service-Disabled Veteran Business Enterprise is a firm that is a) a local business pursuant to Section 2-8.5 of the Code of Miami-Dade County and b) prior to proposal submittal is certified by the State of Florida Department of Management Services as a service-disabled veteran business enterprise pursuant to Section 295.187 of the Florida Statutes. At the time of proposal submission, the Local Certified Service-Disabled Veteran Business Enterprise must affirm in writing its compliance with the certification requirements of Section 295.187 of the Florida Statutes and submit said affirmation and a copy of the actual certification along with the proposal submission.		
<input type="checkbox"/> Place a checkmark here only if affirming Proposer is a certified Local Certified Service-Disabled Veteran Business Enterprise. A copy of the required certification must be submitted with the proposal.		
<b>CRIMINAL CONVICTION DISCLOSURE:</b>		
Pursuant to Miami-Dade County Ordinance No. 94-34, any individual who has been convicted of a felony during the past ten years and any corporation, partnership, joint venture or other legal entity having an officer, director, or executive who has been convicted of a felony during the past ten years shall disclose this information prior to entering into a contract with or receiving funding from the County.		
<input type="checkbox"/> Place a checkmark here only if Proposer has such conviction to disclose to comply with this requirement.		
<b>Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List:</b>		
By executing this proposal through a duly authorized representative, the proposer certifies that the proposer is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, as those terms are used and defined in sections 287.135 and 215.473 of the Florida Statutes. In the event that the proposer is unable to provide such certification but still seeks to be considered for award of this solicitation, the proposer shall execute the proposal through a duly authorized representative and shall also initial this space: _____. In such event, the proposer shall furnish together with its proposal a duly executed written explanation of the facts supporting any exception to the requirement for certification that it claims under Section 287.135 of the Florida Statutes. The proposer agrees to cooperate fully with the County in any investigation undertaken by the County to determine whether the claimed exception would be applicable. The County shall have the right to terminate any contract resulting from this solicitation for default if the proposer is found to have submitted a false certification or to have been placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.		

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**PROPOSER'S AUTHORIZED SIGNATURE**

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

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

Signed By: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

## Proposer Information

### Minimum Qualification Requirement

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

Polygraph Examiners to perform Services shall be a certified graduate of an American Polygraph Association (APA) accredited school as of proposal due date.

Documented proof of active certification is required.

### Proposer's Experience and Past Performance

2. Describe the Proposer's past performance and experience and state the number of years that the Proposer has been in existence, the current number of employees, and the primary markets served.
3. Describe Proposer's experience and qualifications performing deception detection examinations services with specific knowledge of interrogation techniques for pre-employment screenings and law enforcement investigations, to include large organizations and public employers.
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:

	Contract 1	Contract 2	Contract 3	Contract 4
The client				
Description of services provided				
Annual total dollar value of contract				
Contract duration (dates covered)				
Client contact person, phone number, and e-mail address				

Where possible, list and describe those projects performed for government clients or similar size private entities (excluding any work performed for the County).

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:

### Proposer Information

	Contract 1	Contract 2	Contract 3	Contract 4
Name of County department which administers contract				
Description of project and services				
Dollar value of the contract				
Dates covering term of contract				
County Contact person, phone number, and e-mail address				

6. Provide information concerning any prior or pending litigation over the validity of polygraph examination components and standards, either civil or criminal, involving a governmental agency or which may affect the performance of the services to be rendered herein, in which Proposer, any of its employees or subcontractors is or has been, involved within the last three years.

**Key Personnel and Subcontractors Performing Services**

7. Provide an organization chart showing 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 key personnel, their location and confirmation of their availability for consulting purposes during the County's working hours, evening and weekend hours.

All key personnel include all professional and technical staff, including Proposer's project manager, who will perform work and/or services for this project.

8. 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.

9. Describe the experience, qualifications and other vital information, including relevant experience on previous similar projects, of all key personnel, including those of subcontractors, who will be assigned to this project. Include the qualifications of examiners as an expert witness, estimate number of times that examiner has testified as an expert, and availability to provide expert testimony services.

10. Provide resumes, certifications, active association membership and specialized professional development training attended with job descriptions and other detailed qualification information on all key personnel who will be assigned to this project, including those of subcontractor key personnel.

**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

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## Proposer Information

otherwise, to the key personnel identified in its proposal.

11. Describe Proposer's polygraph examiners' advanced fact gathering knowledge in areas of deception detection, interrogation techniques and procedures, and findings presentation.

### Proposed Approach to Providing the Services

12. Describe Proposer's approach to project organization and management, including customer service to the County in handling appointment scheduling, processing large number of examinations within a specified time period, and reporting, completion and delivery of examination results.

13. Provide a description of the proposed examination facility(ies). Be specific with regard to the following:

- a. Physical location(s) of facility(ies);
- b. Hours of operation for each facility;
- c. Layout of administrative and examination areas within facility(ies);
- d. Current condition of, and maintenance performed on, equipment to be utilized in the testing;
- e. Parking availability at facility(ies);and
- f. Ease of facility(ies) access for applicants and examinees.

Note: Photographs of proposed facility(ies) to include interior and exterior areas may also be included to support description.

14. Provide a brief statement acknowledging the Proposer's acceptance of and compliance with, **each item listed in Section 2.0, Scope of Services**. If the Proposer is not able to accept and comply with an item or is offering an alternative to an item, please provide a statement regarding the exception requested for that item and the alternative that is being offered.

15. Identify if Proposer has taken any exception to this Solicitation other than items listed in Section 2.0, as provided for in Item No. 14 above.

16. Attach a sample of Proposer's standard and customary examination report to be produced and furnished to the County.

### Management of Services

17. Describe Proposer's process and procedure for the selection and quality evaluation of examiners and staff.

18. Describe Proposer's training program for new examiners and identify professional development opportunities afforded to existing examiners annually.

19. Describe Proposer's efforts to retain examiners and other key personnel. Explain how Proposer intends to minimize the impact to the County should expert testimony be required of an examiner that is no longer employed by the Proposer.

20. Describe Proposer's review mechanisms in place to ensure quality of Services provided by examiners and whether peer reviews are utilized in assessments.

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Form A-2
AFFIDAVIT OF MIAMI-DADE COUNTY
LOBBYIST REGISTRATION FOR ORAL PRESENTATION

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

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

Table with 4 columns: NAME, TITLE, EMPLOYED BY, TEL. NO. and 8 rows of blank lines for entry.

(ATTACH ADDITIONAL SHEET IF NECESSARY)

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

Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection, technical review or similar committee must be listed on an affidavit provided by the County. The affidavit shall be filed with the Clerk of the Board at the time the response is submitted. The individual or firm must submit a revised affidavit for additional team members added after submittal of the proposal with the Clerk of the Board prior to the oral presentation. Any person not listed on the affidavit or revised affidavit may not participate in the oral presentation, unless he or she is registered with the Clerk's office and has paid all applicable fees.

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

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

Signature of Authorized Representative: Title:
STATE OF
COUNTY OF

The foregoing instrument was acknowledged before me this, by, a, who is personally known to me or who has produced as identification and who did/did not take an oath.

(Signature of person taking acknowledgement)
(Name of Acknowledger typed, printed or stamped)
(Title or Rank) (Serial Number, if any)

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Form A-3  
ACKNOWLEDGEMENT OF ADDENDA

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

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

Addendum #1, Dated \_\_\_\_\_, 201\_\_

Addendum #2, Dated \_\_\_\_\_, 201\_\_

Addendum #3, Dated \_\_\_\_\_, 201\_\_

Addendum #4, Dated \_\_\_\_\_, 201\_\_

Addendum #5, Dated \_\_\_\_\_, 201\_\_

Addendum #6, Dated \_\_\_\_\_, 201\_\_

Addendum #7, Dated \_\_\_\_\_, 201\_\_

Addendum #8, Dated \_\_\_\_\_, 201\_\_

Addendum #9, Dated \_\_\_\_\_, 201\_\_

PART II:

\_\_\_\_ No Addendum was received in connection with this solicitation.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_



By signing below, Proposer affirms that it meets the above criteria to qualify for Local Preference and has submitted the requested documents.

Note: At this time, there is an interlocal agreement in effect between Miami-Dade and Broward Counties until September 30, 2011. Therefore, a Proposer which meets the requirements of (1), (2) and (3) above for Broward County shall be considered a local business for the purposes outlined herein.

Federal Employer Identification Number: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

I hereby certify that to the best of my knowledge and belief all the foregoing facts are true and correct.

Signature of Authorized Representative: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

SUBSCRIBED AND SWORN TO (or affirmed) before me on \_\_\_\_\_,  
(Date)

by \_\_\_\_\_, He/She is personally known to me or has  
(Affiant)

presented \_\_\_\_\_ as identification.  
(Type of Identification)

\_\_\_\_\_  
(Signature of Notary) (Serial Number)

\_\_\_\_\_  
(Print or Stamp Name of Notary) (Expiration Date)

Notary Public \_\_\_\_\_  
(State)

Notary Seal

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**FORM A-5  
SUBCONTRACTOR/SUPPLIER LISTING  
(Ordinance 97-104)**

Name of Proposer \_\_\_\_\_

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

Business Name and Address of First Tier Subcontractor/Subconsultant	Principal Owner	Scope of Work to be Performed by Subcontractor/Subconsultant	(Principal Owner)	
			Gender	Race
Business Name and Address of Direct Supplier	Principal Owner	Supplies/Materials/Services to be Provided by Supplier	(Principal Owner)	
			Gender	Race

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

Signature of Proposer's  
Authorized Representative

Print Name

Print Title

Date

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

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**FAIR SUBCONTRACTING POLICIES**  
**(Section 2-8.8 of the Miami-Dade County Code)**

**FAIR SUBCONTRACTING PRACTICES**

In compliance with Section 2-8.8 of the Miami-Dade County Code, the Proposer submits the following detailed statement of its policies and procedures for awarding subcontracts:

\_\_\_\_\_

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

Signature of Authorized Representative: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Firm Name: \_\_\_\_\_

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Form B-1

**Price Proposal Schedule – Polygraph Examination Services**

The Proposer's price shall be submitted on this Form B-1 "Price Proposal Schedule", and in the manner stated herein. Proposer is requested to fill in the applicable blanks on this form.

**Proposed Rates**

The Proposer shall state its rates for providing professional polygraph examination services as stated in Section 2.0 of this Solicitation.

Type of Service	Estimated No. of Examinations per Year	Rate	Extended Pricing (5 Years)
Pre-Employment Polygraph Examination	1,573	\$	\$
Repeat Examination for Pre-Employment Polygraph Examination <sup>(3)</sup>	30	\$	\$
Specific Area of Inquiry Polygraph Examination	232	\$	\$
No Show Fee <sup>(4)</sup>	94	\$	\$
Hourly Expert Testimony (as follow-up to examination)	10	\$	\$
<b>Sub-Total</b>			\$

\$ \_\_\_\_\_ X 5 years = **TOTAL PROPOSED PRICING** \$ \_\_\_\_\_  
 (Sub-Total)

**Notes:**

1. All rates shall be guaranteed for the contract term. Any extension periods exercised pursuant to Article 5 of the Agreement will be at the then current rates.
2. The estimated numbers above are based on the prior fiscal years' history and anticipated future needs and are provided for evaluative purposes only. The County makes no representations or guarantees of the number of applicants or examinees; and the County shall not be responsible for conclusions drawn therefrom; and any estimates shall not form the basis of any claim by the Proposer. The selected Proposer shall be paid for actual number of examinations performed.
3. Proposed "**Repeat Examination**" rate shall not exceed the rate proposed for Pre-Employment Polygraph Examination.
4. Proposed "**No Show**" rate shall not exceed twenty-five (25%) percent of the cost of the Pre-Employment Polygraph Examination. However, Proposer may offer a lower than 25% "No Show" fee rate.
5. Wherein there may be errors in the Extended Pricing, the Rates shall prevail and the County maintains the right to correct any Extended Pricing prepared by the Proposer.
6. All out-of-pocket expenses, including materials, and miscellaneous costs and fees, should be included in the Proposer's price, as they shall not be reimbursed separately by the County.
7. Rates shall be all-inclusive. No "add-on" charges for services shall be accepted. Any references to Services are provided as reference only.



miamidade.gov

Internal Services Department  
111 N. W. 1<sup>st</sup> Street, Suite 1300  
Miami, FL 33128  
Telephone: (305) 375-5289 Fax: (305) 375-5688

### **ADDENDUM NO. 1**

DATE: November 15, 2011  
TO: ALL PROSPECTIVE PROPOSERS  
SUBJECT: RFP No. 781 – Polygraph Examination Services

This addendum becomes a part of the subject Request for Proposals (RFP).

A. Please find attached the attendance sheet for the Pre-proposal Conference for the subject RFP.

B. Amend Scope of Services as follows:

1. In Section 2.3, entitled Services to be Provided, 12<sup>th</sup> bullet point, the word "*Ineptness*" shall be replaced with "*Excessive Debt.*"

C. The following are the inquiries received and the corresponding responses:

1. Will the County accept Polygraph Examiner's accreditation from an American Polygraph Association school that is no longer in existence?

**Response:** There is no requirement that the school still be operating.

2. Does the County anticipate utilizing polygraph examination services for internal criminal investigations?

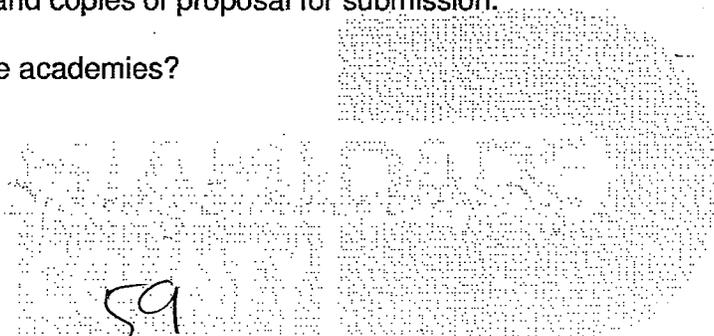
**Response:** No.

3. Should both the original and additional copies of proposals be bound?

**Response:** Proposer may elect to bind original and copies of proposal for submission.

4. Is the County currently sponsoring any police academies?

**Response:** No.



5. How can previous proposals submitted for polygraph services be reviewed?

**Response:** Public records requests, such as the review of previously submitted proposals, can be addressed to Ms. Maria Nixon, Public Records Administrator via e-mail at [MNIXON@miamidade.gov](mailto:MNIXON@miamidade.gov).

**All other information remains the same.**

Miami-Dade County

*Maria Carballera*

Procurement Contracting Officer

cc: Clerk of the Board  
Oren Rosenthal, Assistant County Attorney

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Ethics Commission Record  
Journey & Associates, Inc.

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*Journey & Associates, Inc., has been providing polygraph services to the County since 1999.*

- Oct. 26, 2009 Journey & Associates, Inc., through its president, Martha Journey, requests an ethics opinion regarding the ability of her company to contract with the County in light of the employment of her stepson, Kent C. Journey, Jr., with the County Police Department.
- Oct. 26, 2009 A search of Florida corporate records shows that Kent Journey, Sr., is the director of Journey & Associates, Inc., and Martha Journey is listed as president. There are no other officers.
- Oct. 29, 2009 Mr. and Mrs. Journey are sent an ethics opinion from staff (INQ 09-174) stating that Journey & Associates, Inc., may not contract with the County Police Department because of the employment of Kent C. Journey, Jr., as a detective with the Police Department.
- Kent Journey, Jr., is the son of Kent Journey, Sr. At this time, the County Ethics Code does not allow contracts between vendors and departments that employ "immediate family" members, which is defined to include "children."
- Mar. 8, 2010 Kent Journey, Sr., resigns as director of Journey & Associates, Inc.
- June 8, 2010 The County Ethics Code is amended to include "stepchildren" in the definition of "immediate family."
- Aug. 27, 2010 Martha Journey states that she has received a letter from Police Department Director James Loftus advising that Journey & Associates, Inc., may no longer provide services to the Police Department because of the amended definition of "immediate family" in the Ethics Code to include stepchildren. Kent C. Journey, Jr., a detective with the Police Department, is the stepson of Martha Journey.
- Sept. 29, 2010 At a meeting with staff from the Police Dept., DPM and the Ethics Commission, Ms. Journey is advised that her current contract will not be affected by the change in the definition of "immediate family," but she must seek an advisory opinion from the Ethics Commission when the contract is up for renewal.
- Ethics opinion number INQ 09-174, given to Ms. Journey in Oct. 29, 2009, is revised to reflect this accommodation.
- Nov. 3, 2011 Journey & Associates, Inc., through its president and majority shareholder, Martha Journey, requests an ethics opinion regarding contracting for polygraph services under RFP No. 781. The RFP states, in pertinent part, that the Police Department and Department of Corrections & Rehabilitation will jointly administer the contract.

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- Nov. 7, 2011 Staff issues an ethics opinion (INQ 11-167) to Ms. Journey stating that Journey & Associates, Inc., is ineligible to enter into a contract administered by the Police Department in light of the employment of her stepson, Kent C. Journey, Jr., with the County Police Department.
- Nov. 28, 2011 Kent C. Journey, Jr., on behalf of his stepmother, Martha Journey, requests an ethics opinion from the Ethics Commissioners meeting in public as to whether Journey & Associates, Inc., may contract for polygraph services under RFP No. 781.
- Nov. 29, 2011 The Ethics Commissioners, in public session, issue opinion number RQO 11-29 to Kent C. Journey, Jr., stating that Journey & Associates, Inc., is ineligible to enter into a contract administered by the Police Department in light of his employment with the County Police Department.
- Nov. 29, 2011 Kent C. Journey, Jr., on behalf of his stepmother, Martha Journey, appeals ethics opinion number RQO 11-29 from the Ethics Commission that prohibits Journey & Associates, Inc., to contract for polygraph services under RFP No. 781.