

DEPARTMENTAL INPUT
CONTRACT/PROJECT MEASURE ANALYSIS AND RECOMMENDATION

Rev 1

New contract
 OTR
 CO
 SS
 BW
 Emergency
 Previous Contract/Project No.: RFQ95

Re-Bid
 Other

LIVING WAGE APPLIES: __YES __NO

Requisition/Project No: RFQ839 TERM OF CONTRACT: 5 years with one 5 year option-to-renew

Requisition/Project Title: In-Fill Housing Developer Pool

Description: Miami-Dade County, hereinafter referred to as the County, as represented by Miami-Dade County Public Housing and Community Development (PHCD), is soliciting proposals from qualified Developers to submit their qualifications for inclusion in a pool of Developers to provide affordable single family homes. These homes will be sold to low and moderate income persons as part of the County's In-fill Housing Program. Selected Developers will participate in the In-fill Housing Developer Pool, herein after referred to as the "Pool", for non-recurring projects. The purpose of creating the Pool is to expedite the selection process for developers needed to participate in the development or substantial rehabilitation of affordable single family housing on County property.

User Department(s): Public Housing and Community Development

Issuing Department: ISD/PM Contact Person: Pearl P. Bethel Phone: 305-375-2102

Estimated Cost: \$0.00 Funding Source: N/A REVENUE GENERATING: _____

ANALYSIS

Commodity/Service No: <u>925-61, 918-31 and 961-17</u>		SIC: _____	
Trade/Commodity/Service Opportunities			
Contract/Project History of Previous Purchases For Previous Three (3) Years Check Here <input type="checkbox"/> if this is a New Contract/Purchase with no Previous History			
EXISTING		2ND YEAR	
Contractor:	Pool	Pool	Pool
Small Business Enterprise:	N/A	N/A	N/A
Contract Value:	0.00	0.00	0.00
Comments: <u>No monies expended, just land conveyed for affordable housing.</u>			
Continued on another page (s): <input type="checkbox"/> Yes <input type="checkbox"/> No			

RECOMMENDATIONS

SBE	Set-Aside	Sub-Contractor Goal	Bid Preference	Selection Factor
		%		
		%		
		%		
		%		

Basis of Recommendation:

Signed: *Pearl P. Bethel*

Date to SBD: 8/16/2012

Date Returned to DPM: _____

RECEIVED
 DEPT. BUSINESS DEV.
 2012 AUG 17 PM 12:49

DEPARTMENTAL INPUT
CONTRACT/PROJECT MEASURE ANALYSIS AND RECOMMENDATION

Rev 1

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

Infill Housing Developer Pool

Contract No. RFQ839

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

WITNESSETH:

WHEREAS, the Contractor has offered to participate in the County's Infill Housing Developer Pool ("Pool") of pre-qualified firms for the purpose of competing on future Work Order Proposal Request to provide affordable housing for the County on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. 893 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

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

WHEREAS, the County has pre-qualified the Contractor to participate in the Infill Housing Pool for providing Affordable Single Family Homes and may procure from the Contractor such Infill Housing Development Services for the County, in accordance with the terms and conditions of this Agreement;

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

ARTICLE 1. DEFINITIONS

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

- a) The words "Affordable Housing" to mean housing where the mortgage payments, including taxes and insurance, does not exceed 30 percent of the amount which represents the percentage of the median annual gross income for low and moderate income households. However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing, and housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark.
- b) The words "Certificate of Qualification" to mean a certificate issued by Public Housing Community Development (PHCD) or any other County or non-County agency that has been authorized by PHCD to qualify households, establishing that a household is qualified to purchase and affordable dwelling unit. Certificates of Qualification shall be valid for 12 months.
- c) The words "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), all other appendices and attachments hereto, all amendments issued hereto, RFQ No. 893 and all associated addenda, the Contractor's Proposal, and any subsequent Work Order issued hereto.
- d) The words "Contract Date" to mean the date on which this Agreement is effective.
- e) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- f) The word "Contractor" to mean _____ and its permitted successors and assigns.
- g) The words "Control Period" to mean the 20-year period during which the eligible home must remain affordable. The control period begins on the initial sale date of the eligible home and resets automatically every 20 years for a maximum of 60 years, except that in the event the home is owned by the same owner for an entire 20-year period, said home shall be released from the affordability restrictions.
- h) The words "County Property" to mean property that is owned by Miami-Dade County.
- i) The word "Days" to mean Calendar Days.
- j) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- k) The words "Developer" to mean any person, firm, corporation, partnership, limited liability company, association, joint venture, community based organization, or any entity or combination of entities, excluding any governmental entity that has agreed to build affordable housing through the Infill Housing Program.

- l) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.
- m) The words "Dwelling Unit" to mean a unit, whether detached or attached to another such unit, that houses a single family and that can be sold in fee simple ownership.
- n) The words "Eligible Person or Eligible Household" to mean one or more natural persons or a family that has not owned or had an interest in a home during the previous three years and that has been determined by the County to meet the eligibility requirement of a low income or moderate income household according to the income limits adjusted to family size published annually by the United States Department of Housing and Urban Development based upon the annual gross income of the household.
- o) The words "Extra Work" or "Additional Work" or "Change Order" to mean additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- p) The words "Infill Development" to mean the redevelopment of neighborhoods that are located within the infill target areas.
- q) The words "Infill Parcel" to mean a parcel of land that is located within the infill target areas and is suitable for residential development of four (4) dwelling units or less.
- r) The words "Infill Target Areas" to mean the areas of the County designated as the Urban Infill Target Area (UIA), as defined in Section 33G-3(26) of the Code, and the Targeted Urban Areas (TUA), as defined in Section 30A-129(2) of the Code. In addition, Infill Target Areas shall include those portions of Neighborhood Revitalization Strategy Areas not otherwise covered under the UIA and TUA; and any geographic locations in Miami-Dade County which are designated by the Federal Government as empowerment zones shall be included in the definition of TUA at the time of such designation.
- s) The words "Low Income Household" to mean those households whose total annual adjusted gross income is 80% percent or less than of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within Miami-Dade County, whichever is greater as defined by HUD.
- t) The words "Moderate Income Household" to mean those households whose total annual adjusted gross income is greater than 80% and less than 140% percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within Miami-Dade County, whichever is greater as defined by HUD.
- u) The words "Not-For-Profit Organization" to mean an organization that is registered as a tax-exempt corporation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and has been organized for the purposes of promoting community interest and welfare.
- v) The words "Project Manager" to mean the County Manager or the duly authorized representative designated to manage the Project.

- w) The words "Qualified Household" to mean an eligible household that has received a certificate of qualification from the County.
- x) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- y) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- z) The words "State Housing Initiative Partnership (SHIP)" to mean the affordable housing program established pursuant to Section 420.90 et seq. of the Florida Statutes for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and to increase housing-related employment.
- aa) The words "substantial rehabilitation" to mean rehabilitation or improvements to the existing building or structure taking place during a one year period with the cumulative cost which equals or exceeds 40% of the market value, or assessed value as determined by the County's Property Appraiser's Office, of the structure before such work started or as defined by Florida Building Code.
- bb) The words "Surtax Funds" to mean the discretionary tax on documents, which the County is authorized by Section 125.0167 of the Florida Statutes to levy, for the purpose of establishing and financing the County's Local Housing Assistance Loan Trust Fund to assist in the financing of construction, rehabilitation, or purchase of housing for low-income and moderate-income families.
- cc) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract and any Work Order issued as a result of the Work Order Process of the County's Infill Housing developer Pool.
- dd) The word "Work Order" to mean an assignment of work issued by the County to a Pool member to perform work specified in the Work Order Proposal Request.
- ee) The word "Work Order Proposal" to mean the documentation presented by Pool members in response to a Work Order Proposal Request (WOPR).
- ff) The words "Work Order Proposal Request" (WOPR) to mean the solicitation document requesting proposals from Pool members.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Scope of Services (Appendix A), 3) any Work Order issued as a result of this Agreement, 4) Miami-Dade County's RFP No. 893 and any associated addenda and attachments thereof, and 5) the Contractor's Proposal.

implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date set forth on the first page and shall continue through the last day of the 60th month. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period of five (5) additional years. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

Work Order Term

Work Orders shall expire as stated on each individual Work Order issued under this Contract, and may extend past the expiration of this Contract. The provisions of any specific Work Order which commences prior to the termination date of this Contract and which will extend beyond said termination date shall survive the expiration or termination hereof.

ARTICLE 6. NOTICE REQUIREMENTS

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

(1) to the County

a) to the Project Manager:

Miami-Dade County
Public Housing and Community Development
Facilities & Development Division
701 NW 1st Court, 16th Floor
Miami, FL 33136-3912

Attention: Alan Eson
Phone: (786) 469-4226

and,

b) to the Contract Manager:

Miami-Dade County
Internal Services Department, Procurement Management Division

111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Attention: Assistant Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

Attention:
Phone:
Fax:
E-mail:

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

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

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

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

ARTICLE 8. PRICING

Pricing information, if any, shall be stipulated in any Work Order issued hereunder.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

Payment information, if any, shall be stipulated in any Work Order issued hereunder.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or

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

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

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
2. Public Liability Insurance on a comprehensive basis in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.
4. Professional Liability Insurance in an amount not less than \$_____ with a deductible per claim not to exceed ten percent (10%) of the limit of liability.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Contractor. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

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

OR

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

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Contractor hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

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

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

ARTICLE 11. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County, the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.
- c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any of its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion that said personnel

staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.

- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES OF THE CONTRACTOR

- a) All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.
- b) Pursuant to Section 2-2092 of the County Code, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under this contract, shall make good faith efforts as determined by the County to fill a minimum of 50% of its employment needs under this contract through the South Florida Workforce Board, or other designated Referral Agency. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor shall provide quarterly reports to the Referral Agency indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 14. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

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

questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.

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

ARTICLE 15. MUTUAL OBLIGATIONS

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

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

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

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

ARTICLE 17. AUDITS

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

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

ARTICLE 18. SUBSTITUTION OF PERSONNEL

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

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

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

ARTICLE 20. SUBCONTRACTUAL RELATIONS

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

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

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

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

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

ARTICLE 22. SEVERABILITY

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

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

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

Effective Termination Date; and

- ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.
- g) All compensation pursuant to this Article are subject to audit.

ARTICLE 24. EVENT OF DEFAULT

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

possession of all applicable property (ies), materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

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

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

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

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

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

ARTICLE 27. VENDOR REGISTRATION/CONFLICT OF INTEREST

a) Vendor Registration

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

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Miami-Dade County Ownership Disclosure Affidavit
(Section 2-8.1 of the County Code) 2. Miami-Dade County Employment Disclosure Affidavit
(Section 2-8-1(d)(2) of the County Code) 3. Miami-Dade County Employment Drug-free Workplace Certification
(Section 2-8.1.2(b) of the County Code) 4. Miami-Dade Disability and Nondiscrimination Affidavit
(Section 2-8.1.5 of the County Code) 5. Miami-Dade County Debarment Disclosure Affidavit
(Section 10.38 of the County Code) 6. Miami-Dade County Vendor Obligation to County Affidavit
(Section 2-8.1 of the County Code) | <ol style="list-style-type: none"> 7. Miami-Dade County Code of Business Ethics Affidavit
(Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code) 8. Miami-Dade County Family Leave Affidavit
(Article V of Chapter 11 of the County Code) 9. Miami-Dade County Living Wage Affidavit
(Section 2-8.9 of the County Code) 10. Miami-Dade County Domestic Leave and Reporting Affidavit
(Article 8, Section 11A-60 11A-67 of the County Code) 11. Subcontracting Practices
(Ordinance 97-35) |
|--|---|

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

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

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

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

- Identification of individual account records

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

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

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

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

b) Conflict of Interest

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

ARTICLE 28. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

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

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall

also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.***

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

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

ARTICLE 29. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

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

- a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Miami-Dade County Florida, Department of Small Business Development Participation

- Provisions, as applicable to this Contract.
- c) Environmental Protection Agency (EPA), as applicable to this Contract.
 - d) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment without regard to race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in a conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.
 - e) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.
 - f) Miami-Dade County Code Section 10-38 "Debarment".
 - g) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.
 - h) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the County or Contractor for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Contractor. The Project Manager shall verify the certification(s), license(s), permit(s), etc. for the Contractor prior to authorizing work and as needed.

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

ARTICLE 30. NONDISCRIMINATION

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

By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the

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

ARTICLE 31. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 32. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

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

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and
- c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 33. BANKRUPTCY

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

ARTICLE 34. GOVERNING LAW

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

ARTICLE 35. SURVIVAL

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

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

Contractor

Miami-Dade County

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest: _____
Corporate Secretary/Notary Public

Attest: _____
Clerk of the Board

Corporate Seal/Notary Seal

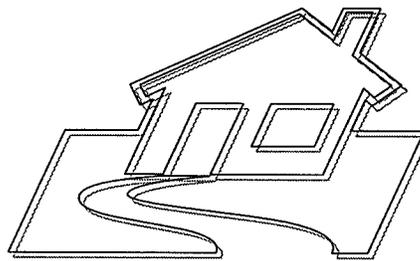
Approved as to form
and legal sufficiency

Assistant County Attorney



Delivering Excellence Every Day

INFILL HOUSING PROGRAM GUIDELINES



**Prepared By:
Public Housing and Community Development
Infill Housing Program
701 NW 1 Court, 16th Floor
Miami, FL 33136
(786) 469-4226**

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**XVIII. INFILL HOUSING PROGRAM
CONTACT INFORMATION**

I. PURPOSE

The purpose of the Infill Housing Initiative is to increase the availability of affordable homes for low and moderate income persons; maintain a stock of affordable housing; redevelop urban neighborhoods by eliminating the blight of vacant, dilapidated or abandoned properties; equitably distribute homeownership opportunities within the Infill Target Areas; and generate payment of ad valorem taxes. The Infill Housing Initiative provides incentives to encourage developers to build affordable housing. These incentives include free land for qualified developers, forgiveness of County liens on private lots, deferral and/or refund of impact fees and funding assistance in the form of second mortgages for qualified buyers. Although the Infill Housing Initiative is primarily designed to create affordable homeownership of single family homes, the County under limited circumstances may at its sole discretion permit developers to rent these homes to qualified low or moderate income families for up to two (2) years. (See Section XV for more details).

The procedures established to carry out the goals of the Infill Housing Initiative are referred to as the Infill Housing Program and as of November 1, 2011, are administered by the Public Housing and Community Development (PHCD).

II. DEFINITIONS

Affordable: Where the mortgage payment, including taxes and insurance, does not exceed 30 percent of the amount which represents the percentage of the median annual gross income for low and moderate income households. However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing, and housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark.

Certificate of Qualification: A certificate issued by the Public Housing and Community Development (PHCD) or any other County or non-County agency that has been authorized by PHCD to qualify households. Certificates of Qualification shall be valid for 12 months.

Compliance Certificate: A certificate issued by the Infill Housing Program stating that the proposed conveyance; sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in the Affordable Housing Restrictive Covenant running with the land.

Control Period: The 20-year period during which the eligible home must remain affordable. The control period begins on the initial sale date of the eligible home and resets automatically every 20 years for a maximum of 60 years, except that in the event the home is owned by the same owner for an entire 20-year period, said home shall be released from the affordability restrictions.

County Property: Property that is owned by Miami-Dade County which is made available to qualified developers for the development of affordable housing.

INFILL HOUSING PROGRAM GUIDELINES

Dwelling Unit: A unit, whether detached or attached to another such unit, that houses a single family and that can be sold in fee simple ownership.

Eligible Housing or Eligible Home: Any dwelling unit that is: (i) located on an infill parcel; (ii) constructed in accordance with this article; and (iii) used as the primary residence of a qualified household.

Eligible Person or Eligible Household: One or more natural persons or a family that has not owned or had an interest in a home during the previous three years and that has been determined by the County to meet the eligibility requirement of a low income or moderate income household according to the income limits adjusted to family size published annually by the United States Department of Housing and Urban Development based upon the annual gross income of the household. The terms Eligible Person or Eligible Household shall also include one or more natural persons or a family who participates in one of the County's and other municipalities' affordable rental programs, including but not limited to the Section 8 Housing Choice Voucher or the Miami-Dade Homeless Trust Continuum of Care's Household Exiting Emergency Shelter, Transitional Housing and Domestic Violence programs and who has been determined by the County to meet the eligibility requirements of a low or moderate income household according to the income limits adjusted to family size published annually by the United States Department of Housing and Urban Development based upon the annual gross income of the household.

Impact Fees: Fees for Road, Fire and Emergency Services, Parks, and Police that are paid as pre-development costs to help fund the additional expenses required for services for new development.

Infill Parcel: A parcel of land that is located within the infill target areas and is suitable for residential development of four (4) dwelling units or less.

Infill Target Areas: The areas of the County designated as the Urban Infill Target Area (UIA), as defined in Section 33G-3(26) of the Code, and the Targeted Urban Areas (TUA), as defined in Section 30A-129(2) of the Code. In addition, Infill Target Areas shall include those portions of Neighborhood Revitalization Strategy Areas not otherwise covered under the UIA and TUA and any geographic locations in Miami-Dade County which are designated by the Federal Government as empowerment zones shall be included in the definition of TUA at the time of such designation.

Liens: Encumbrances placed on property by the County or other municipality for failing to maintain property or pay for services rendered, i.e. lot clearing, trash pick up, demolition of unsafe structure, etc.

Low Income Household: Those households whose total annual adjusted gross income is 80% percent or less than the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within Miami-Dade County, whichever is greater as defined by US HUD.

Moderate Income Household: Those households whose total annual adjusted gross income is greater than 80% and less than 140% percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within Miami-Dade County, whichever is greater as defined by US HUD.

Private Property: Property that is not owned by Miami-Dade County.

Qualified Developer: Any person, firm, corporation, partnership, limited liability company, association, joint venture, community based organization, not-for-profit agency, or any entity or combination of entities, excluding any governmental entity, that has been qualified by the County as having the requisite experience and capacity to build affordable housing through the Infill Housing Program. For these purposes a community-based organization shall have among its purposes the provision of affordable housing to persons who have special needs or have low income, or moderate income within a designated area, which may include a municipality or more than one municipality or the County, and maintains, through a minimum of one-third representation on the organization's governing board, accountability to housing program beneficiaries and residents of the designated area.

Substantial Rehabilitation: Rehabilitation or improvements to the existing building or structure taking place during a one year period with the cumulative cost which equals or exceeds 40% of the market value, or assessed value as determined by the County's Property Appraiser's Office, of the structure before such work started or as defined by Florida Building Code.

Urban Infill Target Area (UIA): The area of Miami-Dade County located east of, and including Northwest and Southwest 77 Avenue (and its theoretical extensions) including the Palmetto Expressway (SR 826), north of and including SW 232 Street.

III. COUNTY SUBSIDY PROGRAMS

a) Homebuyer Assistance

The County offers financial assistance to eligible low and moderate income homebuyers through various County Programs including, but not limited to the following:

- **Public Housing and Community Development (PHCD):** PHCD manages a variety of affordable housing programs funded and regulated at the local, state, and federal levels. The purpose of these programs is primarily to provide low and moderate income County's residents with affordable, sanitary, safe, and decent housing. For more information, visit PHCD's website at <http://www.miamidade.gov/housing>
- **Housing Finance Authority (HFA)** provides low-interest rate mortgages and financial assistance to first-time low and moderate income homebuyers. In coordination with its non-profit partner, Miami Dade Affordable Housing Foundation, Inc., the HFA also provides homebuyer education and certification. For more information on programs offered by HFA visit their website at <http://www.miamidade.gov/hfa>.

c) Developer Assistance/Incentives

- **Public Housing and Community Development (PHCD):** PHCD provides Community Development Block Grant (CDBG) funding to developers for the

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construction of affordable housing and other economic redevelopment projects. For more information about CDBG funding, visit PHCD website <http://www.miamidade.gov/housing>.

- **Building Permit Expedite Process:** Homes being developed in the Unincorporated Municipal Service Area (UMSA) through the County's Infill Housing Program qualify for the Permitting, Environmental and Regulatory Affairs (PERA) expedited permit process. PHCD provides developers a letter indicating that the lot is being developed through the Infill Housing Program. That letter must be presented to the Building Department when applying for a building permit in order to qualify for the expedite process.
- **Release of Liens:** See Section XII
- **Refund of Impact Fees:** See Section XIII

IV. MINIMUM ARCHITECTURAL AND SPACE REQUIREMENTS

a) Submittal

Any units constructed through the Infill Housing Program must comply with the space requirements and standards contained in this section.

Construction shall be restricted to code-approved site-built homes; no modular, manufactured, or prefabricated homes designs will be approved. Building design shall provide for safe, secure, healthful, and attractive living facility and environmentally suited to the social, economic, and recreational needs of resident families and individuals. It shall provide for ease of circulation and housekeeping; visual and auditory privacy; building code requirements for light, ventilation, fire and accident protection; economics in maintenance and use of space; accessory services; and sanitation facilities.

Roofs for one (1) and two (2) story buildings shall be (a) in compliance with the Florida Building Code (FBC) and (b) conform to the surrounding neighborhood. Class "A" fire rated SFBC covering if required. Aesthetically, variations of exterior elevations will be considered favorably.

b) Local Codes, State and Federal Regulations and all applicable codes

These Infill Housing Program standards are not intended to serve as a building code. Such codes are primarily concerned with fractions of health and safety and not the many other aspects of design for functions, aesthetics and use. Where the Florida Building Code, local, state or federal regulations require lower standards, the Infill Housing standards as specified herein shall apply.

These standards shall not be construed as relieving the developer and/or the building of his responsibility for compliance with local ordinances, code and regulations including established requirements of a healthy authority having jurisdiction. The provision of handicapped accessibility and meeting design requirements of local, state or federal laws shall be the responsibility of the developer and/or architectural consultant whenever applicable.

The Infill Housing Program does not assume responsibility for enforcing or determining compliance with local codes and regulations or make interpretations regarding their application in any specific instance. The developer shall be

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responsible to obtaining all applicable building permits and inspections leading to obtaining a certificate of occupancy and/or final inspection from the proper building and zoning department according to the project location. These items will be a prerequisite to close on any home built through the Infill Housing Program.

c) Site Requirements – In Conformance with the Florida Building Code Requirements

- 1) Landscaping shall include solid sod at all non-paved areas and shrubs and trees as required by the local building departments.
- 2) The Site plan shall indicate all required parking in conformance with the zoning code. Driveway approaches and parking pads are to be asphalted. Concrete driveways and parking pads shall be viewed favorably.
- 3) Single-family homes with enclosed carports or garages will be viewed favorably.
- 4) Landscaping, including tree removals and replacements, shall conform to all local codes.
- 5) Developer will provide the necessary site development improvements including street signs, sidewalks, curb cuts and all required utilities services to the unit(s) including water and sanitary sewer.
- 6) Developer will be required to provide landfill and grading as necessary to meet both local and federal requirements on floor elevations and drainage.
- 7) All utility companies and agencies requirements (i.e., electrical, gas, water and sewer, Public Works, PERA, telephone, fire departments, post office, etc.) must be met.
- 8) All main entrance doors must have concrete stoops of 4' x 4' minimum dimensions or larger as required by the door width dimensions. Secondary exterior doors must also have concrete stoops of 3' x 3' minimum dimension or larger as required by door width dimensions.

d) Minimum Net Space Requirements for New Construction & Substantial Rehabilitation

▪ Living / Sleeping Space Requirements by Unit Size (Square Feet)

	1-BR UNIT	2-BR UNIT	3-BR UNIT	4-BR UNIT	*MINIMUM DIMENSIONS
Living Room	160	160	170	180	11'-6"
Dining Room	100	100	110	120	8'-6"
Kitchen	60	70	80	90	7'-0"
Living/Dining	210	210	230	250	12'-0"
Kitchen/Dining	120	130	140	160	10'-0"
Bedroom #1 (Master)	125	125	125	125	10'-0"
Bedroom #2	--	100	100	100	10'-0"
Bedroom #3	--	--	100	100	10'-0"
Bedroom #4	--	--	--	100	10'-0"

* Does not apply to multifamily new construction.

▪ Bedroom Closet Dimensions (feet)

Bedroom Closets	Minimum Dimensions
Bedroom #1 (Master)	2'-0" x 6'-0"

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Bedroom #2 thru #4	2'-0" x 4'-0"
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▪ **Linen Storage shall be provided as follows:**

- 1) Minimum shelf area: 10 sq. ft. for 1 and 2 bedroom units;
- 2) 15 sq. ft. for three or more bedroom units.
- 3) Spacing of movable shelving: not less than 12 in. other closets.
- 4) Location as close as possible to bathrooms.

▪ **General Storage**

Usable general storage space shall be provided for the storage of items and equipment essential to the use of the occupants. Laundry connections may be placed in this space. This storage shall be in addition to required bedroom and linen closets and kitchen storage. The minimum total square footage of general storage for each living unit shall conform to either column 1 or column 2 of the following chart.

General Storage Requirements (Square Feet)

	Column 1 (1)	Column 2 (2)
1 BR Unit	17	34
2 BR Unit	17	34
3 BR Unit	22	50
4 BR Unit	22	50

Note: Column (1) This storage shall be located entirely within living unit.
 Column (2) At least one half of this storage shall be located within the living unit.

Attic space, if provided, may only count as 20% of this storage requirement. Appropriate access panel is to be provided. Boards or plywood panels shall be nailed to roof trusses all around the opening inside the attic space to minimum width of 2'-6", to facilitate the storage surface to the owner. Minimum height available around opening inside attic space shall be 4'-0".

▪ **Bathrooms**

- 1) Units having one or two bedrooms must be furnished with a bathtub.
- 2) Units having 3, 4, or more bedrooms should have at least two full baths, with a minimum of one bathroom containing a bathtub.
- 3) Split level units with the bedrooms on the upper level will require a half bath on the lower level, in addition to other bathroom requirements. If a bedroom is on the ground floor, a full bathroom is required.

Bathrooms shall be provided with the following accessories:

- 1) Securely mounted soap dish and towel bar with holders at tub and shower.
- 2) Shower curtain rod at tub. Enclosure at shower.
- 3) Soap dish at lavatory (soap dishes may be integral with the fixture).
- 4) Toothbrush holder at lavatory.
- 5) Toilet paper holder accessible from water closet.
- 6) Medicine cabinet with mirror. (Fixed wall mounted mirror in addition is optional).
- 7) Two towel bars with holders, outside tub and shower.

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Each half bath shall be provided with above items 3, 4, 5, and 6.

Shower stalls shall have a minimum area of at least 3' x 3'.

Ceramic or vinyl tile floors shall be provided. Walls around showers or tub-showers shall be a full ceiling height from the tub or bottom of the shower.

Lighting and ventilation to comply with current building code requirements.

▪ **Kitchen**

Kitchen Minimum Space Requirements (square feet)

	1 BR UNIT	2 BR UNIT	3 BR UNIT	4 BR UNIT
Wall and Base Cabinets	30	35	40	45
Drawer	5	6	7	8

* Usable storage drawer in cooking range or under sink may be counted in the total spacing needed.

Pantry Closets: Same requirements as linen closet. However, must have a minimum of six shelves.

Kitchen Appliances and Equipment Requirement

- 1) Refrigerator with a minimum size of 18 cubic feet.
- 2) Range with a minimum width of 30 inches
- 3) Stainless steel double sink for each unit.
- 4) Re-circulating range hood fan with light in naturally ventilated kitchens.
- 5) Exterior vented range hood exhaust fan with light in other kitchens.

Other Requirements

- 1) Smoke Detector - As per the FBC.
- 2) Exterior door viewer/knocker (Door bell is optional).
- 3) Water heater drain pans if located on the 2nd floor.
- 4) Energy conservation measures to comply with state energy code.
- 5) HVAC - provide energy efficiency rating as per the SFBC.
- 6) Units must meet present fire exit code requirements dealing with minimum window dimensions and height.
- 7) Main pedestrian entrance must have a minimum 4'-0" roof overhang.
- 8) Secondary pedestrian entrances must have a minimum 3'-0" roof overhang.
- 9) Evidence of building and zoning final inspection and/or C.O.
- 10) 100% building warranty by developer from date of closing, as per state or county law whichever is more stringent.
- 11) The developer shall warrant the home for defects in workmanship or quality of materials for 12 months following the sale.

e) Optional Provisions

These items if provided will be only considered favorable for the proposed project but are not required.

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- 1) Homebuyer's Warranty Policy to include 2/10 coverage.
- 2) Window in master bathroom.
- 3) Bathroom vanity cabinet.
- 4) Window in kitchen.
- 5) Kitchen cabinet space exceeded by at least 20%.

f) Duplexes, Triplexes and Fourplexes

- 1) Only side by side design will be considered.
- 2) Each unit shall be constructed with separate water meters, FPL meters, and sewer connections.
- 3) Fireproof party walls that go all the way to the roof shall be constructed between each unit.
- 4) The Developer shall submit recorded condominium documents to homebuyers at the time of executing a sales agreement. Copies of same shall be provided to the Infill Housing Program staff.
- 5) Condominium documents shall contain a party wall agreement, lot and common area maintenance clauses and the collection of fee clauses for maintenance, reserves and special assessments.
- 6) The construction plans must show a minimum of two (2) exterior doors per unit.
- 7) The developer must provide a survey with separate legal descriptions for each unit.

V. PROCESS TO DEVELOP COUNTY-OWNED LOTS

a) Selecting Qualified Developers

County-owned lots that are ready for development are offered to the Infill Housing Developer Pool, at no cost, however there is a closing processing fee (See Section XVII). The Infill Housing Developer Pool is selected through a Request for Qualifications (RFQ) process that is issued by the Division of Procurement Management part of the Internal Services Department (ISD). Qualified Developers are selected based on the following criteria:

- Proposer's past performance and experience
- Proposer's construction financial capability
- Proposer's approach to meeting time schedule and budgets
- Proposer's marketing skills and ability reach eligible households

b) Awarding County Lots

County lots that are determined to be ready for development are made available to the pool of qualified developers through a Work Order Proposal Request (WOPR). The WOPR specifies the lots that are being made available as well as the targeted income level of the buyer. Only developers in the pool will be given the opportunity to respond to the WOPR. Award of the lots will take into account the following criteria:

- **Architectural Design:** The developer must provide two sets of plans for each model being proposed consisting of a site plan, floor plan and front, side and rear elevations. All homes must comply with the Minimum Architectural and Space Requirements found in Section IV herein and any and all other National, City, County and Florida Building Code requirements. The developer should provide variations in design and building facades; however, the design of the home should be compatible with the character of the neighborhood.
- **Unit Price:** The maximum sales price for each unit shall be based on cost of development (including hard and soft costs and developer profit). Failure to adhere to the maximum sales price will result in a one-year suspension from the pool for the first incident and removal from the pool after the second incident. Increases may be approved by the Affordable Housing Selection Committee only in **extraordinary** circumstances, i.e. natural disaster or fire which may have caused a delay in the project. In no event shall the home exceed the Program's maximum sales price, which is currently **\$175,000**.

c) County Deed:

The County will transfer title of the lots to the selected developer via a County Deed with the restriction that the property must be developed with affordable housing in accordance with the Infill Housing Initiative Guidelines. Failure to do so will result in the recapture of the lots and any and all improvements made thereto, without any rights to monetary compensation.

VI. PROCESS TO DEVELOP PRIVATELY-OWNED LOTS

a) Applying to the Program

The County may encourage private property owners to develop their properties as infill housing through the release of County liens that predate the private

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property owner's date of ownership. Private property owners who wish to develop their properties through the Infill Housing Program may do so by filing an "Application for Private Lots" with the Infill Housing Program. Staff will verify that the property falls within the Program boundaries and that it is properly zoned.

b) Architectural Plans Review

The developer must provide a copy of the site plan, floor plan, and front, side and rear elevation plans of the home along with the "Application for Private Lots". The Infill Housing Program will review them for compliance with the Minimum Architectural and Space Requirements.

VII. EXTENSION REQUESTS

All homes constructed through the Infill Housing Program are monitored by PHCD's Infill Housing staff. Extension may be granted by PHCD, however, only under the following circumstances:

- Regulations change after the developer enters the Program
- A variance of Zoning or DERM regulations is required
- Platting is required
- Complications with water/sewer connections

The Infill Housing Program staff is available to assist developers with any problems they may encounter during the construction process. Should the developer encounter problems that may result in a delay in the project, it is essential that they immediately notify the Infill Housing Program staff and request an extension, if necessary.

VIII. BUILDING PERMIT EXPEDITE PROCESS

Building permit applications for homes being built in the Unincorporated Municipal Service Area (UMSA) through the Infill Housing Program qualify for the PERA Building Department's expedite process. PHCD provides developers a letter indicating that the lot is being developed through the Infill Housing Program. That letter must be presented to the PERA Building Department when applying for a building permit in order to qualify for the expedite process.

IX. QUALIFYING ELIGIBLE HOUSEHOLD/HOMEBUYER

Every dwelling unit created as a result of the Infill Housing Program must be sold to a qualified household to be used as his or her own primary residence. A household is deemed qualified once the following requirements have been met:

a) Homeownership Counseling:

The eligible household must complete a homeownership training course through a participating counseling agency that provides financial management, credit counseling and other related technical services to participating families for the purpose of financing a single-family home and has received a certificate verifying that he/she has successfully completed the course. A list of participating counseling agencies can be found on the County's website at: <http://www.miamidade.gov/housing/homebuy-counsel.asp>.

b) First Time Homebuyer Requirements:

The eligible household must be a first-time homebuyer. A first-time homebuyer is an individual who meets any one of the following criteria:

- An individual who has had no ownership interest in a principal residence during the 3-year period ending on the date of purchase of the property. This includes a spouse (if either meets the above test, they are considered first-time homebuyers); or
- A displaced spouse from a court documented divorce; or
- An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations.
- Ownership in a "Timeshare Property" is not considered home ownership.

c) Income Verification:

Developer shall submit a mortgage commitment letter qualifying the family as a low or moderate income affordable home buyer from PHCD or other non-County lending agency; authorized by the County to qualify households. For a list of participating lending agencies visit the County's website at: http://www.miamidade.gov/housing/bank_partnership.asp.

Once documentation has been provided to the Infill Housing Program confirming that all of the aforementioned requirements have been met, the Infill Housing Program or PHCD will issue a Certificate of Qualification which states that the buyer meets all of the eligibility requirements of the Infill Housing Program. Certificates of Qualification may also be issued by other non-County agencies that have been authorized by PHCD to qualify buyers. Said certificate shall state that the buyer(s) meets all three requirements.

X. SALES PRICE OF AFFORDABLE HOME

The Infill Housing Program sets a maximum sales price for homes built through the Program. Said maximum sales price **may or may not** be the same as the maximum sales price set by County funding programs such as Surtax or SHIP. In the event said maximum sales prices shall differ, the overriding maximum sales price shall be the maximum sales price allowed by the Infill Housing Program, **which is currently \$175,000 for County lots and \$205,000 for Private lots**. Participating developers will be notified of any price adjustments.

XI. CLOSING PROCESS

Prior to closing on an eligible home, the developer shall provide copies of following documentation to the Infill Housing Program:

- 1) Certificate of Qualification for the Homebuyer
- 2) HUD Closing Statement
- 3) Recorded "Affordable Housing Restrictive Covenant" executed by buyer
- 4) Recorded copy of Warranty Deed transferring title from the developer to the buyer. **Said deed shall contain the following language:**

Since this home was developed through Miami-Dade County's Infill Housing Initiative, governed by Article VII of the Miami-Dade County Code, this home must remain affordable during the "Control Period." The Control Period commences with the date of this deed and resets automatically every 20 years for a maximum of 60 years. In the event Grantee wishes to sell or refinance the home during

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the Control Period, Grantee shall obtain prior written approval from the County. Any such sale, transfer or conveyance, shall only be to a "qualified household," as defined in Section 17-122(n) of the Miami-Dade County Code. However, should Grantee own this home for twenty consecutive years, Grantee shall automatically be released from this restriction.

The Infill Housing Program will issue a Compliance Certificate stating that the sale meets the requirements of the Program. Said Certificate shall be recorded in the public records along with the deed and restrictive covenant.

XII. RELEASE OF COUNTY LIENS

Privately-owned lots that are accepted into the Program qualify to have County liens and citations that existed on the Property prior to the developer's ownership released once the home has been built and sold to a qualified household and an Affordable Housing Restrictive Covenant has been recorded on the property. To request the release of County liens an "Application to Release Liens and Citations" must be filled out and submitted to the Infill Housing Program along with the required documentation. The Infill Housing Program will prepare and execute a "Special Release of Lien Relative to the Infill Housing Initiative" and record it once all of the required documentation is received by the Infill Housing Program. Failure to receive all of the required documentation within the stated time-frame may delay the recording of the Special Release of Lien.

XIII. REIMBURSEMENT OF IMPACT FEES

a) Refund of Impact fees

Pursuant to Chapter 33 of the Code of Miami-Dade County, new homes that are sold to a low-income household (**80% or less of median income**) qualify to have County impact fees for road, fire and emergency services, parks and police services refunded. This includes homes that have been built through the Infill Housing Program and have been sold to a low income household. To request a refund of these fees, the developer must fill out an "Impact Fee Refund Application" and submit it to the Infill Housing Program. Once the Program has verified that all of the Program requirements have been met, the application will be forwarded to the PERA Division of Planning and Zoning Impact Fee Section for processing.

XIV. RESALE PROCESS

a) Notice of Sale or Refinance

When the owner or any successor in title to the owner shall desire to refinance, sell, dispose of or otherwise convey the property, or any portion thereof, the owner shall notify the County in writing of the owner's intent to sell the Property. Said notification is referred to as the "Notice of Sale." Said notice shall be sent to the PHCD's Infill Housing Program, 701 NW 1 Court, 16th Floor, Miami FL, 33136. The County shall determine the Maximum Resale Price which the owner may receive for the sale of the property as calculated below.

The County shall have 60-days from receiving the Notice of Sale from the Owner to enter into a Purchase and Sale Agreement at or below the Maximum Resale Price or provide the owner with written notification of County's intent to waive its right of first refusal.

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Should the County not exercise its right of first refusal, the County shall assist the owner in identifying an eligible purchaser ready, willing and able to purchase the property at or below the Maximum Resale Price. The owner shall fully cooperate with County's efforts in assisting owner identify an eligible purchaser.

b) Maximum Resale Price Multiplier Formula

To calculate the resale price multiplier, you divide the original home's purchase price by the current HUD Area Median Income for the Metropolitan Areas in Florida. (Contact the Infill Housing Program to obtain the current median income.)

Example:

Original Purchase Price in 2006	\$175,000.00
2006 HUD Area Median Income for Metropolitan Area	\$55,600.00
Resale Price Multiplier (175,000/55,600)	3.147

c) Maximum Resale Price Formula:

To calculate the maximum resale price of a home you need to determine what the HUD Area Median Income is when the contract is executed and multiply it by the established resale multiplier (3.147), then add any approved costs for capital improvements. The following example calculates the resale price of the home used in the resale price multiplier example above in the year 2008.

Example:

2008 HUD Area Median Income for Metropolitan Area	\$60,000.00
Multiplied by the Resale Price Multiplier	3.147
Net Resale Price in 2008	\$188,849.00
Costs for Capital Improvements	\$10,000.00
Maximum Resale Price	\$198,849.00

d) Capital Improvements:

Costs for capital improvements that are eligible for consideration are defined as documented commercially reasonable costs of structural improvements made to the property by the owner which increase the total square footage of the home.

e) Closing Process

Prior to closing on an eligible home, the Current Owner (Seller) shall provide a copy of following documents to the County:

- 1) Certificate of Qualification for the Homebuyer
- 2) HUD Closing Statement
- 3) Copy of Warranty Deed transferring title from developer to the eligible buyer. **Said deed shall contain the following language:**

Since this home was developed through Miami-Dade County's Infill Housing Initiative, governed by Article VII of the Miami-Dade County Code, this home must remain affordable during the "Control Period." The Control Period commences with the date of this deed and resets automatically every 20 years for a maximum of 60 years. In the event Grantee wishes to sell or refinance the home during the Control Period, Grantee shall obtain prior written approval from the County. Any such sale,

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transfer or conveyance, shall only be to a "qualified household," as defined in Section 17-122(n) of the Miami-Dade County Code. However, should Grantee own this home for twenty consecutive years, Grantee shall automatically be released from this restriction.

The County will issue a Compliance Certificate stating that the proposed conveyance, sale or transfer of the property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in the "Affordable Housing Restrictive Covenant for Homebuyers". Said certificate shall be recorded along with the deed for all subsequent sales.

XV. TEMPORARY RENTAL EXCEPTION

The County in its sole discretion may allow developers to rent eligible homes on a temporary basis if the developer can demonstrate to the County's satisfaction that they have made a good faith effort to sell the eligible home. The term "good faith effort" shall include but is not limited to marketing of the eligible home by listing the home on the multiple listing service for a minimum of three months, placing a "For Sale" sign on the property, and reducing the original asking price by a minimum of 5%. In the event the developer is able to demonstrate that it has used good faith efforts to sell the eligible home and the County permits the rental of said home, the County shall require the developer to rent the eligible home to families who are eligible participants in one of the County's or other local municipality's rental housing assistance programs, including but not limited to, the Section 8 Housing Choice Voucher (HCV) Program administered by the PHCD or the Household Exiting Emergency Shelter, Transitional Housing and Domestic Violence programs administered by the Homeless Trust. The County shall determine prior to authorizing a developer to rent an eligible home whether the rental of said home is consistent with all applicable state and federal laws and regulations.

Upon the County's approval to rent any eligible home, each developer shall be required to comply with all applicable federal and state housing laws and regulations. Developers shall also be required to rent the eligible homes for a minimum of one year and will not be permitted to sell said eligible home during the first year it is rented, unless it is sold to the existing tenant.

Failure to obtain such approval will be considered a violation and appropriate enforcement action will be taken. This rental exception will sunset on April 5, 2012.

XVI. ENFORCEMENT

Pursuant to Article VII Section 17-128 of the Code of Miami-Dade County which governs the Infill Housing Initiative, violations by all agents, successors and assignees of a qualified household of this article shall be punishable by a civil fine not to exceed ten thousand dollars (\$10,000.00) and shall be punishable by a criminal fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment, in the discretion of the county court. Any continuing violations may be enjoined and restrained by injunctive order of the circuit court in appropriate proceedings instituted for such purpose.

XVII. PROGRAM FEES

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PROGRAM FEE SCHEDULE: (Effective 4/16/2010)

Closing Processing Fee: \$1,000 for each County lot
(conveyed after April 16, 2010)
Private Lot Application: \$100 (will be returned if lot is rejected)
Temporary Rental Application: \$100
Private Lot Release of Lien request: \$150 (includes recording costs)

Only certified check or money order made payable to "Board of County Commissioners" can be accepted.

XVIII. INFILL HOUSING PROGRAM CONTACT INFORMATION

Public Housing and Community Development
Infill Housing Program
701 NW 1st Court, 16th Floor
Miami, FL 33136
Main Number: (786) 469-4226
Fax Number: (786) 469-4199
www.miamidade.gov/housing

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

Infill Housing Developer Pool

Contract No. RFQ839

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

WITNESSETH:

WHEREAS, the Contractor has offered to participate in the County's Infill Housing Developer Pool ("Pool") of pre-qualified firms for the purpose of competing on future Work Order Proposal Request to provide affordable housing for the County on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. 893 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

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

WHEREAS, the County has pre-qualified the Contractor to participate in the Infill Housing Pool for providing Affordable Single Family Homes and may procure from the Contractor such Infill Housing Development Services for the County, in accordance with the terms and conditions of this Agreement;

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

ARTICLE 1. DEFINITIONS

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

- a) The words "Affordable Housing" to mean housing where the mortgage payments, including taxes and insurance, does not exceed 30 percent of the amount which represents the percentage of the median annual gross income for low and moderate income households. However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing, and housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark.
- b) The words "Certificate of Qualification" to mean a certificate issued by Public Housing Community Development (PHCD) or any other County or non-County agency that has been authorized by PHCD to qualify households, establishing that a household is qualified to purchase and affordable dwelling unit. Certificates of Qualification shall be valid for 12 months.
- c) The words "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), all other appendices and attachments hereto, all amendments issued hereto, RFQ No. 893 and all associated addenda, the Contractor's Proposal, and any subsequent Work Order issued hereto.
- d) The words "Contract Date" to mean the date on which this Agreement is effective.
- e) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- f) The word "Contractor" to mean _____ and its permitted successors and assigns.
- g) The words "Control Period" to mean the 20-year period during which the eligible home must remain affordable. The control period begins on the initial sale date of the eligible home and resets automatically every 20 years for a maximum of 60 years, except that in the event the home is owned by the same owner for an entire 20-year period, said home shall be released from the affordability restrictions.
- h) The words "County Property" to mean property that is owned by Miami-Dade County.
- i) The word "Days" to mean Calendar Days.
- j) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- k) The words "Developer" to mean any person, firm, corporation, partnership, limited liability company, association, joint venture, community based organization, or any entity or combination of entities, excluding any governmental entity that has agreed to build affordable housing through the Infill Housing Program.

- l) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.
- m) The words "Dwelling Unit" to mean a unit, whether detached or attached to another such unit, that houses a single family and that can be sold in fee simple ownership.
- n) The words "Eligible Person or Eligible Household" to mean one or more natural persons or a family that has not owned or had an interest in a home during the previous three years and that has been determined by the County to meet the eligibility requirement of a low income or moderate income household according to the income limits adjusted to family size published annually by the United States Department of Housing and Urban Development based upon the annual gross income of the household.
- o) The words "Extra Work" or "Additional Work" or "Change Order" to mean additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- p) The words "Infill Development" to mean the redevelopment of neighborhoods that are located within the infill target areas.
- q) The words "Infill Parcel" to mean a parcel of land that is located within the infill target areas and is suitable for residential development of four (4) dwelling units or less.
- r) The words "Infill Target Areas" to mean the areas of the County designated as the Urban Infill Target Area (UIA), as defined in Section 33G-3(26) of the Code, and the Targeted Urban Areas (TUA), as defined in Section 30A-129(2) of the Code. In addition, Infill Target Areas shall include those portions of Neighborhood Revitalization Strategy Areas not otherwise covered under the UIA and TUA; and any geographic locations in Miami-Dade County which are designated by the Federal Government as empowerment zones shall be included in the definition of TUA at the time of such designation.
- s) The words "Low Income Household" to mean those households whose total annual adjusted gross income is 80% percent or less than of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within Miami-Dade County, whichever is greater as defined by HUD.
- t) The words "Moderate Income Household" to mean those households whose total annual adjusted gross income is greater than 80% and less than 140% percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within Miami-Dade County, whichever is greater as defined by HUD.
- u) The words "Not-For-Profit Organization" to mean an organization that is registered as a tax-exempt corporation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and has been organized for the purposes of promoting community interest and welfare.
- v) The words "Project Manager" to mean the County Manager or the duly authorized representative designated to manage the Project.

- w) The words "Qualified Household" to mean an eligible household that has received a certificate of qualification from the County.
- x) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- y) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- z) The words "State Housing Initiative Partnership (SHIP)" to mean the affordable housing program established pursuant to Section 420.90 et seq. of the Florida Statutes for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and to increase housing-related employment.
- aa) The words "substantial rehabilitation" to mean rehabilitation or improvements to the existing building or structure taking place during a one year period with the cumulative cost which equals or exceeds 40% of the market value, or assessed value as determined by the County's Property Appraiser's Office, of the structure before such work started or as defined by Florida Building Code.
- bb) The words "Surtax Funds" to mean the discretionary tax on documents, which the County is authorized by Section 125.0167 of the Florida Statutes to levy, for the purpose of establishing and financing the County's Local Housing Assistance Loan Trust Fund to assist in the financing of construction, rehabilitation, or purchase of housing for low-income and moderate-income families.
- cc) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract and any Work Order issued as a result of the Work Order Process of the County's Infill Housing developer Pool.
- dd) The word "Work Order" to mean an assignment of work issued by the County to a Pool member to perform work specified in the Work Order Proposal Request.
- ee) The word "Work Order Proposal" to mean the documentation presented by Pool members in response to a Work Order Proposal Request (WOPR).
- ff) The words "Work Order Proposal Request" (WOPR) to mean the solicitation document requesting proposals from Pool members.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Scope of Services (Appendix A), 3) any Work Order issued as a result of this Agreement, 4) Miami-Dade County's RFP No. 893 and any associated addenda and attachments thereof, and 5) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

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

ARTICLE 4. NATURE OF THE AGREEMENT

- a) This Contractor shall participate in the County's Infill Housing Developer Pool ("Pool"), which is the initial step to participating in subsequent Work Order Proposal Request (WOPRs) issued by the County for future conveyance of County Infill properties. These properties, as decided upon solely by the County, will be made available through a competitive WOPR process as stipulated in the Scope of Services, Appendix A, to all pre-qualified members of the Pool. The property will be conveyed to the selected Pool member following a WOPR process for the sole purpose of providing land, so that the selected Pool member can build affordable home(s) for needy Miami-Dade County citizens on such property as stipulated in this Agreement and in any subsequent Work Order. The Contractor shall participate in the Pool in accordance with the provisions stipulated herein and in any Work Order that may be issued to the Contractor hereunder. The Contractor shall render full and prompt cooperation with the County in all aspects of the Services performed hereunder.
- b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.
- c) The Contractor acknowledges that this Agreement and any subsequent Work Order requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract and any subsequent Work Order. All things not expressly mentioned in this Agreement and any subsequent Work Order but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.
- d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract and any subsequent Work Order. All Work and Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.
- e) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change