

Memorandum



Date: November 1, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

Agenda Item No. 8(N)(42)

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez". The signature is written in a cursive, flowing style.

Subject: Contract Award Recommendation for Professional Services Agreement for Bridge Inspection and Structural Analysis - Project No: E15-MDT-02; Contract No: CIP135-CT1-TR15, to Network Engineering Services, Inc. in the amount of \$1,100,000.00

Recommendation

This Recommendation for Award for Professional Services Agreement Contract No: CIP135-CT1-TR15, to Network Engineering Services, Inc. in the amount of \$1,100,000.00 has been prepared by the Department of Transportation and Public Works (DTPW) and is recommended for approval pursuant to Section 2-8.2.7 of the County Code.

This contract award recommendation is placed for Committee review pursuant to County Code Section 29-124(f). This contract award recommendation may only be considered by the Board of County Commissioners (Board) if the Citizens' Independent Transportation Trust (CITT) has forwarded a recommendation to the Board prior to the date scheduled for Board consideration or 45 days have elapsed since the filing with the Clerk of the Board of this contract award recommendation. If the CITT has not forwarded a recommendation and 45 days have not elapsed since the filing of this award recommendation, I will request a withdrawal of this item.

Delegated Authority

The authority of the County Mayor or County Mayor's designee to execute and implement this contract is consistent with those authorities granted under the County Code. No further delegation is necessary for this contract.

Scope

PROJECT NAME: Professional Services Agreement for Bridge Inspection and Structural Analysis

PROJECT NO: E15-MDT-02

CONTRACT NO: CIP135-CT1-TR15

PROJECT

DESCRIPTION: Professional Services are required to perform bridge inspection of elevated guideways and pedestrian bridges in compliance with Federal, State and local requirements, perform underwater bridge inspections as well as load ratings of all transit guideways, emergency and non-emergency structural analysis and design of repairs and retrofits, use state-of-the-art equipment and techniques to gather field inspection data. The selected consultant will have the following experience and qualifications:

- Underwater Bridge Inspection
 - Conventional Bridge Inspection
 - Complex Bridge Inspection
- Bridge Load Rating
- Bridge Design
- Bridge Inspection
 - Above water and Underwater Bridge & Structural Inspection

PROJECT

LOCATION: Various DTPW elevated guideways and pedestrian bridges.

**PRIMARY
COMMISSION
DISTRICT:**

Various Districts

**PROJECT
SITES:**

<u>SITE #</u>	<u>LOCATION</u>	<u>DISTRICT</u>	<u>ESTIMATE</u>
3001050	Various	Various	\$1,100,000.00

**APPROVAL
PATH:**

Board of County Commissioners

**ISD A&E PROJECT
NUMBER:**

E15-MDT-02

USING

DEPARTMENT: Department Transportation and Public Works

MANAGING

DEPARTMENT: Department Transportation and Public Works

Fiscal Impact/Funding Source

FUNDING

SOURCE

SOURCES: Federal Transit Administration (FTA) Section 5307
Grant

OPERATIONS COST

IMPACT/FUNDING: N/A

MAINTENANCE COST

IMPACT/FUNDING: N/A

PTP FUNDING:

No

GOB FUNDING:

No

CAPITAL BUDGET PROJECTS:	<u>CAPITAL BUDGET PROJECT # - PROJECT NAME</u>	<u>AMOUNT</u>
	2000000326 – FEDERALLY FUNDED PROJECTS	
	Book Page: 167, Volume 2	\$1,100,000.00
	Funding Year: Capital Budget Book for FY 2016-17, through FY 2021-22 funds	
	CAPITAL BUDGET PROJECTS TOTAL:	\$1,100,000.00

PROJECT TECHNICAL CERTIFICATION REQUIREMENTS:	<u>TYPE</u>	<u>CODE</u>	<u>DESCRIPTION</u>
	Prime	3.03	BRIDGE DESIGN, TO INCLUDE ABOVE WATER AND UNDER WATER BRIDGE AND STRUCTURAL INSPECTSIONS
	Other	3.12	UNDER WATER ENGINEERING INSPECTION

SUSTAINABLE BUILDINGS ORDINANCE: N/A
 (I.O NO. 8-8)

NTPC'S DOWNLOADED: 91

PROPOSALS RECEIVED: 6

TOTAL CONTRACT PERIOD: 1095 calendar days

CONTINGENCY PERIOD: 110 calendar days

IG FEE INCLUDED IN BASE CONTRACT: No

ART IN PUBLIC PLACES: No

BASE ESTIMATE: \$1,000,000.00

CONTINGENCY ALLOWANCE (SECTION 2-8.1 MIAMI-DADE COUNTY CODE):	TYPE	PERCENT	AMOUNT
	PSA	10%	\$100,000.00

TOTAL AMOUNT: \$1,100,000.00

Track Record/Monitor

SBD HISTORY OF

VIOLATIONS: None

EXPLANATION: The Request to Advertise was filed with the Clerk of the Board on July 28, 2015, and the Notice to Professional Consultants (NTPC) was issued on October 8, 2015.

Six (6) proposals were received by the Clerk of the Board on November 6, 2015.

The Competitive Selection Committee (CSC) appointed by the County Mayor conducted the First-Tier evaluation on April 13, 2016 to evaluate the proposals received. All six (6) firms were evaluated in accordance with the Section 2-10.4 of the Miami-Dade County Implementing Order 3-34 and Administrative Order 3-39. Local Preference was not applicable to the First-Tier evaluation since all firms were local. The total scores for the top three (3) firms were as follows: Firm No. 1 Network Engineering Services, Inc. received 272 points; Firms No. 2 Ammann & Whitney, Inc. received 262 points, and Firm No. 3 Transystems Corporation Consultants received 265 points.

Based on the CSC's professional expertise, the information provided in the proposals was deemed sufficient to determine the qualifications of the teams. As a result of said determination, and by a majority vote, the CSC decided to forego Second Tier proceedings pursuant to AO 3-39, Section II(C). Based on the above results, the CSC recommended that negotiation be conducted with Network Engineering Services, Inc.

Subsequently, all firms were found in compliance with the Disadvantage Business Enterprise and Federal Transit Administration requirements for the solicitation.

The County Mayor's Designee and the Director of Internal Service Department concurred with CSC and approval to begin negotiations was granted on May 12, 2016. The negotiation meeting was held on June 1, 2016. After negotiation were concluded, Network Engineering Services, Inc. agreed to the terms and conditions stipulated in the Professional Services Agreement.

Based on the Committee negotiation results, DTPW recommends proceeding with the award of this PSA for Bridge Inspection and Structural Analysis to Network Engineering Services, Inc.

Information contained in the Capital Improvements Information System database indicates that the County has completed 1 evaluation for Network Engineering Services, Inc. with an overall performance rating of 3.4 points.

SUBMITTAL DATE: November 6, 2015

ESTIMATED NOTICE

TO PROCEED: September 6, 2016

PRIME

CONSULTANT: Network Engineering Services, Inc.

COMPANY

PRINCIPALS: Joaquin Perez, P.E.

COMPANY

QUALIFIER: Joaquin Perez, P.E.

COMPANY EMAIL

ADDRESS: jperez@bpamiami.com

COMPANY STREET

ADDRESS: 7205 Corporate Center Drive, Suite 201

COMPANY CITY-

STATE-ZIP: Miami, Florida 33126

YEARS IN

BUSINESS: Since 1997 (19 years)

PREVIOUS

**CONTRACTS WITH
COUNTY IN THE**

LAST FIVE YEARS: According to the Firm History Report provided by ISD, Network Engineering Services, Inc. has received three (3) contracts from the County valued at \$400,000.00.

SUB-

CONSULTANTS: Atkins North America, Inc.
AECOM Technical Services, Inc.
URS Corporation Southern
Underwater Engineering Services, Inc.

DUE DILIGENCE:

Due diligence was conducted in accordance with ISD's Procurement Guideline to determine consultant responsibility, including verifying corporate status, and that there are no performance or compliance issues. The lists that were referenced include: convicted vendors, debarred vendors, Delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings relating to consultant responsibility. This information is relating to consultant responsibility. This information is being provided pursuant to Resolution No. R-187-12.

**MINIMUM
QUALIFICATIONS
EXCEED LEGAL
REQUIREMENTS:** Yes

**REVIEW
COMMITTEE:** **SIGNOFF DATE: 7/05/2015**

**APPLICABLE
WAGES
(RESOLUTION
NO. R-54-10):** N/A

**REVIEW
COMMITTEE
ASSIGNED
CONTRACT
MEASURES:**

<u>TYPE</u>	<u>GOAL</u>
DBE	0%

**MANDATORY
CLEARING
HOUSE:** N/A

**CONTRACT
MANAGER:** Jesus Valderrama (786) 469-5291 jvalder@miamidade.gov

**PROJECT
MANAGER:** German Arenes (786) 469-5254 garenes@miamidade.gov

BACKGROUND: The project consists of engineering services to perform bridge inspection of elevated guideways and pedestrian bridges in compliance with Federal, State and local requirements. The scope of services for this project also includes performance of underwater bridge inspections as well as load ratings of all Miami-Dade Department of Transportation and Public Works guideways, emergency and non-emergency structural analysis, design of repairs and retrofits, and use of state of the-art equipment and techniques to gather field inspection data.

BUDGET
APPROVAL

FUNDS AVAILABLE: 10,95


OMB DIRECTOR

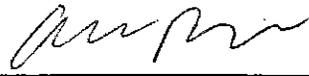
8/17/16
DATE

APPROVED AS TO
LEGAL
SUFFICIENCY:


COUNTY ATTORNEY

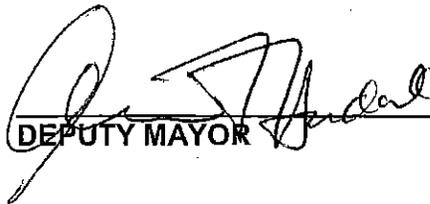
8/2/16
DATE

DEPARTMENT OF TRANSPORTATION
AND PUBLIC WORKS CONCURRENCE:


DIRECTOR, DTPW

8/8/16
DATE

APPROVED PURSUANT TO
SECTION 2-8.1 OF THE
MIAMI-DADE COUNTY
CODE:


DEPUTY MAYOR

8/23/16
DATE

CLERK:

DATE

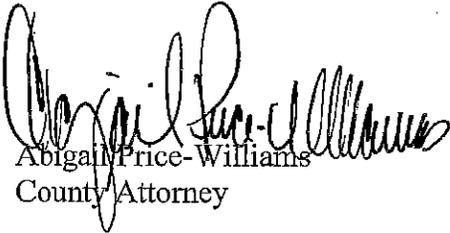


MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: November 1, 2016

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(N)(42)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's _____, 3/5's _____, unanimous _____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No. 8(N)(42)

Veto _____

11-1-16

Override _____

RESOLUTION NO. _____

RESOLUTION AWARDING PROFESSIONAL SERVICES AGREEMENT WITH NETWORK ENGINEERING SERVICES, INC. TO PROVIDE PROFESSIONAL SERVICES TO PERFORM BRIDGE INSPECTION AND STRUCTURAL ANALYSIS, CONTRACT NO.: CIP135-CT1-TR15, IN AN AMOUNT NOT TO EXCEED \$1,100,000.00 AND AUTHORIZING THE COUNTY MAYOR OR DESIGNEE TO EXECUTE SAME

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the Professional Services agreement with Network Engineering Services, Inc. to provide Professional Services to perform Bridge Inspection and Structural Analysis, Contract No: CIP135-CT1-TR15 in the amount of \$1,100,000.00 and authorizes the County Mayor or designee to execute same.

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

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of November, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

B.L.

Bruce Libhaber

Professional Services

Between

Miami-Dade County

And

Network Engineering Services, Inc.

Contract No: CIP135-CT1-TR15

To Provide

Professional Services

for

Bridge Inspection and Structural Analysis

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- E. EMPLOYEE'S SALARY RATES
- F. LOCAL ORDINANCES, RESOLUTION

DEFINITIONS

The following definition and terms are provided as clarification of the provisions for this Professional Services Agreement (P.S.A.).

1. **Consultant** is the person or organization licensed to practice architecture and/or engineering in the State of Florida and is referred to throughout the P.S.A. as singular in number and masculine in gender.
2. **Contracting Officer** is the Director of Department of Transportation and Public Works.
3. **Contracting Officer's Representative** is the person designated by the Contracting Officer to act on his or her behalf in the administration of the contract within the limits of their respective authorization.
4. **Principal** is a design professional who oversees the firm's services in connection with a specific project. A principal ensures that the Consultant performs the Services in a cost-effective and timely manner. This includes allocating and directing staff according to their disciplines, allocating resources needed for the project and ensuring that the Consultant performs the Services in accordance with safety and organizational policies. Principal is often defined as (1) significant (>5%) owner, shareholder or partner of the firm, (2) a director or officer of the firm or (3) both.
5. **Professional Services Agreement** is an agreement to provide professional or management consulting services such as administration, designing, feasibility studies, or legal or technical advice.

6. **Subconsultant** means any and all persons, firms or entities which will be engaged by the Consultant to provide services under this P.S.A. The term is synonymous with "subcontractor".
7. **Contract Documents** as design plans, specifications, cost estimates, and permit applications.

**NON-EXCLUSIVE
PROFESSIONAL SERVICES AGREEMENT**

THIS NONEXCLUSIVE PROFESSIONAL SERVICES AGREEMENT is made and entered into this ____ day of _____, 2016 by and between Miami-Dade County, a political subdivision of the State of Florida, hereinafter referred to as the "COUNTY" and Network Engineering Services, Inc. hereinafter referred to as the "CONSULTANT".

WITNESSETH

For and in consideration of the mutual agreements hereinafter contained, the COUNTY hereby retains the CONSULTANT and the CONSULTANT hereby covenants to provide Professional Services for Bridge Inspection and Structural Analysis, Contract No: CIP135-CT1-TR15, hereinafter referred to as the "Project".

SECTION I - COUNTY OBLIGATIONS

The COUNTY agrees that Department of Transportation and Public Works (DTPW) shall furnish to the CONSULTANT any plans and any other data available in the COUNTY files pertaining to the work to be performed under this Agreement. The CONSULTANT is responsible to request any and all plans and data not furnished, which the CONSULTANT knows or should know, is necessary or appropriate for the performance of the services described herein.

The COUNTY shall provide the CONSULTANT with access to the project site(s) during CONSULTANT'S scheduled work times.

The Contracting Officer's Representative or his designee of DTPW, hereinafter referred to as the "COR", shall issue written authorization to proceed to the CONSULTANT for the work to

be performed hereunder. These authorizations are referred to as Work Orders. In case of emergency, the COUNTY reserves the right to issue verbal authorizations to the CONSULTANT with the understanding that written confirmation shall follow immediately thereafter.

The CONSULTANT shall submit a proposal, in a form acceptable to the COUNTY, upon the COR's request prior to the issuance of a Work Order. No payment shall be made for the CONSULTANT's time or services in connection with the preparation of any such proposal.

The COR shall confer with the CONSULTANT before any Work Order is issued to discuss and agree upon the scope, time for completion, compensation method and fee for services to be rendered pursuant to this Agreement.

SECTION II - PROFESSIONAL SERVICES

The CONSULTANT shall provide Professional Services required to perform bridge inspection of elevated guideways and pedestrian bridges in compliance with Federal, State and local requirements, perform underwater bridge inspections as well as load ratings of all Transit guideways, emergency and non-emergency structural analysis and design of repairs and retrofits, use state-of-the-art equipment and techniques to gather field inspection data. The selected consultant will have the following experience and qualifications:

- Underwater Bridge Inspection
 - Conventional Bridge Inspection
 - Complex Bridge Inspection
- Bridge Load Rating
- Bridge Design
- Bridge Inspection
 - Above water and Underwater Bridge & Structural Inspection

Upon request by the Department of Transportation and Public Works, said services may include, but not be limited to, the following:

1. Perform routine, initial, complex, special, fracture critical, emergency and rehabilitation bridge inspections services for all Transit elevated Guideways and pedestrian bridges. All inspections shall comply with Federal, State and Local requirements using experienced, qualified and duly certified staff in the State of Florida.
2. Perform Underwater Bridge inspections at all Transit Guideways and pedestrian bridges with water crossings in compliance with Federal, State and Local requirements using experienced, qualified and duly certified staff in the State of Florida.
3. Perform Load Rating analysis for all types of structures found in the Transit elevated Guideways.
4. Perform structural analysis and structural design for structural non-emergency repairs and retrofits and structural emergency repairs and retrofits for Transit Guideways, stations, facilities, etc.
5. Perform high definition and infrared video of all elevated Guideway structural components by means of radio/control (R/C) drones with still-image measurement capabilities and enough image definition to read crack widths and measure the dimensions of all deficiencies.
6. Perform QA of any and all inspection documents and prepare inspection reports for field inspections performed by the consultant or by DTPW forces using all technology, formats and timeframes as required by DTPW.

In connection with Professional Services to be rendered pursuant to this Agreement, the CONSULTANT further agrees to:

- A. Maintain an adequate staff of qualified personnel available at all times to perform within the term specified in the applicable Work Order. The COUNTY has the right to approve the CONSULTANT's workforce and approve specific

CONSULTANT employees. The COUNTY has the right to have any CONSULTANT employee removed from the work, if, in the COUNTY's sole judgement, such employee's conduct or performance is detrimental to the project. The CONSULTANT shall not replace any employee in the team initially proposed by the CONSULTANT without prior COUNTY approval.

B. The CONSULTANT shall submit a list of employees intended to be engaged in the work under this Agreement, including their classification and salary rates.

C. Comply with federal, state and local laws, regulations and ordinances applicable to the work.

D. Cooperate fully with the COUNTY in the scheduling and coordination of all phases of the work.

E. Report the status of the work to the COR upon request and hold pertinent data, calculations, field notes, records, sketches, and other products open to the inspection of the COR at any time.

F. Submit to the COUNTY design computations, sketches, and other data representative of the work's progress at the percentage stages of completion which may be stipulated in the applicable Work Order, as applicable. Submit to the COUNTY the final work products upon incorporation of any modifications requested by the COUNTY during any previous review and comments resolution process.

G. Confer with the COUNTY at any time during the further development and implementation of improvements for which the CONSULTANT has provided services as to interpretation of documents, correction of errors and omissions and preparations of any necessary revisions thereof. The CONSULTANT shall not be compensated for the correction of the CONSULTANT'S errors and omissions.

H. Make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of this Agreement, without first notifying the COUNTY and securing its consent in writing. The CONSULTANT also agrees

that it shall not publish, copyright or patent any of the data furnished in compliance with this Agreement, that being understood that under SECTION VIII - OWNERSHIP OF DOCUMENTS hereof such data or information is the property of the COUNTY.

I. The CONSULTANT shall communicate with the COUNTY by electronic means to the greatest extent possible as directed by the COUNTY.

J. The CONSULTANT shall develop an effective Quality Assurance Plan in accordance with the latest version, at the time of contract execution, of the FTA Quality Assurance and Quality Control Guidelines incorporated herein by reference. The Quality Assurance Plan shall be submitted to the Engineering, Planning and Development Section of DTPW for approval within ten (10) days of the effective date of Notice-to-Proceed. The implementation and maintenance of the Quality Assurance Plan, and other contract requirements will be subject to COUNTY Quality Assurance Audits.

K. The consultant team must be certified in the technical categories listed below. The Architectural and Engineering section of ISD reviewed the technical certifications and provided concurrence.

SECTION III - TIME FOR COMPLETION

Services to be rendered by the CONSULTANT shall commence upon receipt of a written Work Order from the COR subsequent to the execution of this Agreement, and shall be completed within the time stated in the Work Order. A reasonable extension of time shall be granted in the event there is a delay to the project or should weather conditions or acts of God or other events of force majeure render performance of the CONSULTANT'S duties impossible.

SECTION IV - COMPENSATION

The COUNTY agrees to pay and the CONSULTANT agrees to accept, for services rendered pursuant to this Agreement, fees and other compensation computed in accordance with one or a combination of the methods outlined below:

A. FEE AS A MULTIPLIER OF DIRECT SALARY COST AND FIXED HOURLY RATE

- The fee for engineering services rendered by the CONSULTANTS personnel, Principals excluded, shall be computed based on the direct salary cost, as reported to the Internal Revenue Service, for the time of said personnel engaged directly in the work, times the following negotiated multipliers (Labor rates are subject to County approval as per paragraph 4 below):

Table A

Firm	Office					Field				
	OH	FCGM	Direct Expense	Operating Margin*	Multiplier	OH	FCGM	Direct Expense	Operating Margin*	Multiplier
	165.25					90.94				

*Operating Margins Calculated in Accordance FDOT Negotiations Handbook

The initial overhead rates allowed under this contract for field work shall be 90.94% and for office work is 165.25%. These overhead rates are based on independent audited in accordance with Part 31 of the Federal Acquisition Regulations accepted by a Federal or State agency provided by the CONSULTANT during initial contract negotiations.

- The COUNTY has the right to request that the CONSULTANT and Subconsultants submit independent audited statements in accordance with Part 31 of the Federal Acquisition Regulations accepted by a Federal or State agency to set multipliers.

Once approved, and until a revision is accepted by the COR, these multipliers shall

constitute full compensation to the CONSULTANT for costs incurred in the performance of the work such as overhead, fringe benefits, profit and all other costs not covered by reimbursable expenses.

The maximum direct hourly rate excluding overhead billable under this contract shall not exceed \$78.00 per hour, unless authorized by the COR in writing, and shall apply to all employees except Principals. The burdened direct labor charges shall constitute full compensation to the CONSULTANT for costs incurred in the performance of the work such as labor, overhead, fringe benefits and all other costs not covered by reimbursable expenses or fixed fee.

3. Overtime work considered necessary and previously authorized by the COR in writing shall be compensated at time-and-a-half of the labor rate normally paid to the employee, unless exempted for personnel below the level of Project Engineer or Project Architect. Overtime is defined as work on this project in excess of 40 hours per week. Principals shall not receive additional compensation for performance of overtime work.
4. Labor rates shall be in accordance with the current list of employees maintained by the COR or designee. Rates supplied by the CONSULTANT and made a part hereof as Attachment "E" shall be consistent with prevailing local wage rates paid for similar work to similar employee classifications and subject to COR approval prior to starting work. Yearly wage rate increases for these employees shall be no higher than raises of other similar employees in the firm, and subject to approval by the COR, which approval shall not be unreasonably withheld. Annual wage increases

for these employees shall be no higher than five percent (5%) unless otherwise approved by the COR. This provision is not meant to limit the hourly rate at which the CONSULTANT pays their employees, it only limits the hourly rate at which the COUNTY will reimburse and pay the CONSULTANT. In no way will an employee's hourly rate exceed the maximum amount stipulated in the contract, without written approval by the COR. The COR may approve higher raises in limited cases subject to the CONSULTANT documenting special circumstances.

5. PRINCIPALS

The CONSULTANT shall be compensated at the following rate for the time of principals engaged directly in the work. Annual rate increases for Principals shall be at a maximum of 4% per year and subject to approval by the COR in writing, which approval shall not be unreasonably withheld. This rate shall not be subject to the overhead rates or fee and shall be applied to the time spent on requested work by the following Principals:

Table B

Firm	Principals	Hourly Rate
Network Engineering Services, Inc.	Joaquin Perez	\$ 200.00

Note: Consultant shall not bill for more than 40 hours by the Principal for any week without prior written approval by the COR.

B. LUMP SUM FEE

The fee for any requested portion of work may, at the option of the COUNTY, be a lump sum mutually agreed upon between the COUNTY and the CONSULTANT and

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stated in the written Work Order. Lump sum fees may or may not include reimbursable expenses.

C. REIMBURSABLE (DIRECT) EXPENSES (SEE ATTACHMENT "D")

The CONSULTANT shall be compensated on a direct reimbursement basis for certain work related expenditures not covered by burdened direct labor, provided such expenditures are reasonable and previously authorized by the COR. Reimbursable expenses may include:

Permits, purchase of special instruments necessary for the efficient performance of the work, provided that such instruments remain the property of the COUNTY upon work completion. These expenses shall be reimbursed on a direct cost basis. No separate additional payment shall be authorized.

COUNTY compensation for Subconsultant work shall be in accordance with this Section and Section XII- SUBCONTRACTING.

The maximum compensation for reimbursable (direct) expenses including surveying and geotechnical services for the CONSULTANT shall not exceed the amount stated in Attachment "D".

D. FIXED FEE (SEE ATTACHMENT "D")

The fixed fee at XX% (will be negotiated at work order level) is the operating margin (profit) in accordance with FDOT Negotiations Hand Book paid to the CONSULTANT for the professional services described in this agreement. The fixed fee shall remain fixed unless there is an increase in scope. If the scope is increased, the fixed fee may be modified through the allowance account if it has not been depleted or by a

supplemental agreement. For any changes in the scope, the fixed fee shall be computed as XX% (will be negotiated at work order level) of the burdened direct labor. The fixed fee will be paid on the basis of the percentage of completion of the work as determined by the COUNTY.

E. SURVEYING SERVICES

The CONSULTANT shall be compensated based on the fixed rates based on the most recent negotiated rates for the performance of all land and engineering surveying work required. The CONSULTANT shall be compensated for general land and engineering surveying and/or aerial photogrammetric based on negotiated rates established in the most recent contract with the Miami-Dade Public Works Department.

F. MAXIMUM COMPENSATION

Although the COUNTY makes no assurances that any work orders will be issued to the CONSULTANT, the total payments to the CONSULTANT pursuant to this Agreement shall not exceed \$1,100,000.00

G. EXCEEDING EXPENDITURES

If at any time the CONSULTANT has reason to believe that the expenditures, in the next 60 days, will exceed 75% of the Maximum Compensation amount for any work order, the CONSULTANT shall immediately notify the COUNTY in writing to that effect. Failure to comply with this requirement may forfeit payments for authorized overruns. The CONSULTANT shall also provide a revised estimate to complete the work under the applicable sections. The CONSULTANT shall not be obligated to incur costs in excess of

the maximum Contract ceiling except at the request of the COUNTY and proper execution of a Supplemental Agreement.

H. SUBCONSULTANT COMPENSATION

COUNTY compensation for Subconsultant work shall be in accordance with Section XII SUBCONTRACTING.

SECTION V - METHOD OF PAYMENT

The COUNTY agrees to make monthly or partial payment to the CONSULTANT for all authorized work performed during the previous calendar month or other mutually agreed invoicing period. The CONSULTANT agrees to provide with every invoice copies of any records necessary to substantiate payment requests to the COUNTY such as time sheets, detailing the task where the time has been spent, monthly progress reports and hours/costs expenditure reports, in a format acceptable to the COUNTY. The CONSULTANT shall submit duly certified invoices in duplicate and one electronic format to the COR in a format acceptable to the COUNTY. Each invoice shall make reference to the particular Work Order which authorized the services performed and/or expenses incurred. The amount of invoices submitted shall be comprised of the amounts due for all services performed including time sheets and/or reimbursable expenses incurred to date in connection with authorized work, less previous payments. Payments shall be made in accordance with one of the following methods, as identified in each Work Order:

A. TIME & MATERIALS

The amounts due for professional services and/or reimbursable expenses shall be calculated in accordance with Subsection IV.

B. LUMP SUM FEE

The amount due of invoices submitted shall be calculated by applying the percentage of the total work completed to date to the authorized lump sum, and subtracting any previous payments and retainage.

RETENTIONS (Applies to all Methods of Payment)

The COUNTY shall retain a portion of each invoice equal to ten percent (10%) of the amount due for burdened labor, principal labor and fixed fee only, accrued by the CONSULTANT during the period covered by such invoice. The CONSULTANT shall provide for similar retention in all of its subcontracts. Upon completion and acceptance by the COUNTY of the services covered by each work order, the retention held for each work order shall be released to the CONSULTANT.

SECTION VI - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine on which units or sections of the work the CONSULTANT shall proceed and in what order. A work order issued by the COR shall cover in detail the scope, time for completion, method of payment and compensation for the Professional Services requested in connection with each unit or section of work.

SECTION VII - RIGHT OF DECISIONS AND DISPUTE RESOLUTION

All services shall be performed by the CONSULTANT to the satisfaction of the COR who shall decide all questions, difficulties and disputes of whatever nature which may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder, and the character, quality, amount and value thereof.

In the event the CONSULTANT and COR are unable to resolve their differences concerning any determination made by the COR or any dispute or claim arising under or relating to the Contract, either the CONSULTANT or COUNTY may initiate a dispute in accordance with the procedure set forth in this Section. Exhaustion of these procedures shall be a precondition to any lawsuit permitted hereunder.

The parties to this contract hereby authorize the DTPW Director, functioning as the Contracting Officer or designee, to decide all questions, disputes or claims of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Contract except issues or disputes related to the CONSULTANT's performance evaluation and his decision shall be conclusive, final and binding on the parties, subject only to the limited right of review specified below. The CONSULTANT and the COUNTY are entitled to a hearing before the Contracting Officer, or his designee, at which both CONSULTANT and the COUNTY may present evidence and live testimony, in accordance with the Florida Rules of Evidence, and the right to cross-examine each other's witnesses. No depositions will be taken.

If either party wishes to protest the determination of the Contracting Officer, such party may commence an appeal in a Court of competent jurisdiction no later than 30 calendar days from the issuance of the Contracting Officer's written decision, it being understood that the review of the Court shall be limited to the question of whether or not the Contracting Officer's determination was arbitrary or capricious, unsupported by any competent evidence, or so grossly erroneous to evidence bad faith. Pending final decision of a dispute hereunder, the CONSULTANT shall proceed diligently with the performance of the Contract and in accordance with the COR's interpretation.

SECTION VIII - OWNERSHIP OF DOCUMENTS

All notes, correspondence, documents, designs, drawings, renderings, calculations, specifications, models, photographs, reports, surveys, investigations, and any other documents and copyrights thereto for services performed or produced in the performance of this Agreement, whether in paper or other hard copy medium or in electronic medium, except with respect to pre-existing copyrighted standard details and designs owned by the CONSULTANT or owned by a third party and licensed to the CONSULTANT for use and reproduction, shall become the property of the COUNTY upon CONSULTANT receiving payment in full for services satisfactorily performed. However, the COUNTY may grant an exclusive license of the copyright to the CONSULTANT for reusing and reproducing copyrighted materials or portions thereof as authorized by the COUNTY in advance and in writing. In addition, the CONSULTANT shall not disclose, release, or make available any document to any third party without prior written approval from the COUNTY. The CONSULTANT shall warrant to the COUNTY that he/she has been granted a license to use and reproduce any standard details and designs owned by a third party and used or reproduced by the CONSULTANT in the performance of this Agreement. Nothing contained herein shall be deemed to exclude any document from Chapter 119 of the Florida Statutes. When each individual section of work requested pursuant to this Agreement is completed and accepted, all of the above data shall be delivered to the COR.

SECTION IX - REUSE OF DOCUMENTS

The CONSULTANT may reuse data from other sections of the work included in this Agreement provided irrelevant material is deleted. The COR shall not accept any reused data

containing an excess of irrelevant material which has no connection with the applicable portion of the work.

SECTION X – OFFICIAL NOTICES

Any notices, report or other written communications from the CONSULTANT shall be considered delivered when posted by certified mail or delivered in person to the COR. Any notices, reports or other communications from the COUNTY to the CONSULTANT shall be considered delivered when posted by certified mail to the CONSULTANT at the last address left on file with the COUNTY or delivered in person to said CONSULTANT or the CONSULTANT's authorized representative.

The CONSULTANT designates the following individual as the project manager to act as the point-of-contact with the COUNTY and is authorized by the CONSULTANT to receive official notices and submit invoices:

Joaquin Perez, P.E.
7205 Corporate Center Drive, Suite 201
Miami, Florida 33126

SECTION XI - AUDIT RIGHTS

The CONSULTANT hereby agrees that the COUNTY may perform audits of the CONSULTANT's books of accounts and records related to the work. Such audits may be performed at the COUNTY'S discretion.

Such audits may be performed by the COUNTY or may be arranged by the COUNTY through the auspices of the U.S. Department of Transportation. Alternatively, the COUNTY may cause an independent certified public accounting firm to perform the audit within the time herein described below. The CONSULTANT shall maintain all books of accounts, records, documents

and other evidence of accounting procedures and practices sufficient to properly document all expenses incurred and anticipated to be incurred in the performance of this Contract including justification of the negotiated overhead rates and direct labor rates. The materials described above shall be made available at the office of the CONSULTANT, at reasonable times, for inspection, audit or reproduction, within three (3) years following final payment under this Contract and the closing of all other pending matters.

In addition to the above requirements, the Secretary of the U.S. Department of Transportation, the Comptroller General of the United States, the State of Florida, or their authorized designee, shall have the right to audit the CONSULTANT's books of accounts and records relating to performance of this Contract at any time within three (3) years following final payment under this Contract and the closing of all other pending matters.

For purposes of verifying the certified cost or pricing data submitted or identified by the CONSULTANT in conjunction with the negotiation of this Agreement or any modification/change order to this Agreement, the CONSULTANT shall, for a period of three (3) years after Final Acceptance under this Agreement:

- A. Maintain such certified cost or pricing data, including books, records, documents, papers, computations, projections and other supporting data. All such certified cost or pricing data shall be clearly identified, readily accessible and, to the extent feasible, kept separate and apart from all unrelated documents.
- B. Permit an authorized representative of the COUNTY, State of Florida, United States Department of Transportation and Comptroller of the United States to examine such

books, records, documents, papers, computations, projections and other supporting data.

- C. In the event any information provided by the CONSULTANT during initial contract negotiations or any supplemental agreement negotiations or any other information is later determined by the COUNTY not to have been complete, accurate or current at the time of the submittal, the COUNTY shall be entitled to an appropriate correction of the total compensation amount. If this determination is made by the COUNTY after final payment, the COUNTY shall use all available means to recover said funds including withholding funds due the CONSULTANT on other COUNTY contracts.

The CONSULTANT agrees to insert these audit clauses in all of his subcontracts.

SECTION XII - SUBCONTRACTING

The CONSULTANT shall not assign or transfer any portion of the work under this Agreement other than as provided for herein without the prior written consent of the COUNTY.

Subconsultants included in CONSULTANT's proposal are deemed to be approved by the COUNTY.

The CONSULTANT may, if they so desire and if approved by the COUNTY, employ Special Professional Consultants to assist in performing specialized portions of the work. Payment of such Special Professional Consultants employed at the option of the CONSULTANT and subject to written approval by the COUNTY shall be the responsibility of the CONSULTANT and shall not be cause for any increase in compensation to the CONSULTANT for the performance of the work included in the Work Order.

The COUNTY may, if it deems such action necessary to the satisfactory and expeditious completion of the authorized work, direct the CONSULTANT to engage the services of a Designated Professional Consultant(s) to assist the CONSULTANT in the performance of specialized portions of the services. The CONSULTANT shall comply with such directive. Employment of such a Designated Professional Consultant(s) at the direction of the COUNTY by Work Order shall constitute additional services under the provisions of this Agreement and the CONSULTANT shall be reimbursed therefore in accordance with negotiated fees at the time such additional services are requested by the COUNTY.

Failure to obtain COR approval of a Subconsultant prior to commencement of that Subconsultant's services may be grounds for non-payment of any services performed prior to approval.

A. SUBCONSULTANTS

1. The compensation for services rendered by the Subconsultant's personnel, Principals excluded, shall be computed based on the direct salary cost, as reported to the IRS, for all time said personnel engaged directly in the work, times the following multipliers:

Table C

Firm	Office					Field				
	OH	FCCM	Direct Expense	Operating Margin*	Multiplier	OH	FCCM	Direct Expense	Operating Margin*	Multiplier
Atkins North America, Inc.	152.60					125.39				
AECOM Technical Services, Inc.	139.14%					114.70%				
URS Corporation Southern	139.14%					114.70%				
Underwater Engineering Services, Inc.	175.02									

*Operating Margin Calculated in Accordance FDOT Negotiations Handbook

1. The table of overhead rates is based on information provided by the Subconsultant during initial contract negotiations. The COUNTY has the right to request that the Subconsultant submit independent audit in accordance with Part 31 of the Federal Acquisition Regulations accepted by a Federal or State agency to set multipliers. Once approved, and until a revision is accepted by the COR, these multipliers shall constitute full compensation to the Subconsultant for costs incurred in the performance of the work such as overhead, fringe benefits, profit and all other costs not covered by reimbursable expenses
2. The maximum direct hourly rate, excluding overhead, allowed under this contract shall not exceed \$78.00 per hour unless authorized by the COR in writing, and shall apply to all subconsultant employees. The burdened direct labor charges shall constitute full compensation to the Subconsultant for costs incurred in the performance of the work such as labor, overhead, fringe benefits and all other costs not covered by reimbursable expenses or fixed fee.

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Overtime work considered necessary and previously authorized by the COR in writing shall be compensated at time-and-a-half of the labor rate normally paid to the employee, unless exempted for personnel below the level of Project Engineer or Project Architect. Overtime is defined as work on this project in excess of 40 hours per week. Principals shall not receive additional compensation for performance of overtime work.

Labor rates shall be in accordance with the list of employees and rates supplied by the CONSULTANT on behalf of the Subconsultant and made a part hereof and consistent with prevailing local wage rates paid for similar work to similar employees classifications and subject to COUNTY approval prior to starting work. Annual wage increases for these employees shall be no higher than 5% percent and shall be consistent with other similar employees unless otherwise approved by the COR.

All services provided by the Subconsultants shall be pursuant to appropriate agreements between the CONSULTANT and the Subconsultants which shall contain provisions that preserve and protect the rights of the COUNTY under this Agreement, and indemnify and hold harmless the COUNTY and the services shall be compensated in accordance with Section IV-COMPENSATION. Nothing contained in this Agreement shall create any contractual relationship between the COUNTY and the Subconsultants.

Subconsultants may not be utilized on the work unless their utilization has been approved in advance by the COUNTY in writing. Subconsultants included in

CONSULTANT's Proposal are deemed to be approved by the County. The COUNTY reserves the right at any time to withdraw the approval of such Subconsultant, if it decides that the services performed by the Subconsultant, are not acceptable to the COUNTY.

The CONSULTANT shall not change any Subconsultant without prior approval of the COUNTY in response to a written request from the CONSULTANT stating the reasons for any proposed substitution. Any request to add a Subconsultant shall include substantiation of Subconsultant's overhead acceptable to the COUNTY.

B. NON-EXCLUSIVITY

Notwithstanding any provision of this non-exclusive agreement, the COUNTY is not precluded from retaining or utilizing any other Architect, Engineer, Design Professional or other Consultant to perform any professional services as defined herein and the CONSULTANT waives any claim it might have against the COUNTY as a result of the COUNTY electing to retain or utilize such other Architect, Engineer, Design Professional or other Consultant to perform any such professional services, except that if the COUNTY retains or utilizes such other Architect, Engineer, Design Professional or other Consultant to perform such services subsequent to the starting date and before the completion date of the agreement of the CONSULTANT, and if the new Consultant is directed to perform the same services, the CONSULTANT shall be entitled to compensation as provided in this Section.

SECTION XIII - CERTIFICATION

The CONSULTANT certifies that no companies or persons, other than bonafide employees working solely for the CONSULTANT or the CONSULTANT'S COUNTY-approved Subconsultants, have been retained or employed to solicit or secure this Agreement or have been paid or guaranteed payment of any fees, commissions, percentage fees, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. The CONSULTANT also certifies that no COUNTY personnel, whether a full-time or part-time employee, has or shall be retained or employed in any capacity, by the CONSULTANT or the CONSULTANT'S COUNTY-approved Subconsultants, to accomplish the work contemplated under the terms of this Agreement. For breach or violation of this Certification, the County Mayor or his designee shall have the right to annul this Agreement without liability.

SECTION XIV - TERMINATION OF AGREEMENT

It is expressly understood and agreed that the COR may terminate this Agreement, in whole or in part, without cause or penalty, by thirty (30) days prior written notification in writing from the COR or by declining to issue Work Orders, as provided in Section VI; in which event the COUNTY's sole obligation to the CONSULTANT shall be payment in accordance with Section IV - COMPENSATION, for those units or sections of work previously authorized plus reasonable costs of termination. Such payment shall be determined on the basis of the hours or percentage of work performed by the CONSULTANT up to the time of termination. In the event partial payment has been made for professional services not performed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that said sums are

due. Upon such termination, the COUNTY may, without penalty or other obligation to the CONSULTANT, elect to employ other persons to perform the same or similar services.

SECTION XV - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of (1,095) calendar days after its date of execution or until depletion of the funds allocated to pay for the cost of services, whichever occurs first. Actual completion of the services hereunder may extend beyond such term provided that action is taken in accordance with any of the methods described under Subsections A through C below:

(A) Method One – A time extension is provided for additional unforeseen work performed outside the scope of the original Agreement that affects the work schedule or previously approved changes using contingency time allocated in the Contract award memo.

(B) Method Two – A time extension is provided for additional unforeseen work performed outside the scope of the original Agreement that affects the work schedule or previously approved changes and is approved via a formal Supplemental Agreement.

(C) Method Three – A work order (or multiple work orders) has been issued prior to the Agreement's original expiration date that clearly states the tasks, method of payment, dollar amount, and work order expiration date.

Once a revised Agreement or a new work order expiration date has been approved in accordance with one of the methods described above, the Agreement completion date shall be based on either the revised expiration date or the date that all funding has been expended, whichever occurs first.

SECTION XVI - DEFAULT

In the event the CONSULTANT fails to comply with the provisions of this Agreement, the COR may declare the CONSULTANT in default by thirty (30) days prior written notification. In such event, the CONSULTANT shall only be compensated for any completed professional services. In the event partial payment has been made for such professional services not completed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that said sums are due. The CONSULTANT shall be compensated on a percentage of the professional services which have been performed and found acceptable to the County prior to the time the COR declares a default. Any dispute arising out of this Section shall be resolved in accordance with Section VII – RIGHT OF DECISIONS AND DISPUTE RESOLUTION.

SECTION XVII - INDEMNIFICATION AND INSURANCE

Consultant 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 negligent acts, errors, omission or willful misconduct in the performance of this Agreement by the Consultant or its employees, agents, servants, partners principals or subcontractors. Consultant 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. Consultant expressly understands and agrees that any

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insurance protection required by this Agreement or otherwise provided by Consultant 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.

The Consultant shall furnish to DTPW, 701 N.W. 1st Court, 15th Floor, Miami, FL 33136, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
- B. Commercial General Liability Insurance on a comprehensive basis, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be shown as an additional insured with respect to this coverage.
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance in the amount of \$1,000,000 per claim.
- E. Protection and Indemnity Insurance, if applicable, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami Dade County must be an additional insured with respect to this coverage.

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 "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services.

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

Compliance with the foregoing requirements shall not relieve the Consultant of his liability and obligation under this section or under any other section of this agreement.

SECTION XVIII-ORDINANCES, RESOLUTIONS AND OTHER REQUIREMENTS

The CONSULTANT and Subconsultants agree to abide and be governed by Dade County ordinances which may have a bearing on the work contemplated hereunder, including but not necessarily limited to the following:

- A. Ordinance No. 72-82 (Conflict of Interest), as amended by Ordinances 00-01,00-46.
- B. The CONSULTANT shall comply with the financial disclosure requirements of Ordinance No. 77-13 by filing within thirty (30) days of the execution of this Agreement one of the following with the Dade County Elections Department, P.O. Box 012241, Miami, FL 33101:
 - (1) A source of income statement;
 - (2) A current certified financial statement;
 - (3) A copy of the CONSULTANT'S Current Federal Income Tax Return.
- C. The CONSULTANT further agrees to comply with the requirements of the County, State and Federal Ordinances, Resolutions and/or Regulations.

For a listing of the County and State Ordinances, Resolutions and/or Regulations, see ATTACHMENT "F".

The CONSULTANT further agrees to comply with any other Ordinance or Resolution of the County that may become effective before the execution by both parties of this Agreement. In the event any ordinance or resolution potentially impacting price is adopted by the Board subsequent to completions of negotiations but prior to adoption of this contract by the Board, CONSULTANT may seek adjustment of the contract price. Failure on the part of the CONSULTANT to notify the COUNTY of its intent to seek an adjustment to the contract price prior to the Contract approval of the the Board shall constitute a waiver of any such claims or adjustments.

SECTION XIX - CERTIFICATION OF WAGE RATES

In accordance with Florida Statute 287.055, the CONSULTANT hereby certifies and warrants that wage rates and other factual unit costs, as submitted in support of the compensation provided in Section IV, are accurate, complete and current as of the date of this Agreement. It is further agreed that said compensation shall be adjusted to exclude any significant costs where the COUNTY shall determine that the price of services was increased due to inaccurate, incomplete or unclear wage rates or other factual unit costs. All such compensation adjustments shall be made within three (3) years from the date of final billing or acceptance of the work by the COUNTY, whichever is later.

SECTION XX - EQUAL OPPORTUNITY

A. EQUAL EMPLOYMENT OPPORTUNITY

The CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, ancestry, marital status, physical

handicap, place of birth or national origin. The CONSULTANT shall take affirmative actions to insure that applicants are employed and that employees are treated during their employment without regard to their race, religion, color, sex, age, marital status, physical handicap or national origin. Evidence of such actions shall be reported on forms supplied by the COUNTY.

Such actions shall include, but shall not be limited to the following: employment; upgrading, transfer or demotion; recruitment or recruitment advertising; layoff or termination; rates of pay or other form of compensation and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the COUNTY setting forth the provisions of this Equal Opportunity Clause.

The CONSULTANT shall comply with all applicable provisions of the Civil Rights Acts of 1964; Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375; Executive Order 11625 of October 13, 1971; the Age Discrimination in Employment Act, effective June 12, 1968; the rules and regulations, and relevant orders of the Secretary of Labor; Florida Statutes, Chapter 760 (Florida Civil Rights Act of 1992, as amended) and Dade County Ordinance 75-46.

B. NONDISCRIMINATION

During the performance of this Agreement, the CONSULTANT agrees to state in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, age, marital status, physical handicap or

national origin. If requested to do so the CONSULTANT shall furnish all information and reports required by Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375 and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to their books, records and accounts by the COUNTY, and compliance review agencies for purposes of investigation to ascertain compliance with such rules and regulations and orders.

C. DISADVANTAGED BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM

The CONSULTANT must make a good faith effort to meet the zero (0%) percent Disadvantaged Business Enterprise (DBE) goal established for this contract and to comply with all the provisions of the DBE Requirements section made a part of this contract as Attachment "A".

SECTION XXI - AFFIRMATIVE ACTION PLAN REQUIREMENTS

The CONSULTANT's Affirmative Action Plan, as approved by DTPW's Office of Civil Rights, and any approved update thereof, is hereby incorporated as contractual obligations of the CONSULTANT to the COUNTY hereunder. The COR shall undertake and perform the affirmative actions specified herein. The COR may declare the CONSULTANT in default of this agreement for failure of the CONSULTANT to comply with the requirements of this paragraph.

SECTION XXII - FEDERAL REQUIREMENTS (REFER TO ATTACHMENT "B")

SECTION XXIII - UTILIZATION REPORT (UR)

Pursuant to Administrative Order (A.O.) 3-32 Community Business Enterprise (CBE-A&E) Program and/or A.O. 3-39 for the Resolution Repealing County Administrative Orders 3-33, 3-14 and 3-28, and Establishing Administrative Order 3-39 Standard Process for Construction of Capital

Improvements, Acquisition Of Professional Services, Construction Contracting, Change Orders and Reporting, the CONSULTANT is required to file utilization reports with the Miami-Dade County contracting department monthly, unless designated otherwise. Utilization Reports (URs) must accompany every invoice. The UR should indicate the amount of contract monies received and paid as a Consultant, including payments to Sub-consultant(s) (if applicable). The UR format is attached hereto as an attachment.

SECTION XXIV – PROMPT PAYMENT

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 interest payments 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.

SECTION XXV – ESTIMATE TIME FOR CONTINGENCY

This Agreement contains a Contingency Allowance time extension not to exceed ten percent (10%) of the original Contract Duration. Pursuant to a written request by the CONSULTANT for a

time extension for reasons exhibited in Section XV – Duration of Agreement, that affects the critical path schedule of the Agreement or any previously approved changes; written documentation that supports the justification of a time extension, review and concurrence by the department A/E, a Contract Contingency Allowance Expenditure Authorization will be created for execution by all parties. Once executed the time extension will adjust the scheduled completion date. The cumulative total of all Contingency Allowance time extensions shall not exceed ten percent (10 %) of the original Contract Duration rounded off to the next whole number.

SECTION XXVI - CONTINGENCY ALLOWANCE

This project is a Professional Services Agreement; therefore an estimated Allowance Account of \$100,000.00 is permissible, per Miami-Dade County Code Section 2-8.1. This Allowance Account will be used by Department of Transportation and Public Works for unforeseen conditions necessitating additional design, resulting in additions to the basic fee.

SECTION XXVII - SCRUTINIZED COMPANY

Scrutinized Companies - By executing this Agreement through a duly authorized representative, the CONSULTANT certifies that the CONSULTANT 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. The County shall have the right to terminate this Agreement for default if the CONSULTANT is found to have submitted a false certification or to have been, or is subsequently during the term of the Agreement, placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

SECTION XXVIII – ERRORS AND OMISSIONS

The CONSULTANT, if Construction Engineering Inspection (CEI) services are exercised, shall maintain a record of construction changes that shall be categorized according to the various types, causes, etc., that the COUNTY and/or CONSULTANT may determine are useful or necessary for its purposes. Among those categories are construction changes, design errors or omissions in the contract documents prepared by the Consultant. For the purposes of this contract provision, errors and omissions shall be dealt with differently, as follows:

A. Errors

It is specifically agreed that any construction changes categorized by the COUNTY as an error in the contract documents prepared by the Consultant will constitute an additional cost to the COUNTY that would not have been incurred without the error. The damages to the COUNTY for errors shall be calculated as one hundred percent (100%) of the total cost of the change and includes direct and indirect costs. The COUNTY shall obtain recovery of the additional cost of construction for all errors caused by the CONSULTANT should the sum of the total additional constructions for errors in total exceed five percent (5%) of the total construction cost. Indirect costs may include delay damages caused by the error.

B. Omissions

It is further specifically agreed for purposes of this agreement that any construction changes categorized by the COUNTY as an omission in the contract documents prepared by the Consultant will constitute an additional cost to the COUNTY that would not have been incurred without the omission. The damages to the COUNTY for omissions shall be calculated as fifteen

percent (15%) of the total direct cost of the change and one hundred percent (100%) of the indirect costs. Indirect costs may include delay damages caused by the omission.

To obtain such recovery, the COUNTY shall deduct from funds due the Consultant in this or any other contract the Consultant may or will have with the COUNTY up to the amount of the Consultant's insurance deductible. Should the damages incurred by the COUNTY exceed the Consultant's insurance deductible, the COUNTY shall look to the Consultant and the Consultant's insurer for the remaining amount of additional damages incurred by the COUNTY. In executing this agreement, the CONSULTANT and its insurer specifically agree to the reasonableness of these damage calculations and to the COUNTY'S right to recover same as stated above. The recovery of additional costs to the COUNTY under this paragraph shall not limit or preclude recovery for other separate and/or additional damages that the COUNTY may otherwise incur.

The CONSULTANT shall participate in all negotiations with the Contractor related to this section. Such CONSULTANT participation shall be at no additional cost to the COUNTY. The extent of the CONSULTANT'S liability to the COUNTY shall be in accordance with Florida Statute 725.08.

SECTION XXIX - MISCELLANEOUS

A. Force Majeure. For the purposes of delay and events of force majeure under Section III, and event of "Force Majeure" is defined to include an event beyond the control of the Party claiming Force Majeure, which prevents such Party from fulfilling its obligations, and includes, without limitation, acts of God (including floods, hurricanes and other adverse weather), war, riot, civil disorder, acts of terrorism, disease, epidemic, strikes and labor disputes, law enforcement actions, curfews, closure of transportation systems.

B. Standard of Care. Notwithstanding any other provisions to the contrary, in the performance of its Services, CONSULTANT shall exercise that degree of care and skill customarily exercised by other professionals performing similar services in the same locality and time period. COUNTY recognizes that opinions relating to environmental, geologic, and geotechnical conditions are based on limited data and that actual conditions may vary from those encountered at the times and locations where the data are obtained, despite the use of due professional care. CONSULTANT is not responsible for designing

or advising on or otherwise taking measures to prevent or mitigate the effect of any act of terrorism or any action that may be taken in controlling, preventing, suppressing or in any way relating to an act of terrorism.

C. Responsibility for Others. CONSULTANT shall be responsible to COUNTY for CONSULTANT Services and the services of CONSULTANT subcontractors. CONSULTANT shall not be responsible for the acts or omissions of other parties engaged by COUNTY nor for their construction means, methods, techniques, sequences, or procedures, or their health and safety precautions and programs.

D. Cost Estimates. CONSULTANT's opinions of construction and materials costs estimates provided herein are to be made on the basis of CONSULTANT's experience and qualifications and represent CONSULTANT's best judgment as an experienced and qualified professional generally familiar with the industry. However, since CONSULTANT has no control over the costs of labor, materials, equipment, or services furnished by others, or over any contractor's methods of determining prices or over

competitive bidding, or market conditions, CONSULTANT cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from the opinions prepared by CONSULTANT.

E. No Third Party Rights. This Agreement shall not create any rights or benefits to parties other than COUNTY and CONSULTANT.

F. Right of Entry. COUNTY grants to CONSULTANT, and, if the project site is not owned by COUNTY, warrants that permission has been granted for, a right of entry from time to time by CONSULTANT, its employees, agents and subcontractors, upon the project site for the purpose of providing the Services. COUNTY recognizes that the use of investigative equipment and practices may unavoidably alter the existing site conditions and affect the environment in the area being studied, despite the use of reasonable care.

SECTION XXX - ENTIRETY OF AGREEMENT

Nothing in this Agreement shall be construed to make any party hereunder the agent, employee, partner or joint venturer of the other, nor will any CONSULTANT firm hereunder be considered the beneficiary of any of the duties or rights created by this Agreement between the COUNTY and any other consulting firm hereunder.

This writing and its Attachments embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby!

No alteration, change or modification of the terms of the Agreement shall be valid unless made in writing, signed by all parties hereto, and approved by the Board of County Commissioners.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida:

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IN WITNESS THEREOF the parties hereto have executed these presents this _____ day of _____, 2016.

ATTEST:

HARVEY RUVIN

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

By: _____

By: _____
COUNTY MAYOR

ATTEST:

Network Engineering Services, Inc.

(Corporate Seal)

By: *Victor M. R...*

By: *Sergio P...*

Approved by County Attorney

As to Form and Legal Sufficiency: _____

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Memorandum



To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Charles Scurr, Executive Director *Charles Scurr*

Date: October 13, 2016

Re: **CITT AGENDA ITEM 5E:**
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST
(CITT) RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS (BCC)
AWARD A PROFESSIONAL SERVICES AGREEMENT WITH NETWORK
ENGINEERING SERVICES, INC. TO PROVIDE PROFESSIONAL SERVICES TO
PERFORM BRIDGE INSPECTION AND STRUCTURAL ANALYSIS, CONTRACT NO.:
CIP135-CT1-TR15, IN AN AMOUNT NOT TO EXCEED \$1,100,000.00 AND
AUTHORIZING THE COUNTY MAYOR OR DESIGNEE TO EXECUTE SAME (DTPW
– BCC Legislative File No. 162031)

On October 13, 2016, the CITT voted (11-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 16-053. The vote was as follows:

Hon. Anna E. Lightfoot-Ward, Ph.D, Chairperson – Aye
Glenn J. Downing, CFP®, 1st Vice Chairperson – Aye
Joseph Curbelo, 2nd Vice Chairperson – Aye

Alfred Holzman – Aye
Peter L. Forrest – Aye
Prakash Kumar – Aye
Alicia Menardy, Esq – Aye
Paul J. Schwiep, Esq. – Absent
L. Elijah Stiers, Esq. – Aye

Oscar Braynon – Aye
Ricardo E. Gonzalez – Absent
Jonathan Martinez – Absent
Miles E. Moss, P.E. – Aye
Marilyn Smith – Aye
Hon. Linda Zilber – Absent

cc: Alina Hudak, Deputy Mayor
Bruce Libhaber, Assistant County Attorney