



**INTERNAL SERVICES DEPARTMENT**  
Equitable Distribution Program

# **E D P**

## **Equitable Distribution Program**

# **PACKAGE 2**

### **Reference Documents**

- General Program Information
- Assignment Policies and Procedures
- EDP Professional Services Agreement (PSA) 2017, Affidavits And Insurance Mandates
- Administrative Order (AO) 3-39
- Sustainability Building Program Notice and Implementing Order (IO) 8-8
- Ordinance No. 11-90 amending Sections 2-8.1, 2-8.8 and 10-34 of the Code
- Subcontractor/Supplier Listing Form
- Subcontractors Payment Report
- Utilization Form

# **E D P**

## **Equitable Distribution Program**

### **General Program Information**

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Page 1 of 2

The EDP establishes a pool of local Architectural and Engineering (A & E) professionals and a centralized electronic rotational process to distribute the County's small architectural and engineering design and study projects. Administrative Order 3-39 legislates the EDP, professional services solicitation and selection criteria, as well as performance evaluations and project reporting mandates. The Internal Services Department (ISD) is responsible for the implementation and administration of the EDP Program.

Most County agencies A & E projects that do not exceed Florida Statute 287.055 continuous contracts thresholds are distributed through the EDP Pool. Current statute project thresholds are construction cost of less than \$2,000,000 and \$200,000 in professional fees for study activities.

All Architectural and Engineering (A&E) firms may potentially participate in the EDP program provided they meet the eligibility requirements.

EDP firm memberships will be periodically renewed. ISD will email Participation Renewal Notices to the firm's EDP contact. When a firm receives the renewal notification, the firm must timely submit the required EDP Participant Renewal documents. We also recommend that every firm attend an EDP Workshop.

The current eligibility requirements and general policies are as follows:

- A.** The firm must have active Pre-Qualification Certification (PQC) with the County.
- B.** Firms may be required to have a bona fide place of business a place of business in Miami Dade County (MDC) as evidenced by the firm's local business Tax Receipt issued by the MDC Tax Collector.
- C.** A business owner, alone or as a member of a group, shall own or control only one (1) firm including affiliates in the EDP.
- D.** An individual design professional can only qualify one (1) firm pursuant to the respective Licensing Governing Boards of the State of Florida and must be a full time employee of the firm.
- E.** Firms shall be required to submit utilization reports documenting their gross fees paid, and amounts distributed to the sub consultants on the firms new and existing County contracts.
- F.** Firms shall be required to comply with Ordinance No. 11-90 amended Sections 2-8.1, 2-8.8 and 10.34 of the Miami-Dade County Code to require County Contractors/Consultants awarded contracts valued at \$100,000 and higher to report (1) race, gender, and ethnicity of the owners and employees of first tier sub consultants and (2) payments made to all first tier subcontractors/sub consultants under the contract.
- G.** Firms shall submit Work History Disclosure and Supplemental Forms affirming three (3) years past history of amounts awarded and paid by the County as a prime and /or sub consultant. EDP pool members must maintain accurate award and paid records.

# EDP

## Equitable Distribution Program

### **General Program Information**

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Page 2 of 2

After gaining admission to the program, each firm will be ranked in all the MDC technical categories in which the firm holds.

A firm's ranking position is based on the firm's calculated Rotational Value (RV) The RV is determined by the firm's net awards times a factor of 65% plus 100% paid in 3 years.

A firm's ranking position is adjusted in accordance with the firm's current RV of work for all (new and existing) County services as a prime and/or sub consultant.

If a firm's Pre- Qualification Certification lapses, they are automatically inactivated from the EDP pool rotation. Firms are reminded that active PQC is required to perform any County professional services. Failure to maintain the PQC may result in termination of EDP assignments, as well as any open A & E Professional Services Agreements.

Participants are required to submit the most current Professional Services Agreement (PSA) package with the required certificates of insurance within 10 days from ISD's notification that the firm has been selected for a project. Currently, ISD is utilizing the EDP Professional Services Agreements (PSA) EDP PSA 2017. All new work assignments will be required to be under the terms and conditions of this 2017 contract. All existing service orders will remain under the terms and conditions of the effective contract at the time the service order was executed.

A consultant's participation in the EDP Program may be terminated, revoked, suspended or rescinded for failure to comply with current regulations. Non-compliance may include, but is not limited to, failure to maintain the eligibility requirements noted in Administrative Order 3-39 and/or EDP legislation; failure to submit the required Professional Services Agreement package within the required time frames as communicated by the County; failure to maintain accurate award and paid records; failure to maintain the required certificates of insurance; failure to abide by the established program policy and procedures; or failure to perform under the terms of the service orders in a timely or competent manner.

EDP Program Information, as well as, EDP Project and Firm List Reports are available on the ISD Procurement A & E Services EDP Website at <http://www.miamidade.gov/procurement/equitable-distribution.asp>

#### **EDP Program Contact:**

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## **ASSIGNMENT POLICIES AND PROCEDURES**

# EDP

## Equitable Distribution Program

### **ASSIGNMENT POLICIES AND PROCEDURES**

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Page 1 of 8

#### **EDP REQUEST**

- Client Departments submit an EDP project Request Form to the Internal Services Department (ISD) Equitable Distribution Program (EDP) Unit for a list of the next appropriate design professionals from the EDP Pool. The Request Form requires basic project information such as the scope of work, required technical certifications, estimated project construction cost or study fee as well as funding source/s.
- The EDP Unit reviews the Request Form and supporting documentation and processes the request.
- The EDP database generates a project Selection Form identifying the next available three (3) prime Firms with the lowest Rotational Value in the requested technical categories required for the work assignment.
- A firm's position in the rotation is based on their calculated Rotational Value (RV). The rotational value (RV) is determined by the net PSA award and amount times a factor of 65% plus 100% paid in 3 years.
- The EDP Unit forwards the Selection Form list to the Client Department.
- There are alternative request procedures for limited cases as outlined on Page 6.

#### **PRIME FIRM SELECTION**

- Client Departments select the prime from the firms listed on the Selection Form.
- The prime selection is based on the Client Department's determination of the most qualified firm to perform the work required.
- The selection process may include telephone interviews and/or meetings with the firms, review of the firm's qualifications, and specific experience in the area of work relevant to the scope of services, availability of necessary staff to work on the scoped task, reference checks including Client Departments that have previously engaged the firm for services, as well as, a review of Past Performance Evaluations.
- Fees should not be considered during the selection process. Fees are considered during negotiation with selected firm.
- Departments are required to document the factors used to determine their selections, and to provide the EDP Unit a copy of the selection record.
- Firms are inactivated from the rotation for a maximum of 10 days while under consideration for an assignment.
- When a firm does not respond to a Client Department's inquiry within 2 days or as specified by the Client Department representative, the Client Department does not have to continue to consider that firm for the engagement. If the firm selected by the Client Department declines an offer of work, the Client Department is asked to submit a description of the events to the EDP Unit. In these events the EDP Unit staff will provide the Client Department with additional firms to consider for the assignment.

# EDP

## Equitable Distribution Program

### **ASSIGNMENT POLICIES AND PROCEDURES**

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Page 2 of 8

- Firms that repeatedly do not respond and establish a pattern of declining work assignments may be inactivated from the EDP in the County's sole discretion.
- EDP Firms should be available to provide services in any of the areas where they hold technical certifications, and are required to have adequate staffing and time to dedicate to EDP assignments. A firm can request temporary removal from the EDP rotation.
- When Client Departments notify the EDP Unit of the firm selected as a prime, the estimated project fees are assessed to the prime's award record. This information is used to manage the EDP rotation.
- If the project assignment involves planning and design schematic activities, the selected firm may be precluded from competing in future solicitations related to the project. The Client Department must inform firms of this possibility prior to evaluating the firm.
- When a firm is selected for an EDP assignment that does not currently have an executed EDP Professional Services Agreement (PSA), the EDP Unit will notify the firm to execute the PSA and submit relevant insurance certificates.
- If a Department needs to commence services in less than twenty (20) days; they can provide an explanation to the EDP Unit requesting a listing of technically certified firms that already have an executed PSA.
- Firms have ten (10) days from the PSA notification to submit the PSA documentation, including insurance, to the EDP Unit staff. Failure to submit these documents on a timely basis may result in the firm's loss of an assignment and/or inactivation in the program for a period of up to one hundred eighty (180) days.
- During the PSA processing time, Client Departments can request proposals, the EDP subconsultant selections, if applicable, and proceed with negotiations. As soon as the resultant PSA and insurance is approved, the EDP Unit will notify the Client Department.
- Firms should not execute a work authorization unless an active EDP PSA and EDP Assignment Form have been executed.

### **SUBCONSULTANT SELECTION (if applicable)**

- The selected prime shall select only from those subconsultants in the EDP pool unless the prime firm is also technically certified in all of the required subconsultant technical certification categories. In these cases the prime may perform the required services with its own work force.
- The Client Department Project Manager (PM) will provide the prime with a Selection Form listing the appropriate firms for each requested subconsultant's technical category, as required.
- Once the subconsultants are selected, the EDP Unit staff assign and generate a project Assignment Form (AF).

# EDP

## Equitable Distribution Program

### **ASSIGNMENT POLICIES AND PROCEDURES**

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Page 3 of 8

- Utilizing firms outside of the EDP Pool, using part time employees for professional services, or providing the services when a firm is not technically certified in the service area IS NOT permitted and may result in a firm's removal from the EDP Program.

#### **WORK AUTHORIZATION**

- Once the EDP Unit staff provides the Client Department with a project AF, an active PSA, and insurance records, the Client Department may proceed to issue the work authorization (work order, service order, task authorization, NTP). The Client Department should secure a completed AF to be forwarded to the EDP Unit with a copy of the work authorization.

- Pursuant to the EDP PSA terms, all services provided by subconsultants shall be pursuant to appropriate agreements between the parties.

- Any deviation from the AF must have prior written approval from the EDP Unit staff.

- If negotiations fail, Client Departments are to document, in writing, the reasons and forward to the EDP Unit staff. The EDP Unit will review and make a determination. Typically, the EDP Unit will instruct the Department to select another firm from the original Selection Form.

- If the Client Department does not choose to negotiate with either of the two remaining firms for the required services, a written request for additional firms must be submitted to the EDP Unit staff, with a request for the names of additional firms, along with a complete explanation of the negotiations details.

- Upon receipt of the executed AF and Work Authorization, EDP Unit staff will update the EDP project database and the firm's work history award records with the negotiated fee amount.

#### **PROJECT SERVICES**

- The Client Department oversees the work performed under the executed Work Authorization.

- Client Departments are responsible to process payment requests for all services rendered and verify that the firm's insurance is in compliance prior to payment.

- Please note that once a firm executes their PSA and submits the required insurance, they are required to maintain the insurance for the life of the services.

- Failure to maintain insurance could result in forfeiting the assignment, and inactivation from the EDP program.

- Client Departments will also address performance issues with the EDP Unit, as well as complete the required PPEs.

- If a Client Department needs to increase a project fee, scope and/or time; they must first request approval from EDP Unit. Without ISD's approval, the Client Department cannot issue a revised Work Authorization.

# EDP

## Equitable Distribution Program

### **ASSIGNMENT POLICIES AND PROCEDURES**

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Page 4 of 8

#### **REPORTING REQUIREMENTS**

##### **UTILIZATION FORMS (UF)**

- All EDP Members must submit a Utilization Form with every County contract invoice to the PM except for PSA's with measures or goals. If a PSA has measures or goals, the ISD/Small Business Department (SBD) MUR must be submitted.
- The EDP Close Out Utilization Report (COUR) will act as the final utilization report for EDP assignments. The COUR shall be completed by the prime and each subconsultant upon final payment, and forwarded to the EDP Unit by the PM.
- The UF Form may be downloaded from the ISD Procurement A & E Services EDP Website at <http://www.miamidade.gov/procurement/equitable-distribution.asp>.
- The ISD/SBD A & E MUR required for PSAs with measures or goals may be downloaded at the ISD SBD Website at <http://www.miamidade.gov/smallbusiness/library/forms/ae-mur.pdf>

#### **SUBCONTRACTOR LISTING AND PAYMENT REPORTS**

- EDP project work authorizations equal to or greater than \$100,000 require prime firms to comply with Ordinance No. 11-90 amended Sections 2-8.1, 2-8.8 and 10.34 of the Miami Dade County (MDC) Code by reporting (1) race, gender, and ethnicity of the owners and employees of firms subcontractors (Listing Form) and (2) payments made to all subcontractors. (Subcontractor Payment Report).
- **The Subcontractor/Supplier Listing** form shall be submitted by the prime to the Client Department as a condition of receiving a work authorization with a fee of greater than or equal to \$100,000. The Client Department must forward copies of the completed form to ISD SBD. If the prime is not using any subconsultants for the assignment, the prime only needs to write "None" and sign the form. Also, the Client Department must include a copy with the EDP Assignment Form and Work Authorization submittal to ISD/EDP Unit.
- **The Subcontractors Payment Report** must be submitted by the prime to the Client Department as a condition to process the final invoice. It is the Client Department's responsibility to forward copies of the completed form to ISD SBD. At this time, the Client Department should also verify that the Subcontractor/ Supplier List was previously submitted in order to process the final invoice.

#### **PROJECT CONCLUSION**

- Upon project completion, the Client Department will forward the EDP database generated project COUR to the firm.

# EDP

## Equitable Distribution Program

### **ASSIGNMENT POLICIES AND PROCEDURES**

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Page 5 of 8

- The COUR is required to be completed by the primes, subconsultants (if applicable) and Client Department representatives, and acts as the final EDP project UF.
- The Client Department is responsible to forward the completed form to the EDP Unit with a copy of the final invoice and/or payment record.
- EDP Unit staff will close out the project and forward to ISD SBD to input the project dollars appropriately to each participant.
- At a minimum, one PPE is required to be completed by the Project Manager in the County's Capital Improvements Information System (CIIS) at the completion of an EDP project.
- The Client Department is required to provide a copy of the PPE to the prime firm.
- The PPE should be completed simultaneously with the final documentation and should not cause a delay in the submittal of the final pay requisition and COUR.
- If final payment is not consistent with the final approved documents; it is the responsibility of the Client Department to notify the EDP Unit of the revised amounts. The accuracy of firm's fees is critical since the payments made to firms by the County determine their position in the EDP pools.
- Since A & E firms' work history data and performance evaluations are utilized as selection criteria for all new Professional Service procurements; it is of utmost importance that Client Departments and firms comply with accurate and timely submittal of utilization documents.

### **PROJECT CANCELLATION**

- In the event that an assignment is to be cancelled, the Client Department should notify the firm and the EDP Unit staff in writing within 3 days. If any payments were processed for services performed, a COUR) must be completed by all required parties and forwarded to the EDP Unit staff with the last invoice.

### **PERFORMANCE**

- Client Departments are instructed to timely report to EDP Unit staff if a firm does not respond and/or is not abiding by the EDP program mandates.
- If there are performance issues with a firm, the Client Departments notify the EDP Unit staff and complete PPE on the Capital Improvement Information System (CIIS).
- Firms should be reminded that the PPEs are considered in Miami Dade County's A & E selection process.
- Sanctions and administrative penalties may be imposed in accordance to the EDP PSA and AO 3-39 for failure of the firm to abide by the program and agreement mandates.

# EDP

## Equitable Distribution Program

### **ASSIGNMENT POLICIES AND PROCEDURES**

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Page 6 of 8

#### **ALTERNATIVE ASSIGNMENT PROCEDURES**

● Pursuant to the EDP legislation, EDP Unit staff has the authority to bypass firms in the EDP rotation based on the volume of work or unique expertise requirements within a category, if deemed required for the particular assignment and/or in the best interest of the County.

The three typical alternative assignment methods are:

#### **ACTIVE EDP PSA**

● In very limited cases, if a Client Department requires urgent services; EDP staff will provide the Client Department with the next three firms in the ranking that have an active EDP PSA.

#### **SURVEYS**

● Surveys are conducted for Client Departments that require a firm with special experience. Departments provide the EDP Unit with a description of the project scope and unique expertise. The EDP Unit will conduct surveys of all the appropriate participants for the special requirements. Surveys are sent by email only to the firms designated contact.

● Firms that restrict emails with multiple recipients should exclude Miami Dade County emails. Since EDP surveys are sent to many members, firms should make sure that our emails are not going to SPAM.

● Firms are asked to confirm that they meet the minimum qualifications denoted in the survey.

● Firms are asked not to send lengthy responses or attachments. The responses are not provided to the Departments. ISD will forward to the Client Department the next three firms who responded positively to the survey in accordance to their pool ranking.

● The Client Department will verify if the firm meets the minimum qualifications outlined in the survey. If the Client Department finds that a firm does not meet the minimum qualifications; they do not have to consider the firm and can request additional firms.

● Survey Project numbers include an S prefix and Technical Certification (TC) 9998.

● For Jackson Memorial Hospital (JMH), the TC will be EDPJMH A or E. Firms that qualify pursuant the EDP medical facility survey will be assigned the TC.

# EDP

## Equitable Distribution Program

### **ASSIGNMENT POLICIES AND PROCEDURES**

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Page 7 of 8

#### **SPECIAL REQUESTS**

- When a Department requests an exemption from selecting a firm through the standard rotation process; EDP staff will review the request and make a recommendation to the ISD Director.
- A Special Request for the services of a specific firm requires a detailed written justification from the requesting Client Department Director addressed to the ISD Director. The request is reviewed by EDP Unit staff and the Sr. Assistant ISD Director, prior to a final determination by the ISD Director.
- Special requests are typically processed for continuation of project services by the Architect and/or Engineer of record or for a very specialized service.
- Project numbers include a SR prefix and TC 9999.

#### **EDP WEBSITE**

General program information, procedures, forms as well as EDP Project and Firm List Reports are available on the ISD Procurement A & E Services EDP Website at <http://www.miamidade.gov/procurement/equitable-distribution.asp>.

#### **CRITICAL ISSUES OVERVIEW**

- EDP members should notify the EDP Unit of any firm changes. All EDP correspondences and emails are directed only to the designated firm contact
- A new EDP PSA must be executed when selected for an initial work assignment, and subsequently for any new service order/s after the expiration of your current EDP PSA.
- EDP Pool Members are to maintain EDP eligibility requirements, comply with the EDP policies and procedures, provide timely response to Client Departments and EDP Unit staff inquiries, and meet service order obligations.
- Firms must strictly adhere to EDP subconsultant selection process for professional subconsultant services, and have an appropriate agreement with the subconsultant(s).
- Prime EDP firms must complete and submit a UF for all County PSAs except for A & E PSAs with goals. These projects which include goals require submission of MURs to Client Department PM. The PM is responsible for collecting and submitting all Utilization Forms Reports to ISD SBD.

# EDP

## Equitable Distribution Program

### **ASSIGNMENT POLICIES AND PROCEDURES**

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Page 8 of 8

- Prime EDP firms must complete and submit the EDP COUR to the PM upon final payment. Client Department PMs provide the COUR form to the prime, as well as a final payment record to EDP Unit staff. The EDP Unit staff will close out each project and send payment records to ISD SBD.

- Firms are to complete and submit to the user Department all necessary documentation in order to comply with Ordinance No. 11-90 amended Sections 2-8.1, 2-8.8 and 10.34 of the Miami-Dade County Code for reporting (1) race, gender, and ethnicity of the owners and employees of sub consultants (Subcontractor/Supplier Listing Form) and (2) payments made to firms (Sub Payment Report).

#### **For EDP questions and customer care, kindly contact:**

**Elizabeth "Biba" Zabowski, LEED® AP**

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**Internal Services Department - Procurement Management - EDP Unit**

111 NW First Street Suite 1300 Miami, Florida 33128

EDP Website at <http://www.miamidade.gov/procurement/equitable-distribution.asp>

**EDP PROFESSIONAL SERVICES AGREEMENT (PSA) 2017,  
AFFIDAVITS & INSURANCE MANDATES**

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# **EQUITABLE DISTRIBUTION PROGRAM**

## **CONTINUOUS PROFESSIONAL SERVICES AGREEMENT**

### **CONTRACT NO.: EDP-PSA-2017**

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#### **THIS AGREEMENT**

Made as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_

**Between the County:** 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 Architect/Engineer:** **Firm Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
**Phone Number:** \_\_\_\_\_  
**Fax Number:** \_\_\_\_\_

The term Architect/Engineer shall include its officials, successors, legal representatives, and assigns.

The scope of services include, but are not limited to, complete professional architectural, civil engineering, structural, mechanical/plumbing engineering, electrical engineering and landscape design services, construction engineering and inspection services, as may be required by any applicable work authorization issued under this Agreement.

WITNESSETH:

WHEREAS, the Consultant is an approved participant in the County's Equitable Distribution Program (EDP) to provide architectural, engineering and architectural landscape services on an as needed basis for County projects in which the construction costs and/or in which the study activity service fees do not exceed the limits established by the Florida Statutes, Section 287.055 and based upon any work authorizations issued hereunder that shall conform to the Scope of Services within the categories of technical certification as determined by the County.

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

# PROFESSIONAL SERVICES AGREEMENT

## TABLE OF CONTENTS

<u>ARTICLE NO.</u>	<u>SUBJECT</u>	<u>PAGE NO.</u>
ARTICLE 1	DEFINITIONS.....	4
ARTICLE 2	INFORMATION TO BE FURNISHED BY THE COUNTY .....	10
2.1	Contract Management.....	10
ARTICLE 3	GENERAL PROVISIONS .....	11
3.1	Indemnification and Hold Harmless .....	11
3.2	Insurance .....	11
3.3	Amendments .....	12
3.4	Successors and Assigns.....	13
3.5	Provision of Items Necessary to Complete Services .....	13
3.6	Sub-consultants .....	13
3.7	EDP Eligibility Requirements and Work Assignments.....	13
3.8	Term of Agreement.....	15
3.9	Termination of Agreement.....	16
3.10	Intent of Agreement .....	17
3.11	Annulment.....	18
3.12	Sanctions for Contractual Violations .....	18
3.13	Accounting Records of Architect/Engineer .....	18
3.14	Inspector General (IG), Independent Private Sector Inspector General (IPSIG).....	19
3.15	Ownership of Documents and Copyrights .....	19
3.16	Laws and Regulations.....	20
3.17	Corrections to Contract Documents.....	21
3.18	Warranty .....	21
3.19	County Representative .....	21
3.20	Entirety of Agreement.....	21
3.21	Non-Exclusivity .....	21
3.22	Baby Diaper Changing Accommodations .....	21
3.23	Continued Engagement of Critical Personnel .....	22
3.24	Architect/Engineer Responsibility .....	22
3.25	Architect/Engineer Performance Evaluation .....	23
3.26	Ethics Language.....	23
3.27	Financial Disclosure.....	23
ARTICLE 4	BASIC SERVICES.....	23
4.1	Start of Work.....	23
4.2	Basic Services, Schedule & Summary.....	23
4.3	Meetings.....	27

ARTICLE 5	ADDITIONAL AND WORK SITE SERVICES .....	28
5.1	Authorization .....	28
5.2	Additional Services .....	28
5.3	Work Site Services.....	30
5.4	Emergency Response .....	31
ARTICLE 6	SUB-CONSULTANTS.....	31
6.1	Sub-consultant's Relations.....	31
6.2	Project Management.....	32
ARTICLE 7	EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION .....	32
7.1	Equal Employment Opportunity .....	32
7.2	Non-Discriminatory Access to Premises .....	32
7.3	Breach of Non-Discrimination Covenants.....	33
7.4	Non-Discrimination .....	33
7.5	Disability Non-Discrimination Affidavit.....	33
7.6	Affirmative Action/Non-Discrimination of Employment Promotion and Procurement Practices .....	34
ARTICLE 8	COMPENSATION FOR SERVICES.....	34
8.1	Basic Services Fee .....	34
8.2	Payment for Additional and Work Site Services .....	36
8.3	Payment for Reimbursable Expenses.....	37
8.4	Invoices and Methods of Payment.....	37
8.5	Payment to Sub-consultants.....	38
8.6	Consequence for Non-Performance.....	38
8.7	Payment for Abandoned, Terminated or Suspended Services.....	38
8.8	Maximum Payable for Additional Services, Work Site Services and Reimbursable Expenses.....	39
ARTICLE 9	REIMBURSABLE EXPENSES.....	39
ARTICLE 10	SPECIAL PROVISIONS.....	40
SIGNATURES.....		41
AFFIDAVITS .....		42

## W I T N E S S E T H

### ARTICLE 1 - DEFINITIONS

- 1.1 **ADDITIONAL SERVICES:** Those services, in addition to the Basic Services in this Agreement, which the Architect/Engineer shall perform at County'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 Architect/Engineer pursuant to a written, results-oriented program, meeting the requirements of 41 CFR Part 60, in which the Architect/Engineer 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 **AGENT:** Any entity engaged by the Consultant to perform any portion of the Work, including but not limited to the Consultant's employees, officers, contractors, inspectors and Sub consultants performing any services for Miami-Dade County on behalf of the Consultant.
- 1.4 **AGREEMENT:** This written Agreement between the County and the Architect/Engineer, including the Appendices and Exhibits attached hereto and all Amendments and Service Orders issued by the County hereunder.
- 1.5 **AMENDMENT:** A written modification to this Agreement executed by the Architect/Engineer and the County covering changes, additions, or reductions in the terms of this Agreement.
- 1.6 **ARCHITECT/ENGINEER (A/E):** The named entity on page 1 of this Agreement and shall include its officials, successors, legal representatives, and assigns, synonymous with Consultant.
- 1.7 **ART IN PUBLIC PLACES:** A department of Miami-Dade County that is responsible for initiating and overseeing the incorporation of art into new County facilities.
- 1.8 **BASIC SERVICES:** Those services which the Architect/Engineer shall perform in accordance with the terms of the Agreement as directed and authorized by a Service Order(s). In addition, any Services not specifically addressed as Additional Services are considered Basic Services.
- 1.9 **BASIC SERVICES FEE:** The basis for compensation of the Architect/Engineer for the Basic Services performed under this Agreement.
- 1.10 **BOARD OF COUNTY COMMISSIONERS:** The duly elected officials authorized to act on behalf of the County.
- 1.11 **CHANGE ORDER:** A written agreement executed by the County and the Contractor, covering modifications to the Contractor's Contract.

- 1.12 CONSTRUCTABILITY: The optimum use of construction knowledge and experience in planning, design, procurement, and field operations to achieve overall Project objectives.
- 1.13 CONSTRUCTION COST: Actual cost of the Work established in the Contract Documents and as they may be amended from time to time.
- 1.14 CONSULTANT: The architect/engineer who has entered into a contract with the County to provide basic, additional and worksite services under this Agreement, and who shall act as the County's representative for the duration of the project, inclusive of the Warranty Phase.
- 1.15 CONTINGENCY ALLOWANCE ACCOUNT(S): shall mean an account that establishes a specific amount of time and / or money to be used to perform unknown or unanticipated work, as directed by the Project Director, which is necessary to satisfactorily complete the project. Any time or money within the Contingency Allowance account not directly authorized for use by the Project Director remains with the County.
- 1.16 CONTRACT DOCUMENTS: The legal agreement between the County and the Consultant for performance of Work.
- 1.17 CONTRACTOR: The firm, company, corporation or joint venture contracting with the County for performance of Work covered in the Contract Documents.
- 1.18 CONSTRUCTION ADMINISTRATION SERVICES: Those portions of the Basic Services that the Architect/Engineer shall perform in accordance with the terms of this Agreement when directed and authorized by a Service Order.
- 1.19 COUNTY: Miami-Dade County or the Owner as described below. The term County as used in this Agreement shall exclude the: Department of Planning and Zoning; Building Department; Department of Environmental Resources Management; Public Works; Fire Department; and Water and Sewer Department and their successors departments, when acting in their capacities as regulatory or permitting agencies.
- 1.20 DEDICATED ALLOWANCE ACCOUNT(S): An account contained within the Proposal items which establishes a specific amount to be used to perform specific work as identified within the Dedicated Allowance, such as reimbursement for permits, traffic control police, etc. Any money not directed to be used by the Architect/Engineer, within a Dedicated Allowance account remains with the County.
- 1.21 DEFECT(S): Refers to any part of the Work that does not follow the Contract Documents, does not meet the requirements of a reference standard, test or inspection specified in the Contract Documents, does not properly function, is broken, damaged or of inferior quality, or is incomplete. The adjective "defective" when it modifies the words "work" shall have the same connotation as Defect.
- 1.22 DEPARTMENT: A department of Miami- Dade County represented by and acting through the Director or his/her Designee(s).

- 1.23 **DESIGN DELIVERABLES:** Deliverables to be presented and Services to be performed by the Architect/Engineer at various phases of design. The design deliverables, Design Schedule and Cost Management are to comply with the requirements of the Department.
- 1.24 **DESIGN DEVELOPMENT:** That portion of the Basic Services which the Architect/Engineer shall perform in accordance with the terms of this Agreement when directed and authorized by Service Order.
- 1.25 **DIRECT SALARIES:** Monies paid at regular intervals to personnel other than principals of the Architect/Engineer directly engaged by the Architect/Engineer on the Project, as reported to the Director of United States Internal Revenue Service and billed to the County hereunder on a Multiple of Direct Salaries basis pursuant to a Service Order for Additional Services under this Agreement. Personnel directly engaged on the Project by the Architect/Engineer may include architects, engineers, designers, inspectors, agents and specifications writers engaged or assisting in research, design, production of drawings, specifications and related documents, Work Related Services and other services pertinent to the Project Elements.
- 1.26 **DIRECTOR:** The Director of a Miami-Dade County Department or authorized representative(s) designated in writing with respect to a specific matter(s) concerning the Services.
- 1.27 **EDP:** Equitable Distribution Program is established to equitably distribute, on a rotational basis, architectural, engineering and architectural landscape services for miscellaneous type projects in which construction costs and study activities do not exceed the dollar threshold established by the Florida Statutes, Section 287.055, for Miami-Dade County.
- 1.28 **EQUAL EMPLOYMENT OPPORTUNITY:** Opportunity provided by the Architect/Engineer pursuant to Executive Order 11246, as amended, and required to be part of all contracts covered by said Executive Order.
- 1.29 **FIELD REPRESENTATIVE:** An authorized representative of the County providing administrative and construction inspection services during the preconstruction, construction, and closeout phases of the Contract.
- 1.30 **FIXED LUMP SUM:** A basis for compensation of the Architect/Engineer for Services performed.
- 1.31 **INTERNAL SERVICES DEPARTMENT (ISD):** A department of Miami-Dade County that provides support services to County departments and agencies, based from a consolidation of previous departments including Americans with Disability Act Coordination, Capital Improvements, General Services Administration, Human Resources and Procurement Management.
- 1.32 **LIFE CYCLE COSTING:** The process whereby all expenses associated with the operations, maintenance, repair, replacement and alteration costs of a facility or piece of equipment are identified and analyzed.

- 1.33 **MULTIPLE OF DIRECT SALARIES:** A basis for compensation of the Architect/Engineer for Services performed.
- 1.34 **NOTICE TO PROCEED:** Written communication issued by the County to the Contractor directing the Work to proceed and establishing the date of commencement of the Work.
- 1.35 **Owner:** Miami-Dade County
- 1.36 **PERIOD OF CONTRACT ADMINISTRATION:** Services beginning on the date established in the Notice to Proceed for commencement of the Work through the time allowed for completion of the Work contained in the Contract Documents.
- 1.37 **PHASE:** The portion of the Basic Services that may be accomplished by the Architect/Engineer for each of the Project's elements or a portion or combination thereof as described in the article "Basic Services" herein:
- |          |   |                                      |
|----------|---|--------------------------------------|
| Phase 1A | - | Programming and/or Studies           |
| Phase 1B | - | Schematic Design                     |
| Phase 2  | - | Design Development                   |
| Phase 3A | - | 30% Contract Documents               |
| Phase 3B | - | 75% Contract Documents               |
| Phase 3C | - | 100% Contract Documents              |
| Phase 3D | - | Bid Documents                        |
| Phase 4  | - | Bidding & Award of Contract          |
| Phase 5  | - | Construction Administration Services |
- 1.38 **PLANS:** The drawings prepared by the Architect/Engineer which show the locations, characters, dimensions and details of the Work to be done and which are part of the Contract Documents.
- 1.39 **PROBABLE CONSTRUCTION COST:** The latest approved written estimate of Construction Cost prepared in the 16 Division format developed by the Construction Specification Institute (CSI) or unit price bid items, including construction allowance contingencies, submitted to the County, in a format provided by the County, in fulfillment of the requirement(s) of this Agreement.
- 1.40 **PROGRAM:** The initial description of a Project that may comprise of line drawings, narrative, cost estimates, Project Budget, etc.

- 1.41 **PROJECT:** Project Elements and components of the Project Elements and Services set forth in this Agreement.
- 1.42 **PROJECT BUDGET:** Estimated cost for the Project, prepared by the County as part of the Program, including the estimated Construction Cost and Soft Costs. The Project Budget may, from time to time, be revised or adjusted by the County, in its sole discretion, to accommodate approved modifications or changes to the Project or the scope of work.
- 1.43 **PROJECT ELEMENT:** A part of the Project for which Services are to be provided by the Architect/Engineer pursuant to this Agreement or by other consultants employed by the County.
- 1.44 **PROJECT MANAGER (PM):** An individual designated by the Director to represent the County during the design and construction of the Project.
- 1.45 **PROLONGED PERIOD OF CONTRACT ADMINISTRATION:** The period from the original completion date of the Contract as awarded to the date of official acceptance by the County of the Report of Contract Completion furnished by the Architect/Engineer.
- 1.46 **PUNCH LIST:** A running list of Defects in the Work as determined by the architect/engineer performing Work Related Services, with input from the Field Representative and the Project Manager. The initial edition of the Punch List is modified in succeeding editions to reflect corrected and completed work as well as newly observed Defects, until the time of Final Acceptance.
- 1.47 **RECORD DRAWINGS (AS-BUILT DRAWINGS):** Reproducible drawings showing the final completed Work as built, including any changes to the Work performed by the Contractor pursuant to the Contract Documents which the Architect/Engineer considers significant, based on marked-up as-built prints, drawings and other data furnished by the Contractor.
- 1.48 **REIMBURSABLE EXPENSES:** Those expenses delineated in the article “Reimbursable Expenses” of this Agreement which are separately approved by the County that are incurred by the Architect/Engineer in the fulfillment of this Agreement and which are to be compensated to the Architect/Engineer in addition to the Basic Services Fee.
- 1.49 **REVIEW SET:** A partial or complete set of Contract Documents, provided by the Architect/Engineer in accordance with the Deliverables Requirements Manual and/or Service Order, at the specified percentage of completion of a Phase of the Basic Services as provided for in this Agreement, on which the County may provide written review comments and acceptance of Services. Any review will be general in nature and shall not constitute a detailed checking of the Architect/Engineer’s work nor relieve the Architect/Engineer of the responsibility for the completeness and accuracy of its Services.
- 1.50 **SCHEMATIC DESIGN:** That portion of the Services comprising Phase 1B of the Basic Services which the Architect/Engineer shall perform in accordance with the terms of this Agreement.

- 1.51 **SERVICE ORDER:** A written work authorization/assignment (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 Architect/Engineer, directing the Architect/Engineer to perform or modify the performance of any portion of the Services and containing the scope, time of completion, total compensation for the services authorized, or to stop the performance of such Services. Failure by the A&E to perform in accordance with the Service Order, may result in penalties.
- 1.52 **SERVICES:** All services, work and actions by the Architect/Engineer performed pursuant to or undertaken under this Agreement.
- 1.53 **SOFT COSTS:** Costs related to a Project other than Construction Cost including Architect/Engineer Basic Services, Additional Services, Work Site Services, survey, testing, general consultant, finance, permitting fees, etc.
- 1.54 **SUB-CONSULTANT:** An independent firm, company, joint venture, corporation, agent or individual compensated by the Architect/Engineer to perform a portion of the Services required hereunder. Unless approved by a special exemption by the County, all sub-consultants contracted by the Architect/Engineer must be an approved participant in the EDP.
- 1.55 **SUBSTANTIAL COMPLETION:** The stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the County can occupy or utilize the Project for its intended use and shall occur when the Architect/Engineer issues a certificate of Substantial Completion. At this stage, all Punch List work should be able to be completed by the Contractor in less than sixty (60) calendar days. The Certificate of Substantial Completion shall not be issued prior to the Contractor obtaining a Final Certificate of Occupancy or a Temporary Certificate of Occupancy from the Building Department, and a Final Certificate of Use or a Temporary Certificate of Use from the Zoning Department.
- 1.56 **USING AGENCY:** The department, division, bureau or other subdivision of the County, for whom the project is required.
- 1.57 **USER:** The department, division, bureau or other subdivision of the County, for which the project is required.
- 1.58 **USER REVIEW:** A review of all design projects by a group which represents the operational aspects of the County, to ensure that program and operational needs are being met.
- 1.59 **VALUE ANALYSIS (VA):** The systematic application of recognized techniques for optimizing both cost and performance in a new or existing facility or to eliminating items that add cost without contributing to required functions.
- 1.60 **WORK:** All labor, materials, tools, equipment, services, methods, procedures, etc., necessary or convenient to performance by the Contractor of all duties and obligations imposed by the Contract Documents, and representing the basis upon which the total

consideration is paid or payable to the Contractor for the performance of such duties and obligations.

- 1.61 **WORK ORDER:** A written order, authorized by the County, directing the Contractor to perform work under a specific allowance account or which directs the Contractor to perform a change in the work that does not have a monetary impact.
- 1.62 **WORK SEQUENCING SCHEDULE AND STAGING PLAN:** Plans prepared by the Architect/Engineer showing the stage-by-stage sequence of construction, the impact on adjacent or related facilities and the County's operations, as well as other features, as necessary, related to the overall schedule of construction. The Architect/Engineer will be responsible for the preparation and inclusion of plans for the contractor's/Field Representative's construction trailer. The plans will show as a minimum the location of the trailer(s), parking, access, and temporary utility connections for the trailer required during the performance of the Contractor.
- 1.63 **WORK-SITE SERVICES:** Those optional portions of the Services, beyond the requirements of Work Related Services, involving the providing of on-site resident services, that the Field Representative(s) shall perform in accordance with the terms of this Agreement if directed and authorized by Service Order(s).

## **ARTICLE 2 - INFORMATION TO BE FURNISHED BY THE COUNTY**

The County, at its expense shall furnish the Consultant with the following information, or may authorize the Consultant to provide the information as a Reimbursable/Additional Service.

1. Surveys as applicable, soil borings or test pits, chemical, mechanical, structural, or other tests deemed necessary; requested or recommended by the Consultant.
2. Information regarding the project budget, County's procedures, guidelines, forms, formats and assistance as applicable.

### **2.1 CONTRACT MANAGEMENT:**

- A) The Internal Services Director, or his/her designee shall act on behalf of the County in all matters pertaining to this Agreement. The Director for the County Agency requesting the services or his/her designee shall act on behalf of the County in all matters related to the specific work authorization and shall approve all work authorizations to the Consultant and all invoices for payment to the Consultant.
- B) The Consultant shall have general responsibility for management of the work authorization assignment through all Phases of the work included in this Agreement. The Consultant shall meet with the designated County Department or Using Agency associated with the work authorization assignment to establish and/or review programmatic requirements and scope of project.
- C) The Architect/Engineer understands that it is obligated to verify to the extent it deems necessary all information furnished by the County and that it is solely responsible for the

accuracy and applicability of all such information used by said Architect/Engineer. Such verification shall include visual examination of existing conditions in all locations encompassed by the Project where such examination can be made without using destructive measures, e.g., excavation or demolition. Survey information shall be spot checked to the extent the Architect/Engineer has satisfied itself as to the reliability of the information.

### **ARTICLE 3 - GENERAL PROVISIONS**

#### **3.1 INDEMNIFICATION AND HOLD HARMLESS:**

- A) In consideration of the entry of this Agreement, and to the extent permitted by Chapter 725, Florida Statutes, the Architect/Engineer agrees to indemnify, protect, defend, and hold harmless the County, their elected officials, officers, and employees from liabilities, damages, losses, and costs including, but not limited to reasonable attorney's fees at both trial and appellate levels to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Architect/Engineer and other persons employed or utilized by the Architect/Engineer in the performance of the Work.
- B) The indemnification obligation under this cause shall not be limited in any way by any limitation on the amount of damages, compensation, or benefits payable by or for the Architect/Engineer and/or any subcontractor or Sub A/E, including but not limited to, under the worker's compensation acts, disability benefit acts, or other employees benefits acts.
- C) In the event that any claims are brought or actions are filed against the County with respect to the indemnity contained herein, the Architect/Engineer agrees to defend against any such claims or actions by making available to the Owner any and all project related information requested or required for such defense.
- D) To the extent this indemnification clause or any other indemnification clause in this agreement does not comply with Chapter 725, Florida Statutes, 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.
- E) This section shall survive expiration or termination of this Agreement.

#### **3.2 INSURANCE:**

3.2.1 The Architect/Engineer shall not be issued any Service Order under this Agreement until the insurance required hereunder has been obtained in connection with all of the services provided or performed under this Agreement and such insurance has been approved by the County. The Architect/Engineer 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 to Miami-Dade County, c/o Internal Services, 111 N.W. 1<sup>st</sup> Street, , Miami, Florida 33128-1909, Certificate(s) of Insurance which indicate that insurance coverage has been obtained. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and rated no less than "B" as to management and no less

than Class "V" as to financial strength, in accordance with the A.M. Best Company Insurance Guide, or its equivalent as approved by the County's Risk Management Unit as outlined below:

3.2.2 Certificate of Insurance: The Architect/Engineer shall furnish certificates of insurance to the County prior to commencing any operations. Certificates shall clearly indicate that the Architect/ Engineer has obtained insurance, in the type and amount as required for strict compliance with this article. Certificates will indicate no modifications or changes in insurance shall be made without thirty (30) days in advance notice of the certificate holder.

3.2.3 Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the Services, in amounts not less than \$ 300,000 combined single limit per occurrence for bodily injury and property damage. Under no circumstances is the Architect/Engineer permitted on the Airfield Operation Area (AOA) without increasing the automobile coverage to \$5,000,000.

3.2.4 Professional Liability Insurance;  
Construction cost -under \$1,000,000:  
Professional Liability Insurance in an amount not less than \$250,000.  
Construction cost -\$1,000,000 - \$2,000,000:  
Professional Liability Insurance in an amount not less than \$500,000.

3.2.5 Worker's Compensation Insurance for all employees of the Architect/Engineer in compliance with Florida Statutes, Chapter 440.

3.2.6 Comprehensive General Liability Insurance in an amount not less than \$300,000 per occurrence combined single limit for bodily injury and property damage. Miami-Dade County shall be shown as an additional insured with respect to this coverage.

3.2.7 Upon approval of this Agreement by the County Mayor, as authorized by the Board of County Commissioners and upon notice from Internal Services Department (ISD), the Architect/Engineer shall, within seven (7) days from notice, furnish the certificates of insurance to the County.

3.2.8 Right to Examine: The County reserves the right, upon reasonable notice, to examine the original or true copies of policies of insurance (including but not limited to binders, amendments, exclusions, riders and applications) to determine the true extent of coverage. The Architect/Engineer agrees to permit such inspection at the offices of the County.

3.2.9 Compliance: Compliance with the requirement of this Article shall not relieve the Architect/Engineer of its liability under any other portion of this Agreement or any other agreement between the County and the Architect/Engineer.

### 3.3 AMENDMENTS:

This agreement shall not be amended, changed, modified, transferred or otherwise altered in any particular manner, at any time after the execution hereof, except by the County Mayor or by appropriate resolution of the BCC. The County may, from time to time, make amendments or modifications to this Agreement to comply with the current needs of the County. All such amendments shall be presented in writing and executed by both parties. The failure or refusal by the Consultant to execute a modification may result in the Consultant's removal from consideration for future work under this program.

### 3.4 SUCCESSORS AND ASSIGNS:

The Architect/Engineer and the County each binds himself/herself, his/her partners, successors, legal representatives and assigns to the other party of the Agreement and to the partners, successors, legal representatives, and assigns of such party in respect to all covenants of this Agreement. The Architect/Engineer shall afford the County the opportunity to approve or reject all proposed assignees, successors or other changes in the ownership structure and composition of the Architect/Engineer. Failure to do so constitutes a breach of this Agreement by the Architect/Engineer.

### 3.5 PROVISION OF ITEMS NECESSARY TO COMPLETE SERVICES:

In the performance of the Services prescribed herein, it shall be the responsibility of the Architect/Engineer to provide all salaries, wages, materials, equipment, sub-consultants and other purchased services, etc., necessary to complete said Services.

### 3.6 SUB-CONSULTANTS:

All services provided by the Sub-consultants shall be pursuant to appropriate agreements between the Consultant and Sub-consultants which shall contain provisions that preserve and protect the rights of the County and the Consultant under this Agreement, and which impose no responsibilities or liabilities on the County except as herein provided.

All Sub-consultants must be active EDP participants, unless exempted in writing by ISD. The Architect/Engineer shall not change any Sub-consultant without prior approval by the ISD in response to a written request from the Architect/Engineer stating the reasons for any proposed substitution. Any approval of a Sub-consultant by the County shall not in any way shift the responsibility for the quality and acceptability by the County of the services performed by the Sub-consultant from the Architect/Engineer to the County. The Architect/Engineer 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 County.

The Architect/Engineer with the County's approval, may employ specialty consultants to assist the Architect/Engineering performing specialized services.

### 3.7 EDP ELIGIBILITY REQUIREMENTS AND WORK ASSIGNMENTS:

In order for Consultants to participate and maintain active EDP status, the Consultant must comply with all of the eligibility requirements as may be amended from time to time by Implementing Order, Administrative Order or EDP Policy and Procedures. Accordingly, as a pre-requisite to the issuance of any service order/work authorization under this agreement, the Consultant must comply with the eligibility requirements contained in Miami-Dade County Ordinance, Implementing Order, Administrative Order and EDP Policy in effect at the time of issuance of the Service Order. The provisions of Administrative Order 3-39, EDP Policy and Procedures as may be amended are incorporated by reference and made a part hereof.

At a minimum, firms will be required to have a place of business in Miami Dade County, with at least one (1) licensed professional A & E professional, have and maintain Pre Qualification certification with Miami Dade County, shall own or control only one (1) firm including affiliates in the EDP as a business owner, alone or as a member of a group, the firm's qualifier must be an employee and can only qualify one (1) firm pursuant to the respective Licensing Governing Boards of the State of Florida. Participants are required to submit reports documenting their gross fees paid and amount distributed to the sub consultants on all the firms new and existing

County contracts, including EDP service orders, submit an affidavit affirming three (3) years past history of dollars awarded and paid for by the County as a prime and/or sub consultant and upon notice, execute the EDP professional services agreement and maintain the required insurance.

Each firm's EDP rotational position for a technical certification category is based on ISD's standard formula to calculate the firm's three prior years net compensation and/or potential compensation for professional services rendered on County projects. Firm longevity factors such as, the number of years in business, number of years with headquarters in the County and number of years in the EDP program may also be considered.

ISD may establish compensation and/or assignment thresholds to achieve a more equal distribution of work.

Consultant's participation in the EDP program may be terminated, revoked, suspended or rescinded, for failure to maintain the eligibility requirements contained in any existing Implementing and or Administrative Orders; maintain required Professional Services Agreement insurance; failure to abide by the established program policy and procedures; or failure to perform under the terms of the service orders in a timely or reasonably competent manner.

3.7.1 Work Assignments: Shall be in accordance with any Ordinance, Resolution, Implementing Order, Administrative Order, and policy and procedure in effect at the time of a Service Order or Work Assignment is issued. Each work authorization shall be negotiated in good faith between the County's departmental representative and the Consultant. In the event that there are special terms and conditions, which apply uniquely to a specific Department, including Federal requirements and guidelines, or work location, these conditions shall be identified in the work authorization and the method of compensation determined and agreed to, prior to proceeding with the work authorization.

User departments submit the work assignment request including a detailed scope of work to ISD for assignment of appropriate design professionals in the EDP.

The user department shall review the qualifications of the prime firms provided by ISD and select the most qualified firm. Provided the prime firm is in compliance with the program mandates, Departments will proceed with negotiating the services. If a prime firm is certified in all of the required technical certification categories, it may perform the required services with its own work force otherwise the prime shall select authorized EDP sub consultant from the firms provided by ISD.

If negotiations fail with the most qualified firm, the user department shall immediately notify ISD of such failure and begin negotiations with the next most qualified firm.

Firms that demonstrate an inability to effectively respond to EDP request for services and adherence to the project schedules will be given written notice to improve their performance. In addition, user department shall evaluate the performance of the EDP consultant upon completion of the service order. Poor performance may result in suspension from the program.

If a Department requires specific expertise within a particular technical certification, ISD is authorized to survey firms within the EDP rotation for the assignment.

Additionally, ISD may, upon the written request of the user department director, approve a specific firm qualified in the appropriate technical areas when deemed in the best interest of the County.

Firms will be required to report to the user agency all fees earned as a prime and/or sub consultant on each EDP assignment.

In the event that any work authorization shall be cancelled or changed, the using agency shall forward such information to the ISD and all affected outstanding fees of each respective firm shall be credited and their position within the EDP Pool shall be adjusted.

3.7.2 Utilization Report (UR): Pursuant to County requirements, Consultants are required to report all monies received and paid for professional services including payments to Sub consultants(s) if applicable to the user agency. The EDP utilization reporting shall be in accordance with ISD Policies and Procedures.

### 3.8 TERM OF AGREEMENT:

The term of this Agreement shall begin upon execution by the parties and 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. This Agreement will expire on or before January 31, 2017.

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

The intent of the parties is that any existing EDP Professional Services Agreement and/or PSA Amendment will not remain in effect for any and all EDP work authorizations issued after the execution of this agreement. Except for open work authorizations issued prior to the execution of this Agreement, this Agreement represents the entire and integrated agreement of the parties and supersedes all prior negotiations, representations, or agreements, written or oral.

3.8.1 Time for Performance: The Architect/Engineer agrees to provide, as part of Basic Services, a detailed schedule, provided in Excel, Microsoft Project, or Primavera formats, acceptable to the County showing the time allocated for each Phase of the Services for each of the Project Elements. A reasonable extension of time for completion of various Phases will be granted by the County should there be a delay on the part of the County in fulfilling its part of the Agreement stated herein. Such extension of time shall not be cause for any claim by the Architect/Engineer for extra compensation.

3.8.2 If an Event of Deficiency occurs, and should there be no resolution to said deficiencies by the Architect/Engineer through the established meetings and agendas, the County shall notify the Architect/Engineer through a formal "Notice of Deficiency", specifying the basis for such deficiency, and advising the Architect/Engineer that such deficiency must be cured immediately or the project assignment may be terminated. The Architect/Engineer can cure and rectify the deficiency, to the County's reasonable satisfaction as confirmed through County's written approval, within thirty (30) days of actual notice of the Notice of Deficiency (the "Cure Period").

Failure to respond or comply with the plan for correction of deficiencies by the Architect/Engineer group within the allotted time shall result in a formal Notice to Cure. This formal Notice To Cure is the County's last step and the Architect/Engineer group's last

opportunity to cure any defects or failures in the Architect/Engineer group's performance prior to the County's formal Termination For Default Notice.

3.8.3 Delay in Performance: If the Architect/Engineer is delayed in performing any obligation under this Agreement due to a force majeure or inevitable accident or occurrence, the Architect/Engineer shall request a time extension from the Department Director within five (5) working days of said force majeure or inevitable accident or occurrence. Any time extension shall be subject to mutual agreement and shall not be cause for any claim by the Architect/Engineer for extra compensation unless additional services are required. Force majeure shall mean an act of God, epidemic, fire, explosion, hurricane, flood or similar occurrence, civil disturbance or similar occurrence, which has had, or may reasonably be expected to have a material adverse effect on the rights and obligations under this Agreement, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above) or the acts or omissions of Sub consultants/subcontractors, etc.

3.8.4 Emergency Response: The Director of the Using Department or his authorized designee, shall issue written authorization to proceed to the Architect/Engineer for each section of the work to be performed at assigned sites. In case of emergency, as determined by the County, the Director reserves the right to issue verbal authorization to the Architect/Engineer with the understanding that a cost proposal shall be submitted by the Architect/Engineer immediately thereafter. The Architect/Engineer shall be given notice (which may be amended from time to time as applicable) regarding persons who are the authorized designees of the Director for the purposes of this Agreement.

### 3.9 TERMINATION OF AGREEMENT:

This Agreement may be terminated upon prior written notice by either party as described herein. The County may terminate this Agreement or any Service Order for cause or for convenience. The Architect/Engineer may terminate this Agreement for cause in the event that the County willfully violates any provisions of the Agreement. The Architect/Engineer shall have no right to terminate this Agreement for convenience of the Architect/Engineer, without cause.

3.9.1 County's Termination for Cause: The County may terminate this Agreement or any Service Order upon seven (7) days written notice for cause in the event that the Architect/Engineer is found not in compliance with the guiding legislation, 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 Architect/Engineer shall spell out the cause and provide reasonable time in the notification to remedy the cause.

In the event the County terminates this Agreement for cause, the County 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 Architect/Engineer shall be liable to the County for any additional cost incurred by the County 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 Architect/Engineer hereunder had the Agreement not been terminated. Upon receipt of written Notice of Termination, the Architect/Engineer shall, when directed by the County, 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.

3.9.2 County's Termination for Convenience: The County, 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 County.

3.9.3 Architect/Engineer's Termination for Cause: The Architect/Engineer may terminate this Agreement upon thirty (30) days written notice for cause in the event that the County violates any provisions of this Agreement. Such written notice to the County shall spell out the cause and provide reasonable time in the notification to remedy the cause. In the event the Architect/Engineer 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".

3.9.4 Implementation of Termination: In the event of termination either for cause or for convenience, the Architect/Engineer, 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 County (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 County, 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.

3.9.5 Compensation for Terminated Work: Compensation for terminated work will be made based on the applicable provisions of the article "Compensation for Services".

### 3.10 INTENT OF AGREEMENT:

3.10.1 The intent of the Agreement is for the Architect/Engineer to provide basic services, and to include all necessary items for the proper completion of such services. for a functional project which, when constructed in accordance with the design, will be able to be used by the County for

its intended purpose. The Architect/Engineer shall perform, as Basic Services, such incidental work, which may not be specifically referenced, as necessary to complete the Project.

3.10.2 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.

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

### 3.11 ANNULMENT:

The Architect/Engineer warrants that: 1) it has not employed or retained any company or person, other than a bona fide employee working solely for the Architect/Engineer, 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 Architect/Engineer 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 County has the right to annul this Agreement without liability to the Architect/Engineer for any reason whatsoever.

### 3.12 SANCTIONS FOR CONTRACTUAL VIOLATIONS:

Proposal and contract documents shall provide that, notwithstanding any other penalties for firms that have discriminated in violation of Article VII of Chapter 11A of the Code, the County may terminate the contract or require the termination or cancellation of the Sub-consultant agreements. 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 or EDP Policy and Procedures may result in the imposition of one or more of the sanctions listed in the A.O.

### 3.13 ACCOUNTING RECORDS OF ARCHITECT/ENGINEER:

The County reserves the right to audit the accounts and records of the Architect/Engineer 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 Architect/Engineer 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 Statute 287.055, 5(a), the A/E 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.

### 3.14 OFFICE OF THE INSPECTOR GENERAL (IG) AND INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL (IPSIG):

The attention of the successful respondent (Consultant or Architect/Engineer) to this Solicitation, herein referred to as the Consultant, is hereby directed to the requirements of MDC Code Section 2-1076; in that 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 Contractor shall make all requested records and documents available to the IG for inspection and copying.

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, as stated in the Special Conditions, this Contract is federally or state funded where federal or state law or regulations preclude such a charge.

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 contractor, 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 contractor 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.

### 3.15 OWNERSHIP OF DOCUMENTS AND COPYRIGHTS:

3.15.1 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, shall become the property of the County; however, the County may grant to the Architect/Engineer an exclusive license of

the copyright to the Architect/Engineer for reusing and reproducing copyrighted materials or portions thereof as authorized by the County in advance and in writing. In addition, the Architect/Engineer shall not disclose, release, or make available any document to any third party without prior written approval from County.

3.15.2 The Architect/Engineer is permitted to reproduce copyrighted material described above subject to written approval from the County.

3.15.3 At the County's option, the Architect/Engineer may be authorized by Service Order to adapt copyrighted material for additional or other work for the County; however, payment to the Architect/Engineer 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.

3.15.4 The County shall have the right to modify the Project or any components thereof without permission from the Architect/Engineer or without any additional compensation to the Architect/Engineer. The Architect/Engineer shall be released from any liability resulting from such modification.

3.15.5 The Architect/Engineer shall bind all Sub-consultants to the Agreement requirements for re-use of plans and specifications.

### 3.16 LAWS AND REGULATIONS:

3.16.1 The Architect/Engineer shall, during the term of this Agreement, be governed by Federal, State and Miami-Dade County Laws, Regulatory Orders, County Codes and Resolutions and Policies and Procedures, which may have a bearing on the Services involved in this Project. The Department will assist the Architect/Engineer in obtaining copies of the Miami-Dade County Codes, Regulatory Orders and Resolutions.

3.16.2 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.

3.16.3 In accordance with Florida Statutes 119.071 (3) (b) 1., entitled "Inspection, Examination, and Duplication of Records; Exemptions", all building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, are exempt from the provisions of subsection (1) and s. 24(a), Article I of the State Constitution. Information made exempt by this paragraph, with prior approval from the Department, may be disclosed to another entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor who is performing work on or related to the project; 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.

3.16.3.1 In addition to the above requirements in this sub-article, the Architect/Engineer 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 each employee of the Architect/Engineer 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 County.

**3.16.4 SUBCONTRACTORS–RACE, GENDER AND ETHNIC MAKEUP OF OWNERS AND EMPLOYEES** Pursuant to Sections 2-8.1, 2-8.8 (as amended by Ordinance No. 11-90) and 10.34 of the County Code, for all EDP assignments which involve the expenditure of one hundred thousand dollars (\$100,000) or more, the entity contracting with the County must report to the County (1) the race, gender and ethnic origin of the owners and employees of its first tier subcontractors/sub consultants using the Subcontractor/Supplier Listing form and (2) payments made to all first tier subcontractors/sub consultants under the contract using the Subcontractors Payment Report. In the event that the successful bidder demonstrates to the County prior to award that the race, gender and ethnic information is not reasonably available at that time, the successful bidder shall be obligated by contract to exercise diligent efforts to obtain that information and to provide the same to the County not later than ten (10) days after it becomes available and, in any event, prior to final payment under the contract.

**3.17 CORRECTIONS TO CONTRACT DOCUMENTS:**

The Architect/Engineer shall prepare, without added compensation, all necessary supplemental documents to correct errors, omissions, and/or ambiguities which may exist in the Contract Document prepared by the Architect/Engineer including the documents prepared by its Sub-consultants. Compliance with this Article shall not be construed to relieve the Architect/Engineer from any liability resulting from any such errors, omissions, and/or ambiguities in the Contract Documents and other documents or Services related thereto.

**3.18 WARRANTY:**

The Architect/Engineer warrants that the Services furnished to the County under this Agreement shall conform to the quality expected of and usually provided by the profession in the state of Florida applicable to the design and construction of public and commercial facilities.

**3.19 COUNTY REPRESENTATIVE:**

The County will assign a Project Manager to the Project to coordinate all County responsibilities under this Agreement. All instructions from the County to the Architect/Engineer shall be issued by or through the Project Manager. The Architect/Engineer shall promptly inform the Project Manager in writing of any instructions received from others and of any other circumstances which arise that might affect the performance of the Services or of the Work.

**3.20 ENTIRETY OF AGREEMENT:**

This Agreement represents the entire and integrated Agreement between the County and the Architect/Engineer 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.

**3.21 NON-EXCLUSIVITY:**

Notwithstanding any provision of this Non-Exclusive Agreement, the County is not precluded from retaining or utilizing any other Architect, Engineer, Design Professional or other Architect/Engineer to perform any incidental Basic Services, Additional Services or other Professional Services within the contract limits defined in the agreement. The Architect/Engineer shall have no claim against the County as a result of the County's electing to retain or utilize such other Architect, Engineer, Design Professional or other Architect/Engineer to perform any such incidental Services.

**3.22 BABY DIAPER CHANGING ACCOMMODATIONS:**

Architect/Engineer agrees to incorporate as part of any design for this project baby diaper-changing accommodations accessible to both women and men, in accordance with Miami-Dade County Resolution No. R-1337-98.

### 3.23 CONTINUED ENGAGEMENT OF CRITICAL PERSONNEL:

In accordance with County Resolution No. 744-00, the Architect/Engineer shall identify as part of the proposal the specific technical or professional personnel to perform the necessary services and will be made part of the work authorization. Such personnel shall not be replaced except when Miami-Dade County determines, in its discretion, that the proposed replacement personnel has equal or greater qualifications or capabilities to perform the necessary services.

### 3.24 ARCHITECT/ENGINEER RESPONSIBILITY:

3.24.1 The Architect/Engineer is responsible for the professional quality, technical accuracy, completeness, performance and coordination of all work required under the Agreement including the work performed by its agents, servants, partners, principals, officers, employees, instrumentalities and Sub-consultants, within the specified time period and specified cost. The Architect/Engineer shall perform the work utilizing the skill, knowledge and judgment ordinarily possessed and used by a proficient consulting Architect/Engineer with respect to the disciplines required for the performance of the work in the State of Florida. The Architect/Engineer is responsible for, and represents that the work conforms to County's requirements as set forth in the Agreement. The Architect/Engineer shall be and remain liable to the County for all damages to the County caused by the Architect/Engineer's negligent acts or errors or omissions in the performance of the work. In addition to all other rights and remedies, which the County may have, the Architect/Engineer shall, at its expense, re-perform the services to correct any deficiencies, which result from the Architect/Engineer's failure to perform in accordance with the above standards. The Architect/Engineer shall also be liable for the replacement or repair of any defective materials and equipment and re-performance of any non-conforming construction services resulting from such deficient Architect/Engineer services for a period from the commencement of this Agreement until twelve (12) months following final acceptance of the Work and for the period of design liability required by applicable law. The County shall notify the Architect/Engineer in writing of any deficiencies and shall approve the method and timing of the corrections. Neither the County's inspection, review, approval or acceptance of, nor payment for, any of the work required under the Agreement shall be construed to relieve the Architect/Engineer or any Sub-consultant of its obligations and responsibilities under the Agreement, nor constitute a waiver of any of the County's rights under the Agreement or of any cause of action arising out of the performance of the Agreement. The Architect/Engineer and its Sub-consultants shall be and remain liable to the County in accordance with applicable law for all damages to County caused by any failure of the Architect/Engineer or its Sub-consultants to comply with the terms and conditions of the Agreement or by the Architect/Engineer's or Sub-consultants' misconduct, unlawful acts, negligent acts, errors or omissions in the performance of the Agreement. With respect to the performance of work by Sub-consultants, the Architect/Engineer shall, in approving and accepting such work, ensure the professional quality, completeness, and coordination of Sub-consultant's work.

3.24.2 The Architect/Engineer shall be responsible for deficient, defective services and any resulting deficient, defective construction services re-performed within twelve (12) months following final acceptance and shall be subject to further re-performance, repair and replacement for twelve (12) months from the date of initial re-performance, not to exceed twenty-four months (24) from final acceptance.

### 3.25 ARCHITECT/ENGINEER 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 Architect/Engineer is advised that at a minimum, a performance evaluation of the services rendered throughout this Agreement at the conclusion of the services rendered, will be completed by the County and kept in Miami-Dade County files for evaluation of future solicitations.

### 3.26 ETHICS LANGUAGE:

Pursuant to Sec. 2-11.1(w) of the Code of Miami-Dade County, the Ethics Commission has jurisdiction over contractors and vendors. The Architect/Engineer must provide the Ethics Commission with a written report regarding its compliance with any restrictions contained in the advisory opinion issued by the Ethics Commission to the ENGINEER, Sub-consultants or teams members within ninety days of the issuance of each service order. The reports must be submitted to Robert Myers, Executive Director, Commission on Ethics and Public Trust, 19 West Flagler Street, Suite 207, Miami, FL 33130."

### 3.27 FINANCIAL DISCLOSURE:

The Architect/Engineer 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, 2700 NW 87<sup>th</sup> Avenue, Miami, Florida 33172 and every year thereafter by noon July 1<sup>st</sup>.

- A. A source of income statement
- B. A current certified financial statement
- C. A copy of the Architect's/Engineer's current Federal Income Tax Return

## **ARTICLE 4 - BASIC SERVICES**

### 4.1 START OF WORK:

No Services under this Agreement shall be performed by the Architect/Engineer prior to the receipt of an appropriate Service Order. Each Service Order shall specify whether the Services detailed therein are part of Basic Services, Additional Services, or Work Site Services.

### 4.2 BASIC SERVICES SCHEDULE AND SUMMARY:

The Architect/Engineer agrees to furnish or cause to be furnished to the extent authorized by Service Order all architectural and engineering professional services, as further specified below, designated as Basic Services, in the Phases delineated and described herein unless modified by the Service Order, for the design, construction Work Related Services, and satisfactory completion of the Project. The Architect/Engineer shall be responsible for correction of any errors, omissions and/or ambiguities, as determined by the County/Project Manager, resulting from the Services.

The Florida Building Code may be amended from time-to-time during the term of this agreement and is hereby made a part of this agreement by reference. It is also expressly understood by both parties to this agreement that where this agreement references specific sections of the Code, and should the numbering of those referenced sections be changed in the Code during the term of this agreement or any extensions thereto, the references shall continue to the new numbering scheme in the Code.

#### 4.2.1 ARCHITECTURAL BASIC SERVICES:

The Consultant agrees to provide complete professional architectural services as set forth in the five Phases enumerated hereinafter, inclusive but not limited to, programming/planning activities, schematic design, design services, construction documents development, bidding and award of contract and warranty, as required per work authorization assignment. The Consultant shall maintain an adequate staff of qualified personnel on the work at all times to ensure its performance as specified in the applicable authorization to proceed within the time and budget allowed. These services are hereinafter referred to as "Basic Services".

4.2.1.1 Phase I - Programming and or Studies and Schematic Design, Phase II - Design Development, Phase III - Construction Documents Development, Phase IV - Bidding and Award of Contract and Phase V - Administration of the Construction Contract and Warranty Phase (one year after the completion of construction). These are defined as basic services as applicable depending of the type of service requested. The Consultant shall confer with the using agency to establish the program requirement for each work assignment. A statement of Probable Construction Costs shall be prepared by the Consultant at the conclusion of Phases I through III, or as dictated by the using agency. The estimate shall include a detailed breakdown of the estimated cost of the project and shall be submitted in CSI format using the standard 16 Divisions. Costs shall be adjusted to the projected bid date.

4.2.1.2 The Consultant shall proceed with the work upon issuance of a work authorization by the County. The Consultant shall confer with representatives of the County to establish, as applicable, a detailed scope of services and deliverables within the allocated funds. If the statement of Probable Construction Costs exceeds allocated funds, the Consultant shall, at no additional cost to the County, prepare recommendations for reducing the scope of the project and re-design as necessary in order to bring the estimated costs within allocated funds.

4.2.1.3 The Consultant shall submit a reproducible set of all documents in electronic format acceptable to the using agency and a minimum of two and a maximum of five hard copies of documents (as determined by the using agency) required under each Phase, without additional charge, for review and approval by the County. The Consultant shall not proceed with the next Phase of the project until issuance of a work authorization by the County.

The Consultant shall, at the earliest practicable time during the performance of the services, "dry-run" for building permit his construction documents, for approval by County, State and/or Federal authorities having jurisdiction over the project, as applicable. The Consultant shall pay for all required dry run processing fees that will be reimbursed through a reimbursable expenses work authorization for "dry-run" permit fees paid to authorities having jurisdiction over the work. When such fees may be paid by journal entry to Miami-Dade County Agencies, the County shall provide to the Consultant such authorization as may be necessary to avoid "out-of-pocket" expense to the Consultant.

4.2.1.4 Approval of Bid Documents: Upon obtaining all necessary approvals of the construction documents, from authorities having jurisdiction, acceptance by the County of the Bid Documents and latest Statement of Probable Construction Cost, the Consultant shall assist the County in obtaining bids, preparing and awarding the construction contract as applicable. The Architect/Engineer shall also participate in pre-bid conference(s) and attend the Bid opening.

4.2.1.5 The Consultant shall assist the County in evaluation of bids and determining the responsiveness of the bids. If the lowest responsive and responsible Base Bid received exceeds the Total Allocated Funds for Construction, the County may:

- a. Approve the increase in the project budget and award a contract;
- b. Reject all bids and re-bid the project within a reasonable time with a reduced scope at no additional compensation to the Consultant;
- c. Direct the Consultant to revise the scope and/or quality of construction, and re-bid the project. If the bid price exceeds total allocated funds by more than 10% the Consultant shall, without additional compensation, modify the Construction Documents as necessary to bring the Probable Construction Cost based on such revisions within the Total Allocated Construction Funds. The County may recognize exceptional construction market cost fluctuations before exercising this option;
- d. Suspend or abandon the project.

4.2.1.6 When applicable, the Construction Phase will begin with the award of a construction contract and will end when the County approves the Contractor's final Project Payment Certificate.

4.2.1.7 The Consultant, as the representative of the County during the Construction Phase, shall advise and consult with the County and shall have the authority to act on behalf of the County to the extent provided in the construction contract.

4.2.1.8 The Consultant and his/her Sub-consultants shall visit the site to conduct field inspections, on a regular basis, and at all key construction events; frequency determined by the using agency, to ascertain the progress of the project and determine, in general, if the work is proceeding in accordance with the contract documents. The Consultant and his/her Sub-consultants will not be held responsible for the Contractor's or Subcontractors', or any of their agents' or employees' failure to perform the work in accordance with the contract unless such failure of performance results from the Consultant's acts or omissions.

4.2.1.9 The Consultant shall be the interpreter of the requirements of the contract documents. The Consultant shall make recommendations on all claims of the County or the Contractor, payments due the Contractor relating to the execution and progress of the work and all other matters or questions related thereto.

4.2.1.10 The Consultant shall have the authority to recommend rejection of work,

which does not conform, to the contract documents.

4.2.1.11 The Consultant shall examine the work upon receipt of the "Contractor's Request for Substantial Completion Inspection" and shall, prior to occupancy by the County, recommend execution of a "Certificate of Acceptance for Substantial Completion" after first ascertaining that the project meets minimum requirements for substantial completion in accordance with the contract requirements and preparing a "Punch List" of any defects and discrepancies in the work. The Consultant shall recommend execution of a "Certificate of Final Acceptance" and final payment to the Contractor only on satisfactory completion of all items on the "Punch List" and receipt of all necessary closeout documentation from the Contractor, including but not limited to all guarantees, operating and maintenance manuals, releases of claims and such other documents and certificates required by applicable codes, laws, and the contract documents, and deliver them to the County.

4.2.1.12 The Consultant shall furnish to the County the original documents revised to "record drawings and specifications" condition. The original documents as well as the "Field Record Set" shall become the property of the County.

#### 4.2.2 ENGINEERING BASIC SERVICES

The Consultant agrees to provide complete professional engineering services as set forth hereinafter, inclusive but not limited to all basic services requirements. The Consultant shall maintain an adequate staff of qualified personnel on the work at all times to ensure its performance as specified in the applicable authorization to proceed within the time and budget allowed. These services are hereinafter referred to as "Basic Services".

4.2.2.1 Preparing engineering studies and summary reports including necessary sketches and photography. Preparing hydro-geological studies, including modeling services, pilot plant and process studies.

4.2.2.2 Cooperate fully with the County to inform all utility owners with facilities in the vicinity of the proposed work and provide information relative to any required utility adjustments or relocations if required. The Engineer will assist the County in conducting a utility coordination meeting with utility owners to resolve all utility conflicts and other utility issues if required. The Engineer shall provide adequate design and coordination to accommodate utilities in order to avoid claims and delays resulting from Engineer's errors or omissions during construction.

4.2.2.3 The Architect/Engineer shall furnish or cause to be furnished all professional design services prescribed in this Agreement and all other services normally required. Services shall also include:

- a. the design of interface facilities for Art-in-Public Places and the coordination of such design with the appropriate agencies;
- b. the design of interim/temporary facilities included in the Project Budget, with the necessary associated facilities to accommodate operations, pedestrian

and/or vehicular traffic, tenants or concessionaires, as needed during construction.

4.2.2.4 It shall be the responsibility of the Architect/Engineer to follow and be responsive to the technical and schedule guidance and oversight furnished by the Project Manager.

4.2.2.5 Throughout all Phases of the Basic Services, the Architect/Engineer shall coordinate its Services with other County provided consultants.

4.2.2.6 Throughout all phases of the Basic Services, all drawings shall be produced by computer and the electronic submittal required under this contract shall consist of the digital plot files and digital working files in AUTOCAD Map 2000i format with files maintained on compact disks or as otherwise requested by the contracting department.

County retains all rights to further use of all electronic drawings as well as blocks, line-types, layering convention and any other information contained in the electronic drawings that are needed to reproduce the drawings in the construction document set. If another software package is used to produce the drawings, the A/E is responsible for the conversion to an AUTOCAD format as stated above and must fix any anomalies in the electronic drawing before submitting the electronic drawings and submit all drawings utilizing County drawing layer scheme. This information can be obtained through County's Technical Support.

4.2.2.7 The Engineer shall submit hard and electronic format (as specified herein or otherwise by County) copies of all documents required under each Phase for review, comments and approval by the County. The number of copies and the distribution of those copies shall be specified in the Service Order for each Phase.

4.2.2.8 The Engineer's Probable Construction Cost (including construction contingency allowance), listed by specification sections or unit prices, shall include any adjustments necessary for projected award dates, changes in requirements, or general market conditions. No further progress payment shall be made should the Probable Construction Cost in any phase exceed the Budget, until an alternate design is provided at no additional compensation, to bring the cost within the Project Budget limitations.

4.2.2.9 Project Budget: The Engineer shall examine in detail, the estimated construction costs furnished by the County. Should this cost verification reveal serious discrepancies and/or deficiencies which would impact the Project and its subsequent stages of development, the Architect/Engineer shall inform the County in writing as to the adequacy of the funds required to complete the Project through the construction phase.

#### 4.3 MEETINGS:

4.3.1 As part of providing the Basic Services, the Architect/Engineer shall attend all meetings wherein information relating to the Basic Services is discussed, and shall provide consultation to

the County regarding such information. These meetings shall include, but shall not necessarily be limited to, regularly scheduled monthly meetings concerning design coordination, and such other meetings, whether regularly scheduled or specially called, as may be necessary to enable the Architect/Engineer to coordinate his Services with, and provide information to and/or obtain information from, the County, its Architect/Engineer and contractors, 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 County, the Architect/Engineer shall prepare and disseminate in a timely manner meeting notices and agenda, briefing materials, meeting minutes, meeting reports, etc., appropriate to such meetings.

Should the Architect/Engineer fail to perform these services in a timely manner or in accordance with the requisite standard of care and cause a delay in the progress of the Work, the Architect/Engineer shall be responsible for any resulting damages to the County.

## **ARTICLE 5 - ADDITIONAL AND WORK SITE SERVICES**

### **5.1 AUTHORIZATION:**

Any Services beyond the requirements for Basic Services shall be performed by the Architect/Engineer upon receipt of a Service Order issued by the County. The County reserves the right to have any or all of the Services listed below performed by consultants other than the Architect/Engineer. The Architect/Engineer shall have no claim to any of these Services except as authorized by the County with a Service Order.

### **5.2 ADDITIONAL SERVICES:**

Additional Services listed below are beyond the requirements for Basic Services under this Agreement and shall be performed upon receipt of a Service Order, and will be compensated for as provided under Article 8, Section 8.02.

5.2.1 Special analyses of the needs of the County related to financial feasibility, or other special studies not otherwise necessary for the satisfactory performance of the Basic Services.

5.2.2 Incorporation of any User recommendations, as approved by the County, into drawings subsequent to Phase 2.

5.2.3 Any Services requested in writing by the County performed after acceptance of Phase 2 documents by the County relative to future facilities, systems and equipment but not intended to be included in the Contract Documents.

5.2.4 Services with respect to verification of County supplied information that cannot be made visually or by careful review of the available information, but which requires extraordinary investigation, such as excavation, demolition or removal, as well as investigations and the development of additional information, as agreed to by the County, required as a result of deficiencies in the as-built conditions, utility information, survey information and/or soils investigation which are deemed necessary to provide a satisfactory basis on which to perform the Basic Services.

If any independent engineering, testing laboratory or surveyor is employed by the Architect/Engineer to perform any or all of the requested additional services, the Architect/Engineer shall obtain the County's approval of the use of and the fees for such

independent engineering, testing laboratory or surveyor prior to commencing such work. Verification of the work performed by such Sub-consultant(s) and the cost associated therewith shall be the sole responsibility of the Architect/Engineer and not compensable by the County.

5.2.5 Extra work required, as directed by the County, to break the Project into more bidding packages than specified in herein or Article 9 “Special Provisions” of this Agreement, including making studies and advising the County of the number and type of construction contracts, taking into consideration phasing and coordination of work with the Contractors, cost impact, and the requirements and needs of the County and Users (if applicable).

5.2.6 Participation in the execution of changes during performance of the Work provided such changes are not a result, directly or indirectly, of errors, omissions and/or ambiguities in the services rendered by the Architect/Engineer, including Sub-consultants engaged by the Architect/Engineer. Such participation shall include but shall not be limited to: revisions to plans, specifications and other Contract Documents as necessary; preparation of Change Orders, Work Orders, Bulletins, and other appropriate documentation; assistance to the Project Manager and the County in negotiations with the Contractor(s) with respect to all changes in the Work; recommendation to the County of alternate designs (including cost impact) where change is contemplated; and any additional Work Related Services resulting from such changes.

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

5.2.8 Extended assistance requested in writing by the County beyond that provided under Basic Services for start-up, testing, adjusting, balancing and acceptance by the County of any equipment or system; extended training of County personnel in operation and maintenance of equipment and systems; and preparation of operating and maintenance manuals, other than those provided by the Contractor, subcontractors, or manufacturer, in accordance with the Contract Documents.

5.2.9 Consultation concerning replacement of any work damaged by fire or other disaster during construction, and professional services in connection with replacement of such work.

5.2.10 Preparing to serve or serving as an expert witness at the request and on behalf of the County, in connection with the Project or any Project Element or component thereof, except in situations where such service is a result of the Architect/Engineer’s errors, omissions or ambiguities.

5.2.11 Professional services required after acceptance of the Work by the County except as otherwise required under Basic Services.

5.2.12 Professional services made necessary by the default of the Contractor or by major defects in work performed under the construction Contract that have not resulted from a fault of the Architect/Engineer.

5.2.13 Environmental services beyond that which is required to verify County supplied information or that is beyond the scope of the Basic Services herein.

5.2.14 Environmental Remediation engineering services. These services will be negotiated, authorized and paid as Additional Services; however, the incorporation of standard details and/or technical specifications provided by County into the Contract Documents does not constitute Additional Services.

5.2.15 Services required to participate in or otherwise assist the County during bid protests or negotiations with the bidder(s) after bid opening but before the award of the Contract with the Contractor.

5.2.16 Preparation of reports, which are not a requirement of Basic Services, and participation in meetings during construction, should the County elect not to take the option for Work Related Services or Work Site Services; provided, however, that such meetings and reports are not a result, directly or indirectly, of errors, omissions, and/or ambiguities in the services rendered by the Architect/Engineer, including Sub-consultants engaged by the Architect/Engineer.

5.1.17 The services of a full-time field representative(s) during construction, including the services of a special/threshold inspector.

5.1.18 Interior design services

5.1.19 Services not listed shall be reviewed on a case-by-case basis and shall be approved in advance by the Director or his/her designee.

5.2.20 Construction inspection services for roadway, sidewalk, drainage, resurfacing and other similar inspection services projects. The consultants' responsibilities include, but are not limited to overseeing, coordinating and inspecting the work of design consultants, surveyors and construction contractors, and may include contract monitoring and record keeping, approving and recommending requisitions for compensation and assuring compliance with all local, state and federal regulations, on behalf of Miami-Dade County.

### 5.3 WORK SITE SERVICES:

At the sole option of the County and after receipt of a Service Order specifically authorizing such Services, the A/E shall provide Work Site Services as set forth herein. In discharging such Services, the Architect/Engineer shall provide an on-site resident Field Representative(s) approved by County who shall act as the agent of the Architect/Engineer. The Work Site Services shall be defined by Service Order, performed in accordance with Construction Inspection Services Manual, and agreed to by the Architect/Engineer and County inclusive of but not limited to:

- a. work site representation services covering administrative assistance to the Owner and construction inspection services during preconstruction, construction and closeout of a Project;
- b. special inspections;
- c. building and zoning inspection services covering the construction inspections required under the Florida Building Code;

The Consultant may be required to provide all day-to-day management of any or all of these services. The Owner will maintain oversight control of all construction activities through the Project Manager.

Those assignments that may be classified as work site representation services shall be performed in accordance with this contract and the respective department/agency construction inspection services manual and procedures. Those assignments that may be classified as either special inspections, threshold building inspections, or building and zoning inspections, shall be performed in accordance with the Florida Building Code (the Code). Each service order shall specify the type of service to be performed.

The Florida Building Code may be amended from time-to-time during the term of this agreement and is hereby made a part of this agreement by reference. It is also expressly understood by both parties to this agreement that where this agreement references specific sections of the Code, and should the numbering of those referenced sections be changed in the Code during the term of this agreement or any extensions thereto, the references shall continue to the new numbering scheme in the Code.

The Architect/Engineer shall fulfill all other requirements and duties, not a part of the Basic Services, imposed on the Architect/Engineer by the Contractor Documents or through Service Order by direction of County.

Should the Architect/Engineer fail to perform these Work Site Services in a timely manner and cause a delay in the progress of the Work, the Architect/Engineer shall be responsible for any resulting damages to the County.

#### 5.4 EMERGENCY RESPONSE:

The Director of the Miami-Dade County Agency or his authorized designee (hereinafter referred to as the "Director"), shall issue written authorization to proceed to the Consultant for each section of the work to be performed at assigned sites. In case of emergency, as determined by the County, the Director reserves the right to issue verbal authorization to the Consultant with the understanding that a cost proposal shall be submitted by the Consultant immediately thereafter. The Consultant shall be given notice (which may be amended from time to time as applicable) regarding persons who are the authorized designees of the Director for the purposes of this Agreement.

### ARTICLE 6 - SUB-CONSULTANTS

#### 6.1 SUB-CONSULTANTS' RELATIONS:

6.1.1 All services provided by the Sub-consultants shall be pursuant to appropriate agreements between the Consultant and Sub-consultants which shall contain provisions that preserve and protect the rights of the County and the Consultant under this Agreement, and which impose no responsibilities or liabilities on the County except as herein provided.

6.1.2 The Consultant shall not change any Sub-consultant without the County's approval. The Consultant shall submit a written request stating the reasons for the proposed change and be routed through the using agency's project manager or department head for approval.

6.1.3 All Sub-consultants shall be participants in the EDP. The Consultant shall utilize Sub-consultants from the EDP. In the event that a specialty sub-consultant is required and not a

participant in the EDP, ISD may approve a non-participant consultant.

## **6.2 PROJECT MANAGEMENT:**

6.2.1 The ISD Director, or his/her designee shall act on behalf of the County in all matters pertaining to this Agreement. The Director for the County Agency requesting the services or his/her designee shall act on behalf of the County in all matters related to the specific work assignment and shall approve all work authorizations to the Consultant and all invoices for payment to the Consultant.

6.2.2 The Consultant shall have general responsibility for management of the work authorization assignment through all Phases of the work included in this Agreement. The Consultant shall meet with the designated County Department or Using Agency associated with the work authorization assignment to establish and/or review programmatic requirements and scope of project.

## **ARTICLE 7-EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION**

### **7.1 EQUAL EMPLOYMENT OPPORTUNITY:**

7.1.1 The Architect/Engineer 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 Architect/Engineer 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.

7.1.2 The Architect/Engineer 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 Architect/ Engineer 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.

7.1.3 The Architect/Engineer 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.

### **7.2 NONDISCRIMINATORY ACCESS TO PREMISES:**

The Architect/Engineer, 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 Architect/Engineer 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.

### 7.3 BREACH OF NONDISCRIMINATION COVENANTS:

In the event it has been determined that the Architect/Engineer has breached any enforceable nondiscrimination covenants contained in Section 7.1 Employment Discrimination and Section 7.2 Nondiscriminatory Access to premises above, pursuant to the complaint procedures contained in the applicable Federal regulations, and the Architect/Engineer 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.

### 7.4 NONDISCRIMINATION:

During the performance of this Agreement, the Architect/Engineer agrees as follows: The Architect/Engineer shall, in all solicitations or advertisements for employees placed by or on behalf of the Architect/Engineer, 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 Architect/Engineer 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 Architect/Engineer 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 Architect/Engineer'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 Architect/Engineer 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 Architect/Engineer will include Section 7.1 Employment Discrimination and Section 7.2 Nondiscriminatory Access to Premises of this Article in Architect/Engineer 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 Architect/Engineer 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 Architect/Engineer 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 Architect/Engineer may request the United States to enter into such litigation to protect the interests of the United States.

### 7.5 DISABILITY NONDISCRIMINATION AFFIDAVIT:

By entering into this Agreement with the County and signing the Disability Nondiscrimination Affidavit, the Architect/Engineer 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 Architect/Engineer or any owner, subsidiary or other firm affiliated with or related to the Architect/Engineer 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 Architect/Engineer submits a false affidavit pursuant to this Resolution or the Architect/Engineer violated the Act or the Resolution during the term of this Contract, even if the Architect/Engineer was not in violation at the time it submitted its affidavit.

#### 7.6 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 Department of Business Development. 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 Business Development. 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.

### ARTICLE 8 - COMPENSATION FOR SERVICES

#### 8.1 BASIC SERVICES FEE:

The County agrees to pay the Consultant, and the Consultant agrees to accept for Basic Services rendered pursuant to this Agreement, fees computed by one of the methods outlined under Sections 8.1, 8.2, and 8.3, of this Agreement.

##### 8.1.1 Percentage of Construction Cost

8.1.1.1 A fee of (negotiated per work authorization) % based on the "Applicable Construction Cost Factor", as defined below, for construction of the work assignment, said percent being hereinafter called the "Basic Fee". If the County authorizes an increase in the scope of the project or the Total Allocated Funds for construction of the project, the Basic Fee will be adjusted.

- a. The "Applicable Construction Cost Factor" shall be the Total Allocated Construction Funds or the Consultant's estimate of Probable Construction Cost, whichever is lower, less the Construction Contract Allowances, as identified on the work authorization.

- b. The "Applicable Construction Cost Factor" for Phase V shall be the "Actual Construction Cost". The "Actual Construction Cost" does not include any unused portion of the Construction Contract Allowances, compensation of the Consultant, the cost of land, rights-of-way, works of art, and other costs, which are the responsibility of the County.

8.1.1.2 When a portion or all of the Construction Contract Allowances are utilized for authorizing changes to the construction contract, or a Change Order is required to increase the work authorization amount the Consultant will be authorized an adjustment to the Basic Services Fee as provided herein. The Consultant shall be paid for changes to the work not attributable to errors in the construction documents at the rate stipulated pursuant to the percentage fee. The Consultant shall not be paid fees for any changes attributable to errors and omissions. County requested changes shall be paid for at the rate stipulated for the percentage fee. Such compensation adjustments shall be authorized upon completion of Phase V of the project.

#### 8.1.2 Fixed Sum

8.1.2.1 The Dollar Sum (negotiated per work authorization). Said sum hereinafter called the "Basic Fee" or total "Basic Compensation".

8.1.2.2 If the Total Allocated Funds for Construction of the project (including construction allowances), are increased or decreased by more than 20% or the scope of work for this project is significantly changed, inconsistent with previous approvals, the fixed fee shall be subject to re- negotiation. However, such fee adjustment will not be made retroactively to a phase, which had been completed and approved.

8.1.2.3 When a portion or all of the Construction Allowances are utilized for authorizing changes to the work authorization, the Consultant shall not be entitled to additional compensation unless the scope of work for this project is significantly changed, inconsistent with previous approvals.

8.1.2.4 If a Change Order to the work authorization is required to modify the scope of work, the Consultant will be authorized an adjustment to the Basic Services Fee as provided herein, at the rate equal to the percentage represented by the total basic services fee to the Construction Amount at award of the construction contract. County requested changes shall be paid for at the rate equal to the percentage represented by the total basic services fee to the Construction amount at award of the Construction contract. Such compensation adjustments shall be authorized upon completion of Phase V of the project.

#### 8.1.3 Multiple of Direct Salary Expense

8.1.3.1 Fees calculated on an hourly basis shall be a multiple of (2.9) times the salary rate of the personnel directly engaged on the project and in no case shall the maximum billable hourly (including multiples) exceed (\$ 140.00) per hour for prime and Sub-consultant except as specifically provided herein.

The rate for personnel shall be as determined from the salaries reported to the Director of the Internal Revenue Service. If a full-time project Field Representative is required the

multiple shall not exceed ( 2.2 ). Said fee shall be full compensation for supervision, overhead and profit.

8.1.3.2 Personnel directly engaged on the project by the Consultant may include Architects, Engineers, Designers, Job Captains, Draftspersons, Specification Writers, Field Accountants, Project Managers, Schedulers, and Inspectors engaged in construction, research, design, production of drawings, specifications and related documents, construction inspection

and other services pertinent to the project during all phases thereof.

8.1.3.3 Multiple of Direct Salary Expense services fees shall not include charges for office rent or overhead expenses of any kind, including local telephone and utility charges, office/drafting supplies, depreciation of equipment, professional dues, subscriptions, reproductions of drawings and/or specifications, mailing, stenographic, clerical, or other employee time or travel. The multiple factor set forth above shall cover all such costs pertinent to the project. Authorized reproduction costs in excess of that required at each Phase of the Work shall be considered a Reimbursable Service as defined in Article 9 of this Agreement.

8.1.3.4 Fee for Design of Additive Alternates authorized by the County will be considered a Basic Service, and the fee for these alternates, will be calculated by one of the three methods outlined above and as mutually agreed by the County and the Consultant.

8.1.3.5 Fee for work authorized from the Construction Contingency Allowance shall be authorized as provided in Article 8.1, 8.2 and 8.3.

8.1.3.6 Fee for Change Orders for work authorized from Construction Allowances shall be authorized as provided in Article 8.1, 8.2 and 8.3.

8.1.3.7 Payments of the Construction Administration Services Fee, Phase 5, shall be made in monthly installments.

8.1.3.8 In the event that Prolonged Period of Construction Administration Services, Phase 5, of Basic Services becomes necessary, payment for the Prolonged Period of Work Related Services shall be the same amount as the monthly installment payments for Work Related Services. Payments for Prolonged Period of Work Related Services shall begin once the original contract time has been exceeded by 20% if such extended time is due to no fault of the Architect/Engineer.

## 8.2 PAYMENT FOR ADDITIONAL AND WORK SITE SERVICES:

The fee for Additional and Work Site Services authorized in accordance with the article "Additional and Construction Administration Services" of this Agreement will be computed by one of the following methods as mutually agreed to by the County and the Architect/Engineer:

Fixed Lump Sum

Multiple of Direct Salaries

8.2.1 Fixed Lump Sum: Under this compensation basis, the Architect/Engineer agrees to perform specifically described services for an agreed fixed dollar amount of compensation.

8.2.2 Multiple of Direct Salaries: Under this compensation basis, the Architect/Engineer is compensated for the time of personnel engaged directly in performing Services under this Agreement. The compensation to be paid shall consist of the Direct Salaries of such personnel, as reported to the Director of the United States Internal Revenue Services, times a multiple of such Direct Salaries. All payments on the Multiple of Direct Salaries basis shall be in accordance with the payment for Additional Services section of this Article. A not-to-exceed cap for the total fee for assignments given under this compensation basis shall be established prior to the issuance of the initial Services Order.

8.2.3 The Fee to the Architect/Engineer for Additional, Work Site Services or Inspection Services based on a Multiple of Direct Salaries shall be determined as follows:

8.2.4 Compensation for all other personnel shall be in accordance with Article 8.1.3. The maximum rate of compensation for personnel including the multiple of direct salary shall not exceed \$ (140.00) per hour.

8.2.5 In the event the Department authorizes the Architect/Engineer to perform Work Site Services, compensation shall be at a multiple of (2.2) times the Direct Salaries. The maximum rate of compensation for personnel including the multiple of direct salary shall not exceed \$ (140.00) per hour.

8.2.6 Compensation for authorized overtime services shall be a multiple of (1.5) times the premium pay portion of the overtime services.

8.2.7 Architect/Engineer shall not invoice County 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 County), 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.

8.2.8 When Additional Services and Work Site Services are authorized as a Multiple of Direct Salaries, the Architect/Engineer shall submit the names, classification, salary rate per hour, applicable multiple, hours worked, and total charge for all personnel directly engaged on the project.

### 8.3 PAYMENT FOR REIMBURSABLE EXPENSES:

Reimbursable Expenses as described in the article "Reimbursable Expenses" of this Agreement will be reimbursed based on a direct cost basis by the County as verified by appropriate bills, invoices or statements.

### 8.4 INVOICES AND METHODS OF PAYMENT:

The Architect/Engineer 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 and eligible for payment based upon the earned value measurement procedure contained in this agreement. 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 Architect/ Engineer will meet monthly with the Project Manager to verify that the Architect/Engineer's reported progress and earned value is in accordance with the accepted project schedule. Monthly progress payments will be based on the monthly meeting with the Project Manager.

Provided there are no problems with an invoice, as determined by the Project Manager, 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. 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.

#### 8.5 PAYMENT TO SUB-CONSULTANTS:

All payments to Sub-consultant(s) employed hereunder shall be the sole responsibility of the Architect/Engineer unless otherwise provided for herein or within a Service Order. The Architect/Engineer 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 Architect/Engineer to the County. The Architect/Engineer 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 Architect/Engineer, payable to such Sub-consultant(s). The Architect/Engineer shall make all payments to such Sub-consultant(s) promptly following receipt by Architect/Engineer of corresponding payment from the County. Prior to any payments to Sub-consultant(s), the Architect/Engineer shall, if requested by the Project Manager, furnish to the County a copy of the agreement(s) providing for such payments.

#### 8.6 CONSEQUENCE FOR NON-PERFORMANCE:

Should the Architect/Engineer fail to perform its services within the time frames outlined and such failure causes a delay in the progress of the Work, the Architect/Engineer shall be liable for any damages to the County resulting from such delay.

#### 8.7 PAYMENT FOR ABANDONED, TERMINATED OR SUSPENDED SERVICES:

In the event of termination or suspension of the services or abandonment of a Project Element(s) (including the failure of the County to advertise the Contract Documents for bids, or the County's failure to award a Contract for the Work on the basis of any such bids received, within the time limits set forth in this agreement) the Architect/Engineer shall be compensated as follows:

8.7.1 Payment for Services completed and approved prior to receipt by the Architect/Engineer of notice of abandonment of a Project Element, termination or suspension, for which payment has

not yet been made to the Architect/Engineer by the County, shall be made in the same manner as would have been required had such abandonment of a Project Element, termination or suspension not occurred.

8.7.2 For Services partially completed and satisfactorily performed prior to receipt by the Architect/Engineer of notice of abandonment of a Project Element, termination or suspension, the Architect/Engineer shall be compensated on the basis of payment in same manner as would have been required had such abandonment of a Project Element, termination or suspension not occurred, adjusted to the level of completion portion of the service. A claim by the Architect/Engineer for compensation shall be supported by such data as the County 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.

8.7.3 Upon payment to the Architect/Engineer for Service associated with abandoned, terminated or suspended Project Elements in accordance with this Article, the Architect/Engineer shall have no further claim for Services related to the abandoned, terminated or suspended Project Elements.

8.7.4 No payment shall be made by the County to the Architect/Engineer for loss of anticipated profit(s) from any abandoned, terminated or suspended Project Elements.

#### **8.8 MAXIMUM PAYABLE FOR ADDITIONAL SERVICES, WORK SITE SERVICES AND REIMBURSABLE EXPENSES:**

The aggregate sum of all payments to the Architect/Engineer for Additional Services, Work Site Services and Reimbursable Expenses payable on a Project shall not exceed what is permissible, per Miami-Dade County Code Section 2-8.1. Any portion of this sum for which the Project Manager does not authorize payment in writing shall remain the property of County. This amount is intended to establish a cumulative fund to be used for Additional Services, Work Site Services and Reimbursable Expenses.

### **ARTICLE 9 - REIMBURSABLE EXPENSES**

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

- 9.1 Sub-consultants, when recommended by the Architect/Engineer, and approved by the County in writing, and when in the opinion of the Architect/Engineer, said Sub-consultant services are necessary of the accomplishment of the Services.
- 9.2 All printing and reproduction costs as specified herein and those costs in excess of that required under Basic Services. Such costs will be reimbursed at the same rate paid by the County to its vendors. Printing costs for internal coordination, reviews and other in-house uses will not be reimbursed.
- 9.3 Travel expenses, if necessary, shall be reimbursed in accordance with Florida Statutes and Miami-Dade County Administrative Order No. 6-1.
- 9.4 Costs/Fees paid for securing approvals of authorities having jurisdiction over the work.

- 9.5 Costs for boundary and topographical surveys authorized by the County.
- 9.6 Costs for material testing authorized by the County.
- 9.7 Costs for mailing of bid documents (if required).
- 9.8 Courier services to deliver documents (if required).
- 9.9 Rental of specialized equipment and purchase of special instruments necessary for the efficient performance of the work, provided that such instruments remain the property of the County upon completion of the work and authorization was granted for the purchase by the County.
- 9.10 Items not listed shall be reviewed on a case-by-case basis and shall be approved in advance by the Director or his/her designee.

#### **ARTICLE 10 - SPECIAL PROVISIONS**

The following provisions are to be used AS APPLICABLE:

Contract Measures are not applicable to this contract, however, the consultant selected for a work assignment under this contract is required to comply with the specific local and federal guidelines applicable to the particular County Agency requesting the services of the consultant. The specific participation requirements shall be discussed by the individual Agency with the selected consultant and made a part of the service order for each project assignment.

**ARCHITECT/ENGINEER (CORPORATION)**

\_\_\_\_\_  
(Legal Name of Corporation)

**ATTEST:**

Secretary: \_\_\_\_\_  
(Signature and Seal)

By: \_\_\_\_\_  
(Architect/Engineer – Signature)

\_\_\_\_\_  
(Type Name & Title)

**ARCHITECT/ENGINEER (INDIVIDUAL, PARTNERSHIP OR JOINT VENTURE)**

\_\_\_\_\_  
(Legal Name)

Witness: \_\_\_\_\_ By: \_\_\_\_\_  
(Signature)

Witness: \_\_\_\_\_  
(Type Name)

\_\_\_\_\_  
(SSN or FEIN)

Notary Public: \_\_\_\_\_  
(Signature and Stamp) (Expiration Date)

**MIAMI-DADE COUNTY, FLORIDA**

**ATTEST:**

\_\_\_\_\_, CLERK

BY: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Carlos A. Gimenez, Mayor

(Dade County Seal)

Approved as to form and legal sufficiency

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

**AFFIDAVITS**

**SEE ATTACHMENTS**



Miami-Dade County  
Internal Services Department  
**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. :** \_\_\_\_\_ **Federal Employer Identification Number (FEIN):** \_\_\_\_\_

**Contract Title:** \_\_\_\_\_

**Affidavits and Legislation/ Governing Body**

1. <b>Miami-Dade County Ownership Disclosure</b> Sec. 2-8.1 of the County Code	6. <b>Miami-Dade County Vendor Obligation to County</b> Section 2-8.1 of the County Code
2. <b>Miami-Dade County Employment Disclosure</b> County Ordinance No. 90-133, amending Section 2-8.1(d)(2) of the County Code	7. <b>Miami-Dade County Code of Business Ethics</b> 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. <b>Miami-Dade County Employment Drug-free Workplace Certification</b> Section 2-8.1.2(b) f the County Code	8. <b>Miami-Dade County Family Leave</b> Article V of Chapter 11 of the County Code
4. <b>Miami-Dade County Disability Non-Discrimination</b> Article 1, Section 2-8.1.5 Resolution R182-00 amending R-385-95	9. <b>Miami-Dade County Living Wage</b> Section 2-8.9 of the County Code
5. <b>Miami-Dade County Debarment Disclosure</b> Section 10.38 of the County Code	10. <b>Miami-Dade County Domestic Leave and Reporting</b> Article 8, Section 11A-60 11A-67 of the County Code

\_\_\_\_\_  
Printed Name of Affiant      Printed Title of Affiant      Signature of Affiant

\_\_\_\_\_  
Name of Firm      Date

\_\_\_\_\_  
Address of Firm      State      Zip Code

**Notary Public Information**

Notary Public – State of \_\_\_\_\_ County of \_\_\_\_\_

**Subscribed and sworn to** (or affirmed) before me this \_\_\_\_\_ day of, \_\_\_\_\_ 20 \_\_\_\_\_.

by \_\_\_\_\_ He or she is personally known to me ☐ or has produced identification ☐

Type of identification produced \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public      Serial Number

\_\_\_\_\_  
Print or Stamp of Notary Public      Expiration Date      Notary Public Seal

SAMPLE

## EDP Professional Services Agreement

## Insurance Mandates

### GENERAL NOTES:

Internal Services Department (ISD) recommends that firms forward this contract insurance mandate document to their insurance provider/s to ensure that the firm's coverage and the certificates meet the contract requirements.

ISD also strongly encourages that all insurance certificates and exemption letters are valid for one year and that each insurance related document terminates on the same date. This will alleviate the potential of several insurance gaps a year.

In addition, updated insurance documents should be sent to ISD at a minimum 45 days prior to its expiration date. Judicious submission will allow sufficient time for ISD to process and cure any potential errors to ensure a timely approval.

Please be reminded that failure to maintain active insurance may result in the loss of an EDP assignment and/or inactivation from the program.

Certificate of insurances must show the correct name and address of the insured (firm)

The Certificate Holder should read:

**MIAMI-DADE COUNTY**  
**111 NW 1<sup>ST</sup> STREET, SUITE 2340**  
**MIAMI, FL 33128**  
*(Do not indicate or included county department name or program)*

### INSURANCE:

1. The Architect/Engineer shall not be issued any Service Order under this Agreement until the insurance required hereunder has been obtained in connection with all of the services provided or performed under this Agreement and such insurance has been approved by the County. The Architect/Engineer 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 to **Miami-Dade County, 111 N.W. 1<sup>st</sup> Street, Suite 2340, Miami, Florida 33128**, Certificate(s) of Insurance which indicate that insurance coverage has been obtained. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and rated no less than "B" as to management and no less than Class "V" as to financial strength, in accordance with the A.M. Best Company Insurance Guide, or its equivalent as approved by the County's Risk Management Unit as outlined below:
2. **Certificate of Insurance:** The Architect/Engineer shall furnish certificates of insurance and insurance policies to the County prior to commencing any operations. Certificates shall clearly indicate that the Architect/Engineer has obtained insurance, in the type, amount and classifications as required for strict compliance with this article. Certificates will indicate no modifications or changes in insurance shall be made without thirty (30) days in advance notice of the certificate holder.
3. **Automobile Liability Insurance** covering all owned, non-owned and hired vehicles used in connection with the Services, in amounts not less than \$ 300,000 combined single limit per occurrence for bodily injury and property damage.

Under no circumstances is the Architect/Engineer permitted on the Airfield Operation Area (AOA) without increasing the automobile coverage to \$5,000,000.

## EDP Professional Services Agreement

## Insurance Mandates

Hired and Non Owned coverage is required regardless if you have Company Owned autos or not.

Note: If your firm does not own any vehicles, please submit in writing on company letterhead a request to be exempted from Owned Auto Coverage ONLY. "I hereby declare that XXX does not own any vehicle; and therefore request to be exempted from Owned Auto coverage." Letter should be addressed to Miami Dade County, Risk Management, 111 NW 1<sup>st</sup> Street, Suite 2340, Miami, FL 33128.

**4. Professional Liability Insurance;**

Construction cost -under \$1,000,000:

Professional Liability Insurance in an amount not less than \$250,000.

Construction cost -\$1,000,000 - \$2,000,000:

Professional Liability Insurance in an amount not less than \$500,000.

**5. Worker's Compensation Insurance** for all employees of the Architect/Engineer in compliance with Florida Statutes, Chapter 440.

Note: If your firm is exempt, please submit in writing on firm letterhead "I hereby declare that XXX is exempt from Worker's Compensation Liability Insurance requested in Florida Statutes, Chapter 440." Letter should be addressed to Miami Dade County, Risk Management, 111 NW 1<sup>st</sup> Street, Suite 2340, Miami, FL 33128.

**6. Comprehensive General Liability Insurance** in an amount not less than \$300,000 per occurrence combined single limit for bodily injury and property damage. **Miami-Dade County** shall be shown as an additional insured with respect to this coverage.

**7.** Upon approval of this Agreement by the County Manager, as authorized by the Board of County Commissioners and upon notice from ISD, the Architect/Engineer shall, within seven (7) days from notice, furnish the certificates of insurance to the County.

**8. Right to Examine:** The County reserves the right, upon reasonable notice, to examine the original or true copies of policies of insurance (including but not limited to binders, amendments, exclusions, riders and applications) to determine the true extent of coverage. The Architect/Engineer agrees to permit such inspection at the offices of the County.

**9. Compliance:** Compliance with the requirement of this Article shall not relieve the Architect/Engineer of its liability under any other portion of this Agreement or any other agreement between the County and the Architect/Engineer.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

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

Certificates will indicate that no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

**SAMPLE**

INCLUDE  
ACCURATE DATE  
MM/DD/YYYY



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
03/29/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>FIRM'S INSURANCE PROVIDER/AGENT</b>		<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): E-MAIL: ADDRESS: INSURER(S) AFFORDING COVERAGE: NAIC #	
<b>INSURED</b> <b>COMPLETE NAME AND ADDRESS OF FIRM</b>		<b>INSURER A:</b> <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	

All insurance shall be issued by Companies authorized to do business under the laws of the State of Florida and rated no less than "B" as to the management and no less than Class "V" as to financial strength, in accordance with the A. M. Best Company Insurance Guide, or its equivalent as approved by the County's Risk Management Unit

**COVERAGES**      **CERTIFICATE NUMBER:** LOS-001362318-26      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR DTD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	<input checked="" type="checkbox"/>		04/01/2013	04/01/2014	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>UMBRELLA LIAB</b> <b>EXCESS LIAB</b> OCCUR CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A			WC STATUTORY LIMITS E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	<b>ARCHITECTS &amp; ENG.</b> <b>PROFESSIONAL LIAB.</b>		"CLAIMS MADE"	04/01/2013	10/08/2014	Per Claim/Agg Defense Included

**MUST SHOW MIAMI DADE COUNTY AS AN ADDITIONAL INSURED**

**IF FIRM DOES NOT OWN VEHICLES A LETTER MUST BE PROVIDED REQUESTING AN EXEMPTION FOR OWNED VEHICLES "ONLY". FIRMS MUST INCLUDE HIRED AND NON-OWNED AUTOS REGARDLESS.**

**IF FIRM IS EXEMPT FROM WC COVERAGE A STATEMENT DECLARING SO MUST BE PROVIDED ON FIRM'S LETTERHEAD**

AMOUNTS SHOWN SHALL COMPLY WITH MINIMUM REQUIREMENTS OF EDP-PSA-2017

X

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

**MIAMI DADE COUNTY IS AN ADDITIONAL INSURED AS PER GENERAL LIABILITY COVERAGE**

<b>CERTIFICATE HOLDER</b> <b>MIAMI DADE COUNTY</b> <b>111 NW 1<sup>ST</sup> STREET, SUITE 2340</b> <b>MIAMI, FL 331218</b>	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh Risk & Insurance Services David Denihan
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**MUST INCLUDE SIGNATURE**

**FOR MORE DETAILED INFORMATION ON INSURANCE REQUIREMENTS PLEASE SEE INSURANCE MANDATES FOR EDP-PSA-2017.**

## **ADMINISTRATIVE ORDER (AO) 3-39**

## Administrative Order



### **Administrative Order No.: 3-39**

**Title:** Standard process for construction of Capital improvements, acquisition of professional services, construction contracting, change orders and reporting

**Ordered:** 6/17/2003

**Effective:** 6/23/2003

#### **AUTHORITY:**

Section 4.02 of the Miami-Dade County Home Rule Amendment and Charter and Charter Section 2-10.4 of the Code Of Miami-Dade County Section 287.055 of Florida Statutes and Sections 2-285, 2-8.2.6 and 2-8.2.7 of the Code of Miami-Dade County and; Resolutions Nos. R-754-97, R-1403-97 and R-1404-97.

#### **SUPERSEDES:**

This Administrative Order supersedes: Administrative Order No. 3-33 - Acquisition of Professional Services, ordered June 5, 2001 and effective June 15, 2001; Administrative Order No. 3-14 - Procedures for the Review of Construction Change Orders and Modifications to Architectural/Engineering Professional Service Agreements Regardless of Dollar Amount or Time Period, ordered and effective October 5, 1993; and Administrative Order No. 3-28 - Classifying, Tracking, Monitoring, and Reporting All Change Orders on Miami-Dade County Construction Projects, ordered February 2, 1999 and effective February 12, 1999.

#### **SCOPE:**

This Administrative Order establishes the standard procedures for user departments to implement, classify, track, monitor and report capital construction projects unless specifically exempted by state or federal law. The Office of Capital Improvements Construction Coordination (CICC) shall be responsible for ensuring the consistency, transparency, and integrity of these processes. Additionally, CICC shall implement standards for status reporting throughout each project's life cycle via an integrated management database comprised of existing systems and Web based software managed by CICC.

This Administrative Order does not apply when valid public emergencies have been formally declared. The provisions of this Administrative Order may be suspended, in whole or in part, at the discretion of the County Manager until normalcy has been restored.

#### **APPLICABILITY:**

This Administrative Order shall be applicable to Miami-Dade County projects funded in whole or in part by County funds, solicitations pursuant to Florida Statutes, Section 287.055 or where the County is the contract agency for construction contracting departments including, but not limited to, Aviation, Department of Environmental Resources Management, General Services Administration, Fire-Rescue, Miami-Dade

Housing Agency, Miami-Dade Transit Agency, Office of Public Transportation Management, Park and Recreation, Public Works, Seaport, Solid Waste, Water and Sewer, Public Health Trust and the Performing Arts Center Management Office.

**EXCEPTION:**

The rules contained in this Administrative Order are advisory in that they are intended to provide guidance to County departments in the conduct of an orderly administrative process. Any deviation from these rules shall not constitute grounds for protest by the participants in the affected procurement. Chapter 2 of the Code of Miami-Dade County shall govern the County's actions at all times. This Administrative Order applies to all capital improvement professional service agreements and construction contracts except where restricted by federal, state or external regulations.

**POLICY:**

This Administrative Order shall govern all phases of the capital improvement construction process including, but not limited to planning, design, and construction. CICC shall be responsible for facilitating the quality and cost-effective implementation of County capital improvement construction projects from initiation through planning, design, construction and project closeout; monitoring and reporting on project adherence to budgets and schedules; and monitoring critical sequencing of linked projects in accordance with County regulations.

Each user department shall be required to utilize a centralized information system to provide real-time project status. CICC shall provide a system for the implementation of countywide capital improvements policy and procedures relating to all aspects of project management and contract compliance. These policies and procedures shall provide the necessary operational guidance to ensure consistency in documentation, reporting, accountability, and management of construction projects (See Exhibit "A" – Sample Checklist). In conjunction with this effort, CICC shall coordinate the training of related personnel, including but not limited to, construction managers, project managers and contract and specifications unit staff to ensure timely and effective implementation of these requirements. CICC shall be responsible for providing a capital project information system to track the life cycle of capital improvement projects. Such system shall interface with existing departmental systems whenever possible and allow real-time access to information via a Web enabled application.

CICC shall develop and maintain standardized contract language and related forms. Standardized interpretation and enforcement of County contracts shall foster more consistent and equitable project management for all contractors among County departments. The County Manager may grant written exemptions from the standards where the protection of life, health, safety or welfare of the community, operational necessity or the preservation of public properties is concerned.

CICC shall ensure adequate advance public notice and citizen participation on County projects, including receiving specifications to ensure minimal adverse impact

to the community and adherence to the Countywide Business Road Impact Assistance Loan Program.

CICC shall ensure that user departments utilize the capital improvement system to provide real-time status of projects. CICC shall conduct random inspections to verify that high quality construction and project management takes place both administratively and in the field during construction. CICC shall monitor consultant, contractor, and departmental performance on contracts and provide the BCC with reports on responsibility and responsiveness. CICC shall also provide the BCC with reports on controversial projects and recommend strategies to improve the process.

CICC shall administer the ratification process for expedite contracts, change orders and amendment or modifications, and shall prepare a ratification list and submit it to the BCC on a quarterly basis in January, April, July and October of each year (See Exhibit "B" – Sample Project Ratification List).

**DEFINITIONS:**

The following definitions, as well as additional terms necessary for understanding the provisions of this Administrative Order, shall apply:

**A&E** means professional architectural, engineering, landscape architecture, land surveying and mapping services.

**Adjusted Bid** means an evaluation process where proposals are evaluated and assigned point values according to a rating system. Qualitative aspects are scored and totaled on a scale of 0 to 100 points and price is divided by that score to yield an "adjusted bid".

**Affiliates** mean business concerns, organizations, or individuals which are affiliates of each other if directly or indirectly, (i) either one controls or has the power to control the other, or (ii) a third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment and common use of employees.

**BCC** means Board of County Commissioners.

**Capital Construction Project or Capital Project** means a grouping of activities from planning through construction uniquely identifying a constructed or modified fixed asset involving the construction trades.

**Change Order** means a written amendment executed by the County, the Prime Contractor and the Prime Contractor's Surety, covering modifications to the Contract.

**CICC** means the Miami-Dade County Office of Capital Improvements Construction Coordination or the Capital Improvements Coordinator.

**Code** means the Code of Miami-Dade County, Florida.

**Community Business Enterprise or CBE** means a firm as defined in Section 2-10.4.01 of the Code.

**Community Small Business Enterprise or CSBE** means a construction related enterprise as defined in Section 10-33.02 of the Code.

**Compensation** means monies paid to a firm by Miami-Dade County for professional services rendered.

**Competitive Selection Committee or CSC** as defined in Section 2-10.4(5) of the Code, shall be the committee appointed by the County Manager to evaluate qualifications and performance of the firms requesting consideration for the specific project and select the most qualified firm(s) to perform the services.

**Construction Manager-at-Risk or CM-at-Risk**, as defined in Section 10-33.02 of the Code, replaces the general contractor, bids the work out to local trade contractors and is compensated to work cooperatively through the design phase to guarantee the project budget and schedule. The CM-at-Risk may provide a guaranteed maximum price and manage the trade contractors for quality, price and schedule. In most instances, the CM-at Risk firm is qualified under a general contractor's license.

**Continuing Contract** shall mean the term "continuing contract" as defined in Section 2-10.4(1)(f) of the Code and Chapter 287 of Florida Statutes, as the same may be amended.

**County** means Miami-Dade County.

**County Manager** means the executive or administrator responsible for the day-to-day operations of County government or his/her designee.

**County Regulations** means a County ordinance, resolution, administrative order or specification.

Countywide Business Road Impact Assistance Loan Program means the loan program established by Resolution R-161-01 as amended by Resolution R-742-02, to provide relief to businesses adversely affected by County funded infrastructure improvement projects, by making available loans with reasonable interest and payment terms. Such projects may include but are not limited to: drainage, road resurfacing, road reconstruction, water and sewer improvements or other major repairs where County roads are disrupted and traffic is rerouted or access to businesses is blocked.

**DBD** means County Department of Business Development.

**Debar or debarment** means to exclude a consultant or contractor, its individual officers, and its shareholders with significant interests, its qualifying agent and/or its affiliated businesses from County contracts, whether as a prime consultant or sub consultant pursuant to Section 10.38 of the Code - Debarment of Contractors from County Work.

**Departments and Agencies** mean departments, instrumentalities or branches of County government under the supervision of the County Manager.

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

**Design-Build Firm** means a partnership, corporation or other legal entity that:

- a. Is certified under Section 489.119 of Florida Statutes, to engage in a contract through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or
- b. Is certified under Section 471.023 of Florida Statutes, to practice engineering; certified under Section 481.219 to practice architecture; or certified under Section 481.319 to practice landscape architecture.

**Design Criteria Package** means concise, performance-oriented drawings and or specifications of the public construction project. The design criteria package shall contain information regarding the County's expectations of a finished project. For a design-build project, the design criteria package shall contain sufficient information to permit design-build firms to prepare a bid or a response to an agency's request for proposal, or to permit an agency to enter into a contract. The design criteria package may be as brief as referencing the applicable standards for utility design to specifying performance-based criteria for a public construction project, including, but not limited to, the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, storm water retention and disposal, and parking requirements, as may be applicable to the project.

**Design Criteria Professional** means an individual or a firm who holds a current certificate of registration under Chapter 481 of Florida Statutes, to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under Chapter 471 of Florida Statutes, to practice engineering and who is employed by or under contract to the agency for the provision of professional architectural services, or engineering services in connection with the preparation of the design criteria package.

**Equitable Distribution Program or EDP** represents the process to streamline solicitations for continuing contracts by distributing Architectural, Engineering and Landscape Architecture Professional Services to eligible firms on a rotational basis.

**EDP Firms** represent a group of A&E professional firms that hold a County Pre-Qualification Certificate and are approved by the County to participate in the Equitable Distribution Program.

**Expedite Process** means contracts, change orders and amendment/modifications processed utilizing the authority stated in Sections 2.8.2.5 through 2.8.2.8 of the Code. Contract documents not eligible for processing under the expedited procedure shall be submitted through the normal process in accordance with Section 2.8.3 of the Code.

**Firm** means any individual, firm, partnership, corporation, or other legal entity permitted by law to practice architecture, engineering, landscape architecture, design-build, land surveying and mapping services and may be used synonymously with the term team.

**Florida Statutes, Section 287.055** means “The Consultant’s Competitive Negotiation Act”. The County may apply any state approved professional services solicitation methodology that is in compliance with this Statute.

**Miscellaneous Construction Contract or MCC** means a type of contract established to procure competitive, cost effective, quality construction services for miscellaneous and emergency construction projects through the creation of a pre-qualified pool of contractors as approved by the Board of County Commissioners.

**Modification** means a written amendment executed by the County, the Professional Firm and the Firm’s Surety, covering modifications to the agreement.

**Notice to Professional Consultants or NTPC** means a document soliciting professional services which includes but it is not limited to a description of the scope of services, technical certification requirements, notice of selection criteria and methodology, Review Committee contract measures established for the subject project, data sheets or forms to be completed and submitted as part of the proposal, and submission deadline date.

**Pre-Qualification Certification or PQC** means the annual certification process that includes, but may not be limited to, technical certification, affirmative action plan verification, vendor registration, and supplemental forms. All prime consultant or sub consultant firms are required to hold a County Pre-Qualification Certificate at the time of proposal submission deadline date and throughout the contract term if selected, without any lapses.

**Prime Consultant** refers to the firm, which enters into a contract with the County and

is responsible for coordinating the concerted and complementary input of several firms, individuals or related services to produce a complete study or facility. The prime consultant shall have full responsibility and liability for quality of performance by itself, as well as by sub consultant professionals under its jurisdiction.

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

**Professional Service Agreement** or PSA means a contractual relationship to provide those services within the scope of the practice of architecture, engineering, landscape architecture, land surveying and mapping, as defined by the laws of the State of Florida; or those performed by an architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

**Qualifier** means the individual who qualifies the firm for technical certification purposes to do business with the County and holds a license as required by Florida Statutes.

**Respondent** means a firm or team of firms in a prime/sub relationship submitting a proposal in response to a properly advertised Notice to Professional Consultants.

**Responsibility** means that the standards pertaining to the determination of contractor, consultant or vendor responsibility shall be governed by procedures established by administrative order approved by the BCC. The County shall solicit offers from, award contracts to, and consent to subcontracts with responsible contractors only.

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

**Schedule of Participation or SOP** means a form contained in the bid documents to report the planned participation of sub contractors to meet a prescribed goal established in the contract.

**Sub Consultant** refers to a firm having significant input and responsibility for certain aspects of a project as a team member and provides such services under the guidance of the prime consultant.

**Suspension** means an administrative action less severe than debarment, taken by the County Manager to exclude a consultant and/or contractor on a temporary basis from participating in County contracts.

**Technical Certification** means a comprehensive review by the County Technical Certification Committee affirming a firm's eligibility to provide professional services to the County in various technical categories.

## **SECTION I - CAPITAL CONSTRUCTION PROJECT TRACKING AND REPORTING**

### **A. Initial Planning and Scheduling**

All capital construction projects are subject to the Board of County Commissioners prioritization and budget approval. The planning and scheduling functions are key to the success of a project and shall be an element of the initial phase of project development. Upon approval of a capital construction project by the BCC, the user department shall provide CICC with all relevant project data including but not limited to the following:

1. Capital Budget assigned project number
2. Departmental project tracking number(s)
3. Project description
4. Project location
5. Commission district(s)
6. Needs assessment document
7. Funding source including time and use constraints when applicable
8. Initial project schedule including, but not limited to:
  - a. Planned completion of design criteria documents
  - b. Planned land acquisition if applicable
  - c. Planned start of the Architectural and Engineering design
  - d. Planned start of construction
  - e. Planned completion of project

### **B. Design Criteria**

To the greatest extent possible, capital construction projects require that a

design criteria document be prepared prior to the actual design creation. Larger or more complex projects may require a design criteria professional service agreement to prepare these documents. The procedure to utilize a professional service agreement for the creation of the design criteria document is described in SECTION II - ACQUISITION OF PROFESSIONAL SERVICES. The completion of the design criteria document is the first milestone in the capital construction process.

For a miscellaneous design project the design criteria package may be as simple as stating the applicable standards while for a building construction project it may include, but is not limited to, the following:

1. Function of the project
2. Design capacity requirements both short-term and long-term
3. Project constraints including, where applicable:
  - a. Funding
  - b. Time schedules
  - c. Footprint or proposed site plan
  - d. Land availability
  - e. Existing structures
  - f. Location of existing utilities
  - g. Ongoing operations impact
  - h. Permitting and zoning issues
  - i. Traffic planning
  - j. Demographics
  - k. Architectural style
  - l. Landscaping
  - m. Interagency/intergovernmental coordination of on going/future/ planned projects.

If a professional service agreement is used for the acquisition of architectural

and engineering services, the design criteria document should be part of the solicitation package. If it is anticipated that a professional service agreement will be utilized for the design effort, then approximately thirty (30) calendar days prior to the anticipated advertisement the department should have completed the scope of services and design criteria package. The scope of services and technical classifications for the project should be submitted to DBD for the setting of Community Business Enterprise (CBE) goals.

**C. Land Acquisition**

The appropriate Administrative Orders, the Code of Miami-Dade County and Florida Statutes shall govern land acquisition.

**D. Architectural and Engineering Design**

Upon completion and review of the design criteria document, the user department shall enter the design phase of the project. When the design has to be accomplished through the use of a professional service agreement, the procedure specified in Section II - Acquisition of Professional Services, shall apply.

Project progress reporting shall include, but is not limited to:

1. Planned commencement of design effort or notice to proceed to consultant
2. Planned thirty percent (30%) completion (50% for utility design)
3. Planned dry run plans review submission or seventy percent (70%) completion
4. Planned completion of construction specification documents
5. Planned start of construction ground breaking
6. Planned completion of project

**E. Construction**

Approximately thirty (30) calendar days prior to the anticipated advertisement date the user department should have completed the construction specifications package. The user department should create and submit the project data sheet with appropriate trade recommendations to DBD for Review Committee consideration, to establish Community Small Business Enterprise (CSBE) goals. Also, the user department shall initiate the Request to Advertise obtaining required signatures and budgetary approvals. Information to be included on the Request to Advertise and Award Recommendation documents is provided in Section III - Construction Contracting.

The Request to Advertise Project Memorandum shall include, but is not limited to, the following:

1. Pre-bid Meeting Date if applicable
2. Bid opening date
3. Planned Bid Award date
4. Planned pre-construction meeting
5. Planned Notice to proceed
6. Planned groundbreaking
7. Planned completion date

## **SECTION II – ACQUISITION OF PROFESSIONAL SERVICES**

### **POLICY:**

It is the policy of the County to have a fair and equitable selection and distribution process for the solicitation and award of contracts for the performance of professional architectural, engineering, landscape architecture, land surveying and mapping, and design-build services.

### **PURPOSE:**

This section of the Administrative Order establishes procedures for administering the selection process for the solicitation and award of contracts for professional architectural, engineering, landscape architecture, land surveying and mapping, design-build services, and CM-at-Risk.

The acquisition of professional architectural, engineering, landscape architecture, land surveying and mapping, and design-build services follow the basic process as outlined in this Administrative Order. All forms and formats referenced herein shall be promulgated by CICC and adjusted based on policy and procedure directives issued by the appropriate funding authority and may be modified to meet the specific requirements of the funding authority on projects so governed.

Professional service requests that are below the threshold for continuing contracts as established by Florida Statutes, Section 287.055, shall be procured through the use of the Equitable Distribution Program (EDP), unless specifically granted exemption by CICC due to the unavailability of the required technical expertise within EDP or the existence of other consultant agreements established for a specific purpose.

### **A. Request to Advertise for Professional Services**

County departments shall request professional services under Florida Statutes, Section 287.055, applicable County ordinances, resolutions and administrative orders. When professional services are required in excess of the Florida Statutes, Section 287.055 thresholds for continuing contracts, user departments shall:

1. List the project and associated sites in the Automated Budget Development System, as referenced in the County's Capital Budget and Multi-Year Plan or the funding authority and approval allocated for the project.
2. Pursuant to Section 2-10.4.01 of the Code, submit project's relevant data for Review Committee consideration to establish project measures or set aside as deemed appropriate.
3. Prepare the Request to Advertise for Professional Services (RTA) form or electronic facsimile and forward it to the Office of Management and Budget (OMB) to certify funding availability unless exempted by OMB.
4. Upon certification from OMB that funding is available and assignment of project goals by the Review Committee, the user department shall prepare the Request to Advertise Project Memorandum, and submit the package to the County Attorney's Office (CAO) for approval as to legal sufficiency unless exempt by the CAO. The complete package, along with a detailed scope of work and design criteria document shall be submitted to CICC for review. Scope of services and design criteria may differ significantly based on the nature and complexity of the desired professional service agreement.
5. If CICC reviews and recommends that the project qualifies to be processed under the Expedite Ordinance, CICC shall submit the package to the County Manager's Office for concurrence and approval. Conversely, if the Capital Improvements Coordinator recommends that the contract is not eligible or deems it controversial or holding a special interest to the BCC, such recommendation shall be documented and the RTA documentation shall be returned to the user department for processing as a conventional Board Agenda item.
6. The County Manager's approval of the Request to Advertise shall constitute concurrent approval of the goals established by the RC. Upon approval, CICC shall file the documents with the Clerk of the Board, forward a copy to the user department and to the Architectural and Engineering (A&E) Division of CICC to proceed with advertisement.
7. CICC shall include all Requests to Advertise approved by the County

Manager by the authority granted under the Expedite Ordinance No. 00-104 on a Project Ratification List, which shall be prepared on a quarterly basis and presented to the appropriate committee for approval, and subsequent submission to the Board for ratification.

## **B. Solicitation for Professional Services**

The Architectural and Engineering (A&E) Division of CICC shall review the scope of work and design criteria package and, as applicable, incorporate this information in a Notice to Professional Consultants (NTPC) for the solicitation of professional services. Florida Statutes, Section 287.055 and the Code Chapter 2-10.4, stipulate a public announcement for projects. The announcement shall be an abstract of the NTPC issued by the County Manager when a department requires professional services. CICC shall prepare the public announcement for publication in a newspaper(s) of general circulation and on the Internet. The announcement and the NTPC shall be available at the Vendor Information Center. The public announcement shall contain information on obtaining the NTPC, which details scope of services for the project and the procedures to be followed by any firm wishing to be considered to perform such services.

To ensure equity and adherence to all appropriate regulations governing the selection of a professional service provider, CICC shall coordinate and oversee the solicitation as follows:

1. Prepare and publicize the NTPC of solicitations for architectural, engineering, landscape architecture, land surveying and mapping professional services, and design-build services for the County.
2. Schedule, advertise, coordinate and conduct audiotaping of the meetings of selection and negotiation committees in accordance with Administrative Order No. 3-31.
3. Prepare reports, including findings, supporting data and summary meeting minutes for the Competitive Selection Committee (CSC).

## **C. Selection Process**

The selection process shall be performed by the CSC, appointed by the County Manager upon the recommendation of DBD, pursuant to Chapter 2 Section 2-10.4(5) of the Code. The process shall adhere to Florida Statutes, Section 287.055 and is typically composed of a two-tier system: First and Second-Tier. For the selection of professional services the (CSC) may waive the Second-Tier selection process by a majority vote and base their selection on the results of the First-Tier ranking only. Local preference shall be considered where applicable and in compliance with Section 2-8.5 of the Code. During the selection process, CICC shall monitor the points awarded to

each firm by the individual CSC members and investigate and recommend a corrective action by the CSC for any variation in excess of thirty-three percent (33%) of the average score awarded by all CSC members by criteria. Any such disparities must be resolved prior to continuing the selection process and finalization of the rating.

CICC shall be responsible for verifying that all respondent firms hold a County issued and approved Pre-Qualification Certification at the time of proposal submittal and throughout the contract term if selected, without any lapses (SECTION II, I, 1. Pre-Qualification Certification). Respondents who do not comply with the pre-qualification requirements shall be deemed unresponsive.

**1. First-Tier Selection: (Maximum 100 points)**

In accordance with the selection process, each Competitive Selection Committee member shall complete his or her evaluation sheet for each proposer based on the following selection criteria:

- a. Criteria 1A: Qualifications of firms including the team members assigned to the project (50 points)

Evaluation of the qualifications of the firm and individuals to be assigned to the project, quality and availability of the manager and staff of the firm to be assigned (if any). The qualifications shall also include, but not be limited to, familiarity with County regulations and experience level of professional and management staff.

- a. Criteria 2A: Knowledge and past experience of similar type projects (20 points)

Evaluation of the respondent's understanding of the scope of work, which may include but not be limited to, studies performed that may affect the specific project being evaluated for: key design elements, contract, approach to the project, understanding and awareness of the permitting requirements involved with the project and health and safety programs as applicable.

- b. Criteria 3A: Past performance of the firms (20 points)

Evaluation of the firms on the team, overall interrelationship with proposed sub consultants and responsiveness, experience in scheduling projects, and timely submittal of deliverables on past projects. Respondents shall submit a minimum of three (3) evaluations completed by professional references for work performed within a three-year period or another period stated within the NTPC. For respondents with previous County work experience, CICC shall provide the CSC the available performance evaluation data for each

firm. The firms may be provided a standard performance questionnaire to augment the County's data.

- c. Criteria 4A: Amount of work awarded and paid by the County (5 points)

The value for services awarded and paid to each prime consultant or sub consultant firm(s) on the team including current County contracts for a three-year period from the submittal date of the solicitation shall be considered, with the consultant with the least dollars paid receiving the highest point value. The firm's prior years net compensation and/or potential compensation for professional services rendered on County's projects shall also be considered. When reporting the dollar value of services performed as a prime consultant, the dollar value shall exclude the sub consultant agreement or fees associated with the subject professional services performed.

- d. Criteria 5A: Ability of team members to interface with the County (5 points)

Communication ability, proximity to the project, commitment to satisfy the County's requirements and familiarity with County guidelines.

A minimum of three (3) firms shall be selected. The CSC, by majority vote may determine the maximum number of firms to advance from the First-Tier selection to the Second-Tier selection (short-listed).

If three (3) or more firms are tied for the final position to advance to Second-Tier collection, the firms with the highest score on Criteria 1A shall advance. If a tie still exists, the CSC shall consider the firm with the highest score for Criteria 2A, then 3A, then 4A and so on until the tie is broken to determine which firm shall be advanced to Second-Tier selection.

## **2. Second-Tier Selection: (Maximum of 100 points)**

Second-Tier evaluation provides the opportunity for the top firms identified in the First-Tier selection to submit additional information and may involve an oral presentation. CICC shall schedule a public hearing and invite each team to make an oral presentation not to exceed a specified duration. Oral presentations, when required, shall be followed by a question and answer period.

The CSC shall evaluate the firms advancing to Second-Tier selection based on the following selection criteria:

a. Criteria 1B: Knowledge of Project Scope (50 points)

Evaluation of the respondent's understanding of the scope of work, which may include but not be limited to, studies performed that affect this project, key design elements, (a design scheme may be required) and effects on the community involved. The managerial approach to the advertised solicitation shall also be evaluated, including the implementation of systems that shall be utilized to keep track of the project schedule, cost control, quality assurance and quality control, understanding and awareness of permitting requirements and health and safety programs.

b. Criteria 2B: Qualifications of team members assigned to the project (40 points)

Evaluation of the qualifications of the individuals to be assigned to the project, including the project manager and staff of the firm to be assigned (if any). The qualifications shall include, but not be limited to, experience with similar projects, management experience, and familiarity with County regulations.

c. Criteria 3B: Ability to provide required services within schedule and budget (10 points)

Evaluation of the respondent's overall management approach including experience in scheduling projects, systems that will be used to keep track of the project schedule, cost control, quality assurance, and quality control, issues and methods employed to avoid cost overruns and project delays

At the conclusion of the respondent's proposal review and oral presentation, the CSC shall recommend to the County Manager, in order of preference, the most highly qualified respondents determined as follows:

1. Each CSC member shall assign points on a written ballot in accordance with the established evaluation criteria factors.
2. CICC staff shall record the totals for each respondent and read the information into the record. Final ranking shall be determined by the highest overall Second-Tier score and shall be forwarded to the County Manager for approval.
3. In the event of a tie vote, the first tiebreaker shall be the summation of the First and Second-Tier score totals. The firm

with the highest total point value shall be the top-scoring firm. In the event a tie still remains, the CSC shall consider the firm with the highest points for Criteria 1B, then 1A, then 2B, then 2A until a top ranking firm is identified.

CICC staff shall assist the CSC to report its findings, specifically the three (3) most highly qualified firms, including supporting data, to the County Manager and shall file a copy with the Clerk of the Board.

#### **D. PSA Contract Negotiations**

The County Manager shall select, in order of preference, from the firms recommended by the CSC, the firm with whom the County shall enter into negotiations for each proposed award contract. CICC shall develop standard ranges for A&E fees to include multiplier, principal in charge, key professional personnel rates and additional service fees. For all Lump Sum Cost or Cost Plus a Fixed Fee contract in which a fee shall exceed one hundred and fifty thousand dollars (\$150,000), the County shall require the firm receiving the award to execute a Truth-In-Negotiation Certificate as mandated by Chapter 287 of the Florida Statutes. Negotiations shall be conducted as follows:

1. The County Manager shall appoint a negotiation committee, comprised of a minimum of three (3) members from the CSC. Two (2) members shall be representatives of the user department. The negotiation committee shall attempt to negotiate a Professional Service Agreement for the project with the firm that was ranked first by the County Manager for an amount of compensation, which the negotiation committee determines to be fair, competitive and reasonable. The chairperson shall be a representative from CICC and shall be responsible for scheduling, coordinating and audiotaping the meetings, in accordance with Administrative Order No. 3-31. CICC may delegate the responsibility for across the table negotiation to the user department's representative.
2. Should the negotiation committee be unable to negotiate a satisfactory contract with the firm that the County Manager ranked first, at a price that the committee deems to be fair, competitive and reasonable, negotiations with that firm shall be formally terminated by the County Manager. The negotiation committee shall then undertake negotiations with the firm which the County Manager ranked second. Failing accord with this firm, such negotiations shall terminate, and negotiators shall then undertake negotiations with the firm ranked third by the County Manager.
3. Should the negotiation committee be unable to negotiate a satisfactory contract with any of the selected firms, the County Manager may

choose to negotiate a professional service agreement with the next highest nominated firm until a satisfactory contract is reached, or the County Manager may reject all proposals and re-advertise the project.

**E. PSA Contract Award**

1. Upon successful negotiation of the professional service agreement, the user department shall prepare the Award Recommendation form or electronic facsimile for the selected firm with the recommended contract amount and forward it to OMB for certification of funds availability. If the contract amount differs from the user department's estimated cost by more than ten percent (10%) (increase or decrease), the user department shall justify the variance in the Award Recommendation Memorandum.
2. Once OMB approves funding, the user department shall prepare the Award Recommendation, Project Memorandum, including the Contract Award Recommendation, the DBD pre-award compliance review, along with other supporting documentation, and submit it to the County Attorney's Office for approval as to legal sufficiency. The complete package shall then be submitted to CICC for review and further processing.
3. CICC shall review the package and submit a recommendation to the County Manager's Office for final review and approval signature.
4. Upon approval by the County Manager of the award recommendation, CICC shall file the documents with the Clerk of the Board and forward a copy to the user department to notify all respondents of the award recommendation. If not approved for expedite processing, the package shall be returned to the user department for conventional processing.
5. The user department shall forward originals of the executed contract package to CICC for the County Manager's execution.
6. CICC shall prepare the Expedite Ordinance No. 00-104 Project Ratification List on a quarterly basis and present it to the appropriate committee for approval and subsequent submission to the BCC for ratification.
7. The user department shall provide CICC with copies of the Notice to Proceed, all work authorization information, and progress payment information on a timely basis.

**F. Rejection of All Respondents**

If either the selection process or negotiations fail to result in a contract award, the user department shall prepare a memorandum to Request to Reject all Proposals and Authorization to Re-Advertise.

#### **G. Managing the Professional Service Agreement**

Professional service agreements typically consist of a series of deliverable items with scheduled due dates on each. The key to a successful project is good planning and documentation, as such, a pre-work conference shall take place between the selected consultant and the project manager to outline expectations and review reporting and billing procedures and minutes of this meeting shall be retained in the project file. It is important to closely monitor the consultants' performance and adherence to schedules as well as monitoring quality and the need for rework. To ensure that the project manager and the consultant have a clear understanding of the work product, all work authorizations, revisions, and instructions must be in writing, include the method of payment calculation and schedule of deliverables.

1. User departments shall submit copies of all work issuances to CICC on a timely basis, within five (5) days of issuance, and periodically report on project status.
2. Collect and submit copies of monthly utilization reports for all awarded professional service agreements to DBD. Project invoices may be held if monthly utilization reports are not current.
3. Notwithstanding the County Manager's change order authority, the user department shall notify CICC and DBD in writing of any post-award changes of team composition, scope of services or costs.
4. Notify CICC and DBD promptly when either the contract has expired and/or the budget has been fully expended in the Certificate of Completion or electronic facsimile required by CICC and DBD.
5. User departments shall submit to CICC a performance evaluation for each professional service agreement within thirty (30) calendar days of issuing the certificate of completion. Professional service agreements shall include language advising the firm(s) that a performance evaluation of the services rendered shall be completed by the user department and utilized by the County as evaluation criteria for future solicitations.
6. CICC shall collect performance evaluations for past County work for each applicable firm. Firms shall have the right to review their evaluations and submit a notice of appeal letter and a detailed rebuttal of the ratings contained therein, within thirty (30) days of the issuance

date. If an evaluation is appealed by the applicable firm, then the County shall not utilize that evaluation when selecting a consultant until the appeal process has been resolved.

## **H. Alternative Methods of Acquiring Professional Services**

### **1. Equitable Distribution Program (EDP)**

The EDP objective is to procure and distribute A&E continuing contract work assignments as defined in Florida Statutes, Section 287.055, for County departments and agencies among all pre-qualified and interested firms. The EDP shall be the County's standard method to obtain such services, unless exempted in writing by the County Manager.

CICC in coordination with DBD, shall implement procedures for the EDP based on the following criteria:

#### **a. Qualification criteria**

- i. The firm is required to be in business for a minimum of one (1) year and may be required to have a place of business in the County.
- ii. A business owner, alone or as a member of a group, shall own or control only one (1) firm including affiliates in the EDP.
- iii. An individual design professional can only qualify one (1) firm pursuant to the respective Licensing Governing Boards of the State of Florida.
- iv. EDP firms issued a service order shall be required to submit utilization reports to the user department on all new and existing County contracts, including new work authorizations issued after the effective date of the EDP continuing contract.
- v. Firms shall submit an affidavit affirming three (3) years past history of dollars awarded and paid for by the County as a prime and/or sub consultant.
- vi. Upon written notice, a firm shall execute the EDP agreement and submit the required documents and insurance certificates within ten (10) calendar days or lose their position in the EDP listing for a period of one hundred and eighty (180) days.

#### **b. After gaining admission into the EDP, each firm shall be ranked in all**

of the categories for which the firm is technically certified. Eligible firms shall participate in the EDP for the specified term stipulated in the contract.

- c. Each firm's initial EDP position under the qualified technical certification category is based on the firm's prior years net compensation and/or potential compensation for professional services rendered on County projects.

### **EDP Work Assignment Procedures**

The County Manager shall ensure that the EDP and existing miscellaneous continuing contracts for professional services are utilized appropriately.

- a. The user department shall submit the work assignment request including a detailed scope of work to CICC for assignment of appropriate design professionals in the EDP, or shall obtain written authorization from CICC to utilize an existing continuing contract.
- b. CICC shall review the work assignment request, verify the prime technical certification category required for the scope of work and any additional technical certification categories or specialty requirements that may be needed to complete the scope of work. The next available firms, three (3) primes and four (4) sub consultants per supporting technical certification category, based on their position in the EDP shall be provided to the user department.
- c. The user department shall review the qualifications of the next available prime firms and select the most qualified firm. The selection process may include review of submitted qualifications and telephone interviews. The user department must document the factors utilized to determine most qualified firm. If a prime firm is certified in all of the required technical certification categories, it may perform the required services with its own work force otherwise the prime shall select EDP sub consultants from the top of the rotation. Upon the firm(s) acceptance of the offer of work assignment, the names of the prime firm and sub consultants shall be forwarded to CICC.
- d. A firm acting as a prime or as a sub consultant shall be allowed to decline an offer of work assignment without a reasonable justification only twice per calendar year. After the second time, the firm shall be suspended until further review.
- e. CICC shall have the authority to bypass a firm in the EDP rotation based on the volume of work or unique expertise requirements within a category if deemed to be in the best interest of the County. The

rationale for any such bypass action shall be fully documented.

- f. If negotiations fail, the user department shall notify CICC of such failure and begin negotiations with the next most qualified firm.
- g. If the user department determines that the next available firm(s) is not qualified to perform the services, the user department shall provide in writing to CICC an explanation for the disqualification. The user department shall request from CICC the next available grouping of firm(s) for consideration.
- h. CICC may, upon the written request of the user department director, hire a specific firm qualified in the appropriate technical areas when deemed in the best interest of the County.
- i. CICC shall also have the authority to limit the user department's timeframe to obtain acceptance of work assignment, request additional firms and negotiate a service order.
- j. Simultaneous with the completion of the service order and submittal of final payment request, the user department shall forward to CICC the EDP Closeout Report and the performance evaluation.
- k. In the event that any service order shall be cancelled or changed, the user department shall forward such notification, along with a copy of the change or cancellation notice to CICC.

## **2. Design-Build**

CICC shall be responsible for coordinating the development of design-build solicitations with the user departments and ensuring compliance with Section 287.055 of Florida Statutes. The requested documentation shall be prepared as follows:

### **Design Criteria**

- a. The design criteria package shall be prepared by:
  - i. Licensed professional engineers for engineering projects; licensed professional architects for architectural projects, and licensed professional landscape architects for landscape architecture projects, employed by the County; or
  - ii. Licensed engineering, architectural, or landscape architecture firm(s) selected pursuant to Section 287.055 of Florida Statutes.

- b. The design criteria professional shall have the following responsibilities in the completion of the project:
  - i. Evaluation of the responses received from design-build firms.
  - ii. Supervision and approval of the detailed construction documents of the project, assuring compliance of project construction and design criteria package.
- c. The design criteria professional shall not be eligible to render services under a design-build contract executed pursuant to the design criteria package. This prohibition against rendering services under design-build contracts shall extend to all architectural, engineering, landscape architecture, and land surveying and mapping sub consultants of the design criteria professional.
- d. The design-build request documentation shall contain any other items as required by procedures, laws, ordinances, or prevailing circumstances.

### **Design-build Evaluation/Selection**

The evaluation process for the selection of the best-value design-build proposal shall be based on the adjusted bid process, or as determined by the County Manager based on specific project requirements.

The qualitative aspects of the evaluation shall be based on the First and Second-Tier selection criteria as defined in this Administrative Order. Following the completion of the Competitive Selection Committee's (CSC) evaluations, "price" estimates may be considered to the extent specified in the NTCP. The CSC in reaching a final recommendation may consider significant disparities in the price estimates. The firms with the three (3) lowest "adjusted bids" may then be recommended to the County Manager. The firm with the lowest adjusted bid or the firm providing the best value to the County shall be recommended for negotiations. In the event two (2) or more firms receive identical lowest adjusted bids, the tiebreaker shall be based on the criteria detailed in the Second-Tier evaluation process.

Should the negotiation committee be unable to negotiate a satisfactory contract with the firm with the lowest adjusted bid, at a price, which the committee deems to be fair, competitive and reasonable, the negotiation committee shall recommend that the County Manager authorize to formally terminate negotiations with that firm. Upon the County Manager's concurrence, the negotiation committee shall then undertake negotiations with the second ranked firm. Failing accord with this firm, such negotiations shall terminate and the committee shall then undertake negotiations with

the third ranked firm.

### **3. Construction Manager-at-Risk**

The Construction Manager-at-Risk (CM-at-Risk) method of contracting is typically applied to highly complex projects where the value of obtaining expert oversight of the design phase and contracting phase justify the increased cost and administrative burden.

The County Manager shall approve the use of the CM-at-Risk contracting method based on a review of each individual application. The user department shall include the following documents as part of the Request to Advertise for a CM-at-Risk contract:

- a. Submit the design criteria package along with an explanation identifying the reason for using CM-at-Risk. Include an explanation for the current status of the project design.
- b. Identify the user department's project management team in the form of a functional table of organization.
- c. Identify the user department's recommended representatives to the Guaranteed Maximum Price negotiation committee. Provide an explanation if different from those recommended for the CSC.
- d. Identify method of tracking and responding to Requests for Information (RFI), Value Engineering items, payment processing, and budget and schedule adherence.
- e. Ensure compliance with DBD review for CM-at-Risk projects, in accordance with Section 10.33-02 of the Code as amended on May 6, 2003.

## **I. Professional Service Requirements**

### **1. Pre-Qualification Certification (PQC)**

- a. Firms interested in providing professional services for the County must have an active PQC, issued by the County through DBD, prior to the submittal deadline of any solicitation, which shall be maintained without lapse throughout the course of the project.
- b. The user department, along with the certifying committee, shall review the statement of qualifications and supporting documentation to ascertain whether a firm is fully qualified to render the services they are seeking to be certified in.

- c. The PQC is the culmination of the various certification processes. It shall be applicable to the general selection methodology or a specific project and shall include, but may not be limited to, technical certification, affirmative action plan verification, vendor registration, execution of the basic County affidavits, supplemental forms, and any further requirements established by the BCC.
- d. Application packages for PQC may be obtained from and submitted to DBD. It shall be the sole responsibility of interested firms to obtain and complete required forms and submit their PQC application packages to DBD. Furthermore, firms shall be responsible to ensure that their PQC information is current and active by renewing in advance of the expiration date. Incomplete application packages shall not be reviewed until the correct submission has been received.
- e. The PQC shall be valid for a one (1) year, provided all eligibility requirements are current.
- f. By applying for and being issued the PQC, a firm agrees to allow the County access to review and verify information relating to the applicant's PQC application during normal business hours, commencing on the day after the PQC has been issued until its expiration date.
- g. All applicants shall execute an affidavit attesting to the fact that all statements submitted in their PQC application are true and correct and that documentation and information regarding actual work performed on any project, payment thereof, number of employees, etc., are accurate.

## **2. Responding to a Professional Services Solicitation**

Firms responding to an advertisement for professional services must adhere to the following requirements:

- a. Respondents, including prime consultants and sub consultants in a prime/sub relationship, must maintain an active PQC from the time of proposal submission to completion of the professional service agreement without lapse.
- b. Except where restricted by federal, state laws or external regulations, respondents must submit and respond either as a prime consultant or sub consultant. Failure to comply with this provision shall result in all affected firms to be considered unresponsive. A firm shall only respond once for the role of prime consultant for each solicitation.
- c. Sub consultants teaming restrictions shall not be imposed unless

extensive availability of technically certified firms in the technical categories requested exist. In such cases, CICC may limit sub consultants to participating on a fixed number of teams. Any such limitation shall be published in the NTPC.

- d. Respondents shall allow the County reasonable access, during normal business hours and for a specific purpose; to audit the books and records relating to the respondent's submitted proposal commencing on the day after the proposal submission date to the date a firm is selected. The selected firm shall permit right of access throughout the term of the contract.
- e. Prime consultants shall submit completed monthly utilization reports in the form specified by the County to user departments as outlined in Administrative Order 3-32, Section XII, Contract Administration, Compliance and Monitoring.
- f. Respondents must submit any change or deviation from the approved team composition as presented in the selection process to the County for approval.
- g. If at any time, the County has reason to believe that any person or firm has provided incorrect information or made false statements in a submittal, proposal or oral presentation before a selection committee, the County Manager shall refer the matter to the Office of the Inspector General and in addition to pursuing any other legal remedies, may recommend termination of the contract, and inform the State Attorney's Office and/or other investigative agencies. Further, the County may initiate suspension and or debarment proceedings in accordance with County policy and or applicable federal, state and local laws.

#### **J. Sanctions for Contractual Violations**

Proposal and contract documents shall provide that, notwithstanding any other penalties for firms that have discriminated in violation of Article VII of Chapter 11A of the Code, the County may terminate the contract or require the termination or cancellation of the sub consultant contract. In addition, a violation by a respondent or sub consultant to the respondent, or failure to comply with this Administrative Order may result in the imposition of one or more of the following sanctions:

1. Suspension of any payment or part thereof until such time as the issues concerning compliance are resolved.
2. Issuance of fines to prime consultants for violations of this

Administrative Order or lapses of required insurance, which may be up to two percent (2%) of the contract amount to be deducted directly from future payments.

3. Termination, suspension, or cancellation of the contract in whole or in part. For EDP firms, ranking adjustment for an amount two (2) times that of the non-utilized sub consultant or placement in an inactive status shall apply.
4. In the event that a firm attempts to comply with the provisions of this Administrative Order through fraud, misrepresentation, or material misstatement, or is found to have committed such acts, the firm and its principals may be suspended, debarred or subject to criminal prosecution based on the specific circumstances.
5. In addition, and as a further sanction, the County Manager may impose any of the above stated sanctions on any other contracts or sub consultant contracts the firm has with the County. In each instance, the firm shall be responsible for all direct and indirect costs associated with such termination or cancellation including, but not limited to, attorney's fees and costs. The firm may also be subject to suspension or debarment.
6. Some of the violations that may result in the imposition of the sanctions listed above include, but are not limited to, the following:
  - a. Failure to comply with Pre-Qualification requirements, not reporting organizational and operational changes, providing inaccurate or false information, and other related violations.
  - b. Deviation from the Schedule of Participation, or equivalent, without prior approval from DBD and notice to CICC.
  - c. Reduction of the scope of work of a sub consultant contract without prior approval from CICC.
  - d. Modifications to contract terms and/or fees paid without prior approval from CICC.
  - e. Failure to comply with program requirements.
  - f. Subcontracting work to a non-EDP member without written authority of the County.

**K. Administrative Penalties**

For violation of or non-compliance with this Administrative Order, proposal(s), and/or consultant selection documents, the County Manager may impose the loss of eligibility to participate in County contracts for a specified period of time, not to exceed five (5) years, for an applicant, its individual officers, its shareholders with significant interests, and its affiliated businesses.

## **L. PSA Support Functions**

In addition to the functions outlined in SECTION II, ACQUISITION OF PROFESSIONAL SERVICES, CICC shall:

1. Maintain consultant performance evaluation records for consideration of County departments or selection committees.
2. Conduct workshops for employees participating in the County's CSC pool to describe the role and responsibilities of members and review pertinent legislation affecting the selection process.
3. Record the user department's utilization of authorized continuing contracts to monitor fair and equitable utilization.
4. Administer the Equitable Distribution Program (EDP) including the review of service orders and the appropriate selection of firms.

DBD responsibilities include, but may not be limited to, the following:

1. Administer the Pre-Qualification process for architectural, engineering, landscape architecture, land surveying and mapping firms and provide related information to CICC.
2. Administer the pool of County employees available to serve on the CSC. Update the CSC membership roster bi-annually.
3. Review proposals for pre and post compliance with participation measures, requirements and issuance of performance memorandums.
4. Provide work history, data and reports to CICC reflecting the amount awarded, and or paid to the prime and sub consultants for selection ranking and/or EDP rotation.

## **SECTION III - CAPITAL CONSTRUCTION CONTRACTING**

### **POLICY:**

This section of the Administrative Order governs capital contracts and the expedite process authorizing the County Manager to advertise, negotiate and award uncontested contracts for funded capital improvement construction projects and certain unanticipated funded capital repair or rehabilitation projects as well as qualifying professional service agreements.

Ordinance No. 00-104 adopted on July 25, 2000, amended expedite procedures already enacted by the Board of County Commissioners to promote efficiencies for processing construction projects funded by the Safe Neighborhood Parks Bond and the Quality Neighborhoods Improvement Program, and to proceed with contracts related to natural disaster or declaration of an emergency by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Sections 2-8.2.6 and 2-8.2.7 of the Code, as amended, authorize the County Manager, subject to BCC ratification, to approve and expedite capital projects authorized therein.

Eligible projects and contracts may include:

- Approved funded capital construction projects involving the expenditure of more than \$500,000 where no protest is filed within the timeframe specified in Section 2-8.4 (b) of the Code, and all associated professional service agreements.
- The negotiation and settlement of contractor claims, change orders issued for additional work and amendments/modifications to professional service agreements, if specified in the bid specifications and the contract document. Change orders and amendments/modifications shall not exceed five hundred thousand dollars (\$500,000) in cumulative dollar amount and shall not exceed fifteen percent (15%) of the contract price in the cumulative percentage amount, unless related to environmental remediation or health requirements.

The County Manager is authorized by the Code, Section 2-8.1(b) to advertise for bid, award, and reject bids or proposals for contracts and purchases when the transaction involves the expenditure of five hundred thousand dollars (\$500,000) or less without the need for further action by the BCC.

All eligible capital construction contracts shall be processed utilizing this procedure and standard forms developed by CICC. Contracts deemed controversial in nature or holding special interest to the BCC, shall be processed as a Board Agenda item.

#### **A. Capital Construction Contracting**

## **1. Request to Advertise**

- a. The user department prepares the Request to Advertise (RTA) form or electronic facsimile, which constitutes a solicitation for construction activity and forwards it to the Office of Management and Budget (OMB) to certify funding availability.
- b. Once funding is approved, the user department is responsible for submitting the RTA form along with project data including departmental recommendations as to Community Small Business Enterprise (CSBE) measures, and any other relevant documents related to the project to the Department of Business Development Review Committee (RC) for consideration of contract measures.
- c. The RC and its Chairperson shall execute the DBD Project Worksheet, obtain concurrence from the County Manager's Office and then return the document to the user department.
- d. The user department shall prepare a package including the RTA form, DBD Project Worksheet and Project Memorandum. The Project Memorandum must include OMB certification of funds availability and must be reviewed and approved by the County Attorney's Office as to legal sufficiency. The complete package shall be submitted to CICC for review and further processing.
- e. CICC shall review and analyze the solicitation and shall submit a recommendation to the County Manager's Office relating to contracting issues including the applicability of the Expedite Ordinance.
- f. If CICC recommends that the project qualifies to be processed under the Expedite Ordinance, the package shall be submitted to the County Manager's Office for concurrence and approval. Conversely, if CICC determines the contract is not eligible or deems it controversial or holding a special interest to the BCC, the documentation shall be returned to the user department for processing in a conventional manner. The County Manager's approval to advertise the project shall constitute approval of the goals established by the RC. Upon approval, CICC shall file the documents with the Clerk of the Board and forward a copy to the user department to proceed with advertisement. For projects requiring BCC approval, the user department shall complete the BCC version of the Project Memorandum, a transmittal letter addressed to the County Manager and the County Manager's Recommendation Memorandum to the BCC to initiate standard

contract processing.

- g. Upon the County Manager's approval of the RTA, CICC shall file the documents with the Clerk of the Board and forward a copy to the user department to proceed with advertisement.
- h. CICC shall include all Request to Advertise approvals made by the County Manager by the authority granted under the Expedite Ordinance No. 00-104 on a Project Ratification List, which shall be prepared on a quarterly basis, presented to the appropriate committee for approval and subsequently shall be submitted to the BCC for ratification.

**User Departments shall:**

- a. Include a "Terminate For Convenience" clause in the bid specifications and contract document.
- b. Utilize the standard bid specifications and contract documents, which include a clause indicating the County Manager may negotiate and settle contractor claims, issue change orders for additional work and amend/modify PSAs, which do not exceed five hundred thousand dollars (\$500,000) in cumulative dollar amount and do not exceed fifteen percent (15%) of the contract price in the cumulative percentage amount or the criteria established in the Code Section 2-8.2.7, as amended.
- c. Ensure that all contingency and allowance accounts conform to the requirements of the Code, Section 2-8.1(h) as amended.
- d. Notify DBD and CICC of changes in scope of work subsequent to recommendation by the RC and prior to advertisement. DBD shall review the change and recommend to the County Manager via CICC, whether the contract requires further review by the RC.
- e. Notify DBD and CICC of any contract advertisement dates that are in excess of one hundred and twenty (120) days of the initial RC recommendation allowing DBD to identify any changes in availability. After six (6) months, all contracts should be resubmitted to DBD to establish current availability. CICC shall be notified of the revised RC recommendation and shall submit the revised documentation to the County Manager for approval.

**2. Construction Contract Award**

- a. Upon opening of bids, the user department shall obtain verification

of contractor compliance with the CSBE program, prepare the Award Recommendation form or electronic facsimile with the selected bidder and forward it to OMB for certification of funds availability.

- b. If the contract award recommendation amount differs from the user department's estimated cost provided in the RTA by more than ten (10%) percent (above or below estimate), the user department shall justify the variance in the Project Memorandum. Larger variances shall require additional explanation and support including a statement from the design engineer or architect.
- c. Once funding is approved, the user department shall prepare a package including the Award Recommendation, the DBD Verification of Contractor Compliance, the Bid Tabulation form or electronic facsimile, the DBD Project Worksheet, the OMB approval form, the Project Memorandum form or electronic facsimile, with the approval of the County's Attorney's Office as to legal sufficiency and any other relevant documentation. The complete package shall be submitted to CICC for review and further processing.
- d. CICC shall review the package and submit a recommendation to the County Manager's Office for final review and approval.
- e. Upon approval by the County Manager of the award recommendation, CICC shall file the documents with the Clerk of the Board and forward a copy to the user department to notify all firms of the award recommendation for the project and proceed with the contract award. The award recommendation shall not constitute an executed contract until approved by the BCC or executed by the County Manager under the authority granted by the BCC.
- f. If a protest is filed with the Clerk of the Board within ten (10) calendar days of filing the documents approved by the County Manager, existing procedures for processing bid protests shall govern. The filing of a protest nullifies the County Manager's approval and requires the user department prepare and submit a formal Board Agenda item unless the Hearing Examiner concurs with the County Manager's recommendation.
- g. Upon expiration of the bid protest period without a bid protest being filed, the user department shall proceed with the execution of the contract. The user department shall forward a copy of the executed contract package to CICC for the County Manager's execution.
- h. CICC shall prepare the Expedite Ordinance No. 00-104 Project

Ratification List on a quarterly basis and present it to the appropriate committee for approval and subsequent submission to the BCC for ratification.

- i. If all bids are rejected, the user department shall prepare the Project Memorandum, Request to Reject all Bids and Authorization to Re-Advertise for Bids, including detailed justification for rejection of all bids and the rationale to re-advertise without modifying original specifications. If the reason for rejection is related to the allotted budget for the particular project, the user department should demonstrate changes that would affect pricing.
- j. The user department shall forward the Project Memorandum to OMB for approval and once approved, shall submit documentation to DBD to initiate the re-advertising process following the procedures outlined in this Administrative Order.

### **3. Execution of Contract Options**

If options to extend or increase funding are provided for in the contract, the user department may recommend exercising the contract option as follows:

- a. The user department shall prepare the amendment identifying the specific contract and options being executed. The amendment must be signed by the contractor, reviewed and approved by the County Attorney's Office as to legal sufficiency, then submitted to CICC for further processing. If the contract option being executed involves an increase of the contract amount, the user department shall obtain an Increase Rider and an Executed Payment and Performance Bond and submit these forms to CICC along with the amendment.
- b. CICC shall review the documentation and submit a recommendation to the County Manager's Office for final review and approval.
- c. Upon approval by the County Manager, CICC shall file the documents with the Clerk of the Board and forward a copy to the user department.

### **B. Unanticipated Funded Capital Repair and Rehabilitation Projects**

Unanticipated funded capital projects not specified in the Annual Proposed Capital Budget and Multi-Year Capital Plan for fiscal year 1999-2000, or subsequent fiscal years may be included in the expedite process by approval of a resolution by the BCC. Upon BCC approval, the process shall be as follows:

1. The user department shall submit the project to OMB for approval of funding source and level of funding intended for use on the project.
2. The user department shall prepare the resolution and accompanying documentation for BCC approval to process the project(s) under Expedite Ordinance No. 00-104.
3. Upon BCC approval of the resolution, the project may proceed in accordance with the procedures outlined in this Administrative Order.

**C. Alternative Methods of Acquiring Construction Contracts**

**1. Miscellaneous Construction Contracts (MCC)**

MCCs are developed to obtain competitive, cost-effective, quality construction services for miscellaneous and emergency construction projects, within specified parameters as approved by the Board of County Commissioners. County departments and agencies participating in this type of contract are required to maintain licensed, well-trained, knowledgeable staff to manage these construction activities, unless exempted by the County Manager.

The County Manager shall ensure that MCCs are utilized as approved by the BCC and that work assigned under this type of contract, is fairly and competitively awarded to the targeted business sector.

CICC shall implement procedures for MCCs based on, but not limited to, the following criteria:

- a. Each qualified contractor shall submit an application based on the criteria established for each MCC solicitation.
- b. Participating contractors are required to register with the Miami-Dade County Department of Procurement Management.
- c. A business owner, alone or as a member of a group, shall own or control only one company affiliated in a MCC.
- d. An individual qualifying agent can only qualify one (1) company pursuant to the respective Licensing Governing Boards of Miami-Dade County.
- e. Contractors shall submit and maintain insurance policies as stated in the contract and approved by the General Services Administration, Risk Management Division.

- f. Contractors shall submit all applicable executed responsibility affidavits as required by the County.

Upon qualifying to participate in a Miscellaneous Construction Contract, the contractor shall be listed in all of the trade categories for which the contractor is licensed and certified to perform.

### **MCC Request for Price Quotation (RPQ)**

- a. The user department shall submit the RPQ including a detailed scope of work, required trade qualifications and project cost estimate to CICC.
- b. CICC shall review the RPQ and the noted trade category required for the scope of work, as well as any sub-trade categories or specialty requirements that may be needed to complete the scope of work. Based on the constraints of the specific MCC to be accessed, CICC shall provide the user department a list of eligible participating contractors.
- c. The user department shall review the qualifications of the available contractors and invite all firms provided by CICC as qualified contractors to participate in the invitation to bid.
- d. If the user department determines that the available contractors are not qualified to perform the services, the user department shall provide to CICC a written explanation for the disqualification for the particular RPQ. The user department shall request from CICC additional contractors to invite to bid.
- e. Upon the user department's acknowledgement of the lowest responsible bidder, a recommended Bid Award and Notice to Proceed and the names of the prime contractor and any sub contractor(s) shall be forwarded to CICC. If a contractor is certified in all of the required trade categories, it may perform the required services with its own work force.
- f. Upon the user department's recommendation of an award, a copy of the award letter shall be forwarded to CICC and DBD.
- g. Upon completion of the project and submittal of final payment request, the user department shall forward the certificate of completion and completed performance evaluation to CICC.
- h. In the event that any project shall be cancelled or changed, the user

department shall forward such notification to CICC and DBD.

- i. The user department shall immediately notify CICC and forward a copy of any notice to cure, notice of non-payment, breach of contract or any other adverse condition or delinquency notification issued to or by a contractor.

**2. Design-Build** [Refer to SECTION II, H, 2 of this Administrative Order]

**3. Construction Manager-at-Risk** [Refer to SECTION II, H, 3 of this Administrative Order]

## **SECTION IV - CHANGE ORDERS AND PSA AMENDMENTS/MODIFICATIONS**

### **SCOPE:**

This section establishes the procedures for user departments to implement and maintain on a timely basis an internal formalized classifying, tracking, monitoring and reporting system for all change orders or amendments to design and construction projects. Specific construction change order information shall be supplied to DBD and CICC, who shall be responsible for maintaining and integrating this information into a countywide construction award and change order database for quarterly reporting to the County Manager.

### **PROCEDURE:**

The user department shall prepare a change order for additional work or time extension or an amendment/modification to a PSA, if such authority is specified in the bid specifications or contract, for approval by the County Manager, subject to BCC ratification under the Expedite Ordinance No. 00-104, for:

- Compensation for time extensions and contractor claims which shall not exceed five hundred thousand dollars (\$500,000) in cumulative dollar amount and shall not exceed fifteen percent (15%) of the contract price in cumulative percentage amount.
- Environmental remediation or health requirements in any amount.
- Reduction of contract scope and contractor compensation.
- Granting time extensions without compensation or waiver of liquidated damages.

### **A. Change Orders and Amendments/Modifications**

1. The user department shall prepare a package including the change

order, amendment or modification form or electronic facsimile with the appropriate approvals from DBD, OMB and the County Attorney's Office, the change order or amendment/modification memorandum, and the following exhibits: Exhibit "A" DBD Firm History Report, Exhibit "B" Summary of Bids and Exhibit "C" Detail of Contingency and Contract Usage. The package shall be submitted to CICC for review and further processing.

2. CICC shall review the package and submit a recommendation to the County Manager's Office for final review and approval. If the County Manager determines that, based on CICC's recommendation, the change order, amendment or modification is not eligible to be processed under the Expedite Ordinance No. 00-104, or deems it controversial or holding a special interest to the BCC, the documents shall be returned to the user department for processing as a regular Board Agenda item.
3. Upon approval by the County Manager, CICC shall file the documents with the Clerk of the Board and forward a copy to the user department.
4. CICC shall prepare the Expedite Ordinance No. 00-104 Project Ratification List on a quarterly basis, present it to the appropriate committee for approval and subsequent submission to the BCC for ratification.

#### **B. Change Order Memorandum Requirements**

Change Order Memorandum requirements shall include, but not be limited to, the following:

1. The original cost estimate for the construction of the project.
2. A copy of the original Bid Tabulation for all bids received for the contract.
3. The time impact to the contract period (in days).
4. The cost impact to the contract value.
5. The classification of the type of change order in at least one of the following categories (multiple classifications are allowed):
  - a. **Regulatory Change:** change caused by revisions in federal, state or local regulations after contract award.
  - b. **Other Agency Requested Change:** change requested by other

county, state or federal agency.

- c. **Design Errors Change:** change caused by design errors on the part of the architect or engineer. The identity of the party believed to be responsible for the design error shall be stated.
  - d. **Design Omission Change:** change to include items necessary for the project that were inadvertently not included in the contract. This type of change differs from Design Errors Change, in that the County would have paid for such items if included in the original bid. The identity of the party believed to be responsible for the design omission shall be stated.
  - e. **County Requested Change:** change caused by revision in the County's programmatic requirements, operational requirements, or occupancy schedule after contract award.
  - f. **Unforeseen or Unforeseeable Change:** change such as differing sub-soil conditions, variation in location of hidden or underground utilities, unforeseeable environmental requirements or unavailability of specified product(s) due to manufacturer's discontinuance.
  - g. **Force Majeure:** an unexpected or uncontrollable event.
- 6. Cost Overruns or Underruns: a final balancing change order of those costs, which exceed or fall below the estimated contract amount.
  - 7. The change order number (i.e., Change Order No. 1).
  - 8. The word 'Final' when applicable (i.e., Change Order No. 2 and Final).
  - 9. The history of previous change order requests to the contract.
  - 10. Indication of the timely submittal by the contractor. If the change order was not timely submitted, the following statement should be included in the County Manager's memorandum: "The contractor did not submit this claim during the time provided in the contract for making claims. The Board of County Commissioners has no legal obligation to consider this claim."
  - 11. The status of the allowance account including the original amount, any increases or decreases and the current balance.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

Steve Shiver

**County Manager**

**SUSTAINABILITY BUILDING PROGRAM NOTICE AND  
IMPLEMENTING ORDER (IO) 8-8**

# **E D P**

## **Equitable Distribution Program**

### **NOTICE**

#### **SUSTAINABILITY BUILDING PROGRAM**

THE COUNTY ADOPTED A SUSTAINABILITY BUILDING PROGRAM THROUGH RESOLUTION 1309-071 EFFECTIVE DECEMBER 14, 2007. ALL FUTURE COUNTY BUILDING PROJECTS ARE REQUIRED TO INCORPORATE SUSTAINABILITY DEVELOPMENT BUILDING MEASURES IN THE DESIGN, CONSTRUCTION, RENOVATION AND MAINTENANCE OF COUNTY-OWNED, COUNTY-FINANCED AND COUNTY-OPERATED BUILDINGS. IN ACCORDANCE WITH SECTION 3.16.1 LAWS AND REGULATIONS OF THE EDP PSA 2017 FIRMS ARE GOVERNED BY CODES WHICH MAY HAVE A BEARING ON THEIR SERVICES.

EDP FIRMS SHOULD ADDRESS WITH THE USER DEPARTMENTS REGARDING THE SUSTAINABILITY GOAL TO INCORPORATE SUSTAINABILITY BUILDING MEASURES IN PROJECTS PURSUANT TO THE ATTACHED SUSTAINABILITY BUILDING PROGRAM IMPLEMENTING ORDER 8-8.

ATTACHMENT

## Implementing Order



**Implementing Order No.:** 8-8

**Title:** Sustainable Buildings Program

**Ordered:** 12/04/2007

**Effective:** 12/14/2007

**AUTHORITY:**

Section 4.02 of the Miami-Dade County Home Rule Amendment and Charter, and Chapter 9, Article III, Sections 9-71 thru 9-75 of the County Code.

**POLICY:**

Resolution No. R-1200-05 established it to be the policy of Miami-Dade County to incorporate sustainable development building measures into the design, construction, renovation and maintenance of County-owned, County-financed, and County-operated buildings.

**GENERAL TERMS, AS USED IN THIS ORDER SHALL MEAN:**

- **Florida Green Building Coalition (FGBC):** a nonprofit Florida Corporation dedicated to improving the built environment, with a specific mission "to provide a statewide Green Building Program with environmental and economic benefits." FGBC has developed and administers individual standards and certification programs to recognize and designate specific projects as achieving the organization's "green standard" for homes, commercial buildings, and land developments. FGBC also has a Green Local Government Standard that recognizes individual cities and counties for outstanding environmental stewardship.
- **Green building:** is a structure that is designed, built, renovated, operated and reused in an ecological and resource-efficient manner.
- **Green building practices:** environmentally- and socially-conscious practices that emphasize processes and methods of design and construction that (i) reduce exposure to noxious materials, (ii) conserve non-renewable energy and scarce materials, (iii) minimize life-cycle ecological impact of energy and materials, (iv) employ renewable energy or materials that are sustainably harvested, (v) protect and restore local air, water, soils, flora and fauna, and (vi) support pedestrians, bicycles, mass transit and other alternatives to fossil-fueled vehicles.
- **LEED:** the Leadership in Energy and Environmental Design Green Building Rating System™ is a nationally accepted benchmark for the design, construction, and operation of high-performance green buildings. Developed and administered by the U.S. Green Building Council, LEED provides a defined process for measuring and documenting the implementation of environmentally responsible practices for multiple building types and phases of a building's lifecycle. It is accessible on-line and supported by a robust program of workshops and professional accreditation.

- **LEED-NC:** LEED for New Construction - the LEED Green Building Rating System that focuses on the design and construction process for new construction and major reconstruction of buildings. It is most frequently applied to high-performance commercial and institutional projects, with a focus on office buildings, K-12 schools, multi-unit residential buildings, manufacturing plants, laboratories and many other building types.
- **LEED-EB:** LEED for Existing Buildings – the LEED Green Building Rating System that provides a recognized, performance-based benchmark for building owners and operators to measure operations, improvements and maintenance on a consistent scale.
- **LEED-CI:** LEED for Commercial Interiors – the LEED Green Building Rating System that establishes the green benchmark for tenant improvements.
- **New construction:** is the design and construction of any new building, or an addition to an existing building.
- **Major renovation/remodel:** is any design and construction project that alters an existing building where the cost of construction is equal to or exceeds 50% of the building's replacement cost.
- **Non-major renovation/remodel:** is any design and construction project that alters an existing building where the cost of construction is less than 50% of the building's replacement cost, but in excess of \$1 million.
- **Ordinance:** is the Sustainable Buildings Program Ordinance that amended Chapter 9 of the Code of Miami-Dade County, Florida.
- **Renovate:** is to improve or repair the condition of a building.
- **Sustainable building:** means building processes that integrate materials and methods that promote environmental quality, economic vitality, and social benefit through the design, construction and operation of the built environment.
- **Sustainable Buildings Program:** The procedures necessary to implement the policy set forth in the Ordinance shall be referred to in the aggregate as the Sustainable Buildings Program.
- **USGBC:** A 501(c)(3) nonprofit organization, the U. S. Green Building Council is a nationally recognized coalition of professionals from across the building industry, whose mandate is to promote the development and operation of buildings that are environmentally responsible, profitable, and healthy places to live and work. USGBC has regional chapters throughout the country (75 chapters in 2007), including the South Florida Chapter, of which Miami-Dade County is a member organization. USGBC developed and administers the LEED Green Building Rating System™.

## **STANDARDS:**

Except as provided for elsewhere in this Implementing Order, the primary mechanism for determining compliance with the Ordinance shall be the U.S. Green Building Council's LEED Rating System. All construction projects for which a design team was selected subsequent to the effective date of this Implementing Order shall be required to meet the standards delineated herein. Compliance shall be determined by completing a formal certification process with the U.S. Green Building Council, or as otherwise directed by the Sustainability Manager.

- New Construction: All new construction projects shall be required to attain "Silver" or higher level rating under the LEED -NC Rating System.
- Major Renovations & Remodels: All major renovations/remodels shall attain "Certified" or higher level rating under the LEED-NC Rating System.
- Non-major Renovations/remodels: All non-major renovations/ remodels begun shall attain "Certified" or higher level rating under the appropriate LEED Rating System such as LEED-NC, LEED-EB or LEED-CI.
- Renovation, remodels, and other building upgrades not meeting the above criteria are encouraged to incorporate the maximum number of LEED-approved green building practices as are feasible from a practical and fiscal perspective; however, LEED certification will not be required.
- Substitution of Standard: the requirement for applying the appropriate LEED standard under any of the above-referenced categories may be exempted or modified due to special circumstances of the project. Such exemption or modification shall be for the express purpose of ensuring the use of the most appropriate or relevant rating standard, and shall not, in any way, exempt the requirement to apply green building practices to the maximum extent possible. This substitution process shall be administered by and through the Sustainability Manager.

## **DEPARTMENT RESPONSIBILITY:**

### **All County Departments:**

To implement the above policy, all County departments that are responsible for the financing, designing, developing, constructing, and managing County-owned buildings shall implement the following requirements or instructions:

- Utilize the most current USGBC LEED criteria available to incorporate green building practices in the planning, design, and construction of all new buildings, setting at a minimum, the level of "Silver" in the LEED-NC Rating System. Language specific to this requirement shall be incorporated into all related contracts. Additionally, all projects shall be registered as "green building" projects through the USGBC.

- Utilize the most current USGBC LEED criteria available to incorporate green building practices in the planning, design, and construction of major remodel/renovations, setting as a minimum a “Certified” rating in the LEED-NC Rating System. Language specific to this requirement shall be incorporated into all related contracts. All such projects shall be registered as “green building” projects through the USGBC.
- Utilize the most current USGBC LEED criteria available to incorporate green building practices in the planning, design, and construction of non-major renovation/remodels, setting as a minimum a “Certified” rating under the appropriate LEED Rating System such as LEED-NC, LEED-EB or LEED-CI. Language specific to this requirement shall be incorporated into all related contracts. All such projects shall be registered as “green building” projects through the USGBC.
- Submit quarterly status reports to the Office of Sustainability providing information relative to LEED checklist accomplishments for registered projects.
- County departments that develop, construct, and/or manage County-owned buildings, or those that have a role in the development regulatory process, shall be expected to designate, as liaison with the Office of Sustainability, a staff member who has knowledge or expertise in project management, architecture, landscape architecture, design, engineering, resource conservation, budget analysis and/or other skills as needed.
- All other County departments shall designate a staff member to act as a liaison with the Office of Sustainability for purposes of coordination and education on existing and future County initiatives as part of an overall sustainability strategy.

### **Office of Capital Improvements**

The Office of Capital Improvements (OCI) will be responsible for:

- Ensuring that all qualifying County construction contracts contain specific language requiring compliance with the Sustainable Building Ordinance.

### **Department of Procurement Management**

The Department of Procurement Management (DPM) will be responsible for:

- Including, as directed by the Sustainability Manager or OCI, appropriate language into procurement contracts to ensure compliance with the Sustainable Building Ordinance.

### **Sustainability Manager**

The Sustainability Manager shall be tasked with directing and coordinating the County’s sustainability (“green”) policy, and with the collection and dissemination of information related to the County’s sustainability initiatives. Specifically, the Sustainability Manager will be responsible for ensuring that the following functions are performed within County

government, either as a direct task or indirectly by working with designated departments within Miami-Dade County:

- Maintaining a comprehensive list of all current building projects, including new construction, major and non-major renovations/remodels, and tracking the progress of each such project as it relates to LEED compliance. This file will contain, but not be limited to, data relating to the specific LEED criteria targeted during the design phase, and the progress of each desired criteria throughout the building process.
- Chair the Sustainable Buildings Committee, which will be comprised of departmental Sustainability Liaisons and/or other technically knowledgeable representatives from key County agencies. This committee shall support the Sustainability Manager in the implementation of the policies set forth in this Implementing Order. Every effort should be made to ensure that the Committee includes members or support staff with professional accreditations, certifications, licenses or special proficiencies that can provide technical support to the Sustainable Building Program on such matters as training on LEED or other compliance standards, green building technologies, specific project reviews, and sustainability policy and research. The Committee shall be comprised of, at a minimum, representatives from the following departments: Miami-Dade Aviation, Building, Building Code Compliance, Consumer Services, DERM, Miami-Dade Fire Rescue, GSA, Office of Capital Improvements, Planning and Zoning, Park and Recreation, Procurement, Public Works, Solid Waste Management, and Miami-Dade Water and Sewer.
- Establishing guidelines for evaluating requests for exemption from the LEED certification standards. The Sustainable Building Committee (or designated staff thereof) shall be tasked with addressing petitions for specific exemptions from the ordinance and making recommendations to the Sustainability Manager or designee. The unique characteristics of a particular project shall not exempt it from applying green building practices to the maximum extent possible, and it is expected that all projects will incorporate as many LEED-approved green building practices as are feasible from a practical and fiscal perspective. The Sustainable Building Committee may, where it deems appropriate, recommend that the Sustainability Manager or designee substitute an alternative rating system (e.g. FGBC "Green Home" or "Green Development" Standard); substitute an alternative rating standard (e.g. LEED- CI, rather than LEED-EB); or craft a specific rating methodology for evaluating a project that is deemed to be exempt from, or infeasible to comply with, LEED certification standards. Final decisions regarding exemptions or substitutions shall rest with the Sustainability Manager.
- Preparing annual progress report summarizing County performance under Sustainable Buildings Program.
- Maintaining a database of all existing County sustainability initiatives.
- Serving as the County liaison with the South Florida Chapter of the U.S. Green Building Council, and other appropriate entities to ensure that the County is current with "best practices" in sustainability.

- Coordinating with other departments to develop and implement green building practices in Miami Dade County and provide support for their participation.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

County Manager

**ORDINANCE NO 11-90**  
**SUBCONTRACTOR/ SUPPLIER LISTING FORM**  
**SUBCONTRACTOR PAYMENT REPORT**



MEMORANDUM

Amended  
Agenda Item No. 7(E)

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

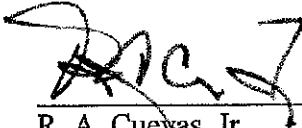
**DATE:** November 15, 2011

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

**SUBJECT:** Ordinance relating to the collection  
of data for a disparity study in  
connection with race, gender and  
ethnic based contracting programs;  
amending Sections 2-8.1, 2-8.8 and  
10-34 of the Code

Ordinance No.11-90

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan, and Co-Sponsors Vice Chairwoman Audrey M. Edmonson, Commissioner Jean Monestime and Commissioner Dennis C. Moss.

  
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R. A. Cuevas, Jr.  
County Attorney


RAC/jls

# Memorandum



**Date:** November 15, 2011

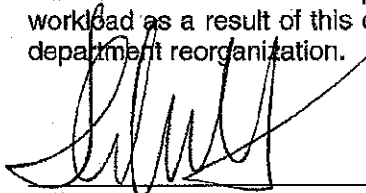
**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Ordinance relating to the collection of data for a disparity study in connection with race, gender and ethnic based contracting programs

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The proposed ordinance requires any entity contracting with the County to provide reporting of race, gender, and ethnic makeup of the ownership of first tier subcontractors under the following contracts: the purchasing of supplies, materials or services, and construction contracts for the County or Public Health Trust. In addition, as a condition of final payment, the contractor must identify all subcontractors used in the work, the amount of each subcontract, and the amount paid and to be paid to each subcontractor. The fiscal impact of implementing this ordinance cannot be determined. Any additional workload as a result of this ordinance should be addressed through efficiencies created by the overall department reorganization.

  
Office of the Mayor

Fis6911




# MEMORANDUM

(Revised)

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

**DATE:** November 15, 2011

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

**SUBJECT:** Amended  
Agenda Item No. 7(E)

**Please note any items checked.**

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

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Amended  
Agenda Item No. 7(E)  
11-15-11

ORDINANCE NO. 11-90

ORDINANCE RELATING TO THE COLLECTION OF DATA FOR A DISPARITY STUDY IN CONNECTION WITH RACE, GENDER AND ETHNIC BASED CONTRACTING PROGRAMS; REQUIRING COUNTY CONTRACTORS TO REPORT THE RACE, GENDER AND ETHNIC MAKEUP OF THE OWNERSHIP OF SUBCONTRACTORS PERFORMING THE WORK; REQUIRING COUNTY CONTRACTORS TO REPORT PAYMENTS MADE TO ALL SUBCONTRACTORS UNDER THE CONTRACT; AMENDING SECTIONS 2-8.1, 2-8.8 AND 10-34 OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, this Board wishes to assure that all segments of the County have a full, fair and meaningful opportunity to participate in County contracting regardless of race, gender or ethnic origin; and

**WHEREAS**, in furtherance of that policy, on June 24, 2011, this Board adopted Resolution R-564-11, directing the County Mayor to prepare a feasibility report in connection with a proposal to enact race, ethnic, and gender based programs; and

**WHEREAS**, under applicable law, a disparity study is the first step to determine whether or not, and to what extent, programs to remedy racial, ethnic or gender discrimination will withstand judicial scrutiny; and

**WHEREAS**, a predisparity study commissioned by the County identified various deficiencies in the gathering and compilation of the data relevant to conduct a disparity study; and

WHEREAS, the data reporting measures more particularly set forth below will serve to obtain the information in support of a disparity study,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

**Section 1.** Section 2-8.1 of the Code of Miami-Dade County is hereby amended as follows:<sup>1</sup>

**Sec. 2-8.1. - Contracts and purchases generally.**

- (a) Scope. Except as provided in subsections (b), (f) and (h), this section shall apply to all contracts for public improvements and purchases of all supplies, materials and services other than professional services.

\* \* \*

- (f) Listing of subcontractors required on certain contracts. The requirements of this subsection shall apply to those county contracts for purchase of supplies, materials or services, including professional services, which involve the expenditure of one hundred thousand dollars (\$100,000.00) or more where the contract specifications do not expressly preclude the use of subcontractors to perform a portion of the work. All such contracts shall require the entity contracting with the County to list all first tier subcontractors who will perform any part of the contract work and all suppliers who will supply materials for the contract work direct to such entity. >>The contracts shall also require the entity contracting with the County to report to the County the race, gender and ethnic origin of the owners and employees of all such first tier subcontractors.<< When a competitive process is utilized to select the entity that will contract with the County, the specifications shall provide that it shall be a condition of award for the successful bidder to provide [[such]] >>the<<

<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

listing >>of subcontractors<<, if required. ~~[[The foregoing notwithstanding, those contracts subject to this subsection advertised for bid after July 18, 1997 on which bids were opened before January 31, 1998 whose specifications do not include language implementing this subsection, may be awarded as provided in such specifications subject to the awardee supplying the required listing of subcontractors and suppliers required hereby, and agreeing to include the language provided in the last sentence of this subsection]].~~ Section 10-34 of this Code governs the subcontractor listing requirements for contracts for public improvements. >>The contract shall require the contractor to provide to the County the race, gender and ethnic information as soon as reasonably available and in any event prior to final payment under the contract.<< The County ~~[[Manager]]~~ >>Mayor or Mayor's designee<< shall include language in all contracts >>and specifications<< to which this subsection applies to >>implement this subsection and to<< provide that the contractor shall not change or substitute subcontractors or suppliers from those listed except upon written approval of the County.

\* \* \*

**Section 2.** Section 10-34 of the Code of Miami-Dade County is hereby amended as follows:

**Sec. 10-34. - Listing of subcontractors required.**

The requirements of this section shall apply to those county and Public Health Trust construction contracts in which a bidder may use a subcontractor which involve the expenditure of one hundred thousand dollars (\$100,000.00) or more. Such contracts shall require the entity contracting with the county to list all first tier subcontractors who will perform any part of the contract and all suppliers who will supply materials for the contract work direct to such entity. >>The contract shall also require the entity contracting with the County to report to the County the race, gender, and ethnic origin of the owners and employees of all such first tier subcontractors.<< When a competitive process is utilized to select the entity that will contract with the county, the specifications shall provide that it shall be a condition of award for the successful bidder to provide ~~[[such]]~~ >>the<< listing >> of subcontractors<<, if required. ~~[[The foregoing notwithstanding, those contracts~~

~~otherwise subject to this section advertised for bid after July 18, 1997 on which bids were opened before January 31, 1998 whose specifications do not include language implementing this section, may be awarded as provided in such specifications subject to the awardee supplying the listing of subcontractors and suppliers required hereby and agreeing to include the language specified in the last sentence of this section.]] >>The contract shall require the contractor to provide to the County the race, gender and ethnic information as soon as reasonably available and in any event prior to final payment under the contract.<< The [[County Manager]] >>Mayor or Mayor's designee<< shall include language in all contracts to which this section applies to >>implement this Section and to<< provide that the contractor shall not change or substitute subcontractors or suppliers from those listed except upon written approval of the county.~~

**Section 3.** Section 2-8.8 of the Code of Miami-Dade County is hereby amended as

follows:

**Sec. 2-8.8. - Fair subcontracting practices.**

- (1) Policy. It is the policy of this County to promote diversity in the use of Subcontractors on Miami-Dade County projects and to allow opportunities for subcontracting to as many qualified Subcontractors as possible.

\* \* \*

- (4) Reporting of subcontracting policies>><< [[and]] procedures >>and payments<<. For all contracts in which a bidder may use a Subcontractor, prior to contract award, the bidder shall provide a detailed statement of its policies and procedures for awarding subcontracts. Failure to provide the required statement shall preclude the bidder from receiving the contract. >>As a condition of final payment under a contract, the contractor shall identify all subcontractors used in the work, the amount of each subcontract, and the amount paid and to be paid to each subcontractor. In the event that the contractor intends to pay less than the subcontract amount, the contractor shall deliver to the County a statement explaining the discrepancy or any disputed amount.<< The County [[Manager]] >>Mayor or Mayor's designee<< shall include language in the specifications of applicable County contracts >>to give effect to the intent of this Section.<<

~~[[for the provision of such a statement. The foregoing notwithstanding, those contracts otherwise subject to this subsection advertised for bid after July 5, 1997 on which bids were opened before January 31, 1998 whose specifications do not include language implementing this subsection, may be awarded as provided in such specifications subject to the awardee supplying the statement of subcontracting policy required hereby.]]~~

**Section 4.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 5.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

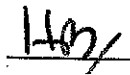
**Section 6.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: November 15, 2011

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



Hugo Benitez

Prime Sponsor: Commissioner Barbara J. Jordan  
Co-Sponsors: Vice Chairwoman Audrey M. Edmonson  
Commissioner Jean Monestime  
Commissioner Dennis C. Moss

(Miami-Dade County Code Sections 2-8.1, 2-8.8 and 10-34)

Project/Contract Number \_\_\_\_\_

In accordance with Ordinance No. 11-90, an entity contracting with the County shall report the race, gender and ethnic origin of the owners and employees of all first tier subcontractors/suppliers. In the event that the successful bidder demonstrates to the County prior to award that the race, gender, and ethnic information is not reasonably available at that time, the successful bidder shall be obligated to exercise diligent efforts to obtain that information and provide the same to the County not later than ten (10) days after it becomes available and, in any event, prior to final payment under the contract.

[illegible]

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

**SUB 100 Rev. 6/12**

**MIAMI-DADE COUNTY  
SUBCONTRACTORS PAYMENT REPORT  
(Ordinance 11-90)**

In accordance with Sections 2-8.8 of the County Code (as amended by Ordinance No. 11-90), an entity contracting with the County as a condition of final payment under a contract, the contractor shall identify all subcontractors used in the work, the amount of each subcontract, and the amount paid to each subcontractor. In the event that the contractor intends to pay less than the subcontract amount, the contractor shall deliver to the County a statement explaining the discrepancy or any disputed amount.

This form may be submitted after final payment to each subcontractor or comprehensively at the end of the contract with final requisition/invoice. All payments to subcontractors must be submitted as a condition of final payment by Miami-Dade County. Please include in the "Total Amount Paid" column any funds that will be paid to subcontractors from the final payment issued by the County and denote such an amount with an asterisk (\*). Attach statements explaining discrepancies between Contract Value and Total Amount Paid when applicable.

**PRIME CONTRACTOR/VENDOR:**

**FEIN:**

**PROJECT/CONTRACT NAME:**

**PROJECT/CONTRACT NUMBER:**

**CONTRACT AWARD DATE:**

**CONTRACT AWARD AMOUNT:**

SUBCONTRACTOR	FEIN	CONTRACT VALUE	TOTAL AMOUNT PAID
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$

**COMPLETED FORM MUST BE INCLUDED WITH FINAL REQUISITION/INVOICE TO THE CONTRACTING/USER DEPARTMENT.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

For Departmental Use Only

\_\_\_\_\_  
Department Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

Contractor in Compliance ☐

## UTILIZATION FORM

# E D P

## Equitable Distribution Program UTILIZATION FORM

EDP Members are required to submit a Utilization Form with every contract invoice to the Client Department's Project Manager, except for Professional Services Agreements (PSA) with goals or measures. If a PSA has goals or measures, the ISD/Small Business Department (SBD) Monthly Utilization Report (MUR) must be submitted. This Utilization Form may be downloaded at the ISD Procurement Management EDP Unit Website at <http://www.miamidade.gov/procurement/equitable-distribution.asp> The MUR may be downloaded from the ISD SBD Website at <http://www.miamidade.gov/smallbusiness/library/forms/ae-mur.pdf>

REPORTING PERIOD		ANTICIPATED COMPLETION	USER DEPARTMENT	
FROM			PROJECT MANAGER	
TO			TELEPHONE	
PROJECT NUMBER			PROJECT TITLE	

AMOUNT REQUISITIONED THIS PERIOD		AMOUNT REQUISITIONED TO DATE	
AMOUNT SUBS REQUISITIONED THIS PERIOD		AMOUNT SUBS REQUISITIONED TO DATE	
AMOUNT PAID TO PRIME TO DATE		AMOUNT PAID TO SUBS TO DATE	

PRIME FIRM		FIRM PROJECT MANAGER	
ADDRESS		TELEPHONE	

NAME OF SUB CONSULTANTS	AMOUNT REQUISITIONED THIS PERIOD	AMOUNT REQUISITIONED TO DATE	AMOUNT PAID TO DATE

Firm

Representative

Signature

Date

**UPON APPROVAL, PROJECT MANAGERS MUST FORWARD A COPY OF THIS COMPLETED REPORT TO:**

ISD/ Small Business Development  
111 N. W. 1st Street, Suite 1900  
Miami, FL 33128  
Telephone 305-375-3111  
E-mail: SBDMail@miamidade.gov

Should you have any questions, kindly contact  
Elizabeth Zabowski at 305-375-2824  
Equitable Distribution Program Coordinator