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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: June 30, 2009

Agenda Item No. 8(A)(1)(H)
Resolution No. R-805-09

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

From: George M. Burgess
County Manager

Subject: Award Recommendation, Professional Services Agreement between Miami-Dade County and Mactec Engineering & Consulting, Inc., for Pavement Management System (Project No. E08-MDAD-02), in the amount of $576,250.00

RECOMMENDATION

It is recommended that the Board approve the attached Professional Services Agreement between Mactec Engineering & Consulting, Inc. (Mactec) and the Miami-Dade Aviation Department (MDAD) in the amount of $576,250.00, and authorize the Mayor or the Mayor's designee to execute the agreement and any cancellation or termination provisions therein.

PROJECT NAME:	Pavement Management System
PROJECT NO.:	E08-MDAD-02
CONTRACT NO:	E08-MDAD-02
PROJECT DESCRIPTION:	The scope of services will require but not limit the consultant to update and maintain the Pavement Management System (PMS) for MDAD Facilities. Services include inspecting and evaluating pavement conditions, collecting and reviewing as-built data, field verifying as-built conditions, updating the PMS database, updating the existing modeling scenario, reviewing and updating the MDAD design guidelines, reviewing and updating technical specifications, updating the annual maintenance and repair forecast and assisting the Department with pavement, bridge and tunnel studies, evaluations and analysis; and any supportive task ancillary to the primary scope of services.
PROJECT LOCATION:	Miami International Airport (MIA)
AGREEMENT AMOUNT:	$576,250.00 (basic service fee of $500,000; additional services of $50,000; reimbursable expenses of $25,000 and the Inspector General audit account of $1,250)

CONTRACT PERIOD: 1095 Days (3 years)

OPTION TO EXTEND: Two (2) one (1) year extensions

DELEGATED AUTHORITY: The Mayor and/or the Mayor's designee is being delegated the authority to execute the agreement, expend allowance account funds, exercise two one-year options to renew, and exercise any cancellation and termination provisions contained in the agreement.

BACKGROUND: The Federal Aviation Administration (FAA) requires that any airport requesting Federal funds for a project to replace or reconstruct a pavement under the airport grant assistance program must have implemented a pavement maintenance program.

SELECTION PROCESS: A Notice to Professional Consultants was issued on December 10, 2008. In accordance with Miami-Dade County Code, Chapter 2.10.4, the following factors were utilized to rank the most qualified consultant: ability of professional personnel, past performance, willingness to meet time and budget requirements, locations of the firm; the recent, current, and projected workloads of the firm, and the volume of work previously awarded to each firm.

In accordance with Chapter 287.055 of the Florida Statutes and Chapter 2-10.4 of the Code of Miami-Dade County, both of which govern certification, selection and negotiation procedures, the Competitive Selection Committee held a first-tier meeting February 9, 2009, waived a second-tier meeting, and ranked the top three firms as follows:

1) Mactec Engineering & Consulting, Inc. – 470 points
2) Kimley-Horn and Associates, Inc. – 411 points
3) Tetra Tech, Inc. – 410 points

The top-ranked firm, Mactec, was deemed to have met the qualification requirements. On February 12, 2009, the name of the top-ranked firm was submitted for negotiation of an agreement.

A Negotiation Committee was appointed March 3, 2009, and a satisfactory agreement negotiated on March 26, 2009, with Mactec.

COMMISSION DISTRICT: District 6

APPROVAL PATH:	Board of County Commissioners
OCI A&E PROJECT NO:	E08-MDAD-02
USING DEPARTMENT:	Miami-Dade Aviation Department
MANAGING DEPARTMENT:	Miami-Dade Aviation Department
Fiscal Impact/Funding Source	
OPERATIONS COST IMPACT/FUNDING:	Operating Budget
MAINTENANCE COST IMPACT/FUNDING:	N/A
PTP/GOB FUNDING:	No
PROPOSALS RECEIVED:	Five (5)
CONTINGENCY PERIOD:	0
IG FEE INCLUDED IN BASE CONTRACT:	No
ART IN PUBLIC PLACES:	No
BASE ESTIMATE:	$500,000.00
BASE CONTRACT AMOUNT:	$500,000.00
CONTINGENCY ALLOWANCE (Section 2-8.1 Miami-Dade County Code):	$50,000.00
TOTAL AMOUNT:	$576,250.00 (Including Reimbursable Expenses & IG Fee)
Track Record/Monitoring	
FIRM:	Mactec Engineering & Consulting, Inc.
COMPANY PRINCIPAL:	Richard Minichiello, Senior Vice President
COMPANY LOCATION:	5845 NW 158 Street Miami, FL 33014
YEARS IN BUSINESS:	Sixty-three (63) years
PREVIOUS EXPERIENCE WITH COUNTY PAST FIVE (5) YEARS:	Seven (7) agreements totaling $8,120,354

CONSULTANT PERFORMANCE:	In review of the Capital Improvements Information System (CIIS), Mactec's average score is 3.3 (satisfactory performance) out of a possible score of 4.0 (superior performance).
COMPLIANCE DATA:	There is no history of violations for this firm in the Department of Small Business Department's (SBD) database.
REVIEW COMMITTEE:	Meeting Date: 6/11/2008 — Signoff Date: 6/11/2008
RESPONSIBLE WAGES:	No
REVIEW COMMITTEE ASSIGNED CONTRACT MEASURES:	Community Business Enterprises (CBE) 20% goal CES Consultants, Inc. - Ten percent (10%) - (Approximately $55,000) Triangle Associates, Inc. – Ten percent (10%) – (Approximately $55,000)
OTHER SUBCONSULTANT:	H. J. Ross Associates, Inc.
MANDATORY CLEARINGHOUSE:	N/A
CONTRACT MANAGER:	Pedro Hernandez
PROJECT MANAGER:	Ernesto Beltre
APPROVED FOR LEGAL SUFFICIENCY:	Yes

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: June 30, 2009

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

SUBJECT: Agenda Item No. 8(A)(1)(H)

Please note any items checked.

_____ "4-Day Rule" ("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

_____ Bid waiver requiring County Mayor's written recommendation

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

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(H)
6-30-09

RESOLUTION NO. R-805-09

RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND MACTEC ENGINEERING & CONSULTING, INC. FOR PAVEMENT MANAGEMENT SYSTEM FOR THE MIAMI-DADE AVIATION DEPARTMENT, PROJECT NO. E08-MDAD-02; IN AN AMOUNT NOT TO EXCEED $576,250; AND AUTHORIZING COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND TO EXERCISE ANY OPTIONS TO RENEW AND TERMINATION PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and documents, copies of which are incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board hereby approves the Professional Services Agreement between Miami-Dade County and Mactec Engineering & Consultants, Inc. for the Pavement Management System for the Miami-Dade Aviation Department, Project No. EO8-MDAD-02, in substantially the form attached hereto, in an amount not to exceed $576,250, for a term of three (3) years, with an option to renew of two (2) one (1) year extensions; all as more particularly set forth in the accompanying memorandum from the County Manager; this Board authorizes the County Mayor or his designee to execute the same for and on behalf of the County, and to exercise the renewal and termination provisions therein.

The foregoing resolution was offered by Commissioner **Jose "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 30th day of June, 2009. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Daniel Frastai

Memorandum

MIAMI-DADE COUNTY

Date: May 26, 2009

To: George M. Burgess
County Manager

From: Sherri Ransom Johnson
Sr. Aviation Procurement Contract Officer
Miami-Dade Aviation Department

Subject: Negotiation Committee Report for Professional Services for the Pavement Management System - OCI Project No. E08-MDAD-02

Attached please find six (6) copies of the proposed Professional Services Agreement for Pavement Management System for Miami-Dade Aviation Department ("MDAD") negotiated by County staff with Mactec Engineering & Consulting, Inc. ("the Consultant").

DESCRIPTION OF SERVICES

The Consultant will be required to update and maintain the Pavement Management System (PMS) for MDAD Facilities. The tasks associated with these services shall include but are not limited to inspecting and evaluating pavement conditions, collecting and reviewing as-built data, field verifying as-built conditions, updating the PMS database, updating the existing modeling scenario, reviewing and updating the MDAD design guidelines, reviewing and updating technical specifications, updating the annual maintenance and repair forecast and assisting the Department with pavement, bridge, and tunnel studies, evaluations and analyses, and any supportive tasks ancilliary to the primary scope of services.

FEE, SOURCE OF FUNDING, AND TERM OF AGREEMENT

The amount of the Agreement is $576,250.00 (includes IG fee) and the source of funding for the Agreement shall be Operating Funds. The term of the Agreement shall be for three (3) years, with two (2) one (1) year extensions and shall be in effect until all services are completed or, until those service orders in force at the end of the stated period of time have been completed and the services accepted, whichever may be later.

CERTIFICATION, SELECTION AND NEGOTIATION PROCESS

In accordance with Chapter 287.055 of the Florida Statutes and Chapter 2-10.4 of the Code of Miami-Dade County, both of which govern certification, selection and negotiation procedures, the Competitive Selection Committee held a First Tier meeting on February 9, 2009, waived a Second Tier meeting, and ranked the top three (3) firms that submitted proposals as follows:

1) Mactec Engineering & Consulting, Inc.
2) Kimley-Horn and Associates, Inc.
3) Tetra Tech, Inc.

The top ranked firm, Mactec Engineering & Consulting, Inc., was deemed to have met the qualification requirements. On February 12, 2009 the name of the top ranked firm was submitted to your office for further consideration for negotiations of an agreement.

Subsequently, you appointed a Negotiation Committee on March 3, 2009. A satisfactory agreement was negotiated on March 26, 2009 with Mactec Engineering & Consulting, Inc.

A more detailed analysis of the evaluation and selection process is included in the attached competitive selection committee's report.

Attachments

c: Clerk of the Board of County Commissioners

COMPETITIVE SELECTION COMMITTEE:

Mike Ramos, Chairperson, OCI (non-voting)
Pedro Hernandez, MDAD
Joaquin Menendez, MDAD
Jose Gonzalez, PRD
Keva Pace, SBD
Duane Kopp, PWD

NEGOTIATION COMMITTEE

Pedro Hernandez, MDAD
Joaquin Menendez, MDAD
Jose Gonzalez, PRD

PAVEMENT MANAGEMENT SYSTEM
PROJECT NO.: E08-MDAD-02
PROFESSIONAL SERVICES AGREEMENT
(NON-EXCLUSIVE)

This AGREEMENT made as of the _____day of _____in the year 2009, between

The Owner: Miami-Dade County Florida, a political subdivision of the State of Florida, acting by and through its **Board of County Commissioners**, hereinafter called the "County", which shall include its officials, successors, legal representatives, and assigns.

and the Consultant: Mactec Engineering and Consulting, Inc.
5845 NW 158 Street
Miami Lakes, FL 33014
Main 305-826-5588 ▪ Fax 305-826-1799

which term shall include its officials, successors, legal representatives, and assigns.

For the Project:

Pavement Management System
The selected Consultant is to update and maintain the Pavement Management System (PMS) for MDAD Facilities. Services include but are not limited to inspecting and evaluating pavement conditions, collecting and reviewing as-built data, field verifying as-built conditions, updating the PMS database, updating the existing modeling scenario, reviewing and updating the MDAD design guidelines, reviewing and updating technical specifications, updating the annual maintenance and repair forecast and assisting the Department with pavement, bridge, and tunnel studies, evaluations and analysis, and any supportive tasks ancillary to the primary scope of services.

The Owner and Consultant agree as set forth herein:

PROJECT SERVICES AGREEMENT

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W I T N E S S E T H

ARTICLE 1

DEFINITIONS

1.1 ADDITIONAL SERVICES: Those services, in addition to the Primary Services in this Agreement, which the Consultant shall perform at Owner's option and when authorized by Service Order(s) in accordance with the terms of this Agreement.

1.2 AFFIRMATIVE ACTION: Action to be taken by the Consultant pursuant to a written, results-oriented program, meeting the requirements of 41 CFR Part 60, in which the Consultant details the steps to be taken to ensure equal employment opportunity, including, where appropriate, remedying discrimination against an affected class, or other actions, as necessary.

1.3 AGREEMENT: This written Agreement between the Owner and the Consultant, including the Appendices attached hereto and all Amendments and Service Orders issued by the Owner hereunder.

1.4 AMENDMENT: A written modification to this Agreement executed by the Consultant and the Owner covering changes, additions, or reductions in the terms of this Agreement.

1.5 "Air Operations Area" or "AOA" shall mean any area of the Airport identified by the Department and used or intended to be used for landing, taking-off or surface maneuvering of aircraft, excluding those leasehold areas within or having direct access to the AOA which are subject to security requirements imposed on the lessee or tenant under appropriate federal regulations, or agreement incorporated in a signed lease, unless such security requirements are assumed by the Department through the issuance of an Operational Directive or by lease agreement.

1.6 CHANGE ORDER: A written agreement executed by the Owner, the Consultant and the Consultant's Surety, covering modifications to the Contract.

1.7 COMMUNITY BUSINESS ENTERPRISE (CBE-A/E): A firm providing architectural, landscape architectural, engineering, or surveying and mapping professional services, including a design-build firm, which has an actual place of business in Miami-Dade County and whose three (3) year average annual gross revenues do not exceed two million ($2,000,000) dollars for first tier CBE-A/Es, four million five hundred thousand ($4,500,000) dollars for second tier CBE-A/Es in the case of architectural services, or six Million ($6,000,000) dollars for second tier CBE-A/Es in the case of landscape architectural services, engineering, or surveying and mapping services.

1.8 COST: Actual cost of the Work established in the in the Contract Documents and as they may be amended from time to time.

1.9 CONSULTANT: A firm, Company, Joint Venture, or individual being hired or contracting with the County through this agreement.

1.10 DIRECT SALARIES: Monies paid at regular intervals to personnel other than principals of the Consultant directly engaged by the Consultant on the Project, as reported to the Director of United States Internal Revenue Service and billed to the Owner hereunder on a Multiple of Direct Salaries basis pursuant to a Service Order under this Agreement. Personnel directly engaged on the Project by the Consultant may include architects, engineers, designers, and specifications writers engaged or assisting in research, design, production of drawings, specifications and related documents, and other services pertinent to the Task.

1.11 DIRECTOR: The Director of the Miami-Dade Aviation Department or authorized representative(s) designated in writing with respect to a specific matter(s) concerning the Services.

1.12 ELEMENT: A major unique segment of the professional services to be performed in the Primary Services. An Element is further broken down to smaller segments identified as Tasks and Subtasks.

1.13 EQUAL EMPLOYMENT OPPORTUNITY: Opportunity provided by the Consultant pursuant to Executive Order 11246, as amended, and required to be part of all contracts covered by said Executive Order.

1.14 FIXED LUMP SUM: A basis for compensation of the Consultant for Services performed.

1.15 MIAMI-DADE AVIATION DEPARTMENT (MDAD or Department): A department of Miami-Dade County Government, sometimes referred to as Owner, represented by and acting through the Director or his Designee(s).

1.16 MULTIPLE OF DIRECT SALARIES: A basis for compensation of the Consultant for Services performed.

1.17 OWNER: Miami-Dade County acting through the Department. The term Owner as used in this Agreement shall exclude the regulatory departments of Planning, Development and Regulation (Building and Zoning); Department of Environmental Resources Management (DERM); Public Works; the Fire Department and Water & Sewer or their successors.

1.18 PRIMARY SERVICES: Those services that the Consultant shall perform in accordance with the terms of the Agreement as directed and authorized by a Service Order(s).

1.19 PRIMARY SERVICES FEE: The basis for compensation of the Consultant for the Primary Services performed under this Agreement.

1.20 PROGRAM: The initial description of a Project that comprises line drawings, narrative, cost estimates, Project Budget, etc., provided by the Owner in the form of a Project Definition Book and furnished to the Consultant.

1.21 PROJECT: The various Task of the Services set forth in this Agreement.

1.22 PROJECT BUDGET: Cost for the Project, prepared by the Owner as part of the Program, including the estimated cost. The Project Budget may, from time to time, be revised or adjusted by the Owner, in its sole discretion, to accommodate approved modifications or changes to the Project or the scope of work.

1.23 PROJECT MANAGER (PM): An individual designated by the Director to represent the Owner during the design and construction of the Project.

1.24 REIMBURSABLE EXPENSES: Those expenses delineated in the article "Reimbursable Expenses" of this Agreement which are separately approved by the Owner that are incurred by the Consultant in the fulfillment of this Agreement and which are to be compensated to the Consultant in addition to the Primary Services Fee.

1.25 SERVICE ORDER: A written order (consecutively numbered for reference and control purposes) initiated by the Project Manager in accordance with this Agreement, and countersigned by the Director and by the Consultant, directing the Consultant to perform or modify the performance of any portion of the Services.

1.26 SERVICES: All services, work and actions by the Consultant performed pursuant to or undertaken under this Agreement.

1.27 SUB-CONSULTANT: An independent firm, company, joint venture, corporation or individual under contract with and compensated by the Consultant to perform a portion of the Services required hereunder.

1.28 SUBTASK: A specific assignment of professional services with an identified starting date, concluding date, and a specific work product.

1.29 TASK: A Subtask or a group of subtasks assigning professional services directed toward a specific objective.

1.30 WORK ORDER: A written order, authorized by the Owner, directing the Consultant to perform work under a specific Allowance Account(s) or which directs the Consultant to perform a change in the work that does not have a monetary impact.

ARTICLE 2

SERVICES TO BE FURNISHED BY THE CONSULTANT

2.1 SERVICES TO BE FURNISHED BY THE CONSULTANT: The Consultant shall furnish, to the extent authorized herein, the professional services, salaries, wages, materials, equipment, etc., necessary to complete the services which are set forth in Article 4 and Article 8. The Consultant shall diligently coordinate the performance of the services with the Department and its designees in order to provide for the expeditious, economical and efficient completion of the Primary Services described herein.

2.2 CONSULTANT PRIMARY SERVICES: For all Primary Services the Consultant shall use employees of his firm or employees of the firms presented as members of the study team, at consultant selection. The Owner may authorize the Consultant to perform the various Tasks described and contained herein in Article 4 and Article 8 of this Agreement. Such authorization(s) shall be accomplished through an approved Service Order(s).

Upon written instruction, the Consultant shall perform such Primary Services, as needed, to provide additional study(ies) to further the preparation of the Pavement Management System services.

[Remainder of page intentionally left blank]

ARTICLE 3

GENERAL PROVISIONS

3.1 INDEMNIFICATION AND HOLD HARMLESS

3.1.1 Pursuant to Florida Statutes 725.08 and notwithstanding the provisions of Florida Statutes 725.06, the Consultant shall indemnify and hold harmless the Owner, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of this Agreement.

3.1.2 To the extent this indemnification clause or any other indemnification clause in this Agreement does not comply with Chapter 725, Florida Statutes, as may be amended, this provision and all aspects of the Contract Documents shall hereby be interpreted as the parties' intention for the indemnification clauses and Contract Documents to comply with Chapter 725, Florida Statutes, as may be amended.

3.1.3 This Section shall survive expiration or termination of this Agreement.

3.2 INSURANCE: The Consultant shall not be issued any Service Order under this Agreement until the insurance required hereunder has been obtained and the Owner has approved such insurance. The Consultant shall maintain required insurance coverage for the full term of this Agreement or for such longer period(s) as may be specifically required herein.

The Consultant shall furnish certificates of insurance to the Owner prior to commencing any operations under this Agreement. Certificates shall clearly indicate that the Consultant has obtained insurance, in the type, amount, and classifications, as required for strict compliance with this Article. The certificates must provide that in the event of material change in or cancellation of the policies reflecting the required coverage, thirty (30) days advance notice shall be given to the Miami-Dade Aviation Department Risk Management Unit.

3.2.1 The Consultant shall provide (at its own cost):

a. Workers' Compensation, as required by Chapter 440, Florida Statutes.

b. 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 for bodily injury and property damage liability.

Under no circumstances are vehicles permitted on the A.O.A. side without increasing automobile coverage to $5,000,000. Only Consultant owned or company leased vehicles leased from a leasing company will be permitted on the airfield. No such vehicles shall be permitted airfield access following final acceptance of the Work.

c. Commercial General Liability Insurance on a comprehensive basis, including contractual liability, products, and completed operations, in an amount not less than $300,000 combined single limit, per occurrence for bodily injury and property damage. Miami-Dade County must be an Additional Insured with respect to this coverage.

d. Professional Liability Insurance (Errors and Omissions), in an amount not less than $1,000,000 per claim with the deductible per claim, if any, not to exceed ten percent (10%) of the limit of coverage. This insurance shall be maintained for one year after the completion and acceptance by the Owner of the Services performed pursuant to this Agreement.

3.2.2 All insurance policies required herein 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 "VII" as to strength in accordance with the latest edition of Best's Insurance Guide, published by A.M. Best Company, Inc., or its equivalent, subject to written approval of the Owner.

3.2.3 Immediate notification must be given to Miami-Dade County Risk Management Division and Miami-Dade County Aviation Department and/or its agent in case of accident or occurrence which might give rise to a claim under any policy provided by the County, or any policy on which the County is a joint insured.

3.3 ASSIGNMENT: The Consultant shall not assign, transfer or convey this Agreement to any other person, firm, association or corporation, in whole or in part. However, the Consultant will be permitted to cause portions of the services to be performed by sub-consultants, as authorized elsewhere herein.

3.4 PROVISION OF ITEMS NECESSARY TO COMPLETE SERVICES: In the performance of the Services prescribed herein, it shall be the responsibility of the Consultant to provide all salaries, wages, materials, equipment, sub-consultants and other purchased services, etc., necessary to complete said Services.

3.5 SUB-CONSULTANTS: All services provided by the Sub-consultants shall be consistent with those commitments made by the Consultant during the selection process and interview. Such services shall be pursuant to appropriate agreements between the

Consultant and the Sub-consultants, which shall contain provisions that preserve and protect the rights of the Owner under this Agreement. Nothing contained in this Agreement shall create any contractual relationship between the Owner and the Sub-consultants.

The Consultant shall not change any Sub-consultant without prior approval by the Director in response to a written request from the Consultant stating the reasons for any proposed substitution. Any approval of a Sub-consultant by the Owner shall not in any way shift the responsibility for the quality and acceptability by the Owner of the services performed by the Sub-consultant from the Consultant to the Owner. The Consultant shall cause the names of Sub-consultants responsible for significant portions of the Services to be inserted on the Plans and Specifications, subject to the approval of the Owner.

The Consultant may employ Sub-consultants to assist the Consultant in performing specialized Services. Payment of such Sub-consultants employed at the option of the Consultant 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 Primary Services. The quality of services and acceptability to the Owner of the services performed by such Sub-consultants shall be the sole responsibility of the Consultant.

3.6 TERM OF AGREEMENT: The term of this Agreement shall be for three (3) years with an option to renew of two (2) one (1) year extensions. It shall begin upon execution by the parties and, as long as the monies allocated have not been exhausted, it shall be in effect until all Services are completed or until those Services Orders in force at the end of the stated period of time have been completed and the Services accepted, whichever may be later.

Nothing in this Article shall prevent the Owner from exercising its rights to terminate the Agreement as provided elsewhere herein.

3.7 TERMINATION OF AGREEMENT: This Agreement may be terminated upon prior written notice by either party as described herein. The Owner may terminate this Agreement or any Service Order for cause or for convenience. The Consultant may terminate this Agreement for cause in the event that the Owner willfully violates any provisions of the Agreement. The Consultant shall have no right to terminate this Agreement for convenience of the Consultant, without cause.

3.7.1 Owner's Termination for Cause: The Owner may terminate this Agreement or any Service Order upon seven (7) days written notice for cause in the event that the Consultant violates any provisions of this Agreement, or performs same in bad faith, or unreasonably delays the performance of the Services. Such written notice to the Consultant shall spell out the cause and provide reasonable time in the notification to remedy the cause.

In the event the Owner terminates this Agreement for cause, the Owner will take over any and all documents resulting from Services rendered up to the termination and may complete them, by contracting with other architect(s), engineer(s) or otherwise, and in such event, the Consultant shall be liable to the Owner for any additional cost incurred by the Owner due to such termination. "Additional Cost" is defined as the difference between the actual cost of completion of such incomplete Services and the cost of completion of such Services which would have resulted from payments to the Consultant hereunder had the Agreement not been terminated. Upon receipt of written Notice of Termination, the Consultant shall, when directed by the Owner, promptly assemble and submit as provided herein or as required in any Service Order issued hereunder, all documents including drawings, calculations, specifications, reports, correspondence, and all other relevant materials affected by such termination. No payments shall be made: 1) for Services not satisfactorily performed; and 2) for the cost of assembly and submittal of documents for services performed satisfactorily or unsatisfactorily.

3.7.2 Owner's Termination for Convenience: The Owner, in addition to the rights and options to terminate for cause, or any other provisions set forth in this Agreement, retains the right to terminate this Agreement or any Service Order upon thirty (30) days written notice at its sole option at any time for convenience, without cause, when in its sole discretion it deems such termination is in the best interest of the Owner.

3.7.3 Consultant's Termination for Cause: The Consultant may terminate this Agreement upon thirty (30) days written notice for cause in the event that the Owner violates any provisions of this Agreement. Such written notice to the Owner shall spell out the cause and provide reasonable time in the notification to remedy the cause. In the event the Consultant exercises its right to terminate this Agreement for cause, payment for Services satisfactorily performed prior to the date of termination shall be made in accordance with the article. "Compensation for Services".

3.7.4 Implementation of Termination: In the event of termination either for cause or for convenience, the Consultant, upon receipt of the Notice of Termination, shall:

1. Stop the performance of Services under this Agreement on the date and to the extent specified in the Notice of Termination;

2. Place no further orders or subcontracts except as may be necessary for completion of any portion(s) of the Services not terminated, and as authorized by Service Order(s);

3. Terminate all orders and subcontracts to the extent that they relate to the performance of the Services terminated by the Notice of Termination;

4. Transfer title to the Owner (to the extent that title had not already been transferred) and deliver in the manner, at the times, and to the extent directed by the Owner, all property purchased under this Agreement and reimbursed as a direct item of cost and not required for completion of the Services not terminated;

5. Promptly assemble and submit as provided herein all documents for the Services performed, including plans, calculations, specifications, reports, and correspondence, and all other relevant materials affected by the termination; and;

6. Complete performance of any Services not terminated by the Notice of Termination.

3.7.5 Compensation for Terminated Work: Compensation for terminated work will be made based on the applicable provisions of the Article 7 "Compensation for Services".

3.8 SANCTIONS FOR CONTRACTUAL VIOLATIONS:

The County may terminate this contract or require the termination or cancellation of any subconsultant contract, if the Consultant or any subconsultant(s) violate Article VII of Chapter 11A of the Code. In addition, a violation by a respondent or sub consultant to the respondent, or failure to comply with the Administrative Order (A.O.) 3-39 may result in the imposition of one or more of the sanctions listed in the A.O.

3.9 INTENT OF AGREEMENT:

3.9.1 The intent of the Agreement is for the Consultant to update the Pavement Management System, and to include all necessary items for the proper completion of such services, which will be able to be used by the Owner for its intended purpose. The Consultant shall perform, as Primary Services, such incidental work, which may not be specifically referenced, as necessary to complete the Project.

3.9.2 This Agreement is for the benefit of the parties only and it does not grant rights to a third party beneficiary, to any person, nor does it authorize anyone not a party to the Agreement to maintain a suit for personal injuries, professional liability or property damage pursuant to the terms or provisions of the Agreement.

3.9.3 No acceptance, order, payment, or certificate of or by the Owner, or its employees or agents shall either stop the Owner from asserting any rights or operate as a waiver of any provisions hereof or of any power or right herein reserved to the Owner or of any rights to damages herein provided.

3.10 SOLICITATION: The Consultant warrants that: 1) it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement; and 2) that it has not paid, nor agreed to pay any person, company, corporation, joint venture, individual, or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Owner has the right to annul this Agreement without liability to the Consultant for any reason whatsoever.

3.11 ACCOUNTING RECORDS OF CONSULTANT: The Owner reserves the right to audit the accounts and records of the Consultant including, but not limited to, payroll records and Federal Tax return, supporting all payments for Services hereunder on the basis of Multiple of Direct Salaries and Reimbursement of Actual Expenses incurred. Such audit may take place at any mutually convenient time during the performance of this Agreement and for three (3) years after final payment under this Agreement. The Consultant shall maintain, as part of its regular accounting system, records of a nature and in a sufficient degree or detail to enable such audit to determine the personnel hours and personnel costs and other expenses associated with each Project and/or task authorized for performance by Service Order(s). In accordance with Florida Statutes 287.055, the Consultant hereby certifies and warrants that wage rates and other factual unit costs as submitted supporting the compensation provided here are accurate, complete and current as of the date of the submittal. It is further agreed that said compensation provided for in this agreement shall be adjusted to exclude any significant costs where the Owner determines that the payment for Services was increased due to inaccurate, incomplete or non-current wage rates or other factual unit costs. All such adjustments in compensation paid or payable to Consultant under this Agreement shall be made within one (1) year from the date of final billing or acceptance of the Services by the Owner, whichever is later.

3.12 INSPECTOR GENERAL (IG), INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL (IPSIG): Pursuant to MDC Code Section 2-1076; the Office of the Miami-Dade County Inspector General (IG) shall have the authority and power to review past, present and proposed County programs, accounts, records, contracts and transactions. The IG shall have the power to subpoena witnesses, administer oaths and require the production of records. Upon ten (10) days written notice to the Consultant from IG, the Consultant shall make all requested records and documents available to the IG for inspection and copying.

The Consultant shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this contract, for examination, audit, or reproduction, until three (3) years after final payment under this contract or for any longer period required by statute or by other clauses of this contract. In addition:

(1) If this contract is completely or partially terminated, the Consultant shall make available the records relating to the work terminated until three (3) years after any resulting final termination settlement; and
(2) The Consultant shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

The IG shall have the power to report and/or recommend to the Board of County Commissioners whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications, and applicable law. The IG shall have the power to analyze the need for, and reasonableness of, proposed change orders.

The IG may, on a random basis, perform audits on all County contracts throughout the duration of said contract (hereinafter "random audits"). This random audit is separate and distinct from any other audit by the County. To pay for the functions of the Office of the Inspector General, any and all payments to be made to the Consultant under this contract will be assessed one quarter of one percent of the total amount of the payment, to be deducted from each progress payment as the same becomes due unless, this Agreement is federally funded where federal or state law or regulations preclude such a charge or where such a charge is otherwise precluded as stated in the Special Provisions (see Article 8). The Consultant shall, in stating its agreed prices, be mindful of this assessment, which will not be separately identified, calculated or adjusted in the proposal or bid form.

The IG shall have the power to retain and coordinate the services of an independent private sector inspector general (IPSIG) who may be engaged to perform said random audits, as well as audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the Consultant, its officers, agents and employees, lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud. The IG is authorized to investigate any alleged violation by a Consultant of its Code of Business Ethics, pursuant of MDC Code Section 2-8.1.

The provisions in this section shall apply to the Consultant, its officers, agents and employees. The Consultant shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Consultant in connection with the performance of this contract.

INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL

The attention of the Consultant is hereby directed to the requirements of AO 3-20 and R-516-96; the County shall have the right but not the obligation to retain the services of an Independent Private Inspector General (IPSIG) who may be engaged to audit, investigate,

monitor, oversee, inspect and review the operations, activities and performance of the Consultant and County in connection with this contract. The scope of services performed by an IPSIG may include, but are not limited to, monitoring and investigating compliance with Contract Specifications; project costs; and investigating and preventing corruption and fraud.

The IPSIG may perform its services at all levels of the contracting and procurement process including but not limited to project design, establishment of bid specifications, bid submittals, activities of Consultant, its officers, agents and employees, lobbyists, county staff and elected officials.

Upon (10) ten days written notice to Consultant from an IPSIG, the Consultant shall make all requested records and documents available to the IPSIG for inspection and copying. The IPSIG shall have the right to examine all documents and records in the Consultant's possession, custody or control which in the IPSIG's sole judgment pertain to performance of the Contract, including but not limited to original estimate files, bid and change order estimates, worksheets, proposals and agreements from and with successful and unsuccessful sub-consultants and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, bid and contract documents, back-charge document, 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.

3.13 OWNERSHIP OF DOCUMENTS AND COPYRIGHTS:

3.13.1 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 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. 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 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.

3.13.2 The Consultant is permitted to reproduce copyrighted material described above subject to written approval from the Owner.

3.13.3 At the Owner's option, the Consultant may be authorized by Service Order to adapt copyrighted material for additional or other work for the Owner; however, payment to the Consultant for such adaptations will be limited to an amount not greater than 50% of the original fee earned to adapt the original copyrighted material to a new site.

3.13.4 The Owner shall have the right to modify the Project or any components thereof without permission from the Consultant or without any additional compensation to the Consultant. The Consultant shall be released from any liability resulting from such modification.

3.14 LAWS AND REGULATIONS:

3.14.1 The Consultant shall, during the term of this Agreement, be governed by Federal, State of Florida and Miami-Dade County Laws, Regulatory Orders, County Codes and Resolutions, and MDAD operating procedures, all as may be amended from time to time that may have a bearing on the Services involved in this Project. The Department will assist the Consultant in obtaining copies of any such laws, orders, codes, resolutions, or procedures not readily available on the Internet.

3.14.2 The Agreement shall be governed by the laws of the State of Florida and may be enforced in a court of competent jurisdiction in Miami-Dade County, Florida.

3.14.3 Portions of the work produced under this Agreement may be determined by the Owner to contain "Security Sensitive Information". Upon notification by the Owner, the Consultant and its sub-consultants under this Agreement shall follow security requirements of the Transportation Security Administration, 49 CFR Parts 1500 et al. Civil Aviation Security Rules and other MDAD Security Procedures. Documents deemed by the Owner to contain "Security Sensitive Information" shall bear the following warning:

Warning Notice: This record contains "Sensitive Security Information" that is controlled under the provisions of 49 CFR parts 15 and 1520. No part of this record may be disclosed without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action.

3.14.4 In accordance with Florida Statutes 119.071 (3) (b), building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt from s. 119.07 and s. 24(a), Art. I of the State

Constitution. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency before, on, or after the effective date of this act. Information made exempt by this paragraph may be disclosed to another governmental entity with prior approval by the Owner if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or Consultant who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or upon a showing of good cause before a court of competent jurisdiction. The entities or persons receiving such information shall maintain the exempt status of the information.

3.14.5 The Consultant shall comply with the financial disclosure requirements of Ordinance No. 77-13, as amended by having on file or filing within thirty (30) days of the execution of the Agreement one of the following with the Supervisor of the Miami-Dade County Elections Department, P.O. Box 521550, Miami, Fl 33152-1550.

A. A source of income statement
B. A current certified financial statement
C. A copy of the Consultants current Federal Income Tax Return

3.14.6 In addition to the above requirements in this sub-article, the Consultant agrees to abide by all federal, state, and County procedures, as may be amended from time to time, by which the documents are handled, copied, and distributed. Which may include but is not limited to:

3.14.6.1 Each employee of the Consultant and sub-consultant(s) that will be involved, in the Project, shall sign an agreement stating that they will not copy, duplicate, or distribute the documents unless authorized by the Owner as required in Article 3.14.4.

3.14.6.2 The Consultant and its sub-consultant(s) agree in writing that the project documents are to be kept and maintained in a secure location.

3.14.6.3 Each set of the project documents are to be numbered and the whereabouts of the documents shall be tracked at all times.

3.14.6.4 A log is developed to track each set of documents logging in the date, time, and name of the individual(s) that work on or view the documents.

3.15 NOT USED

3.16 WARRANTY: The Consultant warrants that the Services furnished to the Owner under this Agreement shall conform to the quality expected of and usually provided by the profession in the state of Florida.

3.17 OWNER REPRESENTATIVE: The Owner will assign a Project Manager to the Project to coordinate all Owner responsibilities under this Agreement. All instructions from the Owner to the Consultant shall be issued by or through the Project Manager. The Consultant shall promptly inform the Project Manager in writing of any instructions received from others and of any other circumstances that arise that might affect the performance of the Services or of the Work.

3.18 SECURED AREAS/AIR OPERATIONS AREA (AOA)/SIDA/ STERILE AREAS SECURITY:

3.18.1 The Consultant acknowledges and accepts full responsibility for compliance with all applicable Federal, State, and Local laws, rules and regulations including those of the Transportation Security Administration (TSA), Homeland Security, FAA and MDAD as set forth from time to time relating to Consultant's activities at the Miami International Airport (MIA).

3.18.2 In order to maintain high levels of security at MIA, the Consultant must obtain MDAD photo identification badges for all the Consultant employees working in the Secured/AOA/Security Identification Display Area (SIDA)/Sterile Areas or any other restricted areas of the Airport. All Consultant employees will be required to obtain photo identification badges and will be subject to fingerprint-based criminal history records checks.

3.18.3 The Consultant shall be responsible for obtaining from MDAD identification badges for employees who the Consultant requests be authorized access to the Secured/AOA/SIDA/Sterile Areas and any other restricted areas of the airport and shall be further responsible for the immediate reporting of all lost or stolen ID badges and the immediate return of the ID badges of all personnel transferred from Airport assignment or terminated from the employ of the Consultant or upon final acceptance of the work or termination of this Agreement. The Consultant will be responsible for fees associated with lost and unaccounted for badges as well as the fee(s) for fingerprinting and ID issuance.

3.18.4 All employees of the Consultant, or Sub-consultants who must work within MDAD Secured/AOA/SIDA/Sterile areas or any other restricted areas at Miami International Airport shall be supplied with MDAD identification badges as specified above, which must be worn at all times while within the referenced areas. Badges shall be worn on outer garments above the waist so as to be clearly visible in order to distinguish, on sight, employees assigned to a particular Consultant. Each employee must complete the SIDA training program conducted by MDAD and comply with all other TSA, Homeland

Security, FAA and MDAD requirements as specified by the MDAD at the time of application for the ID badge before an ID badge is issued. At the present time, MDAD Security and Safety ID Section regularly provides SIDA Training.

3.18.5 Consultant Ramp Permits will be issued to the Consultant authorizing vehicle entrance to the Airfield Operations Area (AOA) through specified Miami-Dade Aviation Department guard gates for the term of any Project. These permits will be issued only for those vehicles (including vehicles belonging to a Sub-consultant) that must have access to the site during the performance of the work. These permits will be only issued to company owned vehicles or to company leased vehicles (leased from a commercial leasing company). AOA decals, passes, or permits to operate within the AOA will not be issued to privately owned or privately leased vehicles. All vehicles operating within the AOA must have conspicuous company identification signs (minimum of three inch lettering) displayed on both sides of the vehicle.

All vehicles operating within the AOA must be covered by the Automobile Liability Insurance required elsewhere in this Agreement. Proof of such insurance shall be provided to MDAD Airside Operations Division upon request.

3.18.6 Only Consultant staff with pictured MDAD I.D. badges shall be allowed to operate a motor vehicle on the AOA without MDAD escort. The Consultant shall require such employee to have a current, valid, appropriate Florida driver's license and to attend and successfully complete the AOA Driver Training Course conducted periodically by the Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department because of violation of AOA driving rules or loss of Florida driver's license.

3.18.7 The Consultant agrees that its personnel, vehicles, cargo, goods, and other personal property are subject to being searched when attempting to enter, leave or while on the AOA. It is further agreed that the MDAD has the right to prohibit an individual, agent, or employee of the Consultant from entering the AOA, based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage, or other unlawful activities, including repeated failure to comply with MDAD's or the TSA, Homeland Security, FAA, SIDA/access control policies, rules and regulations. Any person denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a review hearing before the Director or his/her authorized designee within a reasonable time. Prior to such hearing, the person denied access to the AOA shall be advised, in writing, of the reasons for such denial.

The Consultant acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of thefts, cargo tampering, aircraft sabotage, and other unlawful activities at the Airport and to maximize compliance with TSA, Homeland Security, FAA/Federal Inspection Services agencies and MDAD access control policies and procedures.

3.18.8 The Consultant understands and agrees that vehicle and equipment shall not be parked/stored on the AOA in areas not designated or authorized by MDAD nor in any manner contrary to any posted regulatory signs, traffic control devices, or pavement markings.

3.18.9 The Consultant understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies shall not be employed by the Consultant in areas under the jurisdiction or control of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies who enter such areas are subject to fines, which shall be borne entirely by the persons and/or the Consultant.

3.18.10 Notwithstanding the specific provisions of this Article, the Owner shall have the right to add to, amend, or delete any portion hereof in order to meet reasonable security requirements of MDAD or of the TSA/Homeland Security/ FAA/Federal Inspection Services agencies.

3.18.11 The Consultant shall ensure that all employees so required participate in such safety, security, and other training and instructional programs, as MDAD or appropriate Federal agencies may from time to time require.

3.18.12 Consultant agrees that it will include in all contracts and subcontracts with its MIA sub-consultants, service providers, and suppliers an obligation by such parties to comply with all security requirements applicable to their operations at the Airport. The Consultant agrees that in addition to all remedies, penalties, and sanctions that may be imposed by TSA, Homeland Security, FAA Federal Inspection Services Agencies, or MDAD upon Consultant's sub-consultants, suppliers, and their individual employees for a violation of applicable security provisions, The Consultant shall be responsible to the Owner for all such violations and shall indemnify and hold the Owner harmless for all costs, fines and penalties arising therefrom, such costs to include reasonable attorneys' fees.

3.19 NON-EXCLUSIVITY: Notwithstanding any provision of this Non-Exclusive Agreement, the Owner is not precluded from retaining or utilizing any other Architect, Engineer, Design Professional or other Consultant to perform any incidental Primary Services or

other Professional Services within the contract limits defined in the agreement. The Consultant shall have no claim 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 incidental Services.

3.20 CONTINUED ENGAGEMENT OF CRITICAL PERSONNEL: In accordance with County Resolution No. 744-00, the Consultant shall identify in Appendix 2 attached hereto and made a part hereof, the specific technical or professional personnel to perform the necessary services under this Agreement. Such personnel shall not be replaced except when the Owner determines, in its discretion, that the proposed replacement personnel have equal or greater qualifications or capabilities to perform the necessary services.

3.21 CONSULTANT RESPONSIBILITY:

3.21.1 The Consultant is responsible for the professional quality, technical accuracy, completeness, performance and coordination of all work required under the Agreement (including the work performed by Sub-consultants), within the specified time period and specified cost. The Consultant shall perform the work utilizing the skill, knowledge and judgment ordinarily possessed and used by a proficient consulting Consultant with respect to the disciplines required for the performance of the work in the State of Florida. The Consultant is responsible for, and represents that the work conforms to the Owner's requirements as set forth in the Agreement. The Consultant shall be and remain liable to the Owner for all damages in accordance with applicable law caused by any failure of the Consultant or its Sub-consultants to comply with the terms and conditions of the Agreement or by the Consultant's or Sub-consultants' misconduct, unlawful acts, negligent acts, errors or omissions in the performance of the Agreement. The Consultant is responsible for the performance of work by Sub-consultants and in approving and accepting such work ensure the professional quality, completeness, and coordination of Sub-consultant's work.

3.21.2 The Owner shall notify the Consultant in writing of any deficiencies and shall approve the method and timing of the corrections. Neither Owner's inspection, review, approval or acceptance of, nor payment for, any of the work required under the Agreement shall be construed to relieve the Consultant or any Sub-consultant of its obligations and responsibilities under the Agreement, nor constitute a waiver of any of the Owner's rights under the Agreement or of any cause of action arising out of the performance of the Agreement.

3.21.3 Upon Owner's notification of deficient or defective work stemming from the Consultant's services, the Consultant shall have fourteen (14) days to respond to the Owner's claim. The Owner shall implement its procedure for administrative review of the claim with notification to the Consultant of the findings from that review. Upon notification, the Consultant shall have fourteen (14) days to request reconsideration of the findings.

3.22 CONSULTANT PERFORMANCE EVALUATION: In accordance with Administrative Order 3-39 entitled "Standard Process for Construction of Capital Improvements, Acquisition of Professional Services, Construction Contracting, Change Orders, and Reporting", the Consultant is advised that a performance evaluation of the services rendered throughout this Agreement will be completed by the Owner and kept in Miami-Dade County files for evaluation of future solicitations.

3.23 ENTIRETY OF AGREEMENT: This Agreement represents the entire and integrated Agreement between the Owner and the Consultant and supersedes all prior negotiations, representations or agreements between the parties hereto, either written or oral, pertaining to the Project(s). This Agreement shall not be amended except by written Amendment.

3.24 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 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.

3.25 CERTIFICATION OF WAGE RATES: In accordance with Florida Statute 287.055, 5(a), the Consultant firm hereby certifies and warrants that wage rates and other factual unit costs, as submitted in support of the compensation provided 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 contract price of services was increased due to inaccurate, incomplete or unclear wage rates or other factual unit costs. All such contract compensation adjustments shall be made within one (1) year from the date of final billing or acceptance of the work by the County, or one (1) following the end of the contract, whichever is later.

3.26 ETHICS COMMISSION: Pursuant to Section 2-11.1(w) of the Code of Miami-Dade County, the Ethics Commission has jurisdiction over Consultants and vendors. The Consultant firm must provide the Ethics Commission with a written report regarding its compliance with any restriction contained in the advisory opinion issued by the Ethics Commission to the Consultant firm, sub-consultants or team members within ninety (90) days of each task assignment. The report must be submitted to Robert Meyers, Executive Director, Commission on Ethics and Public Trust at 19 West Flagler St., Suite 207, Miami, Florida 33130.

3.27 TRUTH IN NEGOTIATION: Pursuant to A.O. 3-39 and Florida Statutes Chapter 287.055 5(a): For all lump sum costs or costs plus a fixed fee contract in which a fee will exceed One Hundred Fifty Thousand Dollars ($150,000; 287.017 – category four), the County will require the firm receiving the award to execute a Truth-In-Negotiation Certificate as required by Chapter 287, Florida Statutes.

3.28 SUSTAINABLE BUILDINGS PROGRAM: Pursuant to Implementing Order 8-8, design of this project shall meet the standards delineated in Article 8. Compliance shall be determined by completing a formal certification process with the U.S. Green Building Council, or as otherwise directed by the Miami-Dade County Sustainability Manager.

[Remainder of page intentionally left blank]

ARTICLE 4

PRIMARY AND ADDITIONAL SERVICES

4.1 START OF WORK: No Services under this Agreement shall be performed by the Consultant prior to the receipt of an appropriate Service Order. Each Service Order shall specify

- the scope of work, time of completion, deliverables and total compensation for the services authorized;
- the consequences for failure of the Consultant to meet the Projected schedule.

A Service Order may also be issued to stop the performance of such Services.

4.2 PRIMARY SERVICES SCHEDULE AND SUMMARY: The Consultant agrees to furnish or cause to be furnished to the extent authorized by Service Order all Pavement Management System Primary Services, as outlined in Article 8.1.

Prior to receipt by the Consultant of a Service Order to proceed with any agreed work, the Consultant shall prepare and submit to the Owner, for its review and approval, a schedule for the particular primary service to be performed, a proposed fee and schedule.

The Consultant is firmly obligated to complete the services in accordance with the negotiated fee and schedule, and shall furnish sufficient personnel, equipment, and facilities and shall work such hours as necessary to assure such completion. The Consultant shall meet as specified in the Service Order with the Project Manager to review the Consultant's progress. The Consultant may request modifications to the schedule by submitting a written request to modify with supporting justification. It shall be at the Owner's sole discretion whether to grant such a modification.

4.2.1 The Consultant shall furnish or cause to be furnished all professional services prescribed in the Special Provisions (Article 8) of this Agreement and all other services normally required for an airport project of this type.

4.2.2 It shall be the responsibility of the Consultant to follow and be responsive to the technical and schedule guidance and oversight furnished by the Project Manager.

4.2.3 All Primary Services shall comply with and be in conformance to the Owner's requirements.

4.2.4 Throughout the Primary Services, the Consultant shall coordinate its Services with other Owner provided consultants, as specified in the Service Order.

4.2.5 The Consultant shall submit to the Owner the deliverables listed under the Service Order in the format approved by the Owner. For any items not being submitted, the Consultant shall submit either a written statement as to why such items are not being submitted as required or an approved waiver for the omission. The Owner reserves the right to reject all or part of any submittals that are not complete in their content as required herein. The Consultant shall be totally responsible for any additional costs resulting from such rejections and shall not be compensated in any manner by the Owner therefore.

4.2.6 Throughout the Primary Services, the Consultant shall assist the Owner in identifying work that is eligible for Federal/State grant-in-aid participation. The Consultant shall assist in reviewing applications prepared by the Owner and the Project Manager as applicable.

4.3 ADDITIONAL SERVICES SUMMARY: The services listed below are beyond the requirements for Primary Services under this Agreement and shall be performed upon receipt of a Service Order.

4.3.1 Special analyses of the needs of the Owner related to financial feasibility, regulatory compliance, permitting, or other special studies not otherwise necessary for the satisfactory performance of the Primary Services.

4.3.2 Incorporation of any User recommendations, as approved by the Owner, into the PMS.

4.3.3 Meetings with federal and/or state grant providing agencies required to assist Owner in obtaining grant funding for the Project.

4.3.4 Preparing to serve or serving as an expert witness at the request and on behalf of the Owner, in connection with the Project or any Project Element or component thereof, except in situations where such service is a result of the Consultant's errors, omissions or ambiguities.

4.3.5 Professional services required after acceptance of the Work by the Owner except as otherwise required under Primary Services.

4.3.6 Environmental services beyond that which is required to verify Owner supplied information or that is beyond the scope of the Primary Services herein.

4.3.7 Preparation of reports, which are not a requirement of Primary Services.

4.3.8 Specialized sub-consultants, when recommended by the Consultant, and approved by the Owner in writing, and when in the opinion of the Consultant, said specialized sub-consultant services are necessary of the accomplishment of the Services.

4.4 MEETINGS AND REPORTS

Meetings: As part of providing the Primary Services, the Consultant shall attend all meetings wherein information relating to the Primary Services is discussed, and shall provide consultation to the Owner regarding such information. These meetings shall include, but shall not necessarily be limited to, regularly scheduled or specially called, as may be necessary to enable the Consultant to coordinate his Services with, and provide information to and/or obtain information from, the Owner, its consultants and Consultants, and all others with whom coordination or liaison must take place in order to fulfill the intent and purposes of this Agreement and the Contract Documents. Unless otherwise directed by the Owner, the Consultant shall prepare and disseminate in a timely manner meeting notices and agenda, briefing materials, meeting minutes, meeting reports, etc.

[Remainder of page intentionally left blank]

ARTICLE 5

REIMBURSABLE EXPENSES

Any Reimbursable Expenses shall be approved by the Owner in advance and authorized by a Service Order.

5.1 In the event the Consultant is assigned a project within the Customs area and the Consultant is required to obtain an Airport Customs Security Bond, the Department shall reimburse the Consultant the cost of the premium for such bond, as substantiated by the invoice.

5.2 All printing and reproduction costs, as specified herein and those costs in excess of that required under Primary Services. Such costs will be reimbursed at the same rate paid by the Owner to its vendors. Printing costs for internal coordination, reviews and other in-house uses will not be reimbursed.

5.3 Living and traveling expenses of employees and principals, when away from Miami-Dade County on business in conjunction with authorized Primary Services, as limited by Miami-Dade County Administrative Order No. 6-1, "Travel on County Business" and County Resolution No. R-1345-03. For purpose of this Agreement, all personnel are assumed to be residents of Miami-Dade County and all travel would originate in Miami-Dade County. Records must include employee name, dates, points of travel, mileage rate, lodging, and meals.

[Remainder of page intentionally left blank]

ARTICLE 6

EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

6.1 EQUAL EMPLOYMENT OPPORTUNITY: The Consultant shall not discriminate against any employee or applicant for employment because of age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, nor in accordance with the Americans with Disabilities Act, discriminate against any otherwise qualified employees or applicants for employment with disabilities who can perform the essential functions of the job with or without reasonable accommodation. The Consultant shall take affirmative actions to ensure that applicants are employed and that employees are treated during their employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, or disability. Such actions include, but not limited to, the following: Employment, upgrading, transfer or demotion, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training including apprenticeship.

The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to the provided by the County setting forth the provisions of this Equal Employment Opportunity clause. The Consultant shall comply with all applicable provisions of the Civil Rights Act of 1964, Executive Order 11246 of September 24, 1965, as amended by Executive order 11375, revised Order No. 4 of December 1, 1971, as amended, and the Americans with Disabilities Act. The Age Discrimination in Employment Act effective June 12, 1968, the rules, regulations and relevant orders of the Secretary of Labor, Florida Statutes 112.041, 112.042, 112.043 and Miami-Dade County Code Section 11A1 through 13A1, Articles 3 and 4.

The Consultant shall assign responsibility to one of its officials to develop procedures that will assure that the policies of Equal Employment Opportunity and Affirmative Action are understood and implemented.

6.2 NONDISCRIMINATORY ACCESS TO PREMISES: The Consultant, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant that: (1) no person on the grounds of race, color, sex, national origin or ancestry shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the premises; (2) that the Consultant shall use the premises in compliance with all other requirements imposed by or pursuant to the enforceable regulations of the Department of Transportation, as amended from time to time.

6.3 BREACH OF NONDISCRIMINATION COVENANTS: In the event it has been determined that the Consultant has breached any enforceable nondiscrimination covenants contained in Section 6.1 Employment Discrimination and Section 6.2 Nondiscriminatory Access to premises above, pursuant to the complaint procedures contained in the applicable Federal regulations, and the Consultant fails to comply with

the sanctions and/or remedies which have been prescribed, the County shall have the right to terminate this Agreement pursuant to the Termination of Agreement section hereof.

6.4 NONDISCRIMINATION: During the performance of this Agreement, the Consultant agrees as follows: The Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, physical handicap or disability. 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 Consultant books, records, accounts by the County and Compliance Review Agencies for purposes of investigation to ascertain by the compliance with such rules, regulations, and orders. In the event of the Consultant's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, and orders, this Agreement may be cancelled, terminated, or suspended in whole or in part in accordance with the Termination of Agreement section hereof and the Consultant may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11375 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 as amended or by rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

The Consultant will include Section 6.1 Employment Discrimination and Section 6.2 Nondiscriminatory Access to Premises of this Article in Consultant sub-contracts in excess of $10,000.00, unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, so that such provisions will be binding upon each sub-consultant.

The Consultant shall take such action with respect to any subcontract as the County may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a sub-consultant as the result of such direction by the County or by the United States, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

6.5 DISABILITY NONDISCRIMINATION AFFIDAVIT: By entering into this Agreement with the County and signing the Disability Nondiscrimination Affidavit, the Consultant attests that this 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 Consultant or any owner, subsidiary or other firm affiliated with or related to the Consultant is found by the responsible enforcement officer of the Courts or the County to be in violation of the Act or the Resolution, such violation shall render this Contract terminable in accordance with the Termination of Agreement section hereof. This Contract shall be void if the

Consultant submits a false affidavit pursuant to this Resolution or the Consultant violated the Act or the Resolution during the term of this Contract, even if the Consultant was not in violation at the time it submitted its affidavit.

6.6 AFFIRMATIVE ACTION/NON DISCRIMINATION OF EMPLOYMENT, PROMOTION AND PROCUREMENT PRACTICES (County Code Section 2-8.1.5): In accordance with the requirements of County Code Section 2-8.1.5, all firms with annual gross revenues in excess of $5 million seeking to contract with Miami-Dade County shall, as a condition of award, have a written Affirmative Action Plan and Procurement Policy on file with the County's. Said firms must also submit, as a part of their proposals/bids to be filed with the Clerk of the Board, an appropriately completed and signed Affirmative Action Plan/Procurement Policy Affidavit.

Firms whose Boards of Directors are representative of the population make-up of the nation are exempt from this requirement and must submit, in writing, a detailed listing of their Boards of Directors, showing the race or ethnicity of each board member, to the County's Department of Small Business Development (SBD). Firms claiming exemption must submit, as part of their proposal/bids to be filed with the Clerk of the Board, an appropriately completed and signed Exemption Affidavit in accordance with County Code Section 2-8.1.5. These submittals shall be subject to periodic reviews to assure that the entities do not discriminate in their employment and procurement practices against minorities and women/owned businesses.

It will be the responsibility of each firm to provide verification of their gross annual revenues to determine the requirement for compliance with the County Code Section. Those firms that do not exceed $5 million annual gross revenues must clearly state so in their bid/proposal.

6.7 CONTRACT MEASURES: The Consultant is required under this Agreement to achieve a **Community Business Enterprise (CBE) Goal of twenty percent (20%)** per the attached Letter of Agreement as presented in the Consultant's Proposal for the Project.

To fulfill the requirements of this Article, the Consultant must comply with the Miami-Dade County Florida, Community Business Enterprise Program (CBE-A/E) Participation Provisions prepared by the Miami-Dade County Department of Small Business Development (SBD) as applicable.

The Director may declare the Consultant in default of this agreement for failure of the Consultant to comply with the requirements of this paragraph.

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 Miami-Dade County on a monthly basis, unless designated otherwise. UR's are required to 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 Appendix 3.

[Remainder of page intentionally left blank]

ARTICLE 7

COMPENSATION FOR SERVICES

Unless otherwise authorized by Amendment to this Agreement, payments to the Consultant for Primary Services performed shall not exceed **FIVE HUNDRED THOUSAND DOLLARS ($500,000.00)** and shall be disbursed as reflected herein.

Owner agrees to pay the Consultant and the Consultant agrees to accept for all Services rendered pursuant to this Agreement, the amounts determined in accordance with this article. No payment will be made to the Consultant for work performed without a Service Order.

7.1 PAYMENT FOR SERVICES: The fee for Services authorized in accordance with this Agreement will be computed by one (1) of the following three (3) methods:

7.1.1 Compensation to the Consultant for Services shall be based as follows:

7.1.1.1 Flat rate: When approved based on resume qualifications and experience, compensation to the Consultant for Services shall be on the basis of flat rates in accordance compensation schedule below. Any other classifications that may be used during the course of performing the Services and the hourly rate for such classifications shall only be authorized by Service Order.

CATEGORY	TITLE	FLAT RATE ($/HR)
I	Principal	$150.00
II	Project Manager	$125.00
III	Senior Engineer	$115.00
IV	Professional Engineer	$110.00
V	Staff Engineer	$ 95.00
VI	Technician	$ 70.00
VII	Administrative Support/Clerical	$ 50.00

The maximum flat rate for all other personnel, not listed above shall not exceed **$115.00** per hour. The Owner reserves the right to adjust the maximum flat rate.

7.1.1.2 Not to Exceed: Under this compensation basis, the Consultant is compensated for the actual time of personnel engaged directly in performing Services under this Agreement. In addition, the Consultant is compensated for other related services necessary to complete the required services. A not to exceed cap for the total fee for each assignment given under this compensation basis shall be established prior to the issuance of the Service Order. The compensation method shall be in accordance with the compensation schedule as shown in 7.1.1.1 of this Agreement.

7.1.1.3 Fixed Lump Sum: Under this compensation basis, the Consultant agrees to perform specifically described Services for an agreed fixed dollar amount of compensation.

7.1.1.4 Escalation: During the term of this Agreement, the Owner may, by authorized Service Order only, adjust the fees included in the compensation schedule, 7.1.1.1, to reflect the change in the Consumer Price Index (CPI) on a year-by-year basis, including any extensions that may be exercised. Such adjustment will be based on the cumulative change of the Consumer Price Index (CPI) for the Miami urban area, provided that the annual increase shall not exceed three percent (3%).

7.1.1.5 Overtime: Employees that are salaried and are not required to be paid time and one half for work over forty (40) hours. The following formula will be utilized for calculating overtime for salaried employees: Forty (40) hours multiplied by the base pay rate ($) multiplied by the appropriate multiple (M) (if applicable); plus Hours Worked Beyond Forty (40) Hours During Week (Hrs) multiplied by the pay rate ($) multiplied by 1.1. Using conventions contained in Microsoft Excel, the equation for this would be:

(40*$*M) + (Hrs*$*1.1)

Employees that are on an hourly basis and are required to be paid at a time and one half overtime rate, the following formula will be utilized for calculating overtime: Hours Worked Beyond Forty (40) Hours During Week (Hrs) multiplied by the premium pay rate ($*1.5) and then multiplied by 1.1. Using conventions contained in Microsoft Excel, the equation for this would be:

(40*$*M) + (Hrs*$*1.5*1.1)

EXAMPLE
Hours worked during week = 50
Pay rate = $30/hr.
Multiplier = 2.65

(40*30*2.65) + (10*30*1.1) = 3180 + 330 = $3510 or

EXAMPLE
Hours worked during week = 50
Pay rate = $30/hr.
Multiplier = 2.65

(40*30*2.65) + (10*30*1.5*1.1) = 3180 + 495 = $3675

7.1.1.6 Consultant shall not invoice Owner for charges for office, rent or overhead expenses of any kind, including but not limited to, insurance, telephone (except long distance calls authorized by the Owner), and utility charges, office/drafting supplies, depreciation of equipment, professional dues, subscriptions, reproduction of drawings and/or specifications for internal use, mailing, stenographic, clerical, nor shall it invoice for other employee time or travel and subsistence not directly related to the Project. The multiple factor set forth above shall cover all such costs pertinent to the Project.

7.2 MAXIMUM PAYABLE FOR REIMBURSABLE EXPENSES: The aggregate sum of all payments to the Consultant for Reimbursable Expenses as described in the article "Reimbursable Expenses" of this Agreement shall not exceed **TWENTY-FIVE THOUSAND DOLLARS ($25,000.00)**, and will be reimbursed by the Owner as verified by appropriate original bills, invoices or statements.

7.3 INVOICES AND METHODS OF PAYMENT: The Consultant shall submit monthly to the Project Manager, two (2) copies of a duly certified invoice for payments due on account of the portion(s) of the Services performed for each particular Service Order and eligible for payment pursuant to the agreed payment method as outlined in Article 7.1, Payment for Services. A copy of the applicable Service Order shall accompany the original copy of the invoice. The format, content and submittal date of the invoice shall be as specified by the Project Manager.

The Consultant shall submit its invoice for those services to the Project Manager. The Owner shall make payment in accordance with the provisions of Chapter 218 of the Florida Statutes. However, the Owner may reject the invoice in whole or in part. If rejected, the Owner shall notify the Consultant in writing specifying the deficiencies and corrective action required. If the Owner rejects only a part of the invoice, the Owner shall pay the undisputed portion of the invoice on a timely basis. Rejected or partially rejected invoices shall be corrected by the Consultant and resubmitted to the Project Manager for payment. Resubmitted partially rejected invoices shall separately indicate the previously undisputed amount of the invoice.

7.4 MAXIMUM PAYABLE FOR ADDITIONAL SERVICES: An allowance account is hereby established in the amount of **FIFTY THOUSAND DOLLARS ($50,000.00)** to pay for any Additional Services that may be authorized by Service Order.

7.5 PAYMENT TO SUB-CONSULTANTS: All payments to Sub-consultant(s) employed hereunder shall be the sole responsibility of the Consultant unless otherwise provided for herein or within a Service Order. The Consultant shall, upon receipt of progress and/or final billing(s) from such Sub-consultant(s) for Services satisfactorily performed incorporate such billing(s) in the manner and to the extent appropriate to the applicable payment basis (es), in the next following invoice submitted by the Consultant to the Owner. The Consultant shall not submit invoices that include charges for Services by Sub-consultant(s) unless such Services have been performed satisfactorily and the charges

are, in the opinion of the Consultant, payable to such Sub-consultant(s). The Consultant shall make all payments to such Sub-consultant(s) promptly following receipt by Consultant of corresponding payment from the Owner. Prior to any payments to Sub-consultant(s), the Consultant shall, if requested by the Project Manager, furnish to the Owner a copy of the agreement(s) providing for such payments.

7.6 CONSEQUENCE FOR NON-PERFORMANCE: Should the Consultant fail to perform its services within the time frames outlined and such failure causes a delay in the progress of the Services, the Consultant shall be liable for any damages to the Owner resulting from such delay.

7.7 PAYMENT FOR ABANDONED, TERMINATED OR SUSPENDED SERVICES: In the event of termination or suspension of the services or abandonment of a Task(s) the Consultant shall be compensated as follows:

7.7.1 Payment for Services completed and approved prior to receipt by the Consultant of notice of abandonment of a Task, termination or suspension, for which payment has not yet been made to the Consultant by the Owner, shall be made in the same manner as would have been required had such abandonment of a Task, termination or suspension not occurred.

7.7.2 For Services partially completed and satisfactorily performed prior to receipt by the Consultant of notice of abandonment of a Task, termination or suspension, the Consultant shall be compensated on the basis of payment in same manner as would have been required had such abandonment of a Task, termination or suspension not occurred, adjusted to the level of completion portion of the service. A claim by the Consultant for compensation shall be supported by such data as the Owner may reasonably require. In no case shall fees for partially completed Services exceed the fees that would have been paid for such Services had they not been abandoned, terminated or suspended.

7.7.3 Upon payment to the Consultant for Service associated with abandoned, terminated or suspended Task in accordance with this Article, the Consultant shall have no further claim for Services related to the abandoned, terminated or suspended Task.

7.7.4 No payment shall be made by the Owner to the Consultant for loss of anticipated profit(s) from any abandoned, terminated or suspended Task.

7.8 INSPECTOR GENERAL AUDIT ACCOUNT: One audit account is hereby established to pay for mandatory random audits by the County's Inspector General pursuant to County Ordinance No. 97-215. The amount for the Inspector General Audit Account is hereby set at **ONE THOUSAND TWO HUNDRED FIFTY DOLLARS ($1,250.00)**. The Consultant shall have no entitlement to any of these funds. The Owner retains all rights to these funds, may expend these funds at its sole discretion, and any funds not

expended from these audit accounts remain the property of the County.

7.9 TOTAL AUTHORIZED AMOUNT FOR THIS AGREEMENT: The Total Authorized Amount for this Agreement including Additional Services, Reimbursable Expenses, and the Inspector General Audit Account is **FIVE HUNDRED SEVENTY-SIX THOUSAND TWO HUNDRED FIFTY DOLLARS ($576,250.00)**. The Owner retains all rights to these funds, may expend these funds at its sole discretion, and any funds not expended from this authorized agreement amount remain the property of the Owner.

[Remainder of page intentionally left blank]

ARTICLE 8

SPECIAL PROVISIONS

8.1 The scope of Primary Service service for this project is to update and maintain the Pavement Management System (PMS) for MDAD Facilities. Services include but are not limited to inspecting and evaluating pavement conditions, collecting and reviewing as-built data, field verifying as-built conditions, updating the PMS database, updating the existing modeling scenario, reviewing and updating the MDAD design guidelines, reviewing and updating technical specifications, updating the annual maintenance and repair forecast and assisting the Department with pavement, bridge, and tunnel studies, evaluations and analysis.

Provide as needed pavement management assistance to the MDAD PM in activities related to but not limited to MDAD's Pavement Repairs contract supervision and administration assistance as required throughout the duration of the contract, supervision and assistance including field services related to the Runway Rubber Removal contract throughout the duration of the contract, evaluation and recommendation of Friction Testing equipment approved by the Federal Aviation Administration (FAA).

8.2 At any time during the term of this Agreement, Owner can require the Consultant to provide Project Specific Professional Liability Insurance in the amount of $1,000,000 per claim to last the life of the Project plus three (3) years. The premium for this coverage shall be reimbursed to the Consultant in accordance with the article "Reimbursable Expenses" of this Agreement.

8.4 The deduction of one quarter (1/4) of one (1%) percent from each progress payment to pay for the functions of the Office of Inspector General is inapplicable because this Contract is either financed by aviation revenue bonds or funded by aviation revenue which are subject to federal regulations.

8.5 Pursuant to Article 4.2, the Consultant shall submit a schedule in a format as agreed between parties and shall include, among other things, proposed durations, from authorization to proceed, for each Task in Article 4 that are consistent with the durations as specified in the Service Order.

8.6 Pursuant to Article 3.28, the Consultant shall meet the following design standards: Not Applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF; the parties hereto have caused this Agreement to be executed by their appropriate officials as of the date first above written.

CONSULTANT (CORPORATION)

Mactec Engineering & Consulting, Inc.
Legal Name of Corporation

ATTEST:

Secretary: _____ By: _____
Signature and Seal Consultant – Signature

Kendall H. Sherrill _____
Type Name

Richard Minichelli, SVP
Type Name & Title

CONSULTANT (INDIVIDUAL, PARTNERSHIP OR JOINT VENTURE)

_____
Legal Name

Witness: _____ By: _____
Signature

Witness: _____ _____
Type Name

SSN: _____

MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS

Legal Sufficiency: _____ Date: _____
Assistant County Attorney

ATTEST:

_____, CLERK

BY: _____ By: _____
Deputy Clerk Mayor

(Miami-Dade County Seal)

APPENDIX 1

PRINCIPALS OF THE CONSULTANT

The term "Principal" is defined herein as Officers of Mactec Engineering & Consulting, Inc. that retain ownership interests in the firm as of March 19, 2009.

Name of Principal	**Office Location**
Richard Minichiello, Senior Vice President raminichiello@mactec.com	5845 NW 158 Street Miami Lakes, FL 33014

APPENDIX 2

CRITICAL PERSONNEL

Name, Title	Designated Role
MACTEC Engineering and Consulting, Inc.	
Armando Hernandez, P.E.	Project Manager
Charlie Greer, P.E.	Quality Assurance/Quality Control
John Miller, P.E.	Quality Assurance/Quality Control
Paul Karas	Technical Project Advisor
Ricardo Fraxedas, P.E.	Technical Project Advisor
Larry Vaughn	Pavement Inspection/Evaluation
Frank Martin	Pavement Inspection/Evaluation
Cory Vowles	Pavement Inspection/Evaluation
Kiran Pokkuluri, P.E.	Pavement Management & Engineering Design
Narayanan Raghupathi, P.E.	Pavement Management & Engineering Design
Titin Handojo, P.E.	Pavement Management & Engineering Design
Bing Xu, P.E., PhD	Pavement Management & Engineering Design
Amy Simpson, P.E., PhD	Pavement Management & Engineering Design
Jacki Hart, EIT	Pavement Management & Engineering Design
Michael Phillips, P.E.	Structural Engineering (Design/Inspection/Evaluation) Bridges & Tunnel
J. Martin Davis, P.E.	Structural Engineering (Design/Inspection/Evaluation) Bridges & Tunnel
Dipankar Chandra, P.E., PhD	Structural Engineering (Design/Inspection/Evaluation) Bridges & Tunnel
Robert Lee, P.E.	Structural Engineering (Design/Inspection/Evaluation) Bridges & Tunnel
James Marianetti, P.E.	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
Adil Khan, P.E.	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
Ed Borowski, CWI	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
Ashok Aitharaju, EIT	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
Brendan Larkin, P.E.	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
Jose Penafiel	General Airport Engineering (Operations,

CRITICAL PERSONNEL (CONTINUED)

Name, Title	Designated Role
	Maintenance, Facilities, Airfield Utility and Infrastructure Development)
Mario Rendon	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
George Burton	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
H.J. Ross Associates, Inc.	
Mariano O. Valle, P.E.	Quality Assurance/Quality Control
Nancy B. Pantoja, P.E.	Technical Project Advisor
Marco Lux, P.E.	Pavement Inspection/Evaluation
Richard Raymond	Pavement Management & Engineering Design
James Rosales, P.E.	Structural Engineering (Design/Inspection/Evaluation) Bridges & Tunnel
Adolfo O. Canal, P.E.	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
CES Consultants, Inc.	
Rudy Ortiz, P.E.	Quality Assurance/Quality Control
Jose A. Compres, P.E.	Structural Engineering (Design/Inspection/Evaluation) Bridges & Tunnel
Gustavo Eckardt, P.E.	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
Arjen Bootsma, P.E.	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
Jose Caraballo	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)
Triangle Associates, Inc.	
Osiris Quintana, P.E.	Quality Assurance/Quality Control
Jorge Garcia, P.E.	Structural Engineering (Design/Inspection/Evaluation) Bridges & Tunnel
Raul Wainer, P.E.	General Airport Engineering (Operations, Maintenance, Facilities, Airfield Utility and Infrastructure Development)

APPENDIX 3

COMMUNITY BUSINESS ENTERPRISE (CBE-A/E)
PARTICIPATION PROVISIONS
EXECUTED LETTERS OF AGREEMENT AND
UTILIZATION REPORT FORMAT

Dept. of Business Development

Project Worksheet

Project/Contract Title:	PAVEMENT MANAGEMENT SYSTEM (SIC 871)		**RC Date:** 06/11/2008
Project/Contract No:	b08-MDAD-02	**Funding Source:**	**Item No:** 1-01
Department:	MIAMI DADE AVIATION DEPARTMENT	MULTI-YEAR OPERATING BUDGET	
Estimated Cost of Project/Bid:	$500,000.00		**Resubmittal Date(s):**

Description of Project/Bid: TO ESTABLISH A CONTRACT FOR UPDATING AND MAINTAINING THE PAVEMENT MANAGEMENT SYSTEM (PMS) FOR MDAD FACILITIES. SERVICES INCLUDE BUT IS NOT LIMITED TO: INSPECTING AND EVALUATING PAVEMENT CONDITIONS, COLLECTING AND REVIEWING AS-BUILT DATA, FIELD VERIFYING AS-BUILT CONDITIONS, UPDATING THE PMS DATABASE, UPDATING THE EXISTING MODELING SCENARIO, REVIEWING AND UPDATING THE MDAD DESIGN GUIDELINES, REVIEWING AND UPDATING TECHNICAL SPECIFICATIONS, ETC

Contract Measures Recommendation

Measure	Program	Goal Percent
Goal	CBE	20.00%

Reasons for Recommendation

This project meets all the criteria set forth in Administrative Order 3-32, Section V.

The term of this agreement is for three (3) years with an option to renew for two (2) one-year extensions. Teaming restrictions are as follows: Consultants electing to submit as a Prime will be limited to participation on a single team and may not participate on any other team as a sub-consultant. Consultants electing to submit as a sub-consultant may only participate on three (3) teams.

SIC 871 - Highway Design, Tunnel Design, Bridge Design, and General Structural Engineering.

Analysis for Recommendation of a Goal

Subtrade	Cat.	Estimated Value	% of Items to Base Bid	Availability
HIGHWAY SYSTEMS-HIGHWAY DESIGN	CBE	$50,000.00	10.00%	32
GENERAL STRUCTURAL ENGINEERING	CBE	$25,000.00	5.00%	35
HIGHWAY SYSTEMS-BRIDGE DESIGN	CBE	$25,000.00	5.00%	11
	Total	$100,000.00	20.00%	

Living Wages: YES [ ] NO [X]

Responsible Wages: YES [ ] NO [X]

Ordinance 99-143 is applicable to all construction projects over $100,000 that do not utilize Federal Funds

REVIEW COMMITTE RECOMMENDATION

Tier 1 Set Aside _____

Set Aside _____ **Level 1** _____ **Level 2** _____ **Level 3** _____

Trade Set Aside (MCC) _____ **Goal** CBE = 20% **Bid Preference** _____

No Measure _____ **Deferred** _____ **Selection Factor** _____

Chairperson, Review Committee — Date: 6/11/08

Chief, Bureau — Date

DBD#0860 - 2008101

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MIAMI-DADE COUNTY
FLORIDA

DEPARTMENT OF SMALL BUSINESS DEVELOPMENT

COMMUNITY BUSINESS ENTERPRISE PROGRAM FOR ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING, SURVEYING AND MAPPING PROFESSIONAL SERVICES (CBE-A/E)

(ORDINANCE 01-103 as amended AND A.O. 3-32)

PARTICIPATION PROVISIONS

There are two (2) Contract Measures:
First Tier Set-Aside and Subconsultant Goal

THE CBE-A/E MEASURE(S) APPLICABLE TO THIS PROJECT:

Set-Aside	☐
Subcontractor Goal	**20%**

DEPARTMENT OF SMALL BUSINESS DEVELOPMENT
111 N.W. 1st Street, 19th FLOOR
MIAMI, FLORIDA 33128
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1. Forms

   a. Letter of Agreement (CBE 105)
   b. Certificate of Unavailability (CBE 103)
   c. Architecture & Engineering Utilization Report

Ordinance 01-103, as amended and Administrative Order 3-32 can be obtained from the Clerk of the Board located at the Stephen P. Clark Building, 111 N.W. 1 Street, Suite 17-202, Miami, Florida.

A. DEFINITIONS

The definitions in this section apply only to these Participation Provisions, hereinafter referred to as "Provisions".

1. Agreement means an agreement proposed by the County, Fire, or Public Health Trust staff, or approved by the County Commission, Fire or Public Health Trust for architectural, landscape architectural, engineering, or surveying and mapping professional services.

2. Available or Availability means to have, prior to proposal submission, the ability to provide professional services under an agreement or subconsultant agreement by having reasonably estimated, uncommitted capacity and expertise; all licenses, permits, registrations, insurances and certifications; that are reasonably required to perform the agreement or subconsultant agreement consistent with normal industry practice; and the ability to otherwise meet all the proposal specifications.

3. Bonding Assistance may include providing assistance in preparing and completing bond packages as well as providing funding to be used for bonding purposes.

4. Business Day means a regular weekday (Monday through Friday) normally starting at 8:00 a.m. and finishing at 5:00 p.m., excluding Saturdays and Sundays and excluding all legal holidays recognized by the Federal, State or Miami-Dade County governments.

5. Calendar Day means a twenty-four (24) hour period covering all days of the week (Monday through Sunday, including all holidays), starting at 12:00 a.m. and finishing at 11:59 p.m.

6. CBE-A/E Program is the Community Business Enterprise Program for architectural, engineering, landscape architectural, surveying and mapping professionals.

7. Commercially Useful Function means contractual responsibility for the execution of a distinct element of the work of an agreement by a firm and the carrying out of the contractual responsibilities by actually performing, managing, and supervising the work involved. Acting as a broker is not considered a commercially useful function. The determination of whether an activity is a commercially useful function shall include: the evaluation of the amount of work subconsulted; normal industry practices; the skills, qualifications, or expertise of the firm to perform the work; whether the firm's own personnel perform, manage, and/or supervise the work involved; and other relevant factors.

8. Community Business Enterprise (CBE-A/E) means a firm providing architectural,

landscape architectural, engineering, or surveying and mapping professional services, including a design-build firm, which has an actual place of business in Miami-Dade County and whose three (3) year average annual gross revenues do not exceed two million ($2,000,000) dollars for first tier CBE-A/Es, four million five hundred thousand ($4, 500,000) dollars for second tier CBE-A/Es in the case of architectural services, or six Million ($6,000,000) dollars for second tier CBE-A/Es in the case of landscape architectural services, engineering, or surveying and mapping services. A CBE-A/E will graduate out of the Program once it has exceeded these second tier CBE-A/E size limits based on its three-year average annual gross revenues. As part of the process, CBE-A/Es must go through a technical certification process, which will determine the technical certification categories. A firm's eligibility to participate in the CBE-A/E program shall be based on the cumulative adjusted gross revenues of the applicant firm in combination with that of all of the firm's affiliates as provided in Appendix A pursuant to the Miami-Dade County Ordinance number 01-103 (as amended). Representations as to gross revenues shall be subject to audit.

9. Completed Fiscal Year means a taxable year including any short period. Taxable year and short period have the meaning attributed to them by the IRS.

10. Construction means the building, renovating, retrofitting, rehabbing, restoration, painting, altering, or repairing of a public improvement.

11. SBD means Miami-Dade County Department of Small Business Development.

12. Debar means to exclude a consultant, its individual officers, its shareholders with significant interests, its qualifying agent or its affiliated businesses from County agreements, whether as a prime consultant or subconsultant, for a specified period of time, not to exceed five (5) years.

13. Design-Build Contract means a single contract with a design-build firm for the design and construction of a public construction project.

14. Design-Build Firm means a partnership, corporation, or other legal entity with the following characteristics:

    a. A partnership or joint venture, having at least one partner in compliance with either of the following two requirements:

        i. Is certified under Section 489.119, Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

        ii. Is certified under Section 471.023, Florida Statutes, to practice engineering, certified under Section 481.219 to practice architecture; or certified under Section 481.319 to practice landscape architecture.

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b. An individual or corporation in compliance with the following two requirements:

i. Is certified under Section 489.119, Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; and

ii. Is certified under Section 471.023, Florida Statutes, to practice engineering; certified under Section 481.219 to practice architecture; or certified under Section 481.319 to practice landscape architecture.

15. DPM means Miami-Dade County Department of Procurement Management.

16. Firm means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, landscape architecture, design-build, and/or land surveying and mapping services.

17. Graduation means the CBE-A/E has exceeded the specific size limits stated for the Program and thus will no longer be eligible for participation in the Program.

18. Gross Revenues is defined to include all revenue in whatever form received or accrued from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances. However, the term revenues excludes proceeds from sales of capital assets and investments, proceeds from transactions between a firm and its domestic and foreign affiliates, amounts collected for another by a travel agent or real estate agent, and taxes collected for remittance to a taxing authority.

19. Joint Venture means an association of two or more CBE-A/Es. Joint ventures shall be subject to the size limitations set forth in Ordinance 01-103 (as amended).

20. Multiple Projects Contract is a contract for a "project" which constitutes a grouping of minor or substantially similar study of activities or substantially similar construction, rehabilitation or renovation activities as defined in Sec. 2-l0.4(1)(e)(I) and (2) of the Code of Miami-Dade County.

21. Net Worth for the purposes of the size limits is defined as total assets minus total liabilities, of owners.

22. Owned means having all the customary incidents of ownership, including the right of disposition, and the right or obligation to share in all risks and profits commensurate with the degree of ownership interest.

23. Pre-Qualification Certification is the certification process required of all firms providing architectural, engineering, landscape architectural, land surveying and mapping professional services. It consolidates technical certification, affirmative

action plan certification, and vendor registration and affidavit execution, into one application process.

24. Professional Services are those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

25. Project Specific Awards are contracts for professional services between Miami-Dade County and a firm whereby the firm provides professional services to the agency for work of a specified nature for a fixed capital study or planning activity.

26. Prompt Payment is the intent of the County that all firms providing professional services to the County shall receive payments promptly in order to maintain sufficient cash flow.

    a. Contracts with CBE-A/E set-asides or subconsultant goals shall require that billings from consultants under prime professional services agreements with Miami-Dade County, Fire or the Public Health Trust shall be promptly reviewed and payment made by the County, Fire or Trust on those amounts not in dispute within fourteen (14) calendar days of receipt of such billing by the County, Fire, or the Trust.

    b. The Department of Small Business Development may investigate reported instances of late payments to CBE-A/Es.

    c. The County Manager shall establish an administrative procedure for the resolution of written complaints pertaining to underpayment of professional services.

27. Proposal means a proposal, letter of interest, letter of participation or offer by any proposer in response to any kind of invitation, request or public announcement to submit such proposal, letter of interest, letter of participation or offer to perform the agreement.

28. Proposer means any firm that submits a proposal to provide professional services.

29. Qualifier means the individual who qualified the firm license holder as required by Florida Statute.

30. Review Committee or RC means the committee established by the County Manager to review proposed projects for the application of contract measures.

31. Review Committee Process involves the County Manager or his or her designee's establishment of an administrative procedure for the review of each proposed County

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agreement to which Ordinance 01-103 (as amended), Administrative Order 3-32 and these Provisions apply, including the establishment of a committee to recommend whether CBE-A/E measures should be applied.

32. Set-aside means reservation for competition solely among first tier CBE-A/Es of given prime County agreements for architectural, landscape architectural, engineering, or surveying and mapping professional services.

33. Subconsultant Goal means a proportion of a prime agreement value stated as a percentage to be subconsulted to first and/or second tier CBE-A/Es to perform a commercially useful function.

34. Suspension means temporary debarment for a period not to exceed two (2) years.

35. Technical Certification means a certification approved by the Miami-Dade County Technical Certification Committee that allows a firm to submit proposals on, and receive award of, County agreements for architectural, engineering, landscape architecture, or surveying and mapping services.

B. GENERAL INFORMATION

Except where federal or state laws or regulations mandate to the contrary, these Provisions shall require the review of all project specific contracts, design-build contracts and multiple contracts for architecture, landscape architecture, engineering, and surveying and mapping professional services funded in whole or in part with County funds to determine the appropriateness of applying measures as set forth in Ordinance 01-103 (as amended) and Administrative Order 3-32.

These Provisions shall apply to all departments and agencies of the County, Fire and the Public Health Trust. These Provisions shall apply to every agreement to which a CBE-A/E set-aside or subconsultant goal is applied. The phrase "CBE-A/E contract measure(s)" means to apply the contract measure to this agreement as indicated on the cover sheet. Only the contract measure in the CBE-A/E program indicated on the cover sheet applies.

NOTE: THESE PROVISIONS ARE IN ADDITION TO FEDERAL REQUIREMENTS GOVERNING DISADVANTAGED BUISNESS ENTERPRISES.

1. The proposer shall fully comply with these Provisions which implement Miami-Dade County's Ordinance 01-103 (as amended) and Administrative Order 3-32, respectively.

2. Miami-Dade County shall not award an agreement to any proposer which it determines fails to comply with the applicable requirements of these Provisions.

3. Forms necessary for submittal of information pertaining to these Provisions are included in the appendix. Additional copies may be obtained by contacting the

Compliance Monitor at the Department of Small Business Development (SBD), 111 N.W. 1st Street, 19th Floor, Miami, Florida 33128 or by telephone (305) 375-3111, facsimile (305) 375-3160.

C. CERTIFICATION

1. SBD is the County agency responsible for certifying applicants, decertifying and recertifying CBE-A/Es, and maintaining the Certification List. SBD shall maintain and publish at least monthly an updated list of CBE-A/Es, identifying each listed CBE-A/E based on each SIC/NAICS category, and each Technical Certification Category.

2 Proposers must utilize the most current certification list in complying with these Provisions. A current certification list may be obtained by contacting the Miami-Dade County Department of Small Business Development at 111 N.W. 1st Street, 19th Floor, Miami, Florida 33128 or by telephone at (305) 375-3111, facsimile (305) 375-3160. A copy of the certification application and list are also available on SBD's Web Page through Miami-Dade County's Internet Portal at http://www.miamidade.gov/sba/.

3. A CBE-A/E must have a Pre-Qualification certification and a valid CBE-A/E certification in effect at the time of proposal submittal. For successful proposers, certification must be maintained from the time of proposal submittal throughout the duration of the agreement. With the exception of provisions described in the CBE-A/E Ordinance for graduation from the CBE-A/E program, loss of CBE-A/E certification may lead to removal of the firm from continued participation in the CBE-A/E program. CBE-A/Es shall allow site visits by SBD staff to determine continuing compliance with certification requirements.

D. JOINT VENTURES

Only joint ventures approved by SBD in accordance with Administrative Order 3-32 are eligible to participate as joint ventures in the CBE-A/E program. Joint ventures must be lawfully established. All members of the joint venture must be certified as CBE-A/Es before the joint venture can be approved. Joint ventures can participate under the CBE-A/E program on contracts with CBE-A/E set-asides or subconsultant goals.

Joint ventures must submit, prior to proposal submission, a Joint Venture Agreement containing the following information:

1. A description of the financial contribution of each member;

2. A list of the personnel and equipment used by each member;

3. A detailed breakdown of the responsibility of each member and the work to be performed by each member;

4. An explanation of how the profits and/or losses will be distributed;

5. The bonding capacity of each member;

6. A description of any management or incentive fees for any of the members;

7. A statement of the percentage of the joint venture that is owned and controlled by the qualifying member(s) and the basis for claiming such percentage; and

8. A copy of any required State certificates or registrations.

E. CONTRACT MEASURES

Project specific and multiple project agreements for the purchase of architectural, landscape architectural, engineering, or surveying and mapping services, shall be reviewed for the application of agreement set-asides or subconsultant goals on such purchases.

1. Set-Aside Agreements

   a. Respondent's Responsibilities for Agreement Set-Asides:

      i. In order to submit a proposal on a set-aside agreement, the proposer must be certified as a CBE-A/E prior to proposal submission date. A CBE-A/E awarded a set-aside agreement shall not transfer to a non-CBE-A/E, through subconsulting or otherwise, any part of the actual work of the agreement unless the proposal documents expressly and specifically permit such transfer as consistent with normal industry practice or the CBE-A/E requests and receives prior to agreement award, an approval letter from SBD.

      ii. A CBE-A/E that performs the work of a set-aside agreement with its own forces may count such work towards reducing the CBE-A/E goal applied to the agreement by a maximum of one hundred (100) percent.

      iii. Respondents on agreement set-asides must submit a completed "Letter of Agreement" (Form CBE 105) at the time of proposal submission. Respondents who fail to submit the Letter of Agreement shall be considered non-responsive.

      iv. Defective Letters of Agreement that are incomplete or inaccurate upon notification by the Department of Small Business Development may be corrected within 48 hours from notification by the department. Examples of defects include, but are not limited to, improperly executed letters, the listing of unidentifiable CBE-A/Es and percentage miscalculations that are not mere clerical errors apparent on the face of the Letter of Agreement.

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b. The following shall constitute a violation of these Provisions as they relate to an agreement that is set-aside:

i. Submission of a Letter of Agreement of CBE-A/E subconsultants that the respondent knew or should have known is incomplete or inaccurate;

ii. After proposal submission due date, deviations from the Letter of Agreement without the written approval of the Compliance Monitor;

iii. The utilization of a non-certified CBE-A/E;

iv. A CBE-A/E serving as a conduit for CBE-A/E work awarded to a firm as a CBE-A/E but which is being performed by a non-CBE-A/E firm;

v. Not obtaining or retaining CBE-A/E certification while performing work designated for CBE-A/E firms;

vi. Failure to submit "Architecture & Engineering Utilization Reports";

vii. Failure to comply with CBE-A/E certification requirements including not maintaining a place of business in Miami-Dade County, not reporting organizational and operational changes, providing inaccurate or false information, and other certification related violations;

viii. Modifications to the terms and/or prices of payment to a CBE-A/E without prior approval from SBD; or

ix. Unjustified failure to enter into a written subconsultant agreement with a CBE-A/E after listing the firm on a "Letter of Agreement."

2. Subconsultant Goals

The purpose of a subconsultant goal is to have portions of the work under the prime consultant performed by available subconsultants that are certified CBE-A/Es for agreement values totaling not less than the percentage of the prime agreement value set out in the proposal form.

a. Respondent's Responsibilities for Subconsultant Goals:

i. Respondents must submit a completed Letter of Agreement (Form CBE 105) at the time of proposal submission identifying all CBE-A/Es to be utilized to meet the subconsultant goal, the professional service designation of work each will perform, and the percentage of such work. The Letter of Agreement constitutes a written representation by the respondent that, to the best of the respondent's knowledge, the CBE-A/E/s listed is/are qualified and available to perform as specified. The Letter of

Agreement is a commitment by the respondent that, if awarded the agreement, it will enter into written subconsultant agreements with the identified CBE-A/Es for the scope of work at the percentage set forth in the Letter of Agreement.

ii. Respondents who fail to submit the required Letter of Agreement at the time of proposal submission shall be considered non-responsive.

iii. Defective Letters of Agreement that are incomplete or inaccurate upon notification by the Department of Small Business Development may be corrected within 48 hours from notification by the department. Examples of defects include, but are not limited to, improperly executed letters, the listing of unidentifiable CBE-A/Es and percentage miscalculations that are not mere clerical errors apparent on the face of the Letter of Agreement.

iv. A successful respondent that is a CBE-A/E or a CBE-A/E joint venture may perform up to one hundred percent (100%) of a CBE-A/E subconsultant goal with its own forces.

v. Expenditures to subconsulting CBE-A/Es shall be counted toward meeting specified subconsultant goals as follows:

(1) One hundred percent (100%) of the expenditures to a CBE-A/E that performs a commercially useful function in the supply of services required for the fulfillment of the agreement;

(2) One hundred percent (100%) of the expenditures to CBE-A/Es that subconsult work further to non-CBE-A/Es, only if the proposal documents expressly and specifically permit such subconsulting as consistent with normal industry practice, or if the respondent or CBE-A/E requests and receives prior to agreement award an approval letter from SBD;

(3) One hundred percent (100%) of the expenditures to CBE-A/Es that perform actual work with their own forces;

(4) None of the expenditures to a CBE-A/E that acts essentially as a conduit to transfer funds to a non-CBE-A/E unless the proposal documents expressly and specifically permit such transfers as consistent with normal industry practice or the respondent or CBE-A/E requests and receives prior to agreement award an approval letter from SBD; and

(5) Only expenditures to CBE-A/Es made under a written subconsultant agreement executed by both the prime consultant and the CBE-A/E shall be counted towards meeting the subconsultant goal.

vi. Respondents whose proposals do not meet the specified goal, in order to remain eligible, must submit to the Contracting Officer no later than 4:00 p.m. on the second business day following proposal submission, evidence proving the lack of available CBE-A/Es to afford effective competition to provide the services to meet the goal. To prove lack of availability, respondents must submit the following:

(1) Unavailability Certificates (Form CBE 103) either completed and signed by all of the CBE-A/Es certified to perform the scopes of work or completed and signed by the respondent explaining the contacts with all of the CBE-A/Es certified to perform the scopes of work, statements or actions of the CBE-A/Es showing unavailability, and the reason(s) why the CBE-A/Es' signature could not be obtained;

(2) A listing of any proposals received from a CBE-A/E, the scope of work, percentage of work and the respondent's reasons for rejecting each proposal;

(3) A statement of the respondent's contacts with SBD for assistance in determining available CBE-A/Es;

(4) A description of the respondent's process for soliciting and evaluating proposals from CBE-A/Es, including copies of telephone logs detailing time, date and name of contacts with potential subconsultants;

(5) Respondents may establish a CBE-A/E as unavailable if its proposal is not reasonably competitive with comparable proposals of non-CBE-A/E s for the same scope of work. To establish a CBE-A/E as unavailable if its proposal is not considered reasonably competitive, the prime consultant must furnish SBD with copies of all proposals received from all firms, both CBE-A/Es and non-CBE-A/Es, for each specific scope of work for which they are claiming that the proposal is not reasonably competitive. A CBE-A/E's proposal will be considered reasonably competitive if its proposal, for the same scope of work, is within 25% of the proposal of comparably sized non-CBE-A/E firms;

b. Respondents whose proposals do not meet the specified goal, and who do not prove lack of availability as indicated in 2. (a.) (vi.) above are not in compliance with these Provisions. The following shall constitute non-compliance with these Provisions as it relates to an agreement which has a CBE-A/E subconsultant goal:

i. The utilization of a non-certified CBE-A/E;

ii. A CBE-A/E serving as a conduit for CBE-A/E work awarded to a firm as a CBE-A/E but which is being performed by a non-CBE-A/E firm;

iii. A prime consultant not meeting CBE-A/E subconsultant goal requirements;

iv. Not obtaining or retaining CBE-A/E certification while performing work designated for CBE-A/E firms;

v. Failure to submit Architecture & Engineering Utilization Reports;

vi. Deviations from the Letter of Agreement without prior approval from SBD;

vii. Termination of the CBE-A/E's agreement without prior approval from SBD;

viii. Reduction of the scope of work of a CBE-A/E subconsultant without prior approval from SBD;

ix. Modifications to the terms and/or prices of payment to a CBE-A/E without prior approval from SBD; or

x. Unjustified failure to enter into a written subconsultant agreement with a CBE-A/E after listing the firm on a Letter of Agreement.

c. County Responsibilities for Agreements Set-Asides and Subconsultant Goals:

i. SBD shall review the Letter/s of Agreement, and Unavailability Certificates to determine compliance with the agreement set-aside, or subconsultant goal stated in the proposal documents. The Compliance Monitor may meet with a respondent before recommending that the Contracting Officer determine non-compliance. This written recommendation shall be forwarded to the respondent and the Contracting Officer.

ii. In the event that the Contracting Officer receives a recommendation of non-compliance from the Compliance Monitor, he or she may conduct a meeting or hearing at which the respondent shall be afforded an opportunity to present data supporting its compliance with the goal. The Contracting Officer shall consider the evidence and make a determination as to compliance.

F. DESIGN-BUILD CONTRACTS

The design portion of the design-build contract is subject to the procedures outlined in these Provisions.

G. PROMPT PAYMENT

It is the County's intent that all firms, including CBE-A/Es providing professional services to the County, shall receive payments promptly in order to maintain sufficient cash flow.

1. Prime Consultant Responsibilities

   a. A prime consultant shall include in its billing to Miami-Dade County, Fire or the Public Health Trust copies of those portions of the billings from CBE-A/E subconsultants utilized to meet the subconsultant goal applicable to the agreement which the prime consultant approves and whose cost is included in the payment amount requested from Miami-Dade County, Fire or the Public Health Trust.

   b. Prime consultant agreements to which a CBE-A/E subconsultant goal has been applied shall require that billings from CBE-A/Es be promptly reviewed and payment made to such CBE-A/Es on those amounts not in dispute within two (2) business days of receipt of payment therefore. The foregoing notwithstanding, the prime consultant shall pay billings from CBE-A/E subconsultants with whom they are in direct privity that are not in dispute within the timeframe recommended by the CBE-A/E Advisory Board and implemented by Administrative Order 3-32 as approved by the Board of County Commissioners.

   c. The prime consultant on an agreement to which a CBE-A/E subconsultant goal has been applied shall inform SBD, the Contracting Officer, and the CBE-A/E subconsultant, in writing, of those amounts billed by the CBE-A/E which are in dispute, and the specific reasons why they are in dispute, within seven (7) calendar days of submittal of such billing by the CBE-A/E subconsultant to the prime consultant.

   d. Failure of the prime consultant to comply with the applicable requirements of Section (G)(1)(c) above shall result in the prime consultant's forfeiture of the right to use the dispute as justification for not paying the CBE-A/E subconsultant and payment shall be forthcoming from the prime consultant.

2. County Responsibilities

   a. Proposal documents for agreements with CBE-A/E agreement set-asides, or subconsultant goals shall require that billings from subconsultants under prime consultant agreements with Miami-Dade County, Fire or the Public Health Trust that are a CBE-A/E agreement set-aside or which contain a subconsultant goal

shall be promptly reviewed and payment made by the County, Fire or Trust on those amounts not in dispute within fourteen (14) calendar days of receipt of such billing by the County, Fire or the Trust.

b. SBD may investigate reported instances of late payment to CBE-A/Es.

3. Finance Department Responsibilities

The Finance Department shall review billings from prime consultants under prime consultant agreements with Miami-Dade County, Fire, or the Public Health Trust that are a CBE-A/E agreement set-aside or which contain a subconsultant goal and make payment on those amounts not in dispute within fourteen (14) calendar days of receipt of billing.

H. AGREEMENT COMPLIANCE AND MONITORING

1. Compliance Review

a. The Compliance Monitor shall review respondent's submission for compliance with these Provisions on every agreement to which a CBE-A/E agreement set-aside, or subconsultant goal has been applied. The purpose of this review shall be for the Compliance Monitor to consider whether to recommend the respondent's proposal is determined to be in compliance or non-compliance with the requirements of these Provisions. The Compliance Monitor may consider relevant information from any person in making this decision. The Compliance Monitor may require the respondent to produce information deemed pertinent and appropriate and may obtain further information from whatever sources the Compliance Monitor deems appropriate.

b. The Compliance Monitor shall notify the respondent in writing stating the facts and the reasons on which the non-compliance is based. The respondent may request a meeting within five (5) business days from the date of the notification of non-compliance. The respondent shall supply further relevant information as required by the Compliance Monitor. No new or altered Letter of Agreement will be accepted.

c. The Compliance Monitor shall make a written recommendation to the Contracting Officer, which shall include a statement of the facts and reasons for which the non-compliance is based.

d. Following receipt of a recommendation of non-compliance from the Compliance Monitor, the Contracting Officer shall review the Compliance Monitor's recommendation of respondent's non-compliance with these Provisions. The Contracting Officer shall notify the respondent of such non-compliance. The respondent may request a meeting within five (5) business days from the date of notification of non-compliance with the

Contracting Officer if the Contracting Officer was not present at the first meeting referenced in Subsection (1)(b) above. The respondent shall supply further relevant information as required by the Compliance Monitor. No new or altered Letter of Agreement will be accepted.

e. The Contracting Officer, in conjunction with the Compliance Monitor, may conduct an informal meeting with the respondent. Other parties may be invited to offer information relevant to the issue of the respondent's non-compliance.

f. The Contracting Officer shall provide a written determination of the respondent's compliance with these Provisions, along with a recommendation whether to award the agreement to the respondent, to the County Manager. A copy of such recommendation shall be sent to the respondent. Such recommendation shall not affect the power of the Board of County Commissioners to reject the respondent's bid for any other reason or to take such action on the recommendation of the Contracting Officer as the Board deems appropriate.

g. Consideration of other proposals. If the Contracting Officer or Compliance Monitor deems it advisable in the interest of expediting the award of the agreement, the procedures set forth in this subsection may be carried out with respect to the proposals of one or more additional respondents at the same or different time with each such proceeding to be separately conducted.

h. Failure of respondent to participate. The respondent will be bound by the proceedings under this subsection to which they have been given required notice without regard to their participation or lack of participation. A lack of participation upon receiving notices and requests pursuant to these Provisions shall not be grounds for reconsideration of any action taken in the proceedings.

i. Miami-Dade County shall not award an agreement to any respondent which, in its determination, fails to comply with the applicable requirements of these Provisions. Nothing herein shall relieve any respondent from any of the terms, conditions or requirements of the contract or modify Miami-Dade County's rights as reserved in the agreement document.

2. Post-Award Compliance and Monitoring

a. Approval of Subconsultant Agreements

The Successful Respondent shall submit to the Contracting Officer, for approval, written subconsultant agreements corresponding in all respects to the Successful Respondent's Letter of Agreement. The Successful Respondent shall enter into a written subconsultant agreement with each listed CBE-A/E subconsultant and shall thereafter neither terminate any such subconsultant

agreement, nor reduce the scope of work to be performed by, or decrease the price to be paid to the first tier CBE-A/Es thereunder, without in each instance obtaining prior written approval of the Contracting Officer. The Contracting Officer shall not give a final written determination without a recommendation from the Compliance Monitor.

b. Access to Records

Successful respondents and CBE-A/Es shall permit the County to have access during normal business hours to books and records relating to the respondent's compliance with the agreement set-aside, or subconsultant goal applied to the agreement or relating to CBE-A/E compliance with certification requirements. Such books and records include but are not limited to corporate documents, charters, organizational filings, tax filings, registrations, licenses, stock registrations, partnership agreements, contracts, subcontracts, joint venture agreements, telephone logs, checking accounts, journals, ledgers, correspondence, pension and benefits documents, and documents and records between the respondent or the CBE-A/E and other entities. This right of access shall be granted for one year after completion of the work or full payment of the agreement obligation, whichever comes last, or for one year after the expiration of CBE-A/E certification.

c. Access to Job Site

Successful respondents and CBE-A/Es shall permit the County to have access to project locations during normal business hours in order to conduct visual inspections and employee interviews.

d. Monthly/Quarterly Reporting

The successful respondent on a project that is a CBE-A/E agreement set-aside or on a project with CBE-A/E subconsultant goals shall submit monthly a Architecture & Engineering Utilization Report to the Compliance Monitor through the Contracting Officer on or before the tenth working day following the end of the month the report covers. The Compliance Monitor shall give standard reporting forms to the successful respondent. The Architecture & Engineering Utilization Report is to be completed by the successful respondent. Where a subconsultant goal has been imposed, the Architecture & Engineering Utilization Report shall include information on CBE-A/Es utilized to meet such subconsultant goal. Failure to comply with the reporting requirements may result in the imposition of contractual sanctions or administrative penalties by the County.

e. Deviations from the Letter of Agreement

i. In the event that, during the performance of an agreement, the CBE-A/E is

not able to provide the services specified on the Letter of Agreement, the successful respondent must locate a CBE-A/E to substitute for the unavailable CBE-A/E, unless the respondent can prove the lack of an available CBE-A/E to provide the services to be provided by the prior CBE-A/E. The successful respondent must receive approval for substitution from SBD by submitting a request in writing addressed to the Director of SBD through the Contracting Officer. The request must include a revised Letter of Agreement to include the substitute CBE-A/E. The Compliance Monitor will review the request and make a recommendation regarding the substitution to the Contracting Officer. A successful respondent that cannot secure a substitute CBE-A/E must provide a written statement to the Compliance Monitor and Contracting Officer that includes a list of the names, addresses, and telephone numbers of all CBE-A/Es contacted, and the date of contact for each CBE-A/E. All certified CBE-A/Es certified in the appropriate professional service area under the technical certification categories must be contacted in order to prove lack of an available CBE-A/E.

ii. The Compliance Monitor shall be responsible for monitoring the performance of the successful respondent regarding compliance with agreement set-asides, or subconsultant goals applied to the agreements. The Compliance Monitor may, at his or her discretion, investigate deviations in the utilization of CBE-A/Es from that described on the Schedule of Participation, and make recommendations regarding compliance to the Contracting Officer. The Contracting Officer shall not make a final determination without a recommendation regarding compliance from the Compliance Monitor. Deviations from the goal stated in the agreement that shall be monitored include, but are not limited to:

(1) Termination of a CBE-A/E's subconsultant agreement;

(2) Reduction in the scope of work to be performed by a CBE-A/E;

(3) Modifications to the terms of payment or price to be paid to a CBE-A/E, or

(4) Failure to enter into a subconsultant agreement with a CBE-A/E being utilized to meet a subconsultant goal.

iii. Excuse from entering into subconsultant agreements:

If, prior to execution of a subconsultant agreement required by these Provisions, the successful respondent submits a written request to the Contracting Officer demonstrating to the satisfaction of the Contracting Officer that, as a result of a change in circumstances beyond his/her control of which he/she was not aware and could not reasonably have been

aware until subsequent to the date of the award of the agreement, a CBE-A/E who is to enter into such subconsultant agreement has unreasonably refused to execute the subconsultant agreement, or is not available, the successful respondent shall be excused from executing such subconsultant agreement. The procedures of paragraphs (v.) and (vi.) below shall apply to this paragraph.

iv. Termination of Subconsultant Agreements:

If, after execution of a subcontract required by these Provisions the successful respondent submits a written request to the Contracting Officer and demonstrates to the satisfaction of the Contracting Officer that, as a result of a change in circumstances beyond his/her control of which he/she was not aware and could not be reasonably have been aware until subsequent to the date of execution of such subconsultant agreement, a CBE-A/E, who entered into such subconsultant agreement has committed a material breach of the subconsultant agreement, the successful respondent shall be entitled to exercise such rights as may be available to him/her to terminate the subconsultant agreement. The procedures of paragraphs (v.) and (vi.) below apply to this paragraph.

v. County's Determination of Respondent's Excuse or Termination:

If the successful respondent at any time submits a written request to the Contracting Officer under the prior two paragraphs, the Contracting Officer as soon as practicable, shall determine whether the Successful Respondent has made the requisite demonstration, and shall not determine that such a demonstration has not been made without first providing the successful respondent, upon notice, an opportunity to present pertinent information and arguments. The procedures of paragraph (vi.) below apply to this paragraph.

vi. Alternative Subconsultant Agreements:

(1) If the successful respondent is excused from entering into a subconsultant agreement or rightfully terminates a subconsultant agreement under this Administrative Order and without such subconsultant agreement, the Successful Respondent will not achieve the level of CBE-A/E participation upon which the agreement was awarded, the Successful Respondent shall make every reasonable effort to propose and enter into an alternative subconsultant agreement or subconsultant agreements for the same work to be performed by another available CBE-A/E as appropriate, for a subconsultant agreement price or prices totaling not less than the subconsultant agreement price under the excused or terminated subconsultant agreement, less all amounts previously paid

thereunder.

(2) The Successful Respondent must submit to the Compliance Officer a revised Letter of Agreement to include the substitute CBE-A/E.

(3) A successful respondent that cannot secure a substitute CBE-A/E must provide a written statement to the Compliance Monitor and Contracting Officer that includes a list of the names, addresses, telephone numbers, and the date of contact for each CBE-A/E. All CBE-A/Es certified within the appropriate professional service area under the technical certification categories must be contacted.

(4) The Compliance Monitor may require the successful respondent to produce such information as the Compliance Monitor deems appropriate and may obtain further information from other sources. The Compliance Monitor shall make his/her recommendation under this paragraph to the Contracting Officer and forward a copy to the respondent.

(5) The Contracting Officer will consider objections to the Compliance Monitor's recommendation only if such written objections are received by the Contracting Officer within five (5) calendar days from the successful respondent's receipt of the Compliance Monitor's recommendation. The Contracting Officer with or without a hearing, and as he/she in his/her discretion may determine, will reply to the successful respondent's written objection within ten (10) days of receipt of these objections.

I. SANCTIONS FOR AGREEMENT VIOLATIONS

Proposal and agreement documents shall provide that, notwithstanding any other penalties or sanctions provided by law, a respondent's violation of or failure to comply with the CBE-A/E Ordinance, Administrative Order and these Provisions may result in the imposition of one or more of the following sanctions:

1. The suspension of any payment or part thereof until such time as the issues concerning compliance are resolved;

2. Work stoppage;

3. Issuance of fines of up to two (2%) percent of the contract amount, said fines to be deducted from invoices;

4. Termination, suspension, or cancellation of the agreement in whole or part;

5. In the event a respondent or CBE-A/E attempts to comply with the provisions of this ordinance through fraud, misrepresentation, or material misstatement, or is found after a hearing to have discriminated in violation of Article VII of Chapter II A of the Miami-Dade County Code, the County shall, whenever practicable, terminate the agreement or require the termination or cancellation of the subconsultant agreement for the project on which the respondent or CBE-A/E committed such acts. In addition, and as a further sanction, the County Manager or his or her designee may impose any of the above-stated sanctions on any other agreements or subconsultant agreements the respondent or CBE-A/E has on County projects. In each instance, the respondent or CBE-A/E shall be responsible for all direct and indirect costs associated with such termination or cancellation including attorney's fees and costs. The respondent or CBE-A/E may also be subject to debarment.

6. In the event that a respondent fails to achieve the CBE-A/E measures after the agreement completion, the respondent will be required to make up the CBE-A/E deficit for an amount equal to double the amount of the CBE-A/E measure deficiency. The procedures for making up the CBE-A/E deficit are as follows:

   a. Upon completion of a County agreement with CBE-A/E measures, the compliance monitor for SBD, in accordance with County Code governing the CBE-A/E program, will obtain the final Architecture & Engineering Utilization Report and determine if the respondent has met the CBE-A/E measures.

   b. If the respondent has not met the CBE-A/E measures, the compliance officer will notify the respondent in writing of the CBE-A/E deficit.

   c. If the respondent is found in non-compliance with the CBE-A/E measures, the compliance officer may issue a letter of non-compliance requesting that the respondent make up the CBE-A/E deficit on an existing or future County agreement for double the amount of the deficit on the agreement in question. The respondent will also be required to submit a plan indicating any current or future County agreements in which the CBE-A/E deficit will be remedied.

   d. The respondent must respond to SBD in writing within ten (10) business days from the date of the non-compliance letter. The respondent must acknowledge receipt of the non-compliance letter and provide a plan to make up the CBE-A/E measure.

   e. The compliance monitor will review the plan for approval.

   f. When an agreement is identified in which the CBE-A/E measure deficit will be remedied, the respondent will provide Letter(s) of Agreement for the CBE-A/E firm(s) that will be utilized in making up the deficit.

   g. The respondent will remain in a non-compliance status until the CBE-A/E make-up goal has been achieved.

h. Failure of the respondent to make up the CBE-A/E measure when opportunities are available on existing or future County agreements will result in the sanctions or the imposition of other penalties, or as referenced in Sections I. and J.

Some of the agreement violations that may result in the imposition of the sanctions listed in Section I. above include, but are not limited to, the following:

i. A CBE-A/E serving as a conduit for CBE-A/E work awarded to a final as a CBE-A/E but which is being performed by a non-CBE-A/E firm;

ii. A prime consultant not meeting CBE-A/E Program subconsultant goal requirements;

iii. Not obtaining or retaining CBE-A/E certification while performing work designated for CBE-A/E firms;

iv. Failure to submit Architecture & Engineering Utilization Reports;

v. Failure to comply with CBE-A/E certification requirements, including not-maintaining a place of business in Miami-Dade County, not reporting organizational and operational changes, providing inaccurate or false information, and other certification related violations;

vi. Failure to maintain certification;

vii. Deviations from the Letter of Agreement without prior approval from SBD;

viii. Termination of the CBE-A/E's agreement without prior approval from SBD;

ix. Reduction of the scope of work of a CBE-A/E subconsultant agreement without prior approval from SBD;

x. Modifications to the terms and/or prices of payment to a CBE-A/E without prior approval from SBD; or

xi. Unjustified failure to enter into a written subconsultant agreement with a CBE-A/E after listing the firm on a Letter of Agreement to meet a subconsultant goal.

J. ADMINISTRATIVE PENALTIES

1. DEBARMENT

   a. The County may debar a CBE-A/E or a non-CBE-A/E for violation of, or non-compliance with, the provisions of the County Code governing the CBE-A/E Program and implementing proposal documents.

   b. Causes for debarment are as noted in Section 10-38 of the Code. These include but are not limited to, a preponderance of evidence that the CBE-A/E has forfeited a bond or defaulted on financial assistance, either of which was provided under the CBE-A/E program; or if any individual or corporation, partnership or other entity, or any individual officer, shareholder with a significant interest, director or partner of such entity, qualifying agent or affiliated business of such entity attempts to comply with these Provisions through fraud, misrepresentation, or material misstatement.

2. DECERTIFICATION

   Violations of certification requirements are addressed in Section II of this Administrative Order 3-32.

K. APPEALS PROCESS

1. This appeals process does not apply to appeals of decisions made pursuant to proposal documents implementing the CBE-A/E program when such proposal documents provide procedures for appeals of such decisions.

2. Upon a denial of certification, a decertification, a determination of non-compliance with the requirements of provisions of the County Code governing the CBE-A/E program, or implementing proposal documents, which decision will be final unless appealed, the Compliance Monitor shall notify the affected party, in writing, setting forth the reasons for the determination and advising of this appeals process.

3. The affected party may appeal the determination by filing a written appeal with the Director of SBD within thirty (30) days of receipt of the notice.

4. SBD shall forward all written appeals to the RC. The RC or a committee thereof appointed by the chairperson shall hear all appeals and forward recommendations regarding the appeal to the County Manager.

5. Decisions by the County Manager shall be final unless the County Commission agrees in its sole discretion upon request by the affected party to review the County Manager's decision.

L. APPENDICES

1. Forms

a. Letter of Agreement (CBE 105)
b. Architecture & Engineering Utilization Report

Letter of Agreement

Community Business Enterprise Program

From: _____

Name of Proposer / Design-Builder

In response to Miami-Dade County's Project Number _____, the undersigned hereby agrees to utilize the Community Business Enterprise (CBE) firm listed below, performing the stated work at the stated percentage, if awarded the contract. The undersigned further certifies that the firm has been contacted and properly apprised of the projected work assignment(s) to be performed upon execution of the contract with Miami-Dade County. Further, by signing this Letter of Agreement the undersigned consents to be bound by all the Provisions of the CBE Ordinance No. 01-103 as amended.

Name of Firm: _____

(Proposed Community Business Enterprise Subconsultant)

Name of Proposer (CBE meeting the goal)	CBE-A/E Certification No.	CBE-A/E Certification Exp.	Type of Work to be Performed (Technical Certification Categories)	Percentage Amount of Design Fee

Name of Subconsultant	CBE-A/E Certification No.	CBE-A/E Certification Exp.	Type of Work to be Performed (Technical Certification Categories)	Percentage Amount of Design Fee

I certify that the representations contained in this form are to the best of my knowledge true and accurate

_____ _____ _____

Proposer's / Design Builder Signature Proposer's / Design-Builder's Name/Title (Print) (Date)

THIS SECTION MUST BE COMPLETED BY THE CBE SUBCONSULTANT

ACKNOWLEDGMENT BY THE PROPOSED COMMUNITY BUSINESS ENTERPRISE FIRM

The undersigned has reasonably uncommitted capacity sufficient to provide the required services, all licenses and technical certifications necessary to provide such services, the ability to provide such services consistent with normal industry practice, and the ability to otherwise meet the proposal specifications.

_____ _____

CBE Subconsultant Signature Date

_____

CBE Subconsultant Name (Print) Title

_____

Name of CBE Firm

CERTIFICATE OF UNAVAILABILITY

I, _____, _____
Name Title

of _____ certify that on _____
Firm Name Date

I contacted the _____
CBE-A/E

to obtain a bid for work items to be performed on Miami-Dade County Contract No. _____

Work Items Sought	Form of proposal sought

_____
Signature

_____
Print Name

_____
Title

I, _____ was offered the above opportunity to submit a proposal.
CBE-A/E

I am unavailable to perform the above work at the above specified time due to:

_____
_____
_____
_____
_____

I am aware that Miami-Dade County Administrative Order provides that: "Any CBE-A/E that fails to bid at a minimum the lesser of three (3) or 50 percent of the available projects, in its primary certified service area, during the certification year may be decertified or denied recertification.

_____ _____
Signature CBE Certification Number

_____ _____
Print Name Expiration Date

_____
Title

CBE 103

ARCHITECTURE & ENGINEERING UTILIZATION REPORT

☐ MONTHLY REPORT (PARTS 1A & 1B) ☐ FINAL REPORT (PARTS 1A, 2 & 3)

DBD DEPARTMENT OF BUSINESS DEVELOPMENT

PARTS 1A & 1B **This part is to be completed by the Prime Consultant and forwarded to the User Department**

This report is required by Metropolitan Dade County. Failure to comply may result in MDC commencing proceedings to impose sanctions on the successful bidder, in addition to pursuing any other available legal remedy. Sanctions may include the suspension of any payment or part thereof, termination or cancellation of the contract, and the denial to participate in any further contracts awarded by MDC. Pursuant to Florida Statutes (F.S.) 837.06, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of their official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. 775.082, F.S. 775.083 and F.S. 775.084.

A					
REPORTING PERIOD		PROJECT NAME		PROJECT NO.	
FROM:		PROJECT LOCATION		NTP DATE	
TO:		USER DEPARTMENT			
		USER DEPT. PROJ. MANAGER		PHONE	FACSIMILE
AMOUNT REQUISITIONED THIS PERIOD		AMOUNT REQUISITIONED TO DATE		AMOUNT PAID TO DATE	
AMOUNT SUBS REQUISITIONED THIS PERIOD		AMOUNT SUBS REQUISITIONED TO DATE		AMOUNT PAID TO SUBS TO DATE	

PRIME CONTRACTOR		CONTRACT AWARD		CHANGE ORDER MODIFICATION AMOUNT	ADDITIONAL SERVICES AMOUNT
		DATE	AGREEMENT AMOUNT		
NAME OF FIRM					
ADDRESS		SCHEDULE COMPLETION DATE		PERCENTAGE OF CONTRACT COMPLETED	
TELEPHONE	FACSIMILE	PROJECT MANAGER (PRIME CONTR.)			

B SUBCONSULTANTS

NAME OF SUBCONSULTANT	AGREEMENT AMOUNT	DESCRIPTION OF WORK	GOAL (IF APPLICABLE) %	$ AMOUNT SUB REQUISITIONED THIS PERIOD	AMOUNT PAID TO SUB TO DATE	ACTUAL STARTING DATE	SCHEDULED COMPLETION DATE

AUTHORIZED SIGNATURE OF PRIME CONTRACTOR | PRINT NAME | TITLE | DATE

COUNTY USE **This part is to be completed by the User Department and forwarded to DBD upon approval.**

AUTHORIZED SIGNATURE OF PROJECT MANAGER | PRINT NAME | DATE

IMPORTANT: FOR THE MONTHLY REPORT, COMPLETE FRONT PAGE ONLY. FOR THE FINAL REPORT, COMPLETE FRONT AND BACK PAGES.

ARCHITECTURE & ENGINEERING UTILIZATION REPORT - FINAL ONLY

PART 2 **This part is to be completed by the Subconsultants and forwarded to the Prime Consultant.**

SUBCONSULTANTS

NAME OF SUBCONSULTANT / AUTHORIZED SIGNATURE OF SUBCONSULTANT	TOTAL AGREEMENT AMOUNT	FINAL SUB REQUISITION AMOUNT	TOTAL PAID TO DATE TO SUBCONSULTANT	TOTAL SUB REQUISITIONED TO DATE	DATE OF WORK COMPLETION	GOAL (%) IF APPLICABLE

PART 3 **This part is to be executed by the Prime Consultant and forwarded to the User Department.**

08

SIGNATURE OF AFFIANT (PRIME CONSULTANT) _____ TITLE _____ Sworn before me: This _____ day of _____, 2002

PRINTED NAME OF AFFIANT _____ DATE _____ NOTARY PUBLIC _____

COUNTY USE **This part is to be completed by the User Department and forwarded with Final Requisition to DBD.**

AUTHORIZED SIGNATURE OF PROJECT MANAGER _____ PRINT NAME _____ DATE _____

IMPORTANT: FOR THE MONTHLY REPORT, COMPLETE FRONT PAGE ONLY. FOR THE FINAL REPORT, COMPLETE FRONT AND BACK PAGES.

AFFIDAVITS

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION VENDOR AFFIRMATION AND COLLUSION AFFIDAVITS AND CONDITION OF AWARD REQUIREMENTS

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT
SINGLE EXECUTION VENDOR AFFIRMATION AND COLLUSION AFFIDAVITS AND CONDITION OF AWARD REQUIREMENTS

The following pages are provided for the Proposer's convenience and are a prerequisite to a contract award:

- Affirmation of Vendor Affidavits
- Collusion Affidavit
- Subcontractor/Supplier Listing
- Subcontracting Policies Statement
  (Also required, but no format (insert page is provided))
- Proof of Authorization to do Business
  (Attach a copy of the Certificate of Status or Authorization per 607.0128 F.S., and certificate evidencing compliance with the
  Florida Fictitious Name Statute per 865.09 F.S., if applicable.)
  (Also required, but no format (insert page is provided))

MIAMI-DADE COUNTY
MIAMI-DADE AVIATION DEPARTMENT SINGLE EXECUTION VENDOR AFFIRMATION AND COLLUSION AFFIDAVITS

Affirmation of Vendor Affidavits

In accordance with Ordinance 07-143 amending Section 2-8.1 of the Code of Miami-Dade County, effective June 1, 2008, vendors are required to complete a *new* Vendor Registration Package, including a Uniform Affidavit Packet (Vendor Affidavits Form), before being awarded a new contract. The undersigned affirms that the Vendor Affidavits Form submitted with the Vendor Registration Package is current, complete and accurate for each affidavit listed below.

Contract No. E08-MDAD-02 **Federal Employer Identification No. (FEIN):** 68-0146861

Contract Title: Pavement Management System

Affidavits and Legislation/Governing Body

1.	***Miami-Dade County Ownership Disclosure*** *Sec. 2-8.1 of the County Code*	6.	***Miami-Dade County Vendor Obligation to County*** *Sec. 2-8.1 of the County Code*
2.	***Miami-Dade County Employment Disclosure*** *County Ordinance No. 90-133, amending Section 2.8-1(d)(2) of the County Code*	7.	***Miami-Dade County Code of Business Ethics*** *Article 1, Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and County Ordinance No. 00-1 amending Section 2-11.1 (c) of the County Code*
3.	***Miami-Dade County Employment Drug-free Workplace Certification*** *Sec. 2-8.1.2(b) of the County Code*	8.	***Miami-Dade County Family Leave*** *Article V of Chapter 11 of the County Code*
4.	***Miami-Dade County Disability Non-Discrimination*** *Article 1, Section 2.8.1.6 Resolution R182-00 amending R-385-95*	9.	***Miami-Dade County Living Wage*** *Sec. 2-8.9 of the County Code* **(If applicable)**
5.	***Miami-Dade County Debarment Disclosure*** *Section 10-38 of the County Code*	10.	***Miami-Dade County Domestic Leave and Reporting*** *Article 8, Section 11A-60, 11A-67 of the County Code*

COLLUSION AFFIDAVIT

(Code of Miami-Dade County Section 2-8.1.1 and 10-33.1) (Ordinance No. 08-113)

I, being duly first sworn, hereby state that the bidder of this contract:

☒ is not related to any of the other parties bidding in the competitive solicitation, and that the contractor's proposal is genuine and not sham or collusive or made in the interest or on behalf of any person not therein named, and that the contractor has not, directly or indirectly, induced or solicited any other proposer to put in a sham proposal, or any other person, firm, or corporation to refrain from proposing, and that the proposer has not in any manner sought by collusion to secure to the proposer an advantage over any other proposer.

OR

☐ is related to the following parties who bid in the solicitation which are identified and listed below:

_____	_____
_____	_____
_____	_____

Note: Any person or entity that fails to submit this executed affidavit shall be ineligible for contract award. In the event a recommended contractor identifies related parties in the competitive solicitation its bid shall be presumed to be collusive and the recommended contractor shall be ineligible for award unless that presumption is rebutted by presentation of evidence as to the extent of ownership, control and management of such related parties in the preparation and submittal of such bids or proposals. Related parties shall mean bidders or proposers or the principals, corporate officers, and managers thereof which have a direct or indirect ownership interest in another bidder or proposer for the same agreement or in which a parent company or the principals thereof of one (1) bidder or proposer have a direct or indirect ownership interest in another bidder or proposer for the same agreement. Bids or proposals found to be collusive shall be rejected.

Richard A. Minichiello
Printed Name of Affiant

Senior Vice President
Printed Title of Affiant

Signature of Affiant

MACTEC Engineering and Consulting, Inc.
Name of Firm

March 30, 2009
Date

5845 NW 158th Street, Miami Lakes, FL 33014
Address of Firm (include State, Zip Code)

Notary Public Information

Notary Public – State of Florida **County of** Dade

Subscribed and sworn to (or affirmed) before me this 30 **day of,** March **2009**

by Richard A. Minichiello **He or she is personally known to me** ☒ **or has produced I.D.** ☐

Type of identification produced PERSONALLY KNOWN

Signature of Notary Public

DD783475
Serial Number

Michelle Benitez
Print or Stamp of Notary Public

8/27/2012
Expiration Date

MICHELLE BENITEZ MY COMMISSION EXPIRES August 27, 2012 #DD 783475 Bonded thru Notary Public Underwriters NOTARY PUBLIC, STATE OF FLORIDA

Notary Public Seal

SUBCONTRACTOR/SUPPLIER LISTING
PURSUANT TO SECTION 10-34 OF THE CODE

Firm Name of Prime Entity/Respondent: MACTEC Engineering and Consulting, Inc. Project No. E08-MDAD-02

Project Name: Pavement Management System

Business Name and Address of First tier Subcontractor/Subconsultant	**Principal Owner**	**Scope of Work to be Performed by Subcontractor/Subconsultant**	**Subcontractor/ Subconsultant Dollar Amount**	**(Principal Owner) Gender Race**	
HJ Ross Associates, Inc.	Alvaro Piedrahita, P.E.	Support for Engineering Design, Highway Design, Tunnel Design, Bridge Design and General Structural Engineering	TBD	Male	Hisp.
CES Consultants, Inc.	Rudy Ortiz, P.E.	Support for Highway Design, General Structural Engineering	TBD	Male	Hisp.
Triangle Associates, Inc.	Osiris Quintana, P.E.	Support for Highway Design, Bridge Design and General Structural Engineering	TBD	Female	Hisp.
Business Name and Address of Direct Supplier	**Principal Owner**	**Supplies/Materials/Services to be Provided by Supplier**	**Supplier Dollar Amount**	**(Principal Owner) Gender Race**	

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

Prime Entity/Respondent Signature | Richard A. Minichiello Print Name | Senior Vice President Print Title | March 30, 2009 Date

(Duplicate if additional space is needed)

SUBCONTRACTING POLICIES STATEMENT PURSUANT TO SECTION 2-8.8(4) OF THE CODE

(Insert Here)

MACTEC SMALL BUSINESS PROGRAM

A. POLICY

It is MACTEC's policy not to discriminate against individuals or business organizations on the basis of race, color, creed, sex, age, national origin, or physical disability and to comply with all client and prime contract requirements for small business utilization.

B. RESPONSIBILITY FOR IMPLEMENTATION

Procurement personnel shall assist the Small Business Liaison Officer (SBLO) to maintain and administer the small business program for the purpose of searching for, identifying and utilizing small business concerns to the full extent. Procurement can help communicate small business requirements under our client contracts to the Program Management team. Procurement is responsible for soliciting all competitive federal government requirements and can identify small business concerns to include in the bidding process.

The SBLO is responsible for accumulating small business data, which can be used in reports to internal management or external clients if required, to document MACTEC's small business participation.

It is the responsibility of the entire company to understand the small business program and how it can play a major part of MACTEC's success.

C. FEDERAL GOVERNMENT REQUIREMENTS

MACTEC is required to award subcontracts to small business concerns under our Federal Government contracts in accordance with a Subcontracting Plan. Contracts over $500,000 require a Subcontracting Plan where individual subcontracting goals are established by each small business concern. The goals are either identified by the government in the solicitation or established by the MACTEC management team. The Small Business Liaison Officer (SBLO) can assist management is establishing appropriate small business goals and help identify sources based on the types of services anticipated to be subcontracted. The SBLO is responsible for preparing the subcontracting plan for proposal submittal.

The SBLO is responsible for reporting to the government on a bi-annual basis the subcontracting activity under each of our government contracts based on the goals established in the subcontracting plan. The reports submitted are the SF294 and SF295. The SF294 reports the subcontracting activity for the life of the contract. The SF295 reports the subcontract activity for all contracts for the agency on a fiscal year basis. Goals consistently not met may be subject to liquidated damages, therefore it is important to establish challenging, yet achievable goals.

MACTEC

SUBCONTRACTED SERVICES

POLICY ES-09

Purpose

To establish Company Policy regarding the procurement and performance of services by subcontractors when the product of those services will be used by the Company to make engineering or scientific evaluations, interpretations, recommendations, professional judgments, professional opinions, and decisions.

General Subcontract Requirements

All subcontracts for technical and professional services shall be evidenced by a subcontract that is prepared in accordance with the provisions of Legal Department Policy LD-7 ("Subcontract"). The Scope of Work under the Subcontract shall describe all specific technical and quality requirements. It also should include items and services to be supplied by the subcontractor and any items that are to be supplied by Company.

Subcontractor Insurance Requirements

Adequate insurance protection is one of the most essential elements of proper subcontracting. If the Company hires a subcontractor without proper insurance limits, the liability exposure of the Company is increased. Each Subcontract form contains a section of provisions related to insurance. No services should be commenced without receipt of a completed Certificate of Insurance in favor of the Company. The Director of Risk Management or the Division Attorney shall be contacted in those cases where the subcontractor does not meet the insurance requirements set forth in the Subcontract so that an appropriate course of action can be implemented prior to beginning work.

Subcontractor Selection/Approval

The basis for selection of the subcontractor shall be documented and must comply with applicable procurement procedures required by federal, state and municipal governments, or any departments or agencies thereof, and our Contract. The selection shall be based on an evaluation of the ability of the subcontractor to meet all technical and quality requirements (See Section QS-7 of the Quality Assurance Manual). This evaluation shall be by a source investigation or audit, evaluation of objective evidence furnished by the subcontractor (e.g. certifications, etc.), or evaluation of the subcontractor's history of providing similar items or services for the Company that have been performed satisfactorily. The Principal Professional for the project shall approve the technical requirements of the procurement documents for quality affecting procurements. The Chief Engineer/Chief Scientist shall approve the use of specific subcontractors and a list of these shall be maintained.

Acquiring Equipment and Similar Items

Equipment and other similar items that must be acquired and provided to a client in conjunction with our services shall not be purchased under a subcontract, but procured through the current company procurement system.

Acceptance / Inspection Provisions

To the extent that any such equipment or other similar items are acquired and provided to a client in conjunction with our services, they shall be inspected prior to use to verify that they adhere to the client's specifications and the applicable requirements of both the client and the Company. This inspection may

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include the calibration and/or setup of equipment and/or demonstration of satisfactory performance by the manufacturer or purchaser.

Services shall be accepted on the basis of one or more of the following: technical verification and review of data produced, surveillance or audit of the subcontractor and/or services, or review of objective evidence of conformance to the Subcontract or purchase requirements.

The inspection/acceptance shall be accomplished by personnel experienced in the appropriate technical or administrative field and shall be clearly documented in the project file. The quality rating for the suppliers that provide quality affecting items or services shall be indicated utilizing the current company supplier rating system.

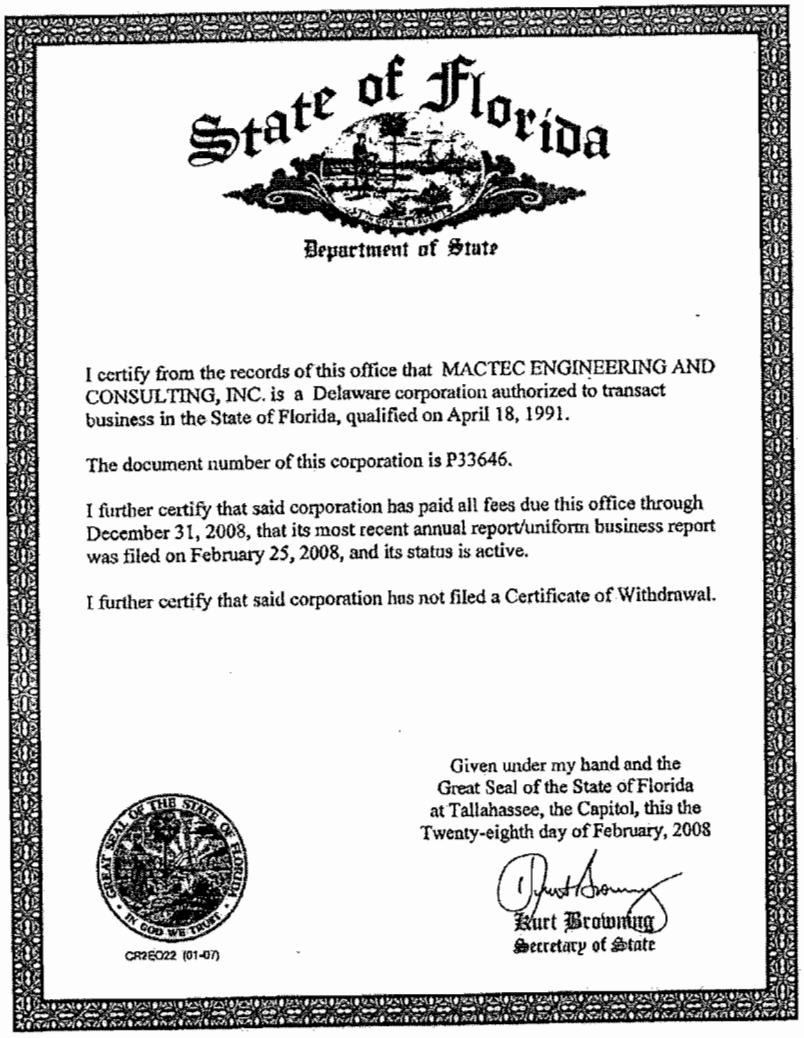
Subcontracted drilling services shall be observed on a full-time basis by a Field Technician/Professional of the Company, unless written approval to do otherwise is obtained in advance from the Chief Engineer/Scientist. The Field Technician/Professional shall be a qualified Company employee who shall be present on-site when drilling operations are underway. The Technician/Professional shall have received suitable training and experience to be knowledgeable of drilling operations and shall be familiar with the drilling and sampling techniques to be used, as well as specific project requirements. The Technician/Professional shall also receive training in appropriate health and safety topics prior to being assigned to a field drilling operation.

Exceptions

Any Exceptions to this Policy shall be authorized in advance in writing by the Director of Engineering and Science.

PROOF OF AUTHORIZATION TO DO BUSINESS

(Attach a copy of the Certificate of Status or Authorization per 607.0128 F.S., and certificate evidencing compliance with the Florida Fictitious Name Statute per 865.09 F.S., if applicable.)



State of Florida

Department of State

I certify from the records of this office that MACTEC ENGINEERING AND CONSULTING, INC. is a Delaware corporation authorized to transact business in the State of Florida, qualified on April 18, 1991.

The document number of this corporation is P33646.

I further certify that said corporation has paid all fees due this office through December 31, 2008, that its most recent annual report/uniform business report was filed on February 25, 2008, and its status is active.

I further certify that said corporation has not filed a Certificate of Withdrawal.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capitol, this the Twenty-eighth day of February, 2008

Kurt Browning
Secretary of State

CR2EO22 (01-07)

State of Florida

Board of Professional Engineers

MACTEC Engineering and Consulting, Inc.

Is authorized under the provisions of Section 471.023, Florida Statutes, to offer engineering services to the public through a Professional Engineer, duly licensed under Chapter 471, Florida Statutes.

Expiration: 28-FEB-11 Certificate of Authorization CA No: 6090

Audit No: 22820113140 DISPLAY AS REQUIRED BY LAW

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