

## DEPARTMENTAL INPUT

### CONTRACT/PROJECT MEASURE ANALYSIS AND RECOMMENDATION

New   
  OTR   
  Sole Source   
  Bid Waiver   
  Emergency   
 Previous Contract/Project No. N/A

Contract   
  Re-Bid   
  Other   
 Legacy

Requisition No./Project No.: RQID1500100   
 LIVING WAGE APPLIES:  YES     NO

TERM OF CONTRACT: 2 YEAR(S) WITH 3 two YEAR(S) OTR

Requisition /Project Title: Delta Controls BMS Services

Description: Procure maintenance and services agreement from South Florida Controls, Inc., a Delta Controls authorized network partner to support the Building Management System located at West Lot and Hialeah Courthouse.

Issuing Department: ISD   
 Contact Person: Jessica Tyrrell   
 Phone: 305-375-4946

Estimate Cost: 87,000

Funding Source: GENERAL   
FEDERAL   
OTHER

Internal Svc

### ANALYSIS

Commodity Codes: 90608

Contract/Project History of previous purchases three (3) years  
 Check here  if this is a new contract/purchase with no previous history.

	<u>EXISTING</u>	<u>2<sup>ND</sup> YEAR</u>	<u>3<sup>RD</sup> YEAR</u>
Contractor:			
Small Business Enterprise:			
Contract Value:			
Comments: <span style="border: 1px solid black; padding: 5px; display: block;"> </span>			

Continued on another page (s):     YES     NO

### RECOMMENDATIONS

	Set-aside	Sub-contractor goal	Bid preference	Selection factor
<b>SBE</b>				

Basis of recommendation:  

Signed: Jessica Tyrrell   
 Date sent to SBD: 6/15/15

Date returned to DPM:



**INTERNAL SERVICES DEPARTMENT  
PROCUREMENT MANAGEMENT SERVICES**

**Justification/Input Document for Non-Competitive Acquisition**

It is the policy of Miami-Dade County to consistently purchase goods and services using full and open competition. The citizens of Miami-Dade County are best served when we make sound business decisions based on competitive bids or proposals. Early acquisition planning that includes consultation with Internal Service Department's procurement staff can help avoid delays and facilitates effective market research. However, there may be instances when other than full and open competition may be justified. When a user department(s) determines that other than full and open competition is necessary or in the best interest of the County, appropriate justification for that course of action must be submitted to ISD for approval and execution in order to waive the competitive bid/proposal process.

*Please provide the information requested below to support the need and feasibility for waiving the competitive bid/proposal process:*

Department:	ISD/FUMD		
Contact Person:	David Garcia	Phone Number:	305-375-4217
Requisition No.:	TBD	Estimated Value:	\$86,880.00 yearly (\$434,400 for five years)
Proposed Vendor:	South Florida Controls (SFC)		
Previous Contract Number:	n/a - new	Previous Contract Value:	n/a - new

**Purpose of the Purchase**

*Please describe your minimum requirements and the benefits of making the acquisition.*

To provide a Building Management System (BMS) maintenance and service contract for the West Lot Parking Garage and the Hialeah Courthouse.

The Building Management System (BMS) is essential to the operation of ISD managed facilities. The BMS handles a wide variety of tasks from the simple turning on and off of air handling units and lighting control to the more complex controls of chilled water systems and smoke evacuation systems used for life safety during a fire alarm.

The purpose of this service contract is to provide preventative service and repair as needed to ensure that the BMS is properly maintained and serviced as recommended by manufacturer using OEM trained technicians, equipment and supplies.

Proper maintenance and repair will insure that the BMS operates reliably and at peak performance. This will assist the building management staff in managing the facility, trouble shooting issues and keep energy costs under control. This will also keep smoke evacuation system used in life safety operating as per design.

**Best Interest of the County / Uniqueness of Product**

*Please provide a detailed description as to why a waiver of formal bidding is in the County's best interest (e.g., product standardization, compatibility, proprietary access or distributorship, how vendor is uniquely qualified to provide the needed product or service, etc.). Please note that a lack of advance planning is not an acceptable justification for a non-competitive acquisition.*



**INTERNAL SERVICES DEPARTMENT  
PROCUREMENT MANAGEMENT SERVICES**

The maintenance and service of the BMS must be provided by a factory authorized vendor, this will insure that the investment made by the county on the purchase of the BMS is maintained in working order and will be supported by the manufacturer thereby protecting our investment.

It is important that mechanical equipment controlled by the BMS continue to work as originally designed and installed in order to maintain design efficiency and system response. These items directly impact energy usage, tenant comfort and indoor air quality by controlling temperature, humidity and CO2 levels at design specifications.

**Market Research**

*Please describe your market research and the results thereof. This should include a description of other, similar sources or products available in the market if any and why they are not acceptable.*

Market research was conducted by locating website for manufacturer (Delta Controls) and contacting via email requesting factory authorized installation/service providers for the South Florida area. Market research has found that the only factory authorized vendor in our area is South Florida Controls.

The proposed vendor is a sole source provider of OEM parts, supplies and services required to maintain the integrity and functionality of the Delta Controls BMS. Only factory authorized Delta Controls technicians are able to work on this proprietary system to maintain it in accordance with OEM standards.

The research has found that the Delta Controls manufacturer only has one factory authorized vendor in the South Florida area.

**Proposed Actions**

*Please describe the actions the department will take to overcome the present barriers to competition prior to any future acquisitions of this product or service.*

It is the department's position to utilize the OEM provider of parts and maintenance/repair services to protect the capital already invested in the BMS and integrated systems.  
Create contract as a sole source.

\_\_\_\_\_  
Department Director's Approval

\_\_\_\_\_  
Date Approved

Delta Controls BMS Maintenance Services  
Contract No. L

THIS AGREEMENT, made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ 2015 by and between South Florida Controls, a corporation organized and existing under the laws of the State of Florida, having its principal office at 13393 SW 131<sup>st</sup> Street, Miami, FL 33186 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide Delta Controls parts, labor, repairs, preventative maintenance, software updates, continuing education, database protection and modifications, and emergency support for Delta Controls Building Management Systems (hereinafter referred to as the "BMS"), on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A) and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the County desires to procure from the Contractor such Delta Controls BMS Maintenance 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 "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), the List of Equipment to be Maintained (Appendix B), the Price Schedule (Appendix C), and any associated addenda and attachments thereof.
- b) The words "Contract Date" to mean the date on which this Agreement is effective.
- c) The words "Contract Manager" to mean Miami-Dade County's Assistant Director, Internal Services Department, Procurement Management Services Division, or the duly authorized representative designated to manage the Contract.
- d) The word "Contractor" to mean South Florida Controls, Inc. and its permitted successors and assigns.
- e) The word "Days" to mean Calendar Days.
- f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.
- h) The words "Extra Work" or "Additional Work" to mean additions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.

- i) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.
- j) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the Work to be performed by the Contractor.
- k) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- l) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.
- m) The words "Parts", "Components", "Equipment", to mean all components that are a part of the BMS including frequency drives.
- n) The words "Remote Assistance" to include forms of service other than in-person services, including but not limited to, services performed via telephone, email, text message, wireless internet connections, etc. as well as modifying and setup of database as needed.
- o) The words "Developed Works" to mean all rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor specifically for the County.
- p) The word "BMS Parts" to mean any small component or piece related to the BMS that is used to make key equipment functional.
- q) The words "BMS Equipment" to mean any key/major component, or large part of the BMS, such as, but not limited to, the Controller or Actuator, without which the system would be completely inoperable.

**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) the List of Equipment to be Maintained (Appendix B), 4) the Price Schedule (Appendix C), and 5) any associated addenda and attachments thereof.

**ARTICLE 3. RULES OF INTERPRETATION**

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

**ARTICLE 4. NATURE OF THE AGREEMENT**

- a) This Agreement incorporates all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation

from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties authorized representatives.

- b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.
- c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.
- d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Services that are necessary for the completion of this Contract. All Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.
- e) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

**ARTICLE 5. CONTRACT TERM**

The Contract shall become effective on the date stated and shall continue through the last day of the twenty-fourth (24) month. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for three additional twenty-four (24) month periods. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

**ARTICLE 6. NOTICE REQUIREMENTS**

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

**(1) to the County**

- a) to the Internal Services Department Project Manager:

Miami-Dade County Internal Services Department  
Facilities and Utilities Management Division  
200 NW 1<sup>st</sup> Street  
Miami, FL 33128  
Attention: David Garcia  
Phone: (305) 375-4217  
Fax: (305) 375-4232  
E-mail: dgarcia@miamidade.gov

and,  
b) to the Contract Manager:

Miami-Dade County  
Internal Services Department, Procurement Management Division  
111 N.W. 1<sup>st</sup> Street, Suite 1300  
Miami, FL 33128-1974  
Attention: Jessica Tyrrell  
Phone: (305) 375-4946  
Fax: (305) 375-4407  
Email: tyrrell@miamidade.gov

**(2) To the Contractor**

South Florida Controls, Inc.  
13393 SW 131<sup>st</sup> Street  
Miami, FL 33186  
Attention: Hector Hernandez, President  
Phone: (786) 293-3272  
Fax: (786) 293-3277  
E-mail: hector@sfc-mia.com

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 Services to be performed under this Contract. The compensation for all Services performed under this Contract, including all costs associated with such Services, shall be in accordance with Appendix C – Price Schedule. The County shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the County and the Contractor.

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

**ARTICLE 8. PRICING**

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

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

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Services, the Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Appendix C – Price Schedule. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County, shall show the County's contract number, and shall have a

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

In accordance with Miami-Dade County Implementing Order 3-9, Accounts Receivable Adjustments, if money is owed by the Contractor to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Contractor under this Contract. Such retained amount shall be applied to the amount owed by the Contractor to the County. The Contractor shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Contractor for the applicable payment due herein.

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

Miami-Dade County Internal Services Department  
Facilities and Utilities Management Division  
200 NW 1<sup>st</sup> Street  
Miami, FL 33128  
Attention: David Garcia  
Phone: (305) 375-4217  
Fax: (305) 375-4232  
E-mail: dgarcia@miamidade.gov

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

**ARTICLE 10. INDEMNIFICATION AND INSURANCE**

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

Upon County's notification, the Contractor shall furnish to the Internal Services Department, Procurement Management Division, 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.**
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 \$\_\_\_\_\_ per claim.

The company must be rated no less than "A-" as to management, and no less than "Class VII" 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.

**The mailing address of Miami-Dade County as the certificate holder must appear on the certificate of insurance as follows:**

**Miami-Dade County  
111 N.W. 1st Street  
Suite 1300  
Miami, Florida 33128-1974**

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. If the insurance certificate is received within the specified timeframe 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 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 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.
- c) 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.
- d) 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.
- g) 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. Each employee shall have and wear proper identification.
- h) The Contractor is, and shall be, in the performance of all 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 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 services, 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.
- i) 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 12. 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; 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 Mayor 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 Mayor'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 Mayor within thirty (30) days of the occurrence, event or act out of which the dispute arises.
- e) The County Mayor 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 Mayor 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 Mayor 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 Mayor 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 Mayor, 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 13. 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 14. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING**

The Contractor shall maintain, and shall require that its suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its 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 15. 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 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 Section 2-481 of the Miami-Dade County Code, 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 16. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT**

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

**ARTICLE 17. 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 18. 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 19. SEVERABILITY**

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

**ARTICLE 20. TERMINATION AND SUSPENSION OF WORK**

- a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.
- d) In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor.
- e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:

- i. stop work on the date specified in the notice ("the Effective Termination Date");
  - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
  - iii. cancel orders;
  - iv. assign to the County and deliver to any location designated by the County any 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 this Agreement and not incorporated in the Services;
  - v. take no action which will increase the amounts payable by the County under this Agreement; and
- f) In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:
- i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
  - ii. 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 21. 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 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 for default, the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

**ARTICLE 22. 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 23. 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 24. PATENT AND COPYRIGHT INDEMNIFICATION**

- a) The Contractor shall not infringe on any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights in the performance of the Services.
- b) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment, programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights.
- c) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.
- d) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).
- e) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The

Contractor shall enter into agreements with all suppliers at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

**ARTICLE 25. CONFIDENTIALITY**

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

**ARTICLE 26. PROPRIETARY INFORMATION**

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

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

During the term of the contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County

(hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

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

**ARTICLE 27. PROPRIETARY RIGHTS**

- a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.
- b) All Developed Works shall become the property of the County. Accordingly, neither the Contractor nor its employees, agents, or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- c) Except as otherwise provided in subsections a and b above, or elsewhere herein, the Contractor and its suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the

contrary shall be void and of no effect.

**ARTICLE 28. 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:

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)
7. **Miami-Dade County Code of Business Ethics Affidavit**  
(Section 2-8.1(f) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)
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 29. 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, 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. 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 3-38; (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 shall have the power 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 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 30. 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 performing work in connection with this Contract shall provide equal opportunity for employment without regard to race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, or veteran 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 31. NONDISCRIMINATION**

During the performance of this Contract, Contractor agrees to not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, or veteran status, and will take affirmative action to ensure that employees and applicants 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 32. 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 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 33. 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, 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 34. 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 35. GOVERNING LAW**

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

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

**a) User Access Fee**

Pursuant to Section 2-8.10 of the Miami-Dade County Code, this Contract is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from the solicitation referenced on the first page of this Contract, and the utilization of the County Contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

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

**b) Joint Purchase**

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

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

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

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

**c) Contractor Compliance**

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 21 of this Contract.

**ARTICLE 36. FIRST SOURCE HIRING REFERRAL PROGRAM**

Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify the South Florida Workforce Investment Board ("SFWIB"), the designated Referral Agency, of the vacancy and list the vacancy with SFWIB according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the SFWIB. 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 will be required to provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of \$1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the FSHRP are available at <https://iapps.southfloridaworkforce.com/firstsource/>.

**ARTICLE 37. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF A PUBLIC AGENCY**

The Contractor shall comply with the state of FL Public Records Law, s. 119.0701, F.S., specifically to: (1) keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service; (2) provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency. If the Contractor does not comply with a public records request, the public agency shall enforce contract provisions in accordance with the contract.

**ARTICLE 38. 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.

**ARTICLE 39. DELIVERY AND TRAVEL**

The County shall not be liable to pay for any shipping, freight, delivery, or travel charges.

**ARTICLE 40. ADDITIONAL FACILITIES, SERVICES, AND/OR EQUIPMENT MAY BE ADDED**

Although this contract identifies specific facilities, services, and BMS equipment, it is hereby agreed and understood that any County department, facility, service, or additional BMS equipment may be added to this contract at the option of the County. Contractor shall be invited to submit price quote(s), subject to negotiation, for any additional facilities and/or BMS equipment or services. Any awarded additional facilities, services, or BMS equipment shall be added to this contract by formal written modification of the Agreement.

**ARTICLE 41. DELETION OF FACILITIES**

- a) Although this solicitation identifies specific facilities to be serviced, it is hereby agreed and understood that any County department or agency may delete service for any facility(ies) when such service is no longer required during the contract period; upon fourteen (14) calendar days written notice to the Contractor.
- b) Any facility/BMS equipment no longer needed will be formally deleted from the contract by formal modification of the award sheet reflecting the deduction of the prorated amount for the deleted facility(ies) and/or BMS equipment.

**ARTICLE 42. FORCE MAJEURE**

The parties understand that performance by the Contractor may be interrupted or delayed by an occurrence outside of its control, including but not limited to the following: an act of God, war, riot, sovereign conduct, or conduct of third parties. If that should occur, the Contractor shall be excused from performance for as long as it is reasonably necessary to complete performance, but in no event longer than forty-five (45) days.

**ARTICLE 43. WARRANTY ON SERVICES, PARTS, AND EQUIPMENT**

All warranties, express and implied, shall be made available to the County for goods and services covered by this Contract. All goods and services furnished shall be fully guaranteed by the Contractor against factory defects. At no expense to the County, the Contractor shall correct any and all apparent and latent defects that may occur within the manufacturer's standard warranty for products and services provided by the Contractor as listed in Appendix B – List of Equipment to be Maintained.

- a) Contractor warrants all BMS Parts, BMS Equipment, and services performed under this Agreement against defects in material and workmanship for one (1) year from the date the Service was performed or a part was provided, regardless of whether the Contractor is under contract with the County at the time of defect.
- b) Subject to the limitations and exclusions set forth herein, all BMS Equipment when used in accordance with their instructions will be free from defects in design, material, and workmanship occurring under normal service and use.
- c) All costs incidental to repair or replacement under this warranty agreement, including but not limited to any packaging, shipping, or travel costs, shall be borne exclusively by the

- Contractor.
- d) When a product under warranty is replaced, a new full warranty period for that product will commence again from the date the replacement was provided.
- e) All deliverables shall be new and not used, reconditioned, refurbished, or recycled and agrees that the deliverables provided are warranted for their merchantability and fit for the contractual purpose.
  - i. In the event any of the materials supplied to the County by the Contractor are found to be defective and do not conform to specifications the materials may be returned to the Contractor at the Contractor's expense and the contract cancelled or the County may require the Contractor to replace the materials at the Contractor's expense.
  - ii. In the event that new BMS Parts are not available, the County Project Manager must approve used, reconditioned, refurbished, and/or recycled items in writing prior to installation.
  - iii. Products are warranted in conformance with applicable laws. If any part or term of this Warranty is held to be illegal, unenforceable, or in conflict with applicable law by any court of competent jurisdiction, the validity of the remaining portions of the Warranty shall not be affected, and all rights and obligations shall be construed and enforced as if this Warranty did not contain the particular part or term held to be invalid.
- f) Acceptance of any or all parts of the Work by the County does not waive any conditions established by the warranty.
  - i. The County shall endeavor to give Contractor written notice of the breach of warranty within thirty (30) days of discovery of the breach of warranty, but failure to give timely notice shall not impair the County's rights under this section.
    - 1. Contractor shall be responsible for promptly correcting any deficiency, at no cost to the County, within fourteen (14) calendar days after the County notifies Contractor of such deficiency in writing.
    - 2. If Contractor fails to honor the warranty and/or fails to correct or replace the defective BMS Parts, BMS Equipment, or Services within the period specified, the County may, at its discretion, notify Contractor, in writing, that the County may:
      - a) Place Contractor in default of this Agreement and charge Contractor any additional costs incurred by the County as a result of not replacing such deficiency via credit memorandum or via invoicing;
      - b) Procure comparable BMS Parts, BMS Equipment, or Services from another Contract and charge Contractor for the difference in cost between the Contractor product and the comparable BMS Parts, BMS Equipment, or Services via credit memorandum or via invoicing.
  - ii. Any payment by the County on behalf of the goods or services received from the contractor does not constitute a waiver of these warranty provisions.

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: Carlos A. Gimenez

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

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

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

**APPENDIX A – SCOPE OF SERVICES**

The below Scope of Services is for a comprehensive/all-inclusive technical support program, including all parts, labor, repairs, preventative maintenance, software updates, continuing education, database protection and modifications, and emergency support as-needed for the Delta Controls Building Management System (BMS) which controls Miami-Dade County facilities located at: 1) West Lot, 220 NW 3<sup>rd</sup> Street, Miami, FL and 2) Hialeah Courthouse, 11 E 6<sup>th</sup> Street, Hialeah, FL. The all-inclusive approach will provide a comprehensive program of preventative maintenance, emergency and support services, database protection and modifications, and software updates for all BMS equipment covered under this agreement as listed in Appendix B – List of Equipment to be Maintained.

The Contractor shall check for any system faults or problems and make repairs as necessary or as indicated by authorized County personnel to restore the system to full functionality.

The Contractor shall be solely responsible for all BMS Parts and BMS Equipment covered under this Agreement at no additional cost to the County.

**SECTION 1. GENERAL WORK CONDITIONS**

- The Contractor shall check, analyze, maintain, and repair the BMS Equipment as listed in Appendix B – List of Equipment to be Maintained at the minimum frequencies identified to ensure the highest possible efficiency of the BMS.
- All regular maintenance and repair work shall be performed during normal County work hours, Monday through Friday, 7:00 AM –5:00 PM local time. Any work completed outside of the indicated working hours must have either been a declared emergency or pre-approved by the user departments.
- Major repairs and shutdowns shall be coordinated with the user department and approved in advance by the Project Manager.
- Precautions shall be exercised at all times for the protection of persons and property. Contractor performing Services under this contract shall conform to all relevant OSHA, State, and County regulations during the course of such effort. Any fines levied by the aforementioned authorities for failure to comply with these requirements shall be borne solely by the Contractor.
- Barricades shall be provided by the Contractor when work is performed in areas traversed by persons, or when deemed necessary by the County Project Manager.
- All unusable materials and debris shall be removed from the premises at the end of each workday and disposed of in an appropriate manner.

**SECTION 2. PREVENTATIVE MAINTENANCE**

Contractor shall perform in accordance with a program of standard preventative maintenance routines as determined by equipment application and location, manufacturer's recommendations, OEM and/or industry standards, and County Project Manager, including but not limited to items described below, for the optimal maintenance of the BMS. Contractor must notify the County when OEM documentation cannot be obtained. No additional charges shall be submitted to the County for any service which should be a part of the regular preventative maintenance program. Contractor shall submit a schedule of preventative maintenance visits to the County Project Manager for informational purposes no later than thirty (30) days after receipt of County Notice to Proceed (NTP). The County may provide feedback on the schedule of preventative maintenance visits.

The services outlined below are to be included, at a minimum, as preventative maintenance to the County at least once every six (6) months:

**PREVENTATIVE MAINTENANCE - Server**

- Check customer logbook for issues

- Review logbook issues with County and address as needed
- Check system time against network time
- Run error diagnostics report
- Address all errors found in logs as needed
- Run communication diagnostics report
- Check server performance

**PREVENTATIVE MAINTENANCE – Workstation**

- Check customer logbook for issues
- Review logbook issues with customer and address as needed
- Check system time against network time
- Run communications diagnostics report
- Check workstation performance

**PREVENTATIVE MAINTENANCE – Controllers**

- Run error diagnostics report
- Check device logs for power outages and loss of communication
- Address all errors found in logs as needed
- Reset device logs
- Check device reports for failed points
- Check device reports for disabled/deactivated points
- Check device reports for points in operator contract
- Check device reports for points in alarm
- Command all dampers, valves, speed references, and start/stops. Verify operation at the end device.
- Check all temperature, relative humidity, and CO2 sensors using a measuring device with a valid and up to date certification stamp

**PREVENTATIVE MAINTENANCE – VAV's**

- Check all room set points against actual room temperature reading and insure that there is less than a two degree difference.
- Command all dampers and valves and verify operation in the field
- Check and verify that actual damper position and commanded damper positions are the same
- Check all temperature and relative humidity sensors using a measuring device with a valid and up to date certification stamp
- Check and insure that cubic feet per minute CFM readings are within a minimum and maximum CFM as per VAV schedule

**PREVENTATIVE MAINTENANCE – FREQUENCY DRIVES**

- Visual inspection of circuit boards and components; address issues as needed
- Check/Review drive error logs/fault codes with County and address as needed
- Cleaning with dry air
- Clean dust and dirt from heat sink fins with compressed, dry air
- Check electrical connections and tighten with correct torque wrench/driver as needed
- Check and replace cooling fans as needed
- Exercise drive by commanding on and off via BMS and verify that drive is responding as expected
- Exercise drive by changing speed reference via BMS and verify that drive is responding as expected
- Replace air filter as needed
- Check output power with oscilloscope for each drive; printout of sine wave for each drive must be provided to the County for review
- Perform an infra-red IR thermal scan of the drives input power and output power circuitry and wiring and provide the County and report of IR scan results for each drive.

The services outlined below are to be included, at a minimum, as preventative maintenance to the County at least once per month:

- Diagnostic assessments of the systems and its operation including verification of system functionality, point checks, programming checks, evaluation of reports, evaluation of energy savings strategies, verification of database backups, and graphics evaluation.

The services outlined below are to be included, at a minimum, as preventative maintenance to the County at least once per preventative maintenance visit:

- Provide the County a report detailing all preventative maintenance tasks performed and list any deficiencies encountered for each drive.

The services outlined below are to be included, at a minimum, as preventative maintenance to the County twenty-four (24) hours per day, seven (7) days per week:

- Critical alarms monitoring with critical notifications being sent via email and/or text to the County Project Manager and the Contractor for timely service responses.

**SECTION 3. EMERGENCY AND SUPPORT SERVICES COVERED UNDER THIS AGREEMENT**

Contractor shall provide twenty-four (24) hours, seven (7) days a week telephone, internet, and on-site emergency service on an as-needed basis to the County under this contract. No additional charges should apply to these services rendered outside of normal business hours or on any holidays. Emergency services shall be utilized to restore the BMS to normal operation. When an emergency is deemed to exist by an authorized County representative, the Contractor will be notified of the emergency condition.

The standard on-site response time for emergency support is within three (3) hours. When an emergency is due to poor maintenance by the Contractor, Emergency Services shall be performed at no additional cost to the County. When an emergency is due to force majeure, the Contractor shall bill for Emergency Services in accordance with Appendix C – Price Schedule.

The services outlined below are to be included, at a minimum, as emergency and support services to the County twenty-four (24) hours, seven (7) days a week, as needed:

- Telephone assistance for consultation and troubleshooting of the hardware and software components of the BMS
- Software Services via Internet to provide system and software troubleshooting and diagnostics to address software malfunctions or to make necessary revisions.
- On-site technical support available in the form of qualified personnel to provide all BMS Parts, BMS Equipment, and materials necessary to make emergency repairs. The Contractor shall maintain an up-to-date copy of the software/program for each location at all times, in case it becomes necessary to reload the controls/programs via online or on-site.

**SECTION 4. DATABASE PROTECTION AND MODIFICATION**

Database back-up is to be performed at least one (1) time every three (3) months. In the event of a data loss, Contractor will reload the software and database from the most current data back-up at no additional cost to the County. Two (2) backups must be maintained on site using an external drive. Contractor must also keep a copy of all backups at local branch.

**SECTION 5. PARTS & EQUIPMENT**

Contractor shall identify and repair or replace all failed or worn BMS Parts and/or BMS Equipment with new BMS Parts or BMS Equipment to maintain system in peak operating condition at no additional cost to the County. BMS Parts and BMS Equipment that are suspected of being faulty may be repaired or replaced in advance, after consultation with the County's Project Manager, to prevent system failure. BMS Parts and BMS Equipment found to be defective are to be removed and replaced; taking into consideration the warranty provisions of this contract, and must be coordinated with the County Project Manager.

Contractor shall maintain a spare BMS Parts inventory of the most common components to ensure a rapid turnaround in repairing the system. However, it is noted that in some cases, it may be necessary to order BMS Parts and make a follow up service call to install the replacement part. Any deferred repair shall be noted in the service log book as an open item and signed off by the County Project Manager when complete. Replaced parts are property of the County.

**SECTION 6. SERVICE DOCUMENTATION**

Contractor shall keep a log of each visit. The log shall list all scheduled maintenance, non-scheduled maintenance, repairs, replacement BMS Parts and BMS Equipment, date work was performed, the mechanic who performed the work, any deficiencies encountered, and actions taken to address any deficiencies. Contractor shall maintain this log on the job site and have it available for inspection at all times. Copies of the log shall be attached to the monthly invoice for services.

A report of findings, corrective actions, and recommendations following each service visit and remote assistance shall be provided to the County Project Manager via email.

**SECTION 7. SOFTWARE UPDATES**

Software and firmware updates and upgrades will be provided to the County as they become available from the Controls manufacturer. All software shall be in compliance with Miami-Dade County operating systems.

**SECTION 8. CONTINUING EDUCATION**

The County shall have access to scheduled trainings provided by the Contractor in addition to having membership in the Delta Users Group with On-Line Training at no additional cost to the County.

APPENDIX B – LIST OF EQUIPMENT TO BE MAINTAINED

WEST LOT - EQUIPMENT

Equipment Description	Model	Location
Air Handler Systems	AHU#1	Office Ground Floor
Air Handler Systems	AHU#1A	Office Ground Floor
Air Handler Systems	AHU#1B	Office Ground Floor
Chiller Plant System	Primary Pump	Office Ground Floor
Chiller Plant System	Secondary Pump	Office Ground Floor
DX System	FCX#1	Office Ground Floor
DX System	FCX#1A	Office Ground Floor
DX System	FCX#1B	Office Ground Floor
Lighting	Lighting Control #1	Office Ground Floor
Terminal System	VAV#1#10	Office Ground Floor
Terminal System	VAV#1#9	Office Ground Floor
Terminal System	VAV#1#2	Office Ground Floor
Terminal System	VAV#1#8	Office Ground Floor
Terminal System	VAV#1#7	Office Ground Floor
Terminal System	VAV#1#6	Office Ground Floor
Terminal System	VAV#1#5	Office Ground Floor
Terminal System	VAV#1#4	Office Ground Floor
Terminal System	FCU#7	Office Ground Floor
Terminal System	VAV#1#1	Office Ground Floor
Terminal System	VAV#1#3	Office Ground Floor
Ventilation		EF 4 Toilet
Ventilation		EF 5 Toilet
Air Handler Systems	AHU#2	Office Level 2
DX System	FCU#8	Office Level 2
DX System	AHU#1	Mail Processing Room
DX System	FCX#2	Office Level 2
Lighting	Lighting Control#2	Office Level 2
Lighting	Exist. AHU#2/New EF	Office Level 2
Terminal System	VAV#2#18	Office Level 2
Terminal System	VAV#2#17	Office Level 2
Terminal System	VAV#2#16	Office Level 2
Terminal System	VAV#2#14	Office Level 2
Terminal System	VAV#2#12	Office Level 2
Terminal System	VAV#2#12	Office Level 2
Terminal System	VAV#2#11	Office Level 2
Terminal System	VAV#2#1	Office Level 2
Terminal System	VAV#2#15	Office Level 2
Terminal System	VAV#2#2	Office Level 2
Terminal System	VAV#2#10	Office Level 2
Terminal System	VAV#2#9	Office Level 2
Terminal System	VAV#2#4	Office Level 2
Terminal System	VAV#2#5	Office Level 2
Terminal System	VAV#2#6	Office Level 2
Terminal System	VAV#2#7	Office Level 2
Terminal System	VAV#2#3	Office Level 2
Terminal System	VAV#2#8	Office Level 2
Terminal System	VAV#2#13	Office Level 2

Air Handler Systems	AHU#3	Office Level 3
DX System	FCX#6	Office Level 3
DX System	FCX#3	Office Level 3
DX System	LIEB#1	Office Level 3
DX System	LIEB#2	Office Level 3
Lighting	Lighting Control#3	Office Level 3
Terminal System	VAV#3#7	Office Level 3
Terminal System	VAV#3#8	Office Level 3
Terminal System	VAV#3#9	Office Level 3
Terminal System	VAV#3#5	Office Level 3
Terminal System	VAV#3#5	Office Level 3
Terminal System	VAV#3#4	Office Level 3
Terminal System	VAV#3#3	Office Level 3
Terminal System	VAV#3#1	Office Level 3
Terminal System	VAV#3#10	Office Level 3
Terminal System	VAV#3#2	Office Level 3
Terminal System	VAV#3#12	Office Level 3
Terminal System	VAV#3#11	Office Level 3
Terminal System	VAV#3#6	Office Level 3
Air Handler Systems	AHU#4	Office Level 4
DX System	FCX#3A	Office Level 4
DX System	FCX#3B	Office Level 4
DX System	FCU#9	Office Level 4
DX System	FCX#4	Office Level 4
Lighting	Lighting Control#4	Office Level 4
Terminal System	VAV#4#8	Office Level 4
Terminal System	VAV#4#7	Office Level 4
Terminal System	VAV#4#3	Office Level 4
Terminal System	VAV#4#9	Office Level 4
Terminal System	VAV#4#6	Office Level 4
Terminal System	VAV#4#5	Office Level 4
Terminal System	VAV#4#4	Office Level 4
Terminal System	VAV#4#2	Office Level 4
Terminal System	VAV#4#16	Office Level 4
Terminal System	VAV#4#15	Office Level 4
Terminal System	VAV#4#14	Office Level 4
Terminal System	VAV#4#13	Office Level 4
Terminal System	VAV#4#11	Office Level 4
Terminal System	VAV#4#10	Office Level 4
Terminal System	VAV#4#1	Office Level 4
Terminal System	VAV#4#12	Office Level 4
Ventilation		Energy Recovery Unit
VFD		Various – 5 on AHU's, 4 on pumps, 2 on ERV

WEST LOT – FREQUENCY DRIVES

Unit	Make	Model	Material #	Serial #
#1 Roof	Trane	TR-200	17429521	900402Y311
#1A	Trane	TR-200	17424573	906704Y461
#1B 1 <sup>st</sup> floor mechanical room	Trane	TR-200	17424575	531104Y503
Primary pump #1 1 <sup>st</sup> floor mechanical room	Trane	TR-200	17424573	907804Y461
Primary pump #2 1 <sup>st</sup> floor mechanical room	Trane	TR-200	17424573	907904Y461

Secondary pump #1 1 <sup>st</sup> floor mechanical room	Trane	TR-200	17424575	908804Y461
Secondary pump #2 1 <sup>st</sup> floor mechanical room	Trane	TR-200	17424577	906704Y461
Unit #2 Roof	Trane	TR-200	17429515	900402Y311
Unit #2 2 <sup>nd</sup> floor	Trane	TR-200	17424577	906704Y461
Unit #3 3 <sup>rd</sup> floor	Trane	TR-200	17424577	908504Y461
Unit #4 4 <sup>th</sup> floor	Trane	TR-200	174245T8	91040Y461

**HIALEAH COURTHOUSE - EQUIPMENT**

Equipment Description	Model	Location
Air Handler Systems	AHU-1	Courthouse Ground Floor
Air Handler Systems	AHU-2	Courthouse Ground Floor
Chiller Plant System	Chiller #1	Chiller Plant System
Chiller Plant System	Chiller #2	Chiller Plant System
Chiller Plant System	CT-1	Chiller Plant System
Chiller Plant System	CT-2	Chiller Plant System
Chiller Plant System	CWP-1	Chiller Plant System
Chiller Plant System	CWP-2	Chiller Plant System
Chiller Plant System	CHWP-1	Chiller Plant System
Chiller Plant System	CHWP-2	Chiller Plant System
Terminal System	VAV 1-1	Chiller Plant System
Terminal System	VAV 1-2	Chiller Plant System
Terminal System	VAV 1-3	Chiller Plant System
Terminal System	VAV 1-4	Chiller Plant System
Terminal System	VAV 1-5	Chiller Plant System
Terminal System	VAV 1-6	Chiller Plant System
Terminal System	VAV 1-7	Chiller Plant System
Terminal System	VAV 1-8	Chiller Plant System
Terminal System	VAV 1-9	Chiller Plant System
Terminal System	VAV 1-10	Chiller Plant System
Terminal System	VAV 1-11	Chiller Plant System
Terminal System	VAV 1-12	Chiller Plant System
Terminal System	VAV 1-13	Chiller Plant System
Terminal System	VAV 1-14	Chiller Plant System
Terminal System	VAV 1-15	Chiller Plant System
Terminal System	VAV 2-1	Chiller Plant System
Terminal System	VAV 2-2	Chiller Plant System
Terminal System	VAV 2-3	Chiller Plant System
Terminal System	VAV 2-4	Chiller Plant System
Terminal System	VAV 2-5	Chiller Plant System
Terminal System	VAV 2-6	Chiller Plant System
Terminal System	VAV 2-7	Chiller Plant System
Terminal System	VAV 2-8	Chiller Plant System
Terminal System	VAV 2-9	Chiller Plant System
Terminal System	VAV 2-10	Chiller Plant System
Terminal System	VAV 2-11	Chiller Plant System
Terminal System	VAV 2-12	Chiller Plant System
Air Handler Systems	AHU-4	Courthouse 2 <sup>nd</sup> Floor
Air Handler Systems	AHU-5	Courthouse 2 <sup>nd</sup> Floor
Air Handler Systems	AHU-6	Courthouse 2 <sup>nd</sup> Floor

Air Handler Systems	AHU-7	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 4-1	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-1	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-2	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-3	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-4	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-5	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-6	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-7	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-8	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-9	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-10	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-11	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 5-12	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-1	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-2	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-3	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-4	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-5	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-6	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-7	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-8	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-9	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-10	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-11	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-12	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 6-13	Courthouse 2 <sup>nd</sup> Floor
Terminal Systems	VAV 7-1	Courthouse 2 <sup>nd</sup> Floor

**HIALEAH COURTHOUSE – FREQUENCY DRIVES**

Unit	Make	Model	Material #	Serial #
AHU-1	VFD-1 York	Air Modulator	AYK-400 Series	ELR131 / 7.5HP
AHU-2	VFD York	Air Modulator	AYK-400 Series	ELR132 / 7.5HP
AHU-5	VFD York	Air Modulator	AYK-400 Series	ELR-129 / 15HP
AHU-6	VFD York	Air Modulator	AYK-400 Series	ELR-130 / 15HP
CT-1	Danfoss Graham	VLT-600 HVAC		790100Y123
CT-2	Danfoss Graham	VLT-600 HVAC		n/a

APPENDIX C – PRICE SCHEDULE

DESCRIPTION OF WORK/SERVICE	PRICE	
	West Lot	Hialeah Courthouse
<b>CONTRACT SERVICES, PARTS, AND EQUIPMENT</b>		
<b>Services, BMS Parts, and BMS Equipment:</b> includes all parts, labor, repairs, preventative maintenance, software updates, continuing education, database protection and modifications, and emergency support as-needed	(inclusive of Maintenance, Labor, BMS Parts, and BMS Equipment)	(inclusive of Maintenance, Labor, BMS Parts, and BMS Equipment)
<b>Support Services:</b> Includes telephone assistance, internet assistance, software support/upgrades, and on-site assistance	Unlimited support, no additional cost to the County	Unlimited support, no additional cost to the County
<b>ANNUAL CONTRACT COST – YEAR 1:</b>	\$ .00	\$ .00
<b>ANNUAL CONTRACT COST – YEAR 2:</b>	\$ .00	\$ .00
<b>ANNUAL CONTRACT COST – YEAR 3:</b>	\$ .00	\$ .00
<b>ANNUAL CONTRACT COST – YEAR 4:</b>	\$ .00	\$ .00
<b>ANNUAL CONTRACT COST – YEAR 5:</b>	\$ .00	\$ .00
<b>ANNUAL CONTRACT COST – YEAR 6:</b>	\$ .00	\$ .00
<b>ANNUAL CONTRACT COST – YEAR 7:</b>	\$ .00	\$ .00
<b>ANNUAL CONTRACT COST – YEAR 8:</b>	\$ .00	\$ .00
<b>ANNUAL CONTRACT COST – YEAR 9:</b>	\$ .00	\$ .00
<b>ANNUAL CONTRACT COST – YEAR 10:</b>	\$ .00	\$ .00

ADDITIONAL SERVICES AS-NEEDED	REGULAR LABOR RATE / HOUR	EMERGENCY LABOR RATE / HOUR
Component Replacement Labor	\$ .00	\$ .00

1. Emergency Labor Rates for additional services are only applicable outside of normal business hours, weekends, and holidays. The on-site response time for emergency additional services is within three (3) hours.